

IN THE FAIR WORK COMMISSION

Fair Work Act 2009 (Cth)

Matter No.: AM2020/104

Re Application by: Australian Workers Union

In respect of the MA000028 Horticultural Award

Statement of Benjamin William Rogers

On 10 June 2021, I, Benjamin Rogers, general manager, workplace relations, of 14-16 Brisbane Avenue Barton, in the Australian Capital Territory, **STATE**

1. I am the General Manager, workplace relations for the National Farmers Federation (**'NFF'**). This is a position which I have held since 2017.
2. The NFF is one of the peak national bodies representing farmers (including growers, graziers and other segments) throughout the whole of Australia.
3. The NFF also represents farmers' interests federally in relation to matters of industrial and workplace relations.

Award Modernisation

4. The process of Award Modernisation under the FW Act was one largely conducted by the industrial tribunal. In its May 2009 statement, the then Commission set out Award Modernisation principles.
5. The horticultural sector was managed by the Commission in Stage 2 of the award modernisation process, as part of the Agricultural Group.

6. For some time, it was not clear whether Horticulture (as an industry) would have its own award; or whether it would be a subset of 'Agriculture' more broadly.
7. In October, November and December of 2008 various parties, including the NFF and the AWU, filed their own proposed drafts for a horticultural award.
8. The Commission published its first exposure draft of the Horticultural Award on 23 January 2009. Attached to this statement and marked "A" is a copy of that exposure draft.
9. A second exposure draft of the Horticultural Award was published on 18 January 2010.

First Award

10. Horticultural Award was published in 3 April 2009 as the final step (subject to any further amendment or negotiation) of the modernisation process (the First Award).
11. In its decision which accompanied the award ([2009] AIRCFB 345) the Commission noted at [60] that "We have also included more extensive provisions for pieceworkers and included piecework provisions we consider are consistent with the requirements of the consolidated request.
12. Attached to this statement and marked 'B' is a true copy of the Horticulture Award, as initially published in April 2009 by the Commission ('**First Award**').

Second Award

13. I am aware that the NFF and its membership was disappointed after publication of the First Award as the provisions enabling piece-rates which had been included in that instrument provided that "In no case will a full-time, part-time or casual employee working under a piecework agreement be paid less than the prescribed ordinary rate payable to the employee for the hours of worked performed." The NFF's members took the view that this was not a true piece rate provisions and would defeat the functional utility of piece rates.
14. This remained the position until March 2010. After.

15. On 27 May 2009 the NFF wrote to the then Deputy Prime Minister, Julia Gillard, on behalf of its members to notify her of their disappointment and concerns about the piece rate provision (amongst other things) of the First Award. Attached and marked “C” is a copy of that letter.
16. On 26 August 2009 Ms Gillard issued a variation to her Award Modernisation Request directing as follows:
 50. The Commission should enable employers in the horticulture industry to continue to pay piece rates of pay to casual employees who pick produce, as opposed to a minimum rate of pay supplemented by an incentive based payment.
 51. Where a modern award covers horticultural work, the Commission should:
 - have regard to the perishable nature of the produce grown by particular sectors of the horticulture industry when setting the hours of work provisions for employees who pick and pack this produce; and
 - provide for roster arrangements and working hours that are sufficiently flexible to accommodate seasonal demands and restrictions caused by weather as to when work can be performed.
17. In December 2009, the Commission published a further exposure draft of the Horticulture Award. Attached to this statement and marked ‘D’ is a true copy of the Horticulture Award (‘**Second Award**’),
18. Attached to this statement and marked “E” is a true copy of the decision of the Commission issued at the time of the second Award which provides its reasons for varying the award to include a true piece rate provision.
19. In March 2010, the Commission published a further exposure draft of the Horticulture Award.
20. Whilst the Second Award has been varied since 2010, the terms of the piece rates in the Second Award is largely in the same terms as was published in 2010.

Survey

21. On or about 16 April 2021 I prepared a series of questions directed to the NFF membership. Those questions were designed to elicit answers going to the AWU Application in this proceeding.
22. I caused to be uploaded the questions to a programme called Survey Monkey. That programme makes the survey questions:

- a. available online as series of questions, which may be answered by respondents;
and
- b. collectible as data. That is, the information (including the answers from respondents to the survey) may be collected and displayed.

23. The survey ran between 16 April 2021 and 10 June 2021. 196 responses were received.

24. Attached to this statement and marked 'F' is a true copy of the responses received in relation to the Survey Monkey survey which I uploaded.

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Benjamin Rogers

Date

Horticulture Award 2010

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Part 1—Application and Operation

1. Title

This award is the *Horticulture Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

Act means the *Workplace Relations Act 1996* (Cth)

Commission means the Australian Industrial Relations Commission or its successor

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

horticultural crops includes all vegetables, fruits, grains, seeds, hops, nuts, fungi, olives, flowers, or other specialised crops unless they are specifically named as a **broadacre field crop** in the *Pastoral Industry Award 2010*

NAPSA means notional agreement preserving a State award and has the meaning in the Act

NES means National Employment Standards

plant nurseries means the principle business of the employer is the preparation of growing media for the growing of plant material, propagation, preparation and presentation of plant material for sale

silviculture and afforestation means the planting, pruning, fertilising and any other activities in or in connection with the establishment or cultivation of trees in forests

standard rate means the minimum hourly wage for a Level 2 in clause 14.1. This rate is to be used for the purposes of calculating various allowances that require a designated standard rate.

vineyard means a place where wine grapes are grown exclusively or predominantly for processing into wine

wine industry means:

- (a) the preparation of land for planting of wine grape vines; care, growing, treating, picking, harvesting, forwarding of wine grapes; and pruning of wine grape vines and other activities associated with a wine grape vineyard;

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- (b) processing wine grapes; producing wine juice or grape spirit; bottling, packaging, storage or dispatch of wine, brandy or other potable spirit, liqueurs, vinegar or grape juice and other activities associated with a winery or wine distillery including but not limited to cellar door sales, coopers, machinists, labourers making or repairing barrels, vats, casks, and like articles and laboratories; and
- (c) the packaging, storage and dispatching of wine or grape spirit from a warehouse facility or other place of storage associated with a winery or wine distillery.

3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

4. Coverage

4.1 This industry award covers employers throughout Australia in the horticulture industry and their employees in the classifications listed in clause 13—Classifications to the exclusion of any other modern award.

4.2 **Horticulture industry** means:

- (a) agricultural holdings, flower or vegetable market gardens in connection with the sowing, planting, raising, cultivation, harvesting, picking, packing or treating of horticultural crops, including fruit and vegetables upon farms, orchards and/or plantations; or
- (b) clearing, fencing, trenching, draining or otherwise preparing or treating land for the sowing, raising, harvesting or treating of horticultural crops, including fruit and vegetables.

4.3 **Horticulture industry** does not mean:

- (a) the wine industry;
- (b) silviculture and afforestation;
- (c) sugar farming or sugar cane growing, sugar milling, sugar refining, sugar distilleries and/or sugar terminals;
- (d) any work in or in connection with the cotton growing or harvesting; cotton ginneries and associated depots; cotton oil mills and the extraction of oil from seed;
- (e) plant nurseries; or
- (f) a broadacre mixed farming enterprise as defined in the *Pastoral Industry Award 2010*.

4.4 The award does not cover an employee excluded from award coverage by the Act.

4.5 The award does not cover an employer bound by an enterprise award with respect to any employee who is covered by the enterprise award.

- 4.6** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

5. Access to the award and the National Employment Standards

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. The National Employment Standards and this award

The NES and this award contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility

- 7.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

- 7.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress.

- 7.3** The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
- (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.

- 7.4** For the purposes of clause 7.3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:

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- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and
- (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.

7.5 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

7.6 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

7.8 The agreement may be terminated:

- (a) by the employer or the individual employee giving four weeks notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

7.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

8.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

9. Dispute resolution

- 9.1 In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2 If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3 The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4 Where the matter in dispute remains unresolved, the Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.

- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Types of employment

10.1 General

Employees under this award will be employed in one of the following categories:

- (a) full-time employees;
- (b) part-time employees; or
- (c) casual employees.

At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, regular part-time or casual.

10.2 Full-time employment

A full-time employee is an employee who is engaged to work an average of 38 ordinary hours per week.

10.3 Part-time employment

- (a) A part-time employee is an employee who:
 - (i) is engaged to work an average of fewer than 38 ordinary hours per week; and
 - (ii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) For each ordinary hour worked, a part-time employee will be paid no less than 1/38th of the minimum weekly rate of pay for the relevant classification in clause 13—Classifications.
- (c) An employer must inform a part-time employee of their ordinary hours of work and starting and finishing times.
- (d) All time worked in excess of the hours mutually arranged will be overtime and paid for at the appropriate overtime rate.

10.4 Casual employment

- (a) A casual employee is one engaged and paid as such. A casual employee's ordinary hours of work are the lesser of an average of 38 hours per week or the hours required to be worked by the employer.
- (b) For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for an employee in that classification in clause 13—Classifications, plus a casual loading of 25%.
- (c) The casual loading is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other entitlements of full-time or part-time employment provided for in this award.
- (d) For the purpose of clause 15—Piecework rates, the calculation of piecework rates for a casual employee will be based on the hourly rates of pay for a casual employee applicable to the work to be performed, including the loading prescribed by subclause (b) of this clause.

11. Termination of employment

11.1 Notice of termination is provided for in the NES.

11.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause less any period of notice actually given by the employee.

11.3 Job search entitlement

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

12. Redundancy

12.1 Redundancy pay is provided for in the NES.

12.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

12.3 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

12.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 11.3.

12.5 Transitional provisions

- (a) Subject to clause 12.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a NAPSA:
 - (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under the Act had applied to the employee; and
 - (ii) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (b) The employee's entitlement to redundancy pay under the NAPSA is limited to the amount of redundancy pay which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (c) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.
- (d) Clause 12.5 ceases to operate on 31 December 2014.

Part 4—Minimum Wages and Related Matters

13. Classifications

Employees will be classified in accordance with the classification descriptions contained in Schedule A—Classification Structure and Definitions of this award.

14. Minimum wages

14.1 Adult employee minimum wages

- (a) The classifications and minimum wages for an adult employee are set out in the following table:

Classification	Minimum weekly wage \$	Minimum hourly wage \$
Level 1	543.90	14.31
Level 2	560.50	14.75
Level 3	577.20	15.19
Level 4	600.10	15.79
Level 5	637.60	16.78

- (b) For the purposes of clause 14.1(a), any entitlement to a minimum wage expressed to be by the week means any entitlement which an employee would receive for performing 38 hours of work.

14.2 Supported wage system

See Schedule B

14.3 National training wage

See Schedule C

15. Piecework rates

- 15.1** Piecework rates may be fixed by agreement between the employer and the employee.

- 15.2** The rates must be fixed so that the average competent employee can earn no less than 12.5% above the minimum amounts payable for the work performed by the employee concerned in accordance with the terms of this award.

- 15.3** When work is performed at piecework rates in accordance with an agreement made between the employer and the employee the piece work rates will apply instead of the amounts which would otherwise be payable in accordance with the terms of the award for the work performed.

- 15.4** Piecework rates for employees, other than for casual employees, do not include payment instead of any other benefits provided for by this award.

16. Juniors

- 16.1** The minimum wage payable to a junior employee will be the percentage of the adult rate prescribed for the classification upon which the employee is employed as set out in the following table:

Age	Percentage
	%
Under 16 years of age	50
16 years of age	60
17 years of age	70
18 years of age	80
19 years of age	90
20 years of age	100

16.2 The wage payable to a junior will, in the case of a weekly employee, be calculated to the nearest 10 cents, and in the case of an hourly employee, be calculated to the nearest 0.25 of one cent.

17. Allowances

17.1 All-purpose allowances

The following allowances apply for all purposes of this award:

(a) Leading hand allowance

A leading hand allowance will be paid to leading hands based upon the following:

In charge of:	Amount of the standard rate
2 to 6 employees	115% per week extra
7 to 10 employees	134% per week extra
11 to 20 employees	191% per week extra
More than 20 employees	240% per week extra

(b) Wet work allowance

An employee who, on any one day, is required to work in a wet place must be paid an amount of 10% of the standard rate for each hour that they are required to work in the wet place, unless provided with adequate protection. A wet place will mean a place where the clothing of the employee becomes saturated or a place where the employee has to stand in water or slush so that the employee's feet become wet.

(c) Tool and equipment allowance

Where the employer requires an employee to supply their own tools and equipment, the employer must reimburse the employee for the cost of supplying such tools and equipment. The provisions of this clause do not apply where the tools and equipment are paid for by the employer.

(d) Travelling allowance

Where an employee is required to travel from one place to another, the time occupied in travelling will be counted as time worked and paid for as such. Where an employee is compelled by their duties to spend the night away from home or the property at which the employee is employed (whichever is the employee's normal place of sleeping during employment) the employer will reimburse the employee for the demonstrable cost of suitable accommodation. The provisions of this clause will not apply where the employer provides the employee with suitable accommodation free of charge.

17.2 District allowances

(a) Northern Territory

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (ii) that would have entitled the employee to payment of a district allowance.

(b) Western Australia

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the *Workplace Relations Act 1996* (Cth):

- (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (ii) that would have entitled the employee to payment of a district allowance.

- (c) This clause ceases to operate on 31 December 2014.

17.3 Adjustment of expense related allowances

At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Tools allowance	Tools component of the household appliances, utensils and tools sub-group
Vehicle/travel allowance	Private motoring sub-group

18. Higher duties

An employee engaged for more than two hours during one day or shift on duties carrying a higher minimum wage than their ordinary classification must be paid the higher minimum wage for such day or shift. If an employee is engaged for two hours or less during one day or shift on duties carrying a higher minimum wage than their ordinary classification, they must be paid the higher minimum wage for the time so worked.

