



REPORT TO THE FULL BENCH

Fair Work Act 2009
s.156 - 4 yearly review of modern awards

HORTICULTURE AWARD 2010 (AM2014/231) [MA000028]

DEPUTY PRESIDENT CLANCY

MELBOURNE, 3 JUNE 2016

Horticulture Award 2010

HORTICULTURE AWARD 2010

[1] A conference was held in Sydney, with video links to Melbourne and Adelaide on 1 June 2016 attended by representatives of:

- Ai Group
- Australian Business Lawyers & Advisers for Australian Business Industrial/NSW Business Chamber
- National Farmers Federation (NFF)
- Business SA
- The Australian Workers' Union (AWU)
- The National Union of Workers (NUW)

[2] The parties discussed the exposure draft of the *Horticulture Award 2015* as published on 15 January 2016 and the Summary of Submissions published on 23 May 2016 by the Commission (Summary of Submissions).

[3] Proposed variations to the exposure draft that are agreed by the parties are summarised in Attachment A.

[4] Proposed variations from the Summary of Submissions that are not agreed are summarised at Attachment B.

[5] Items from the Summary of Submissions which remain under consideration by the parties and may benefit from further discussions are summarised at Attachment C.

[6] It was noted that items 10, 11, 15 (part), 26, 39, 42, 44, 56 and 59 from the Summary of Submissions have been referred to separately constituted Full Benches of the Commission.

[7] It is also noted that items 2, 6, 17, 18, 22, 34, 35, 40, 52, 55 and 58 were withdrawn at the conference. Item 51 was withdrawn, subject to the NFF continuing to press items 13 and 14.

[8] It was suggested that item 4 should be referred to a separately constituted Full Bench on the basis it is a substantive, contested claim.

[9] Finally, in relation to item 49, the NFF has advised that the Agri-Food, Amenity Horticulture, Conservation and Land Management and Rural Production training packages listed in the exposure draft as separate training packages under Wage Level C have been consolidated into one training package titled “Agriculture, Horticulture and Conservation and Land Management”.



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Attachment A

Item 1. Delete “as varied” from Clause 1.2

Item 3. Agree to proposed wording in paragraph 145 of Ai Group submission dated 8 May 2016.

Item 5. Definition of “horticultural industry” should not be duplicated and only included in the coverage clause. The definition of “horticultural industry” should be deleted from Schedule G.

Item 7.

Item 8.

Item 13. Delete “ordinary” from the first sentence in Clause 6.5(c)(i).

Item 16. Insert “(day workers)” in title

Item 20. “and paid in accordance...- Overtime” at the end of Clause 8.1(iv) should be deleted

Item 21. Use first sentence of Clause 23.1(a) in Current Award instead of exposure draft wording in Clause 9.1(a) so as not to alter current entitlement.

Item 28. Subject to a uniform approach across all Modern Awards, delete “quarter of one”.

Item 29. Delete “ordinary” from Clause 10.4(a).

Item 30. The exposure draft clause is adequate and no amendments are required.

Item 31. Proposed wording of VOH is agreed

Item 32. Adopt wording in paragraph 330 of Ai Group submission dated 14 April 2016.

Item 33. Delete Clause 15.4 because it simply repeats Clause 11.3(c).

Item 36. Delete the word “overtime” in Clause 14.1(h)

Item 41. As per Item 33 above.

Item 43. Replace wording of Clause 20.3 in exposure draft with suggested wording from paragraph 26 of AWU submission dated 5 May 2016.

Item 46. Delete the first reference to the word “first” in the column heading “Sunday during harvest season” in table B.2.3 of Schedule B.

Item 48. Paragraphs 44-46 of the submission of the NFF dated 14 April 2016 addresses this.

Item 50. Definition of “ordinary hourly rate” should also include reference to Clause 10.3(a).

Item 57. As per Item 5 above.

Attachment B

- Item 12
- Items 13 & 14. Insertion of “minimum hourly rate” to replace “ordinary hourly rate” not agreed.
- Item 23
- Item 24
- Item 25
- Items 37 & 38. It is noted that the casual and Part-time employment Common issue proceedings may resolve these disputed items concerning overtime and casual employees.
- Item 45. Headings for tables in Schedule B: Should the reference be to “ordinary hourly rate” or “minimum hourly rate”?

Attachment C

- Item 9 – parties intend to have further discussions about which clauses to be included as part of the facilitative provisions.
- Item 19 – proposed wording of the AWU is still under consideration.
- Item 27 – the NFF intends to circulate a proposal for consultation and further discussion but it may also assist if the Commission was to research the arbitral history of leave entitlements for permanent pieceworkers in Horticultural awards.
- Item 47 – the concerns regarding the use of the heading “% of ordinary hourly rate” in tables require further discussion and parties agree clarity for all scenarios is desirable. Resolution achieved through this discussion may also address issues raised by Item 15.
- Items 53 & 54 – the Ai Group is considering its position.