



FairWork Commission,

25th November 2021

AM2020/104

To the Commission,

We are writing in relation to the FairWork Commissions draft determination to vary the Horticulture Award 2020.

We NSW Cherry Growers are putting forth a submission seeking for a reversal or longer lead time for commencement of the decision and clarifications around several elements of the draft variation.

- Businesses will need to implement more regimented work arrangement, such as uniform timeframe for breaks. This reduces the flexibility for employees to manage their pace and break time. With the current arrangement, there is flexibility for workers to decide when break is to be taken. This has the possibility to pose WHS risks if an employee is unable to take a break under their own schedule. This is especially true for older employees, who may be affected more by standing in the harsh sun without consistent breaks.
- Hourly rate could create workforce conflict, with more efficient workers becoming frustrated by less efficient workers who aren't pulling their weight in comparison, with a reduced financial incentive for performing more efficiently.
- Once the staff has become competent and can earn the set piece rate, the piece rate must be maintained. If a staff member decides to have an off day and not work to their full capacity must the grower then foot the bill by paying hourly rate.

- The cherry industry totally rejects the notion “that employers who obtain formal ‘piecework agreements’ with employees are few, and that the majority of employees who are remunerated under piece rates do not have a piecework agreement in place.”
- The cherry industry has worked collectively to ensure that the correct piecework rate of pay is set with regard to Clause 15.2 (b) (Pieceworkers) of the Horticultural Award 2010.
The piecework rate fixed by this Agreement enables the average competent employee to earn at least 15% more per hour than the minimum hourly rate prescribed in the Award for the type of employment and the classification level of the Employee.
- Piece-rates are unfairly labelled as an ineffective ‘management-tool.’ This dismisses equivalent payment mechanisms in other awards such as the ability to employ an apprentice and/or trainee at a rate below the minimum wage. Currently, an 1st year apprentice Electrician in Australia earns \$13.23/hour. Significantly less than the minimum wage of \$25.41. This rate factors in the training provided and lack of productivity a new entrant to that industry provides to their employer and provides an opportunity for an inexperienced individual to enter an industry. The piece-rate allows a new entrant to the horticultural industry to enter a new vocation and learn – while earning – on the job while rapidly increasing their daily earnings. While a 1st year Electrician apprentice is committed to a rate significantly below the minimum wage for the duration of their apprenticeship - A pieceworker has the ability and can accelerate well beyond the casual rate of pay over days and weeks rather than years.
- Currently the Hort award covers many different industries. Each commodity sets a fair piece rate for their industry. Given the different intricacies for each commodity picked, the Hort award may need to be split to reflect the short season commodities as well as the different commodity types.
- Again, in the presence of options for employment for other industries to invite and train new entrants – the Fair Work Commission and Australian Worker’s Union are seeking to remove this option for the Horticulture industry with no alternative . This provides a burden that no other industry in Australia is forced to work under.

In conclusion, The Fair Work Commission and AWU cannot put in place a pay rate across the board without consideration given to the inexperienced employees, as this will be a huge burden to the production costs or result in unemployment.

If a new worker cannot pick at a productive rate, i.e they cannot pick to the equivalent hourly rate, then this should be reflected in terms of an apprentice type introductory rate for the time period determined for each industry, until such time the employee is to be deemed a competent worker.

As with all industries there are staff who will not achieve a lug rate to support the hourly rate of \$25.41 (+ 15%) and never will. All staff are not the same and do not have the same expectations, which the \$25.41 hour rate can be interpreted that they do. This costing is only good for a minority and penalises the capable experienced picker to a lower rate of pay.

The implementation of the hourly rate of pay for fruit picking discriminates, particularly with regard to senior people who like to stay/work on farm, work to their own timeframe and capability, and enjoy the camp life on farm.

There are many of these workers who will now be denied the opportunity to enjoy a relaxed time on farm with their contemporaries.

Kind regards,

NSW Cherry Growers Association