19. Payment of wages

19.1 Period of payment

Wages must be paid weekly or fortnightly according to the actual ordinary hours worked each week or fortnight or according to the applicable piecework payment.

19.2 Method of payment

Wages must be paid by cash, cheque or electronic funds transfer into the employee's bank or other recognised financial institution account.

19.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee by post on the next working day.

20. Accident pay

20.1 Subject to clause 20.2, an employee is entitled to accident pay in accordance with the terms of:

- (a) a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the *Workplace Relations Act 1996* (Cth) had applied to the employee; and
- (b) that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.

20.2 The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.

20.3 This clause does not operate to diminish an employee's entitlement to accident pay under any other instrument.

20.4 This clause ceases to operate on 31 December 2014.

21. Superannuation

21.1 Superannuation legislation

(a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.

(b) The rights and obligations in these clauses supplement those in superannuation legislation.

21.2 Employer contributions

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

21.3 Voluntary employee contributions

(a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 21.2.

(b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months written notice to their employer.

(c) The employer must pay the amount authorised under clauses 21.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or (b) was made.

21.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b) to one of the following superannuation funds:

(a) Australian Primary Industry; or

- (b) HortSuper; or
- (c) Tasplan; or
- (d) Sunsuper; or
- (e) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

21.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b):

- (a) **Paid leave**—while the employee is on any paid leave;
- (b) **Work-related injury or illness**—for the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that:
 - (i) the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with the statutory requirements; and
 - (ii) the employee remains employed by the employer.

Part 5—Hours of Work and Related Matters

22. Ordinary hours of work and rostering

22.1 Ordinary hours of work are provided for in the NES.

22.2 The average ordinary working hours will be fixed by agreement between the employer and the employees but will not exceed an average of 38 hours per week over a four week period.

22.3 Spread of hours

Ordinary hours may be worked between 5.00 am and 7.00 pm for up to 10 hours per day, on any five days Monday to Sunday inclusive. Any work performed outside the ordinary hours must be paid for at overtime rates.

22.4 Rates of pay for ordinary hours worked on Saturday and Sunday

- (a) Ordinary hours worked on a Saturday will be paid for at time and a quarter.
- (b) Ordinary hours worked on a Sunday will be paid for at time and a half.

23. Breaks

23.1 Meal break

- (a) A meal break of not less than 30 minutes and not more than one hour will be allowed each day, to be taken not later than five hours after commencing ordinary hours of work. Provided that where there is agreement between the employer and an individual employee, the meal break may be taken at a time agreed.
- (b) All work performed on the instruction of the employer during a recognised meal break will be paid for at double time rates. Such payment will continue until the employee is released for a meal break of not less than thirty minutes.

23.2 Rest break

Employees will be allowed a paid rest break of ten minutes each morning. Where agreement is reached between the employer and employee for an additional rest break, such rest break will be unpaid and in addition to the employee's ordinary hours of work.

23.3 Ten hour break after ceasing work for the day

- (a) An employee is entitled to a break of 10 hours between finishing work on one day and commencing work on the next day.
- (b) Overtime rates will be paid for work required to be performed where an employee has not had the 10 hour break until such time as the employee is released and able to take the 10 hour break.

24. Overtime and penalty rates

- 24.1** The rate of pay for overtime will be at the rate of 150% of the appropriate minimum wage calculated hourly, except on Sunday when the rate will be 200%.
- 24.2** An employee may elect to take time off duty, with pay, for a period equal to the overtime worked instead of payment.
- 24.3** All employees required to work overtime on a Sunday will be paid for a minimum of four hours.

Part 6—Leave and Public Holidays

25. Annual leave

- 25.1** Annual leave is provided for in the NES.
- 25.2** Annual leave does not apply to a casual employee
- 25.3** This clause contains additional and supplementary provisions.

25.4 Conversion to hourly entitlement

An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement in s.32 of the NES to an hourly entitlement for administrative ease (152 hours for a full-time employee entitled to four weeks annual leave).

25.5 Payment for period of annual leave

- (a) Instead of the base rate of pay as referred to in s.35(1) of the NES, an employee under this award, before going on annual leave, must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.
- (b) An employee employed on piece or bonus work, or any other system of payment by results, must be paid the rate which is the weekly average of payments made to the employee for the period actually in respect of which such payments have been calculated prior to the time of going on leave or termination of employment, as the case may be during any period of annual leave.

25.6 Annual leave loading

- (a) During a period of annual leave an employee must also be paid a loading calculated on the wages prescribed in clause 25.5.
- (b) An employee must be paid an annual leave loading equal to 17.5% of the wages prescribed in clause 25.5.

25.7 Excessive leave

Notwithstanding s.33 of the NES, if an employer has genuinely tried to reach agreement with an employee as to the timing of taking annual leave, the employer can require the employee to take annual leave by giving not less than four weeks notice of the time when such leave is to be taken if:

- (a) at the time the direction is given, the employee has eight weeks or more of annual leave accrued; and
- (b) the amount of annual leave the employee is directed to take is less than or equal to a quarter of the amount of leave accrued.

25.8 Paid leave in advance of accrued entitlement

By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.

25.9 Transmission of business

Where a business is transmitted from one employer to another, the period of continuous service that an employee had with the transmitter must be deemed to be service with the transferee and taken into account when calculating annual leave.

However an employee is not entitled to leave or payment instead for any period in respect of which leave has been taken or paid for.

25.10 Proportionate leave on termination

On termination of employment, an employee must be paid for leave accrued that has not been taken at the appropriate wage calculated in accordance with clause 25.5.

26. Personal/carer's leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the NES.

27. Community service leave

27.1 Community service leave is provided for in the NES.

27.2 Reimbursement for jury service

- (a) A full-time employee required to attend for jury service during their ordinary hours of work must be reimbursed by the employer an amount equal to the difference between the amount paid to the employee in respect of the employee's attendance for such jury service and the wages the employee would have received in respect of the ordinary hours the employee would have worked had the employee not been on jury service.
- (b) Where a part-time employee is required to attend for jury service and such attendance coincides with a day on which the employee would normally be required to work, payment must be made to the employee in accordance with clause 27.2(a).

28. Public holidays

28.1 Public holidays are provided for in the NES.

28.2 Public holidays which fall on a weekend

- (a) Where Christmas Day falls on a Saturday or a Sunday, 27 December is observed as the public holiday instead of the prescribed day.
- (b) Where Boxing Day (Proclamation Day in South Australia) falls on a Saturday or a Sunday, 28 December is observed as the public holiday instead of the prescribed day.
- (c) Where New Year's Day or Australia Day falls on a Saturday or a Sunday, the following Monday is observed as the public holiday instead of the prescribed day.

28.3 Substitution of certain public holidays by agreement at the enterprise

- (a) By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.

- (b) An employer and an individual employee may agree to the employee taking another day as the public holiday instead of the day which is being observed as the public holiday in the enterprise or part of the enterprise concerned.

28.4 Public holiday rates of pay

All work performed on public holidays will be paid for at the rate of 200% of the ordinary rate.

Schedule A—Classification Structure and Definitions

Level 1 employee means an employee classified in accordance with the following criteria:

General description

An employee at this level:

- undertakes induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurance;
- performs routine duties essentially of a manual nature and to the level of their training;
- exercises minimal judgment;
- works under direct supervision;
- is responsible for the quality of their own work; and
- is a new employee; or
- is an existing employee performing work within this grade who is undertaking training so as to enable advancement to Level 2.

Indicative duties

Indicative of the duties an employee may perform at this Level are:

- performing general labouring duties;
- fruit or vegetable picking, thinning or pruning;
- operating small towing tractor engaged in transfer of produce bins and other containers during harvest;
- performing a range of housekeeping tasks in premises and grounds;
- sorting, packing or grading of produce where this requires the exercise of only minimal judgment;
- performing basic recording functions related to work performed at this level;
- providing assistance within the scope of this level to other employees as required;
- undertaking structured training so as to enable advancement to Level 2.

Level 2 employee means an employee classified in accordance with the following criteria:

General description

An employee at this level:

- has completed up to three months structured training so as to enable the performance of work within the scope of this level;
- works under general supervision either individually or in a team environment;
- works with established routines, methods and procedures;
- performs a range of tasks involving the use of skills above and beyond those of Level 1 and to the level of their training;
- exercises limited discretion;
- is responsible for the quality of their own work;
- receives training in Occupational Health and Safety standards and practices relevant to the site;
- performs lower level tasks as required without loss of pay unless re-engaged to perform tasks at predominantly a lower skill level.

Indicative duties

Indicative of the duties an employee may perform at this level are:

- performing a range of tasks involving the set up and operation of production and/or packaging or picking equipment, labelling and/or consumer picking equipment;
- repetition work on automatic, semi-automatic or single purpose machines or equipment;
- assembling/dismantling components using basic written, spoken and/or diagrammatic instructions in an assembly environment;
- irrigation, spraying or pruning under general supervision;
- sorting, packing and grading beyond the scope of Level 1 duties;
- maintaining simple records;
- using hand trolleys, pallet trucks or other mechanical or power driven lifting or handling devices not requiring a licence;
- operating tractors with engine capacity of up to 70 kW;
- general and routine product testing;
- providing assistance within the scope of this level to other employees as required;
- assisting in the provision of on-the-job training in conjunction with supervisors, tradespersons or trainers;
- undertaking further training so as to enable advancement to Level 3.

Level 3 employee means an employee classified in accordance with the following criteria:

General description

An employee at this level:

- performs work above and beyond the skills of an employee at Level 2 and to the level of their training;
- works under routine supervision either individually or in a team environment;
- exercises discretion with their level of skills and training;
- is responsible for the quality of their own work;
- receives Occupational Health and Safety standards and practices in work areas relevant to the site and appropriate to this award;
- may perform any lower level task as required without loss of pay.

Indicative duties

Indicative of the duties an employee may perform at this level are:

- driving motor lorries or mechanical harvesters or forklifts;
- operating tractors with engine capacity of over 70 kW;
- minor maintenance of plant;
- irrigation, spraying, pruning without supervision;
- assisting in the training, instruction and coordination of employees;
- recording detailed information on production and quality indicators;
- providing assistance within the scope of this level to other employees;
- undertaking further training so as to enable advancement to Level 4.

Level 4 employee means an employee classified in accordance with the following criteria:

General description

An employee at this level:

- performs work above and beyond the skills of an employee at Level 3 and to the level of their training;
- coordinates work in a team environment or works individually under general supervision;
- exercises discretion with their level of skills and training;
- is responsible for the quality of their own work;
- has knowledge of the employer's operation as it relates to production process;

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- monitors the application of Occupational Health and Safety standards in work areas relevant to the site and appropriate to this level;
- may perform any lower level task as required without loss of pay.

Indicative duties

Indicative of the duties an employee may perform at this level are:

- using precision measuring instruments;
- machine setting, loading and operation;
- inventory and store control;
- licensed operation of all appropriate materials handling equipment;
- basic engineering and fault handling;
- basic non-trades maintenance involving the use of tools and equipment within the scope of this award;
- licensed and certified to operate forklifts, engine driving and crane driving operation;
- furnace/boiler operator;
- performing quality checks on the work of others;
- quality assurance/control;
- assisting in provision of on-the-job training;
- monitoring variables affecting production yields, detects errors, investigates causes and recommends collective/preventative action;
- providing assistance within the scope of this level to other employees;
- undertaking further training so as to enable advancement to Level 5.

Level 5 employee means an employee classified in accordance with the following criteria:

General description

An employee at this level:

- works above and beyond the skills of an employee at Level 4 and to the level of their training;
- performs work under minimal supervision either individually or in a team environment;
- coordinates and schedules approved work in a team environment;
- exercises good interpersonal communication skills;
- exercises discretion within the scope of this grade;
- possesses and uses a trade qualification in the course of their duties;

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- has a sound knowledge of the employer's operation as it relates to the production process;
- undertakes lower level tasks as required without loss of pay.

Indicative duties

Indicative of the duties an employee may perform at this level are:

- inspecting products and/or materials for conformity with established operational standards and approves/passes first off samples;
- operating, setting up and adjusting maintenance functions including (but not limited to):
 - removing equipment fastenings including use of destructive cutting equipment;
 - running adjustments to production equipment;
- operating all lifting equipment;
- basic production scheduling and materials handling within the scope of production process or directly related functions;
- exercising high level stores and inventory responsibilities;
- providing on-the-job training;
- providing assistance within the scope of this level to other employees.

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Part 1—Application and Operation

1. Title

This award is the *Horticulture Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

Act means the *Workplace Relations Act 1996* (Cth)

Commission means the Australian Industrial Relations Commission or its successor

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

enterprise NAPSA means a NAPSA derived from a State award which immediately prior to 27 March 2006 applied only to a single business or a part of a single business

horticultural crops includes all vegetables, fruits, grains, seeds, hops, nuts, fungi, olives, flowers, or other specialised crops unless they are specifically named as a **broadacre field crop** in the *Pastoral Award 2010*

NAPSA means notional agreement preserving a State award and has the meaning in the Act

NES means National Employment Standards

plant nurseries means the principal business of the employer is the preparation of growing media for the growing of plant material, propagation, preparation and presentation of plant material for sale

silviculture and afforestation means the planting, pruning, fertilising and any other activities in or in connection with the establishment or cultivation of trees in forests

standard rate means the minimum hourly wage for a Level 2 in clause 14.1. This rate is to be used for the purposes of calculating various allowances that require a designated standard rate

vineyard means a place where wine grapes are grown exclusively or predominantly for processing into wine

wine industry means:

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- (a) the preparation of land for planting of wine grape vines; care, growing, treating, picking, harvesting, forwarding of wine grapes; and pruning of wine grape vines and other activities associated with a wine grape vineyard;
- (b) processing wine grapes; producing wine juice or grape spirit; bottling, packaging, storage or dispatch of wine, brandy or other potable spirit, liqueurs, vinegar or grape juice and other activities associated with a winery or wine distillery including but not limited to cellar door sales, coopers, machinists, labourers making or repairing barrels, vats, casks, and like articles and laboratories; and
- (c) the packaging, storage and dispatching of wine or grape spirit from a warehouse facility or other place of storage associated with a winery or wine distillery

3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

4. Coverage

4.1 This industry award covers employers throughout Australia in the horticulture industry and their employees in the classifications listed in Schedule A—Classification Structure and Definitions, to the exclusion of any other modern award.

4.2 **Horticulture industry** means:

- (a) agricultural holdings, flower or vegetable market gardens in connection with the sowing, planting, raising, cultivation, harvesting, picking, packing or treating of horticultural crops, including fruit and vegetables upon farms, orchards and/or plantations; or
- (b) clearing, fencing, trenching, draining or otherwise preparing or treating land for the sowing, raising, harvesting or treating of horticultural crops, including fruit and vegetables.

4.3 **Horticulture industry** does not mean:

- (a) the wine industry;
- (b) silviculture and afforestation;
- (c) sugar farming or sugar cane growing, sugar milling, sugar refining, sugar distilleries and/or sugar terminals;
- (d) any work in or in connection with cotton growing or harvesting; cotton ginneries and associated depots; cotton oil mills and the extraction of oil from seed;
- (e) plant nurseries; or
- (f) a broadacre mixed farming enterprise as defined in the *Pastoral Award 2010*.

4.4 The award does not cover an employee excluded from award coverage by the Act.

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4.5 The award does not cover an employer bound by an enterprise award or an enterprise NAPSA with respect to any employee who is covered by the enterprise award or NAPSA.

4.6 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

5. Access to the award and the National Employment Standards

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. The National Employment Standards and this award

The NES and this award contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.

7.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
- (b) result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.

- 7.4** The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
 - (b) state each term of this award that the employer and the individual employee have agreed to vary;
 - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
 - (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
 - (e) state the date the agreement commences to operate.
- 7.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.6** Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 7.7** An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 7.8** The agreement may be terminated:
- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the individual employee.
- 7.9** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.

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- (b) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

8.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

9. Dispute resolution

- 9.1 In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2 If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3 The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4 Where the matter in dispute remains unresolved, the Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 9.5 An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Types of employment

10.1 General

Employees under this award will be employed in one of the following categories:

- (a) full-time employees;
- (b) part-time employees; or
- (c) casual employees.

At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, part-time or casual.

10.2 Full-time employment

A full-time employee is an employee who is engaged to work an average of 38 ordinary hours per week.

10.3 Part-time employment

- (a) A part-time employee is an employee who:
 - (i) is engaged to work an average of fewer than 38 ordinary hours per week; and
 - (ii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) For each ordinary hour worked, a part-time employee will be paid no less than 1/38th of the minimum weekly rate of pay for the relevant classification in clause 14—Minimum wages.
- (c) An employer must inform a part-time employee of their ordinary hours of work and starting and finishing times.
- (d) All time worked in excess of the hours mutually arranged will be overtime and paid for at the appropriate overtime rate.

10.4 Casual employment

- (a) A casual employee is one engaged and paid as such. A casual employee's ordinary hours of work are the lesser of an average of 38 hours per week or the hours required to be worked by the employer.

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- (b) For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for an employee in that classification in clause 14—Minimum wages, plus a casual loading of 25%.
- (c) The casual loading is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other entitlements of full-time or part-time employment provided for in this award.
- (d) For the purpose of clause 15—Pieceworkers, the calculation of piecework rates for a casual employee will be based on the hourly rates of pay for a casual employee applicable to the work to be performed, including the loading prescribed by clause 10.4(b).

11. Termination of employment

11.1 Notice of termination is provided for in the NES.

11.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause less any period of notice actually given by the employee.

11.3 Job search entitlement

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

12. Redundancy

12.1 Redundancy pay is provided for in the NES.

12.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

12.3 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had

they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

12.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 11.3.

12.5 Transitional provisions

- (a) Subject to clause 12.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a NAPSA:
 - (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under the Act had applied to the employee; and
 - (ii) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (b) The employee's entitlement to redundancy pay under the NAPSA is limited to the amount of redundancy pay which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (c) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.
- (d) Clause 12.5 ceases to operate on 31 December 2014.

Part 4—Minimum Wages and Related Matters

13. Classifications

Employees will be classified in accordance with the classification descriptions contained in Schedule A—Classification Structure and Definitions, of this award.

14. Minimum wages

14.1 Adult employee minimum wages

- (a) The classifications and minimum wages for an adult employee are set out in the following table:

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Classification	Minimum weekly wage \$	Minimum hourly wage \$
Level 1	543.90	14.31
Level 2	560.50	14.75
Level 3	577.20	15.19
Level 4	600.10	15.79
Level 5	637.60	16.78

- (b) For the purposes of clause 14.1(a), any entitlement to a minimum wage expressed to be by the week means any entitlement which an employee would receive for performing 38 hours of work.

14.2 Supported wage system

See Schedule B

14.3 National training wage

See Schedule C

15. Pieceworkers

- 15.1** A full-time, part-time or casual employee may enter into an agreement to be paid piecework rates instead of the rate of pay which would otherwise apply to the type of employment and to the work performed by the employee.
- 15.2** Work may only be paid for at piecework rates where the piecework rates fixed by agreement enable the average employee working the ordinary hours of work to earn at least 15% more than the minimum hourly rate prescribed by this award for the type of employment and the work to be performed.
- 15.3** The piecework rates fixed in accordance with the requirements of these provisions will be paid for all work performed in accordance with the piecework agreement.
- 15.4** Where the earnings of an employee paid at piecework rates fall below the ordinary time rates prescribed by this award for more than three consecutive ordinary working days, the piecework agreement may be terminated by either party.
- 15.5** Agreements for payment by piecework rates must be recorded in writing and signed by the employee and the employer. The agreement must record the type of employment of the employee, the work to be performed, the appropriate minimum hourly rate for the type of employment and work to be performed, the times when the work is to be performed, the piecework rate payable and the duration of the agreement.
- 15.6** In no case will a full-time, part-time or casual employee working under a piecework agreement be paid less than the prescribed ordinary rate payable to the employee for the hours of worked performed.
- 15.7** Payments made at piecework rates do not affect any other entitlement of a full-time or part-time employee under this award.

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15.8 For the purpose of the NES, the base rate of pay for a pieceworker is the base rate of pay as defined in the NES.

15.9 For the purpose of the NES, the full rate of pay for a pieceworker is the full rate of pay as defined in the NES.

16. Juniors

16.1 The minimum wage payable to a junior employee will be the percentage of the adult rate prescribed for the classification upon which the employee is employed as set out in the following table:

Age	Percentage
	%
Under 16 years of age	50
16 years of age	60
17 years of age	70
18 years of age	80
19 years of age	90
20 years of age	100

16.2 The wage payable to a junior will, in the case of a weekly employee, be calculated to the nearest \$0.10, and in the case of an hourly employee, be calculated to the nearest quarter of one cent.

17. Allowances

17.1 All-purpose allowances

The following allowances apply for all purposes of this award:

(a) Leading hand allowance

A leading hand will be paid a leading hand allowance based upon the following:

In charge of:	% of the standard rate per week
2 to 6 employees	115%
7 to 10 employees	134%
11 to 20 employees	191%
More than 20 employees	240%

(b) Wet work allowance

An employee who, on any one day, is required to work in a wet place must be paid an amount of 10% of the standard rate for each hour that they are required to work in the wet place, unless provided with adequate protection. A **wet place** will mean a place where the clothing of the employee becomes saturated or a place where the employee has to stand in water or slush so that the employee's feet become wet.

(c) Tool and equipment allowance

Where the employer requires an employee to supply their own tools and equipment, the employer must reimburse the employee for the cost of supplying such tools and equipment. The provisions of this clause do not apply where the tools and equipment are paid for by the employer.

(d) First aid allowance

An employee who has undertaken a first aid course and who is the holder of a current recognised first aid qualification such as a certificate from the St John Ambulance or similar body must be paid an allowance, per week, equal to 51% of the standard rate per week if they are appointed by the employer to perform first aid duty.

(e) Travelling allowance

Where an employee is required to travel from one place to another, the time occupied in travelling will be counted as time worked and paid for as such. Where an employee is compelled by their duties to spend the night away from home or the property at which the employee is employed (whichever is the employee's normal place of sleeping during employment) the employer will reimburse the employee for the demonstrable cost of suitable accommodation. The provisions of this clause will not apply where the employer provides the employee with suitable accommodation free of charge.

17.2 District allowances

(a) Northern Territory

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (ii) that would have entitled the employee to payment of a district allowance.

(b) Western Australia

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the *Workplace Relations Act 1996* (Cth):

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- (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
 - (ii) that would have entitled the employee to payment of a district allowance.
- (c) Clause 17.2 ceases to operate on 31 December 2014.

17.3 Adjustment of expense related allowances

At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group

18. Higher duties

An employee engaged for more than two hours during one day or shift on duties carrying a higher minimum wage than their ordinary classification must be paid the higher minimum wage for such day or shift. If an employee is engaged for two hours or less during one day or shift on duties carrying a higher minimum wage than their ordinary classification, they must be paid the higher minimum wage for the time so worked.

19. Payment of wages

19.1 Period of payment

Wages must be paid weekly or fortnightly according to the actual ordinary hours worked each week or fortnight, or according to the applicable piecework payment.

19.2 Method of payment

Wages must be paid by cash, cheque or electronic funds transfer into the employee's bank or other recognised financial institution account.

19.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee by post on the next working day.

20. Accident pay

20.1 Subject to clause 20.2, an employee is entitled to accident pay in accordance with the terms of:

- (a) a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the *Workplace Relations Act 1996* (Cth) had applied to the employee; and
- (b) that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.

20.2 The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.

20.3 This clause does not operate to diminish an employee's entitlement to accident pay under any other instrument.

20.4 This clause ceases to operate on 31 December 2014.

21. Superannuation

21.1 Superannuation legislation

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

21.2 Employer contributions

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

21.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 21.2.

- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 21.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or (b) was made.

21.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b) to one of the following superannuation funds:

- (a) Prime Super;
- (b) Tasplan;
- (c) Sunsuper; or
- (d) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

Part 5—Hours of Work and Related Matters

22. Ordinary hours of work and rostering

- 22.1 The ordinary hours of work for employees other than packing house employees will not, without payment of overtime, exceed 38 hours in a week of five days other than a Sunday.
- 22.2 Provided it is stipulated at the time an employee is engaged, when tree fruit picking is carried on, the ordinary hours of work may be worked over five and a half days, other than Sunday. However, no more than 38 hours may be worked over the five and a half days without payment of overtime.
- 22.3 The ordinary hours of duty for packing house employees will not exceed 38 per week without the payment of overtime and may be worked in five days of not more than eight hours Monday to Friday inclusive between 6.00 am and 6.00 pm.

23. Breaks

23.1 Meal break

- (a) A meal break of not less than 30 minutes and not more than one hour will be allowed each day, to be taken not later than five hours after commencing ordinary hours of work. Provided that where there is agreement between the employer and an individual employee, the meal break may be taken at a time agreed.

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- (b) All work performed on the instruction of the employer during a recognised meal break will be paid for at 200% of the appropriate minimum wage. Such payment will continue until the employee is released for a meal break of not less than 30 minutes.

23.2 Rest break

Employees will be allowed a paid rest break of 10 minutes each morning. Where agreement is reached between the employer and employee for an additional rest break, such rest break will be unpaid and in addition to the employee's ordinary hours of work.

23.3 Ten hour break after ceasing work for the day

- (a) An employee is entitled to a break of 10 hours between finishing work on one day and commencing work on the next day.
- (b) Overtime rates will be paid for work required to be performed where an employee has not had the 10 hour break until such time as the employee is released and able to take the 10 hour break.

24. Overtime

24.1 Overtime rates will be paid for all work performed outside the ordinary hours prescribed by this award.

24.2 For employees other than packing house employees, the rate of pay for overtime will be at 150% of the appropriate minimum wage calculated hourly for the first three hours and 200% thereafter, except on Sunday when the rate will be 200%.

24.3 For packing house employees, overtime will be paid for at the rate of 150% for the first two hours and 200% thereafter, except on Sunday when the rate will be 200%.

24.4 All employees required to work overtime on a Sunday will be paid for a minimum of four hours.

24.5 Meal allowance

An employee required to work overtime for more than two hours after the employee's ordinary ceasing time without having been notified before leaving work on the previous day that the employee will be required to work overtime, will be entitled to a payment of \$9.65 for each meal not supplied or will be provided a suitable meal without cost. If the work extends into a second or subsequent meal break, this meal allowance will again apply.

Part 6—Leave and Public Holidays

25. Annual leave

25.1 Annual leave is provided for in the NES.

25.2 Annual leave does not apply to a casual employee.

25.3 This clause contains additional and supplementary provisions.

25.4 Conversion to hourly entitlement

An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement in s.32 of the NES to an hourly entitlement for administrative ease (e.g. 152 hours for a full-time employee entitled to four weeks annual leave).

25.5 Payment for period of annual leave

Instead of the base rate of pay as referred to in s.35(1) of the NES, an employee under this award, before going on annual leave, must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.

25.6 Annual leave loading

During a period of annual leave an employee must also be paid an annual leave loading equal to 17.5% of the wages prescribed in clause 25.5.

25.7 Excessive leave

Notwithstanding s.33 of the NES, if an employer has genuinely tried to reach agreement with an employee as to the timing of taking annual leave, the employer can require the employee to take annual leave by giving not less than four weeks notice of the time when such leave is to be taken if:

- (a) at the time the direction is given, the employee has eight weeks or more of annual leave accrued; and
- (b) the amount of annual leave the employee is directed to take is less than or equal to a quarter of the amount of leave accrued.

25.8 Paid leave in advance of accrued entitlement

By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.

25.9 Transmission of business

Where a business is transmitted from one employer to another, the period of continuous service that an employee had with the transmitter must be deemed to be service with the transferee and taken into account when calculating annual leave. However an employee is not entitled to leave or payment instead for any period in respect of which leave has been taken or paid for.

25.10 Proportionate leave on termination

On termination of employment, an employee must be paid for leave accrued that has not been taken at the appropriate wage calculated in accordance with clause 25.5.

26. Personal/carer's leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the NES.

27. Community service leave

27.1 Community service leave is provided for in the NES.

27.2 Reimbursement for jury service

- (a) A full-time employee required to attend for jury service during their ordinary hours of work must be reimbursed by the employer an amount equal to the difference between the amount paid to the employee in respect of the employee's attendance for such jury service and the wages the employee would have received in respect of the ordinary hours the employee would have worked had the employee not been on jury service.
- (b) Where a part-time employee is required to attend for jury service and such attendance coincides with a day on which the employee would normally be required to work, payment must be made to the employee in accordance with clause 27.2(a).

28. Public holidays

28.1 Public holidays are provided for in the NES.

28.2 Substitution of certain public holidays by agreement at the enterprise

- (a) By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.
- (b) An employer and an individual employee may agree to the employee taking another day as the public holiday instead of the day which is being observed as the public holiday in the enterprise or part of the enterprise concerned.

28.3 Public holiday rates of pay

All work performed on public holidays will be paid for at the rate of 200% of the ordinary rate.

Schedule A—Classification Structure and Definitions

A.1 Level 1

A.1.1 Level 1 employee means an employee classified in accordance with the following criteria:

A.1.2 General description

An employee at this level:

- undertakes induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurance;
- performs routine duties essentially of a manual nature and to the level of their training;
- exercises minimal judgment;
- works under direct supervision;
- is responsible for the quality of their own work;
- is a new employee; or is an existing employee performing work within this grade who is undertaking training so as to enable advancement to Level 2.

A.1.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- performing general labouring duties;
- fruit or vegetable picking, thinning or pruning;
- operating small towing tractor engaged in transfer of produce bins and other containers during harvest;
- performing a range of housekeeping tasks in premises and grounds;
- sorting, packing or grading of produce where this requires the exercise of only minimal judgment;
- performing basic recording functions related to work performed at this level;
- providing assistance within the scope of this level to other employees as required;
- undertaking structured training so as to enable advancement to Level 2.

A.2 Level 2 employee

A.2.1 Level 2 employee means an employee classified in accordance with the following criteria:

A.2.2 General description

An employee at this level:

- has completed up to three months structured training so as to enable the performance of work within the scope of this level;
- works under general supervision either individually or in a team environment;
- works with established routines, methods and procedures;
- performs a range of tasks involving the use of skills above and beyond those of Level 1 and to the level of their training;
- exercises limited discretion;
- is responsible for the quality of their own work;
- receives training in occupational health and safety standards and practices relevant to the site;
- performs lower level tasks as required without loss of pay unless re-engaged to perform tasks at predominantly a lower skill level.

A.2.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- performing a range of tasks involving the set up and operation of production and/or packaging or picking equipment, labelling and/or consumer picking equipment;
- repetition work on automatic, semi-automatic or single purpose machines or equipment;
- assembling/dismantling components using basic written, spoken and/or diagrammatic instructions in an assembly environment;
- irrigation, spraying or pruning under general supervision;
- sorting, packing and grading beyond the scope of Level 1 duties;
- maintaining simple records;
- using hand trolleys, pallet trucks or other mechanical or power driven lifting or handling devices not requiring a licence;
- operating tractors with engine capacity of up to 70 kW;
- general and routine product testing;
- providing assistance within the scope of this level to other employees as required;
- assisting in the provision of on-the-job training in conjunction with supervisors, tradespersons or trainers;
- undertaking further training so as to enable advancement to Level 3.

A.3 Level 3 employee

A.3.1 Level 3 employee means an employee classified in accordance with the following criteria:

A.3.2 General description

An employee at this level:

- performs work above and beyond the skills of an employee at Level 2 and to the level of their training;
- works under routine supervision either individually or in a team environment;
- exercises discretion with their level of skills and training;
- is responsible for the quality of their own work;
- receives training in occupational health and safety standards and practices in work areas relevant to the site and appropriate to this award;
- may perform any lower level task as required without loss of pay.

A.3.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- driving motor lorries or mechanical harvesters or forklifts;
- operating tractors with engine capacity of over 70 kW;
- minor maintenance of plant;
- irrigation, spraying, pruning without supervision;
- assisting in the training, instruction and coordination of employees;
- recording detailed information on production and quality indicators;
- providing assistance within the scope of this level to other employees;
- undertaking further training so as to enable advancement to Level 4.

A.4 Level 4 employee

A.4.1 Level 4 employee means an employee classified in accordance with the following criteria:

A.4.2 General description

An employee at this level:

- performs work above and beyond the skills of an employee at Level 3 and to the level of their training;
- coordinates work in a team environment or works individually under general supervision;
- exercises discretion with their level of skills and training;

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- is responsible for the quality of their own work;
- has knowledge of the employer's operation as it relates to the production process;
- monitors the application of occupational health and safety standards in work areas relevant to the site and appropriate to this level;
- may perform any lower level task as required without loss of pay.

A.4.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- using precision measuring instruments;
- machine setting, loading and operation;
- inventory and store control;
- licensed operation of all appropriate materials handling equipment;
- basic engineering and fault handling;
- basic non-trades maintenance involving the use of tools and equipment within the scope of this award;
- licensed and certified to operate forklifts, engine driving and crane driving operation;
- furnace/boiler operator;
- performing quality checks on the work of others;
- quality assurance/control;
- assisting in provision of on-the-job training;
- monitoring variables affecting production yields, detecting errors, investigating causes and recommending collective/preventative action;
- providing assistance within the scope of this level to other employees;
- undertaking further training so as to enable advancement to Level 5.

A.5 Level 5 employee

A.5.1 Level 5 employee means an employee classified in accordance with the following criteria:

A.5.2 General description

An employee at this level:

- works above and beyond the skills of an employee at Level 4 and to the level of their training;
- performs work under minimal supervision either individually or in a team environment;

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- coordinates and schedules approved work in a team environment;
- exercises good interpersonal communication skills;
- exercises discretion within the scope of this grade;
- possesses and uses a trade qualification in the course of their duties;
- has a sound knowledge of the employer's operation as it relates to the production process;
- undertakes lower level tasks as required without loss of pay.

A.5.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- inspecting products and/or materials for conformity with established operational standards and approves/passes first off samples;
- operating, setting up and adjusting maintenance functions including (but not limited to):
 - removing equipment fastenings including use of destructive cutting equipment;
 - running adjustments to production equipment;
- operating all lifting equipment;
- basic production scheduling and materials handling within the scope of production process or directly related functions;
- exercising high level stores and inventory responsibilities;
- providing on-the-job training;
- providing assistance within the scope of this level to other employees.

Schedule B—Supported Wage System

B.1 This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

B.2 In this schedule:

approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme

relevant minimum wage means the minimum wage prescribed in this award for the class of work for which an employee is engaged

supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au

SWS wage assessment agreement means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

B.3 Eligibility criteria

B.3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

B.3.2 This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

B.4 Supported wage rates

B.4.1 Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity (clause B.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

B.4.2 Provided that the minimum amount payable must be not less than \$69 per week.

B.4.3 Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

B.5 Assessment of capacity

B.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

B.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

B.6 Lodgement of SWS wage assessment agreement

B.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Commission.

B.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Industrial Registrar to the union by certified mail and the agreement will take effect unless an objection is notified to the Commission within 10 working days.

B.7 Review of assessment

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

B.8 Other terms and conditions of employment

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

B.9 Workplace adjustment

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

B.10 Trial period

- B.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- B.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- B.10.3** The minimum amount payable to the employee during the trial period must be no less than \$69 per week.
- B.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- B.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause B.5.

Schedule C—National Training Wage

27 May 2009

The Hon Julia Gillard MP
Deputy Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Deputy Prime Minister

The National Farmers' Federation (NFF) seeks to outline an issue of concern relating to the Horticulture Award 2010.

It is the view of the NFF that the Horticulture Award 2010 has created a higher standard than that currently in existence in horticultural awards in Australia that will lead to a significant regulatory burden and also increase costs for horticultural producers throughout the country, most of which are small businesses.

Specific concern relates to the new standard for piecework rates and restrictive hours of work provisions.

The new piecework arrangements are in fact an incentive based payment replacing a long standing true piece rate arrangement that has stood the test of time for the industry.

As a consequence there will be an onerous requirement to keep record of hours worked which due to the nature of the work will be virtually impossible resulting in employers no longer wishing to employ certain groups of people including grey nomads, back packers, long term unemployed or people with disabilities. These issues have been canvassed in more detail with your office.

In respect to hours of work, the Horticulture Award 2010 provides for a restrictive arrangement that also differentiates between packing house employees and other employees. These restrictions are a new standard to the vast majority in the sector.

The NFF is seeking the support of the Commonwealth Government through an amendment to the Award Modernisation Request and also support for the industry through the Commonwealth's submission to the Australian Industrial Relations Commission (AIRC) on transitional provisions in modern Awards.

The NFF supports the Australian Industry Group's (AiG) proposed change to the Request, that is,

33AA Where a modern award covers work performed in remote or rural locations, the Commission should include terms that permit the roster arrangements, piece work arrangements, and working hours presently operating in practice in those locations to continue after the making of the modern award.

The NFF will be submitting to the AIRC in its transitional provisions submission that there should be a delay in the operation of the hours of work, weekend penalty rates and piecework provisions of the Horticulture Award until after the two year review provided for in Item 6, Schedule 5, of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009.

In the interim, the NFF will be proposing a transition provision that the existing federal award or NAFSA provisions relating to those matters would be maintained. This position is consistent with the approach by AiG.

The NFF greatly appreciates the assistance provided by your office and Department to date on this matter.

It is of critical importance that we resolve these issues otherwise the introduction of the Modern Horticulture 2010 Award will have a detrimental impact on the viability of the horticulture sector and the ability of the sector to employ large numbers of people.

Yours sincerely



DENITA WAWN
General Manager – Workplace & Corporate Relations

Horticulture Award 2010

The above award was first made on 3 April 2009 [\[PR986369\]](#)

This consolidated version of the award includes variations made on 11 September 2009 [\[PR988417\]](#); 21 September 2009 [\[PR989302\]](#); 10 December 2009 [\[PR990537\]](#)

NOTE: Transitional provisions may apply to certain clauses – see clause 2 and Schedule A

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Part 1—Application and Operation

1. Title

This award is the *Horticulture Award 2010*.

2. Commencement and transitional

[Varied by [PR988417](#)]

2.1 This award commences on 1 January 2010.

[2.2–2.6 inserted by [PR988417](#)]

2.2 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.

2.3 This award contains transitional arrangements which specify when particular parts of the award come into effect. Some of the transitional arrangements are in clauses in the main part of the award. There are also transitional arrangements in Schedule A. The arrangements in Schedule A deal with:

- minimum wages and piecework rates
- casual or part-time loadings
- Saturday, Sunday, public holiday, evening or other penalties
- shift allowances/penalties.

2.4 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, Fair Work Australia may make any order it considers appropriate to remedy the situation.

2.5 Fair Work Australia may review the transitional arrangements in this award and make a determination varying the award.

2.6 Fair Work Australia may review the transitional arrangements:

- (a) on its own initiative; or
- (b) on application by an employer, employee, organisation or outworker entity covered by the modern award; or
- (c) on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or

- (d) in relation to outworker arrangements, on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the arrangements relate.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

Act means the *Workplace Relations Act 1996* (Cth)

Commission means the Australian Industrial Relations Commission or its successor

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

enterprise NAPSA means a NAPSA derived from a State award which immediately prior to 27 March 2006 applied only to a single business or a part of a single business

horticultural crops includes all vegetables, fruits, grains, seeds, hops, nuts, fungi, olives, flowers, or other specialised crops unless they are specifically named as a **broadacre field crop** in the *Pastoral Award 2010*

NAPSA means notional agreement preserving a State award and has the meaning in the Act

NES means National Employment Standards

plant nurseries means the principal business of the employer is the preparation of growing media for the growing of plant material, propagation, preparation and presentation of plant material for sale

silviculture and afforestation means the planting, pruning, fertilising and any other activities in or in connection with the establishment or cultivation of trees in forests

standard rate means the minimum hourly wage for a Level 2 in clause 14.1. This rate is to be used for the purposes of calculating various allowances that require a designated standard rate

vineyard means a place where wine grapes are grown exclusively or predominantly for processing into wine

wine industry means:

- (a) the preparation of land for planting of wine grape vines; care, growing, treating, picking, harvesting, forwarding of wine grapes; and pruning of wine grape vines and other activities associated with a wine grape vineyard;
- (b) processing wine grapes; producing wine juice or grape spirit; bottling, packaging, storage or dispatch of wine, brandy or other potable spirit, liqueurs, vinegar or grape juice and other activities associated with a winery or wine distillery including but not limited to cellar door sales, coopers, machinists, labourers making or repairing barrels, vats, casks, and like articles and laboratories; and

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- (c) the packaging, storage and dispatching of wine or grape spirit from a warehouse facility or other place of storage associated with a winery or wine distillery

3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

4. Coverage

[Sched A renumbered as Sched B by [PR988417](#)]

4.1 This industry award covers employers throughout Australia in the horticulture industry and their employees in the classifications listed in Schedule B—Classification Structure and Definitions, to the exclusion of any other modern award.

4.2 **Horticulture industry** means:

- (a) agricultural holdings, flower or vegetable market gardens in connection with the sowing, planting, raising, cultivation, harvesting, picking, packing or treating of horticultural crops, including fruit and vegetables upon farms, orchards and/or plantations; or
- (b) clearing, fencing, trenching, draining or otherwise preparing or treating land for the sowing, raising, harvesting or treating of horticultural crops, including fruit and vegetables.

4.3 **Horticulture industry** does not mean:

- (a) the wine industry;
- (b) silviculture and afforestation;
- (c) sugar farming or sugar cane growing, sugar milling, sugar refining, sugar distilleries and/or sugar terminals;
- (d) any work in or in connection with cotton growing or harvesting; cotton ginneries and associated depots; cotton oil mills and the extraction of oil from seed;
- (e) plant nurseries; or
- (f) a broadacre mixed farming enterprise as defined in the *Pastoral Award 2010*.

4.4 The award does not cover an employee excluded from award coverage by the Act.

4.5 The award does not cover an employer bound by an enterprise award or an enterprise NAPSA with respect to any employee who is covered by the enterprise award or NAPSA.

4.6 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

5. Access to the award and the National Employment Standards

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. The National Employment Standards and this award

The [NES](#) and this award contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.

7.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
- (b) result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.

7.4 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;

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- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
 - (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
 - (e) state the date the agreement commences to operate.
- 7.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.6** Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 7.7** An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 7.8** The agreement may be terminated:
- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the individual employee.
- 7.9** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

8.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

9. Dispute resolution

- 9.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3** The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4** Where the matter in dispute remains unresolved, the Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Types of employment

10.1 General

Employees under this award will be employed in one of the following categories:

- (a) full-time employees;
- (b) part-time employees; or
- (c) casual employees.

At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, part-time or casual.

10.2 Full-time employment

A full-time employee is an employee who is engaged to work an average of 38 ordinary hours per week.

10.3 Part-time employment

- (a) A part-time employee is an employee who:
 - (i) is engaged to work an average of fewer than 38 ordinary hours per week; and
 - (ii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) For each ordinary hour worked, a part-time employee will be paid no less than 1/38th of the minimum weekly rate of pay for the relevant classification in clause 14—Minimum wages.
- (c) An employer must inform a part-time employee of their ordinary hours of work and starting and finishing times.
- (d) All time worked in excess of the hours mutually arranged will be overtime and paid for at the appropriate overtime rate.

10.4 Casual employment

- (a) A casual employee is one engaged and paid as such. A casual employee's ordinary hours of work are the lesser of an average of 38 hours per week or the hours required to be worked by the employer.
- (b) For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for an employee in that classification in clause 14—Minimum wages, plus a casual loading of 25%.
- (c) The casual loading is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other entitlements of full-time or part-time employment provided for in this award.

- (d) For the purpose of clause 15—Pieceworkers, the calculation of piecework rates for a casual employee will be based on the hourly rates of pay for a casual employee applicable to the work to be performed, including the loading prescribed by clause 10.4(b).

11. Termination of employment

11.1 Notice of termination is provided for in the NES.

11.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause less any period of notice actually given by the employee.

11.3 Job search entitlement

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

12. Redundancy

12.1 Redundancy pay is provided for in the NES.

12.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

12.3 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

12.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

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- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 11.3.

12.5 Transitional provisions

- (a) Subject to clause 12.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a NAPSA:
 - (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under the Act had applied to the employee; and
 - (ii) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (b) The employee's entitlement to redundancy pay under the NAPSA is limited to the amount of redundancy pay which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (c) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.
- (d) Clause 12.5 ceases to operate on 31 December 2014.

Part 4—Minimum Wages and Related Matters

13. Classifications

[Sched A renumbered as Sched B by [PR988417](#)]

Employees will be classified in accordance with the classification descriptions contained in Schedule B—Classification Structure and Definitions, of this award.

14. Minimum wages

14.1 Adult employee minimum wages

- (a) The classifications and minimum wages for an adult employee are set out in the following table:

Classification	Minimum weekly wage \$	Minimum hourly wage \$
Level 1	543.90	14.31
Level 2	560.50	14.75
Level 3	577.20	15.19

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Classification	Minimum weekly wage \$	Minimum hourly wage \$
Level 4	600.10	15.79
Level 5	637.60	16.78

- (b) For the purposes of clause 14.1(a), any entitlement to a minimum wage expressed to be by the week means any entitlement which an employee would receive for performing 38 hours of work.

14.2 Supported wage system

[Sched B renumbered as Sched C by [PR988417](#)]

See Schedule C

14.3 National training wage

[Sched C renumbered as Sched D by [PR988417](#)]

See Schedule D

15. Pieceworkers

- 15.1** A full-time, part-time or casual employee may enter into an agreement to be paid piecework rates instead of the rate of pay which would otherwise apply to the type of employment and to the work performed by the employee.
- 15.2** Work may only be paid for at piecework rates where the piecework rates fixed by agreement enable the average employee working the ordinary hours of work to earn at least 15% more than the minimum hourly rate prescribed by this award for the type of employment and the work to be performed.
- 15.3** The piecework rates fixed in accordance with the requirements of these provisions will be paid for all work performed in accordance with the piecework agreement.
- 15.4** Where the earnings of an employee paid at piecework rates fall below the ordinary time rates prescribed by this award for more than three consecutive ordinary working days, the piecework agreement may be terminated by either party.
- 15.5** Agreements for payment by piecework rates must be recorded in writing and signed by the employee and the employer. The agreement must record the type of employment of the employee, the work to be performed, the appropriate minimum hourly rate for the type of employment and work to be performed, the times when the work is to be performed, the piecework rate payable and the duration of the agreement.
- 15.6** In no case will a full-time, part-time or casual employee working under a piecework agreement be paid less than the prescribed ordinary rate payable to the employee for the hours of worked performed.
- 15.7** Payments made at piecework rates do not affect any other entitlement of a full-time or part-time employee under this award.

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- 15.8** For the purpose of the NES, the base rate of pay for a pieceworker is the base rate of pay as defined in the NES.
- 15.9** For the purpose of the NES, the full rate of pay for a pieceworker is the full rate of pay as defined in the NES.

16. Juniors

- 16.1** The minimum wage payable to a junior employee will be the percentage of the adult rate prescribed for the classification upon which the employee is employed as set out in the following table:

Age	Percentage
	%
Under 16 years of age	50
16 years of age	60
17 years of age	70
18 years of age	80
19 years of age	90
20 years of age	100

- 16.2** The wage payable to a junior will, in the case of a weekly employee, be calculated to the nearest \$0.10, and in the case of an hourly employee, be calculated to the nearest quarter of one cent.

17. Allowances

17.1 All-purpose allowances

The following allowances apply for all purposes of this award:

(a) Leading hand allowance

A leading hand will be paid a leading hand allowance based upon the following:

In charge of:	% of the standard rate per week
2 to 6 employees	115%
7 to 10 employees	134%
11 to 20 employees	191%
More than 20 employees	240%

(b) Wet work allowance

An employee who, on any one day, is required to work in a wet place must be paid an amount of 10% of the standard rate for each hour that they are required to work in the wet place, unless provided with adequate protection. A **wet place** will mean a place where the clothing of the employee becomes saturated or a place where the employee has to stand in water or slush so that the employee's feet become wet.

(c) Tool and equipment allowance

Where the employer requires an employee to supply their own tools and equipment, the employer must reimburse the employee for the cost of supplying such tools and equipment. The provisions of this clause do not apply where the tools and equipment are paid for by the employer.

(d) First aid allowance

An employee who has undertaken a first aid course and who is the holder of a current recognised first aid qualification such as a certificate from the St John Ambulance or similar body must be paid an allowance, per week, equal to 51% of the standard rate per week if they are appointed by the employer to perform first aid duty.

(e) Travelling allowance

Where an employee is required to travel from one place to another, the time occupied in travelling will be counted as time worked and paid for as such. Where an employee is compelled by their duties to spend the night away from home or the property at which the employee is employed (whichever is the employee's normal place of sleeping during employment) the employer will reimburse the employee for the demonstrable cost of suitable accommodation. The provisions of this clause will not apply where the employer provides the employee with suitable accommodation free of charge.

17.2 District allowances

(a) Northern Territory

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- (i)** that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (ii)** that would have entitled the employee to payment of a district allowance.

(b) Western Australia

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the *Workplace Relations Act 1996* (Cth):

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- (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (ii) that would have entitled the employee to payment of a district allowance.

(c) Clause 17.2 ceases to operate on 31 December 2014.

17.3 Adjustment of expense related allowances

At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group

18. Higher duties

An employee engaged for more than two hours during one day or shift on duties carrying a higher minimum wage than their ordinary classification must be paid the higher minimum wage for such day or shift. If an employee is engaged for two hours or less during one day or shift on duties carrying a higher minimum wage than their ordinary classification, they must be paid the higher minimum wage for the time so worked.

19. Payment of wages

19.1 Period of payment

Wages must be paid weekly or fortnightly according to the actual ordinary hours worked each week or fortnight, or according to the applicable piecework payment.

19.2 Method of payment

Wages must be paid by cash, cheque or electronic funds transfer into the employee's bank or other recognised financial institution account.

19.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee by post on the next working day.

20. Accident pay

20.1 Subject to clause 20.2, an employee is entitled to accident pay in accordance with the terms of:

- (a) a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the *Workplace Relations Act 1996* (Cth) had applied to the employee; and
- (b) that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.

20.2 The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.

20.3 This clause does not operate to diminish an employee's entitlement to accident pay under any other instrument.

20.4 This clause ceases to operate on 31 December 2014.

21. Superannuation

[Varied by [PR989302](#); [PR990537](#)]

21.1 Superannuation legislation

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

21.2 Employer contributions

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

21.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee

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into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 21.2.

- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 21.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or (b) was made.

21.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b) to one of the following superannuation funds:

[21.4(a) inserted by [PR989302](#)]

- (a) AustSafe Super

[21.4(a)–21.4(d) renumbered as 21.4(b)–21.4(e) by [PR989302](#)]

- (b) Prime Super;
- (c) Tasplan;

[21.4(d) varied by [PR990537](#)]

- (d) Sunsuper;

[New 21.4(e) inserted by [PR990537](#)]

- (e) Asset Limited; or

[21.4(e) renumbered as 21.4(f) by [PR990537](#)]

- (f) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

Part 5—Hours of Work and Related Matters

22. Ordinary hours of work and rostering

22.1 The ordinary hours of work for employees other than packing house employees will not, without payment of overtime, exceed 38 hours in a week of five days other than a Sunday.

22.2 Provided it is stipulated at the time an employee is engaged, when tree fruit picking is carried on, the ordinary hours of work may be worked over five and a half days, other than Sunday. However, no more than 38 hours may be worked over the five and a half days without payment of overtime.

22.3 The ordinary hours of duty for packing house employees will not exceed 38 per week without the payment of overtime and may be worked in five days of not more than eight hours Monday to Friday inclusive between 6.00 am and 6.00 pm.

23. Breaks

23.1 Meal break

- (a) A meal break of not less than 30 minutes and not more than one hour will be allowed each day, to be taken not later than five hours after commencing ordinary hours of work. Provided that where there is agreement between the employer and an individual employee, the meal break may be taken at a time agreed.
- (b) All work performed on the instruction of the employer during a recognised meal break will be paid for at 200% of the appropriate minimum wage. Such payment will continue until the employee is released for a meal break of not less than 30 minutes.

23.2 Rest break

Employees will be allowed a paid rest break of 10 minutes each morning. Where agreement is reached between the employer and employee for an additional rest break, such rest break will be unpaid and in addition to the employee's ordinary hours of work.

23.3 Ten hour break after ceasing work for the day

- (a) An employee is entitled to a break of 10 hours between finishing work on one day and commencing work on the next day.
- (b) Overtime rates will be paid for work required to be performed where an employee has not had the 10 hour break until such time as the employee is released and able to take the 10 hour break.

24. Overtime

24.1 Overtime rates will be paid for all work performed outside the ordinary hours prescribed by this award.

24.2 For employees other than packing house employees, the rate of pay for overtime will be at 150% of the appropriate minimum wage calculated hourly for the first three hours and 200% thereafter, except on Sunday when the rate will be 200%.

24.3 For packing house employees, overtime will be paid for at the rate of 150% for the first two hours and 200% thereafter, except on Sunday when the rate will be 200%.

24.4 All employees required to work overtime on a Sunday will be paid for a minimum of four hours.

24.5 Meal allowance

An employee required to work overtime for more than two hours after the employee's ordinary ceasing time without having been notified before leaving work

on the previous day that the employee will be required to work overtime, will be entitled to a payment of \$9.65 for each meal not supplied or will be provided a suitable meal without cost. If the work extends into a second or subsequent meal break, this meal allowance will again apply.

Part 6—Leave and Public Holidays

25. Annual leave

25.1 Annual leave is provided for in the NES.

25.2 Annual leave does not apply to a casual employee.

25.3 This clause contains additional and supplementary provisions.

25.4 Conversion to hourly entitlement

An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement in s.32 of the NES to an hourly entitlement for administrative ease (e.g. 152 hours for a full-time employee entitled to four weeks annual leave).

25.5 Payment for period of annual leave

Instead of the base rate of pay as referred to in s.35(1) of the NES, an employee under this award, before going on annual leave, must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.

25.6 Annual leave loading

During a period of annual leave an employee must also be paid an annual leave loading equal to 17.5% of the wages prescribed in clause 25.5.

25.7 Excessive leave

Notwithstanding s.33 of the NES, if an employer has genuinely tried to reach agreement with an employee as to the timing of taking annual leave, the employer can require the employee to take annual leave by giving not less than four weeks notice of the time when such leave is to be taken if:

- (a) at the time the direction is given, the employee has eight weeks or more of annual leave accrued; and
- (b) the amount of annual leave the employee is directed to take is less than or equal to a quarter of the amount of leave accrued.

25.8 Paid leave in advance of accrued entitlement

By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.

25.9 Transmission of business

Where a business is transmitted from one employer to another, the period of continuous service that an employee had with the transmitter must be deemed to be service with the transferee and taken into account when calculating annual leave. However an employee is not entitled to leave or payment instead for any period in respect of which leave has been taken or paid for.

25.10 Proportionate leave on termination

On termination of employment, an employee must be paid for leave accrued that has not been taken at the appropriate wage calculated in accordance with clause 25.5.

26. Personal/carer's leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the NES.

27. Community service leave

27.1 Community service leave is provided for in the NES.

27.2 Reimbursement for jury service

- (a) A full-time employee required to attend for jury service during their ordinary hours of work must be reimbursed by the employer an amount equal to the difference between the amount paid to the employee in respect of the employee's attendance for such jury service and the wages the employee would have received in respect of the ordinary hours the employee would have worked had the employee not been on jury service.
- (b) Where a part-time employee is required to attend for jury service and such attendance coincides with a day on which the employee would normally be required to work, payment must be made to the employee in accordance with clause 27.2(a).

28. Public holidays

28.1 Public holidays are provided for in the NES.

28.2 Substitution of certain public holidays by agreement at the enterprise

- (a) By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.
- (b) An employer and an individual employee may agree to the employee taking another day as the public holiday instead of the day which is being observed as the public holiday in the enterprise or part of the enterprise concerned.

28.3 Public holiday rates of pay

All work performed on public holidays will be paid for at the rate of 200% of the ordinary rate.

Horticulture Award 2010

Schedule A—Transitional Provisions

[Sched A inserted by [PR988417](#)]

A.1 General

A.1.1 The provisions of this schedule deal with minimum obligations only.

A.1.2 The provisions of this schedule are to be applied when there is a difference, in money or percentage terms, between a provision in a transitional minimum wage instrument (including the transitional default casual loading) or an award-based transitional instrument on the one hand and an equivalent provision in a modern award on the other.

A.2 Minimum wages – existing minimum wage lower

A.2.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage lower than that in this award for any classification of employee.

A.2.2 In this clause minimum wage includes:

- (a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;
- (b) a piecework rate; and
- (c) any applicable industry allowance.

A.2.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.

A.2.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.2.3 is referred to as the transitional amount.

A.2.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award minus the specified proportion of the transitional amount:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%

First full pay period on or after

1 July 2012	40%
1 July 2013	20%

- A.2.6** The employer must apply any increase in minimum wages in this award resulting from an annual wage review.
- A.2.7** These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.3 Minimum wages – existing minimum wage higher

- A.3.1** The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage higher than that in this award for any classification of employee.

- A.3.2** In this clause minimum wage includes:

- (a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;
- (b) a piecework rate; and
- (c) any applicable industry allowance.

- A.3.3** Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.

- A.3.4** The difference between the minimum wage for the classification in this award and the minimum wage in clause A.3.3 is referred to as the transitional amount.

- A.3.5** From the following dates the employer must pay no less than the minimum wage for the classification in this award plus the specified proportion of the transitional amount:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

Horticulture Award 2010

A.3.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review. If the transitional amount is equal to or less than any increase in minimum wages resulting from the 2010 annual wage review the transitional amount is to be set off against the increase and the other provisions of this clause will not apply.

A.3.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.4 Loadings and penalty rates

For the purposes of this schedule loading or penalty means a:

- casual or part-time loading;
- Saturday, Sunday, public holiday, evening or other penalty;
- shift allowance/penalty.

A.5 Loadings and penalty rates – existing loading or penalty rate lower

A.5.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by the terms of the transitional default casual loading or an award-based transitional instrument to pay a particular loading or penalty lower than that in this award for any classification of employee.

A.5.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the transitional default casual loading or the loading or penalty in the relevant award-based transitional instrument for the classification concerned.

A.5.3 The difference between the loading or penalty in this award and the rate in clause A.5.2 is referred to as the transitional percentage.

A.5.4 From the following dates the employer must pay no less than the loading or penalty in this award minus the specified proportion of the transitional percentage:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.5.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.6 Loadings and penalty rates – existing loading or penalty rate higher

A.6.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by the terms of an award-based transitional instrument to pay a particular loading or penalty higher than that in this award for any classification of employee.

A.6.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant award-based transitional instrument.

A.6.3 The difference between the loading or penalty in this award and the rate in clause A.6.2 is referred to as the transitional percentage.

A.6.4 From the following dates the employer must pay no less than the loading or penalty in this award plus the specified proportion of the transitional percentage:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.6.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.7 Loadings and penalty rates – no existing loading or penalty rate

A.7.1 The following transitional arrangements apply to an employer not covered by clause A.5 or A.6 in relation to a particular loading or penalty.

A.7.2 Prior to the first full pay period on or after 1 July 2010 the employer need not pay the loading or penalty in this award.

A.7.3 From the following dates the employer must pay no less than the following percentage of the loading or penalty:

First full pay period on or after

1 July 2010	20%
1 July 2011	40%
1 July 2012	60%
1 July 2013	80%

A.7.4 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

Schedule B—Classification Structure and Definitions

[Sched A renumbered as Sched B by [PR988417](#)]

B.1 Level 1

B.1.1 Level 1 employee means an employee classified in accordance with the following criteria:

B.1.2 General description

An employee at this level:

- undertakes induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurance;
- performs routine duties essentially of a manual nature and to the level of their training;
- exercises minimal judgment;
- works under direct supervision;
- is responsible for the quality of their own work;
- is a new employee; or is an existing employee performing work within this grade who is undertaking training so as to enable advancement to Level 2.

B.1.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- performing general labouring duties;
- fruit or vegetable picking, thinning or pruning;
- operating small towing tractor engaged in transfer of produce bins and other containers during harvest;
- performing a range of housekeeping tasks in premises and grounds;
- sorting, packing or grading of produce where this requires the exercise of only minimal judgment;
- performing basic recording functions related to work performed at this level;
- providing assistance within the scope of this level to other employees as required;
- undertaking structured training so as to enable advancement to Level 2.

B.2 Level 2 employee

B.2.1 Level 2 employee means an employee classified in accordance with the following criteria:

B.2.2 General description

An employee at this level:

- has completed up to three months structured training so as to enable the performance of work within the scope of this level;
- works under general supervision either individually or in a team environment;
- works with established routines, methods and procedures;
- performs a range of tasks involving the use of skills above and beyond those of Level 1 and to the level of their training;
- exercises limited discretion;
- is responsible for the quality of their own work;
- receives training in occupational health and safety standards and practices relevant to the site;
- performs lower level tasks as required without loss of pay unless re-engaged to perform tasks at predominantly a lower skill level.

B.2.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- performing a range of tasks involving the set up and operation of production and/or packaging or picking equipment, labelling and/or consumer picking equipment;
- repetition work on automatic, semi-automatic or single purpose machines or equipment;
- assembling/dismantling components using basic written, spoken and/or diagrammatic instructions in an assembly environment;
- irrigation, spraying or pruning under general supervision;
- sorting, packing and grading beyond the scope of Level 1 duties;
- maintaining simple records;
- using hand trolleys, pallet trucks or other mechanical or power driven lifting or handling devices not requiring a licence;
- operating tractors with engine capacity of up to 70 kW;
- general and routine product testing;
- providing assistance within the scope of this level to other employees as required;

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- assisting in the provision of on-the-job training in conjunction with supervisors, tradespersons or trainers;
- undertaking further training so as to enable advancement to Level 3.

B.3 Level 3 employee

B.3.1 Level 3 employee means an employee classified in accordance with the following criteria:

B.3.2 General description

An employee at this level:

- performs work above and beyond the skills of an employee at Level 2 and to the level of their training;
- works under routine supervision either individually or in a team environment;
- exercises discretion with their level of skills and training;
- is responsible for the quality of their own work;
- receives training in occupational health and safety standards and practices in work areas relevant to the site and appropriate to this award;
- may perform any lower level task as required without loss of pay.

B.3.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- driving motor lorries or mechanical harvesters or forklifts;
- operating tractors with engine capacity of over 70 kW;
- minor maintenance of plant;
- irrigation, spraying, pruning without supervision;
- assisting in the training, instruction and coordination of employees;
- recording detailed information on production and quality indicators;
- providing assistance within the scope of this level to other employees;
- undertaking further training so as to enable advancement to Level 4.

B.4 Level 4 employee

B.4.1 Level 4 employee means an employee classified in accordance with the following criteria:

B.4.2 General description

An employee at this level:

- performs work above and beyond the skills of an employee at Level 3 and to the level of their training;

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- coordinates work in a team environment or works individually under general supervision;
- exercises discretion with their level of skills and training;
- is responsible for the quality of their own work;
- has knowledge of the employer's operation as it relates to the production process;
- monitors the application of occupational health and safety standards in work areas relevant to the site and appropriate to this level;
- may perform any lower level task as required without loss of pay.

B.4.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- using precision measuring instruments;
- machine setting, loading and operation;
- inventory and store control;
- licensed operation of all appropriate materials handling equipment;
- basic engineering and fault handling;
- basic non-trades maintenance involving the use of tools and equipment within the scope of this award;
- licensed and certified to operate forklifts, engine driving and crane driving operation;
- furnace/boiler operator;
- performing quality checks on the work of others;
- quality assurance/control;
- assisting in provision of on-the-job training;
- monitoring variables affecting production yields, detecting errors, investigating causes and recommending collective/preventative action;
- providing assistance within the scope of this level to other employees;
- undertaking further training so as to enable advancement to Level 5.

B.5 Level 5 employee

B.5.1 Level 5 employee means an employee classified in accordance with the following criteria:

B.5.2 General description

An employee at this level:

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- works above and beyond the skills of an employee at Level 4 and to the level of their training;
- performs work under minimal supervision either individually or in a team environment;
- coordinates and schedules approved work in a team environment;
- exercises good interpersonal communication skills;
- exercises discretion within the scope of this grade;
- possesses and uses a trade qualification in the course of their duties;
- has a sound knowledge of the employer's operation as it relates to the production process;
- undertakes lower level tasks as required without loss of pay.

B.5.3 Indicative duties

Indicative of the duties an employee may perform at this level are:

- inspecting products and/or materials for conformity with established operational standards and approves/passes first off samples;
- operating, setting up and adjusting maintenance functions including (but not limited to):
 - removing equipment fastenings including use of destructive cutting equipment;
 - running adjustments to production equipment;
- operating all lifting equipment;
- basic production scheduling and materials handling within the scope of production process or directly related functions;
- exercising high level stores and inventory responsibilities;
- providing on-the-job training;
- providing assistance within the scope of this level to other employees.

Schedule C—Supported Wage System

[Sched B renumbered as Sched C by [PR988417](#)]

C.1 This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

C.2 In this schedule:

approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme

relevant minimum wage means the minimum wage prescribed in this award for the class of work for which an employee is engaged

supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au

SWS wage assessment agreement means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

C.3 Eligibility criteria

C.3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

C.3.2 This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

C.4 Supported wage rates

C.4.1 Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity (clause C.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

C.4.2 Provided that the minimum amount payable must be not less than \$69 per week.

C.4.3 Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

C.5 Assessment of capacity

C.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

C.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

C.6 Lodgement of SWS wage assessment agreement

C.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Commission.

C.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Industrial Registrar to the union by certified mail and the agreement will take effect unless an objection is notified to the Commission within 10 working days.

C.7 Review of assessment

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

C.8 Other terms and conditions of employment

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

C.9 Workplace adjustment

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

C.10 Trial period

C.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

C.10.2 During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

C.10.3 The minimum amount payable to the employee during the trial period must be no less than \$69 per week.

C.10.4 Work trials should include induction or training as appropriate to the job being trialled.

C.10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

Schedule D—National Training Wage

[Sched C renumbered as Sched D by [PR988417](#)]



DECISION

Workplace Relations Act 1996

s.576H—Commission may vary modern awards

National Farmers' Federation and the Australian Industry Group

(AM2009/25)

Horticulture Australia Council

(AM2009/29)

HORTICULTURE AWARD 2010

[MA000028]

JUSTICE GIUDICE, PRESIDENT

VICE PRESIDENT LAWLER

VICE PRESIDENT WATSON

SENIOR DEPUTY PRESIDENT WATSON

SENIOR DEPUTY PRESIDENT HARRISON

SENIOR DEPUTY PRESIDENT ACTON

COMMISSIONER SMITH

MELBOURNE, 23 DECEMBER 2009

[1] This decision deals with two applications to vary the *Horticulture Award 2010*¹ (the modern award). The first is a joint application by the National Farmers' Federation (NFF) and the Australian Industry Group (AiGroup). We shall refer to this as the joint application. The second application is by the Horticulture Australia Council (HAC). We shall refer to this as the HAC application. The joint application and the HAC application overlap and are dealt with together in this decision. The Australian Workers' Union (AWU) and Australian Federation of Employers and Industries (AFEI) were the only other parties that expressed views about the variations sought.

[2] This decision should be read in conjunction with the award modernisation request made by the Minister for Employment and Workplace Relations (the Minister) on 28 March 2008 as subsequently varied (the consolidated request). We refer in particular to cll.43 to 45, which deal with pieceworkers and the National Employment Standards (NES) and cll.50 and 51, which deal with the horticulture industry, of the consolidated request. Those clauses are as follows:

“Piece workers

43. The NES apply to a piece worker.
44. The NES rely on modern awards to define a piece worker and set out rules relating to the payment of NES entitlements (based on ordinary hours of work) for a piece worker.

45. In modernising awards, the Commission must have regard to whether it is appropriate to include:
- (a) a definition of piece worker in a modern award that applies to these types of employees (if an employee is employed on the basis of hours worked, it is not expected that such employees would be defined as piece workers); or
 - (b) a provision that would provide a calculation of payment, a payment rate, or a payment rule in relation to a piece worker employee with respect to paid leave or paid absence under the NES. For example, a method of making payment to a piece worker employee when that employee is absent on annual leave. Any provisions setting out a calculation payment must take into account the various methods by which a piece worker may be remunerated under the modern award, including by incentive payments or bonuses.

Horticulture Industry

50. The Commission should enable employers in the horticulture industry to continue to pay piece rates of pay to casual employees who pick produce, as opposed to a minimum rate of pay supplemented by an incentive based payment.

51. Where a modern award covers horticultural work, the Commission should:

- have regard to the perishable nature of the produce grown by particular sectors of the horticulture industry when setting the hours of work provisions for employees who pick and pack this produce; and
- provide for roster arrangements and working hours that are sufficiently flexible to accommodate seasonal demands and restrictions caused by weather as to when work can be performed.”

[3] Clauses 43 to 45 were included in the original request but were altered by the Minister’s variation of 16 June 2008. Clauses 50 and 51, relating to the horticulture industry, were inserted in the consolidated request by way of a variation dated 26 August 2009, more than four months after the award was made.

The joint application

[4] The joint application seeks the following variations to the award:

“1. Insert into clause 3, Definitions and Interpretation, a new definition as follows:

Harvest Period means the period of time during which the employees of the particular employer are engaged principally in the harvesting, grading or packing of horticultural crops.

2. Vary clause 4.2(a) to include after the word “packing” and before the word “or” the following:

“storing, grading, forwarding”

3. Delete clause 10.4(d).
4. Delete clause 15 and replace with the following:

15. Pieceworkers

- 15.1 An employer and a full-time, part-time or casual employee may enter into an agreement for the employee to be paid a piecework rate. An employee on a piecework rate is a pieceworker.
- 15.2 The piecework rate fixed by agreement between the employer and the employee must enable the average competent employee to earn at least 12.5% more per hour than the minimum hourly rate prescribed in this award for the type of employment and the classification level of the employee. The piecework rate agreed is to be paid for all work performed in accordance with the piecework agreement.
- 15.3 The calculation of piecework rates in clause 15.2 for casual employees will include the casual loading prescribed in clause 10.4 (b).
- 15.4 An agreed piecework rate is paid instead of the minimum wages specified in clause 14 – minimum wages
- 15.5 The following clauses of this award do not apply to an employee on a piecework rate:
 - (a) Clause 22 – Ordinary hours of work and rostering; and
 - (b) Clause 24 – Overtime; and
 - (c) Clause 24.5 – Meal allowance.
- 15.6 The employer and the individual employee must have genuinely made the piecework agreement without coercion or duress.
- 15.7 The piecework agreement between the employer and the individual employee must be in writing and signed by the employer and the employee.
- 15.8 The employer must give the individual employee a copy of the piecework agreement and keep it as a time and wages record.
- 15.9 Nothing in this award guarantees an employee on a piecework rate will earn at least the minimum ordinary time weekly or hourly wage in this award for the type of employment and the classification level of the employee, as the employee’s earnings are contingent on their productivity.
- 15.10 For the purposes of the NES:

- (a) The base rate of pay for a pieceworker is the base rate of pay as defined in the NES.
 - (b) The full rate of pay for a pieceworker is the full rate of pay as defined in the NES.
5. Delete clause 22 – Ordinary Hours of Work and rostering and replace with the following:

22. Ordinary hours of work and rostering

22.1 The ordinary hours of work for all full-time and part-time employees other than shift workers will not exceed 152 hours over a 4 week period provided that:

- (a) The ordinary hours will be worked between Monday and Friday inclusive except by arrangement between the employer and the majority of employees in the section/s concerned that the ordinary hours will be worked between Monday and Saturday inclusive.
- (b) The ordinary hours will be worked between 6.00am and 6.00pm except if varied by arrangement between the employer and the majority of the employees in the section/s concerned.
- (c) The ordinary hours will not exceed 8 hours per day except by arrangement between the employer and the majority of employees in the section/s concerned that the ordinary hours should not exceed 12 hours on any day.
- (d) All time worked by full-time and part-time employees in excess of the ordinary hours will be deemed overtime.

22.2 The ordinary hours of work for a shift worker, will not exceed 152 hours over a 4 week period provided that:

- (a) The ordinary hours will be worked between Monday and Friday inclusive.
- (b) For the purposes of this award:
 - (i) afternoon shift means any shift finishing after 6.00 pm and at or before midnight; and
 - (ii) night shift means any shift finishing after midnight and at or before 8.00 am.
- (c) If an employee is directed to work on shifts the shift must not exceed 8 hours without the payment of overtime.
- (d) Shift workers whilst on afternoon and night shifts will be paid 15% more than the ordinary rates for such shifts.

- (e) Where shift work is adopted, shifts will, as far as practicable, rotate regularly where two shifts are worked one will be regarded as day shift and the second the afternoon or night shift. Where three shifts are worked they will be divided into day, afternoon and night shifts
- (f) The employer has the right to decide before the commencement of such shift work which of the shifts will be the day shift and will notify each employee accordingly.
- (g) The employer will keep a roster at the workplace that specifies the times which each shift will commence and finish and which shifts are deemed to be day shift.
- (h) All time worked in excess of the ordinary hours will be deemed overtime.

6. Delete clauses 24 and replace with the following:

24.1 Time off in lieu of overtime

- (a) An employee will be allowed time off duty, with pay for a period equal to the overtime worked. Such time allowed off duty will be given and taken within the succeeding three weeks unless the employer and employee mutually agree that it be taken at some other time; or
- (b) In lieu of taking time off duty the employee may elect to be paid for the overtime worked provided that this election is made clear to the employer or the employer's representative at the time that overtime is offered.

24.2 Payment of overtime

- (a) The rate of pay for overtime will be 150% except for overtime worked on a Sunday.
- (b) The rate of pay for overtime worked on a Sunday, except during harvest period will be 200%.
- (c) Should employees be required to work on a Saturday and the majority of such employees elect not to work on the Saturday but rather on the Sunday then such work performed on that Sunday will be paid for at the rate prescribed for Saturday work.
- (d) During harvest period, the first eight hours of overtime in a week may include five hours work on a Sunday at the rate of 150% but all Sunday work in excess of the eighth overtime hour worked in the week or in excess of five hours on a Sunday will be paid at the rate of 200%.

- (e) All employees required to work on a Sunday will be paid for a minimum of three hours.”

The HAC application

[5] The HAC application seeks the following variations to the modern award:

- “1. By deleting the definition of ‘Act’ in clause 3.1 and inserting in its place the following:

Act means the *Fair Work Act 2009* (Cth)

2. By deleting the definition of ‘Commission’ in clause 3.1.
3. By inserting the following definition into clause 3.1:

harvest period means that period of time during which the employees of a particular employer are engaged principally in the harvesting, picking, dehydration, crystallisation, treating, storing, packaging/canning, grading, packing or despatching of any horticultural crops, including fruits or vegetables, as the case may be.

4. By deleting the definition of ‘NES’ in clause 3.1 and inserting in its place the following:

NES means the National Employment Standards as contained in sections 59 to 131 of the Act.

5. By inserting the following definition into clause 3.1:

time critical period means the harvest period or any other period of time when the plant, crop, fruit or product must have a function performed to enable that plant, crop, fruit or product to remain a commercially viable product for the employer concerned. A time critical period is a period that cannot be reasonably predicted in advance by the employer and arises out of the inherent requirement to perform the function at that time.

6. By inserting the following definition into clause 3.1:

weekly employee means an employee engaged on a full-time or part-time basis under either clause 10.2 or 10.3 (and does not include full-time or part-time employees engaged as pieceworkers pursuant to clause 15).

7. By deleting clause 10.4(d) and inserting in its place the following:

(d) For the purpose of clause 15 - Pieceworkers, the calculation of piecework rates for a casual employee will be based on the hourly rate of pay for equivalent employees set out in clause 14, and will not be based on the loading prescribed by clause 10.4(b).

8. By inserting the following at the end of clause 10.4:

(e) Casual employees are not weekly employees for the purposes of this award.

9. By deleting clause 15 and inserting in its place the following:

15. Pieceworkers

15.1 A full-time, part-time or casual employee may be engaged as a pieceworker

15.2 Notwithstanding clause 14 or any other clause of this award (but subject to clause 10.4(d)), where an employee is engaged as a pieceworker, the employee will be paid at a piece rate of pay rather than a minimum hourly rate of pay.

15.3 The piece rate of pay paid to a pieceworker:

- a. will be paid in lieu of the minimum hourly rate of pay for all hours worked by the employee; and
- b. must enable the average pieceworker (at the enterprise concerned), working the ordinary hours prescribed by this award, to earn at least 12.5% more than the minimum hourly rate of pay for equivalent employees set out in clause 14.

15.4 For the purpose of the NES, the base rate of pay for a pieceworker is the base rate of pay as defined in the Act for an employee of equivalent classification, level and engagement to a particular pieceworker (who is not them self a pieceworker).

15.5 For the purpose of the NES, the full rate of pay for a pieceworker is the full rate of pay as defined in the Act for an employee of equivalent classification, level and engagement to a particular pieceworker (who is not them self a pieceworker).

10. By deleting clause 22 and inserting in its place the following:

22. Ordinary hours of work and rostering

22.1 The ordinary hours of work for weekly workers are an average of 38 per week but not exceeding 152 hours in 28 days.

22.2 Subject to this clause, the ordinary hours of work will not exceed ten hours on any day, provided that:

- a. in any arrangement of ordinary working hours where the ordinary working hours are to exceed ten on any day, the arrangement of hours will be subject to the agreement of the employer and the majority of employees in the plant or section or sections concerned;
- b. by arrangement between an employer and an employee, ordinary working hours greater than ten but not exceeding twelve on any day may be worked subject to:

- i. the employer and employees concerned being guided by relevant Occupational Health and Safety provisions; and
- ii. proper health monitoring procedures being introduced; and
- iii. suitable roster arrangements being made.

22.3 Any work performed by weekly employees outside the ordinary hours must be paid for at overtime rates.

22.4 Agreement may be reached at the plant, section or individual level to:

- a. work shorter hours each day; or
- b. work shorter hours on one or more days; or
- c. rostering days off on various days of the week so that each employee has one or more days off during that cycle.

11. By deleting clause 23.3 and inserting in its place the following:

23.3 Ten hour break after ceasing work for the day

- a. An employee is entitled to a break of 10 hours between finishing a complete shift on one day and commencing work on the next day.
- b. Overtime rates will be paid for work required to be performed where an employee has not had the 10 hour break referred to in clause 23.3(a) until such time as the employee is released and able to take the 10 hour break.

12. By deleting clause 24 and inserting in its place the following:

4. Overtime

24.1 Overtime will be adjusted as follows:

- a. The employee will be allowed time off duty, with pay, for a period equal to the overtime worked; or
- b. In lieu of taking time off duty, the employee may elect to be paid for the overtime worked providing this election is made clear to the employer or employer's representative at the time that overtime is offered.

24.2 Payment for working overtime

The rate of pay for overtime will be time and a half for the first three hours and double time thereafter, except during the time critical period (as defined in clause 3.1) when the rate of pay for all overtime will be time and a half.”

13. By deleting clause 28.3 and inserting in its place the following:

28.3 Public holiday rates of pay

All work (other than piecework) performed on public holidays will be paid for at the rate of double time, but by mutual consent it may be remunerated by time off in lieu.”

14. By deleting all references to ‘the Commission’ in clauses 9.2, 9.3, 9.4 and paragraphs B.6.1 and B.6.2 in Schedule A and inserting ‘Fair Work Australia’ in place of these references.”

Consideration

[6] The making of the modern award has involved rationalising the provisions of a number of awards and Notional Agreements Preserving State Awards (NAPSAs) containing an extremely diverse range of conditions.² The provisions of the modern award are generally in line with the relevant provisions of the *Horticultural Industry (AWU) Award 2000*,³ (Horticulture Award 2000) as it applies to what are referred to as the Schedule A respondents to that award.⁴

[7] The major contention advanced by each of the applicants is that variations are required with respect to the piecework and hours of work provisions to better reflect current regulation and to restore necessary flexibility.

[8] The AWU supported the joint application in all but two respects. First, it opposed any variation of the piecework provisions which would remove the requirement for a minimum payment for pieceworkers equivalent to the minimum wage for the ordinary hours actually worked. It also opposed the reduction of the piecework loading from 15% to 12.5%.

[9] The AWU opposed provisions sought by the HAC which, it contended, went beyond provisions generally applying in current instruments.

[10] The AFEI supported the HAC application.

[11] Clearly the applications must be considered in light of the terms of cl.50 and 51 of the consolidated request. Clause 50 states that the Commission should enable employers in the horticulture industry to continue to pay piece rates of pay to casual employees who pick produce, as opposed to a minimum rate of pay supplemented by an incentive based payment. Clause 51 states that the Commission should have regard to the perishable nature of the produce grown by particular sectors of the industry when setting hours of work and to provide for arrangements which accommodate seasonal demands and restrictions caused by weather. In a letter to the President of the Commission which accompanied the relevant variation to the consolidated request, the Minister referred to existing award arrangements in the industry. The following passage is relevant:

“I note that the majority of federal awards and NAPSAs in the horticulture sector have long provided for piece rates for casual employees, rather than the minimum wage and incentive payment system as included in the modern award made by the Commission.”

[12] The NFF and AiGoup contended that the principal award was the Horticulture Award 2000. That award has three schedules, designated A to C respectively. The schedules contain different conditions of employment. The award was made primarily by reference to the provisions applying to Schedule A respondents,⁵ a position advanced in the consultations by the AWU. In these proceedings the AWU accepted that Schedules B and C have more extensive geographic and industrial application. It agreed with the NFF and AiGroup that it would be more appropriate if the modern award were to be based on the conditions in those schedules rather than the conditions in Schedule A. The HAC submitted that its application was based on the provisions in 11 instruments – two pre-reform awards and nine NAPSAs.

[13] There is no single existing instrument which could be said to apply generally in the industry. Further, it is necessary, when considering the various provisions, to have regard to the totality of the provisions in any particular instrument. There is no definitive information as to the application of the individual awards or NAPSAs. Whilst the provisions of all of the instruments are relevant to some degree, we think greatest weight should be given to the Horticulture Award 2000. That award is a major award. It operates, with respect to Schedule A, in Victoria, South Australia and New South Wales, with respect to Schedules B and C to named employers in Victoria and members of two Victorian employer associations, the Tasmanian Farmers and Graziers Association and the AiGroup.

[14] We will consider the applications in three broad categories – some terminological matters, hours of work and overtime provisions and piecework.

[15] In relation to terminology, we have accepted the variations proposed by the HAC to refer to Fair Work Australia and alter NES references to the Act. Such changes will be made as a matter of course in all modern awards.

[16] We will insert the definition of “harvest period” as proposed by the NFF and the AiGroup. We will also insert “storing, grading, forwarding” into the coverage clause. Neither variation was opposed by the AWU. We will also delete cl.10.4(d). The definition of “time critical period” proposed by the HAC is unnecessary in light of our decision, below, in relation to hours of work.

[17] In relation to hours of work and overtime provisions, there are two approaches before us. First, there are the provisions in the joint application which are not opposed by the AWU. Secondly, there are the provisions proposed by the HAC, which the AWU opposes. The AWU submitted that the provisions the HAC seeks go beyond what would be justified by the variation to the consolidated request, that the HAC is seeking to reargue issues already determined by the Full Bench and, contrary to the established approach to award modernisation, the HAC is cherry picking from the range of existing instruments. The NFF and AiGroup supported the AWU characterisation of the HAC proposals. They submitted that, while they would prefer greater flexibility, they have confined their application to the matters contained in the 26 August 2009 variation to the consolidated request. In our view the variation proposed by the HAC extends beyond the scope of the variation to the consolidated request. In the circumstances it would not be appropriate to reopen consideration of provisions which have only recently been decided upon. We add, although not strictly relevant, that the provisions sought do not appear to be consistent with the weight of current regulation. We will vary the hours of work provisions as proposed in the joint application.

[18] The piecework provisions proposed in the two applications are of similar effect except in two respects. Those issues are, first, whether pieceworkers should receive the casual loading and, secondly, whether there should be an award requirement that piece work arrangements should be genuinely made, without coercion or duress, and made in writing. In our view employees engaged on piecework should be entitled to the casual loading as compensation for the absence of service-related entitlements. Such a provision is appropriate in a safety net award. The additional safeguards relating to the making of a piecework agreement proposed in the joint application are necessary and will be included. We should add that neither provision is inconsistent with the terms of the consolidated request.

[19] As we have already indicated, there are two parts of the joint application relating to pieceworkers which the AWU opposes. The first relates to the guaranteed minimum payment which presently appears in the modern award. The second concerns the amount of the piecework loading.

[20] In relation to the first matter, the AWU submitted that the provision in cl.15.6 of the modern award that piecework employees receive a guaranteed minimum payment equal to the wage they would have earned for the hours actually worked should not be altered. We note, however, that there is no equivalent provision in the Horticulture Award 2000, or in any of the schedules to that award. As we have previously noted, that award is the main award in the industry and its provisions carry great weight. Furthermore, it appears to us that cl.15.6 is inconsistent with cl.50 of the consolidated request. We grant this part of the joint application.

[21] In relation to the second matter, the AWU submitted that the piecework loading should be retained at 15% while the joint application and the HAC application both sought a reduction to 12.5%. The AWU submitted that the variation to the consolidated request was directed at the character of the piecework arrangements in the modern award, rather than the level of the loading. It submitted that a loading of 15% is justified by the risk to the income of employees working under piecework arrangements.

[22] While the loading in the Horticulture Award 2000 is 12.5%, the piecework loading varies considerably across existing instruments. The variation is between no loading, in a NAPSA applying in the dried vine fruits industry in Western Australia, to 30% in a NAPSA applying in the tea industry in Queensland with a range of other loadings in between. The range of loadings in applicable pre-reform awards and NAPSAs was taken into account in determining that 15% was the appropriate loading. No material has been produced on this application which would lead us to vary that determination. In our view, maintenance of the loading at its current level is also consistent with the consolidated request, including the amendment.

[23] We have decided not to make any other alterations to the modern award, despite the material and submissions advanced by the HAC in support of its application. We are conscious of the requirements of award modernisation set out in the *Workplace Relations Act 1996*, the *Fair Work Act 2009*, the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, in particular the terms of item 2(5) of Schedule 3 to that Act, and the consolidated request. While the HAC advanced a significant amount of material concerning labour costs, that material has to be seen in the context of the overall approach to award modernisation. We reiterate what was said by the Full Bench in its 2 September 2009 decision concerning transitional provisions:

“[4] The consolidated request also provides that the process is not intended to disadvantage employees or increase costs for employers – objectives which are potentially competing. The content of the awards we have formulated is a combination of existing terms and conditions in relevant awards and existing community standards. In order to minimise disadvantage to employees and increases in costs for employers we have generally adopted terms and conditions which have wide application in the existing awards in the relevant industry or occupation. However the introduction of modern awards applying across the private sector in place of the variety of different provisions in the Federal and State awards inevitably means that some conditions will change in some States. Some wages and conditions will increase as a result of moving to the terms which apply elsewhere in the industry. Equally some existing award entitlements will not be reflected in the applicable modern award because they do not currently have general application.

[5] Various parties have pointed to the impact of modern award provisions. The parties largely addressed this matter on the basis of a comparison between existing and proposed award obligations rather than the impact of the modern award on actual terms and conditions. Even so, it is clear that some award conditions will increase, leading to cost increases, and others will decrease, leading to potential disadvantage for employees, depending upon the current award coverage. The creation of modern awards which will constitute the award elements of the safety net necessarily involves striking a balance as to appropriate safety net terms and conditions in light of diverse award arrangements that currently apply.”⁶

[24] It also should be borne in mind that these proceedings have arisen largely as a result of variations to the consolidated request relating to piecework and to certain other conditions in the modern award. We regard those variations as justifying a review of conditions in the modern award which are specifically referred to in the variations or are involved by necessary implication, subject always to balancing the relevant considerations in the manner referred to in the passage we have set out above. In the absence of compelling reasons there is no justification for departing from the Commission’s general approach to the fixation of conditions or for reviewing other conditions at this time.

Conclusion

[25] We shall vary the modern award to give effect to the joint application save that the loading in cl.15.2 will be 15%. The award will also be varied to update reference to the Act, the NES and Fair Work Australia, where relevant.

BY THE COMMISSION:

PRESIDENT

¹ MA000028.

² [2009] AIRCFB 50, at para 30.

³ AP784867CRV.

⁴ [2009] AIRCFB 345, at para 60.

⁵ Ibid.

⁶ [2009] AIRCFB 800.

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Q1 What is your name? (optional)

Answered: 114 Skipped: 82

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NFF Piece Rates in Horticulture Survey

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NFF Piece Rates in Horticulture Survey

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NFF Piece Rates in Horticulture Survey

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Q2 What is the location (or postcode) of the farm at which you are primarily engaged?

Answered: 179 Skipped: 17

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NFF Piece Rates in Horticulture Survey

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NFF Piece Rates in Horticulture Survey

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102	2705	4/28/2021 6:01 PM
103	4872	4/28/2021 5:09 PM
104	Darkes Forest	4/28/2021 4:50 PM
105	Mia	4/28/2021 4:47 PM
106	2680	4/28/2021 4:41 PM
107	Yanco	4/28/2021 4:40 PM

NFF Piece Rates in Horticulture Survey

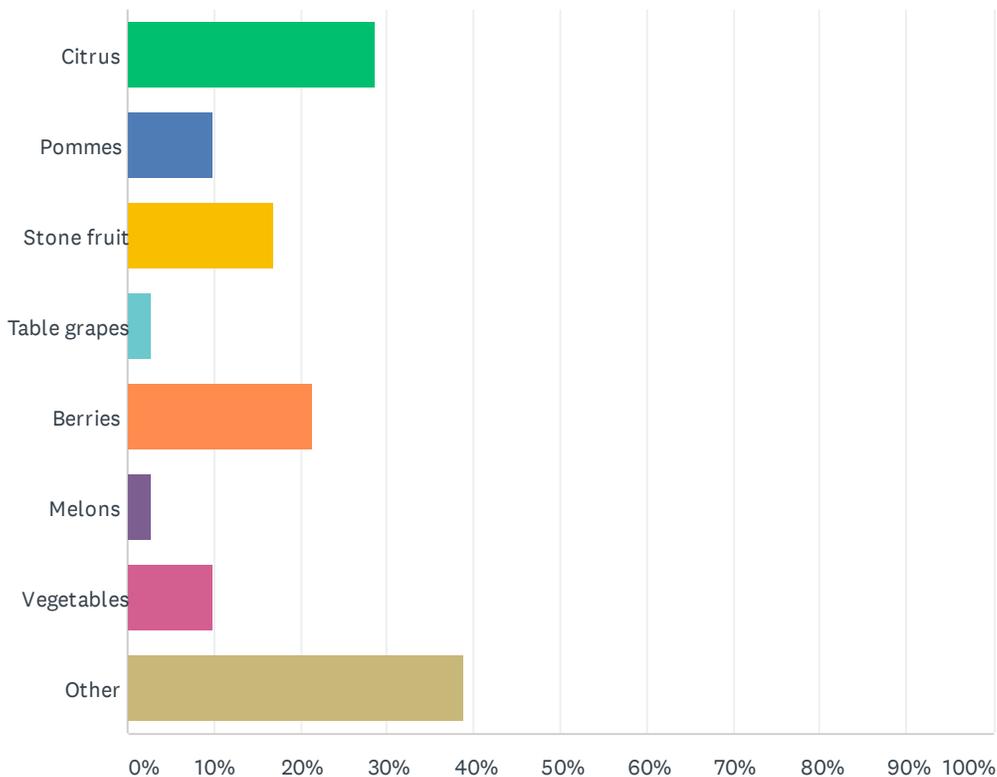
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110	2447	4/28/2021 3:43 PM
111	2730	4/28/2021 3:24 PM
112	2441	4/28/2021 3:13 PM
113	2477	4/28/2021 2:47 PM
114	2479	4/28/2021 2:44 PM
115	2800	4/28/2021 2:29 PM
116	6033	4/28/2021 2:20 PM
117	2250	4/28/2021 2:11 PM
118	2259	4/28/2021 1:59 PM
119	2800	4/28/2021 1:21 PM
120	6280	4/28/2021 1:20 PM
121	2456	4/28/2021 1:19 PM
122	2447	4/28/2021 1:17 PM
123	2594	4/28/2021 1:14 PM
124	2450	4/28/2021 1:04 PM
125	2450	4/28/2021 12:34 PM
126	4518	4/28/2021 11:05 AM
127	5341	4/28/2021 10:36 AM
128	2450	4/28/2021 10:19 AM
129	WA	4/28/2021 10:15 AM
130	2480	4/28/2021 8:34 AM
131	4610	4/28/2021 8:11 AM
132	4350	4/28/2021 7:39 AM
133	4514	4/28/2021 7:32 AM
134	6260	4/28/2021 7:09 AM
135	4815	4/28/2021 7:05 AM
136	4880	4/28/2021 7:02 AM
137	Dimbulah 4872	4/28/2021 6:30 AM
138	4871	4/28/2021 6:18 AM
139	4551	4/28/2021 6:16 AM
140	4882	4/28/2021 6:00 AM
141	4514	4/27/2021 8:04 PM
142	4854	4/27/2021 7:54 PM
143	2477	4/27/2021 7:40 PM
144	Carabooda - 6033	4/27/2021 7:21 PM
145	6076	4/27/2021 6:34 PM

NFF Piece Rates in Horticulture Survey

146	4570	4/27/2021 6:14 PM
147	Busselton	4/27/2021 6:01 PM
148	6258	4/27/2021 5:59 PM
149	4519	4/27/2021 5:50 PM
150	6284	4/27/2021 5:30 PM
151	2477	4/27/2021 5:28 PM
152	6033	4/27/2021 5:28 PM
153	4314	4/27/2021 5:25 PM
154	6076	4/27/2021 5:23 PM
155	4883	4/27/2021 5:18 PM
156	4670	4/27/2021 4:14 PM
157	4510	4/27/2021 3:34 PM
158	4626	4/27/2021 10:32 AM
159	4625	4/27/2021 5:49 AM
160	4343	4/26/2021 5:19 PM
161	2800	4/26/2021 3:16 PM
162	4880	4/26/2021 2:09 PM
163	4512	4/26/2021 10:19 AM
164	5172	4/25/2021 5:04 PM
165	4670	4/25/2021 4:01 PM
166	2800	4/25/2021 1:18 PM
167	3630	4/25/2021 7:19 AM
168	3644	4/24/2021 8:17 PM
169	4516	4/24/2021 6:24 PM
170	3640	4/24/2021 6:21 PM
171	3505	4/24/2021 11:10 AM
172	7112	4/24/2021 8:30 AM
173	3795	4/24/2021 1:03 AM
174	7017	4/23/2021 10:11 PM
175	3494	4/23/2021 5:30 PM
176	4000	4/23/2021 4:35 PM
177	5340	4/23/2021 4:16 PM
178	3500	4/22/2021 7:31 PM
179	3500	4/16/2021 5:16 PM

Q3 What commodities does the farm produce? (if you are a labour hire operator, tick all those for which you provide workers)

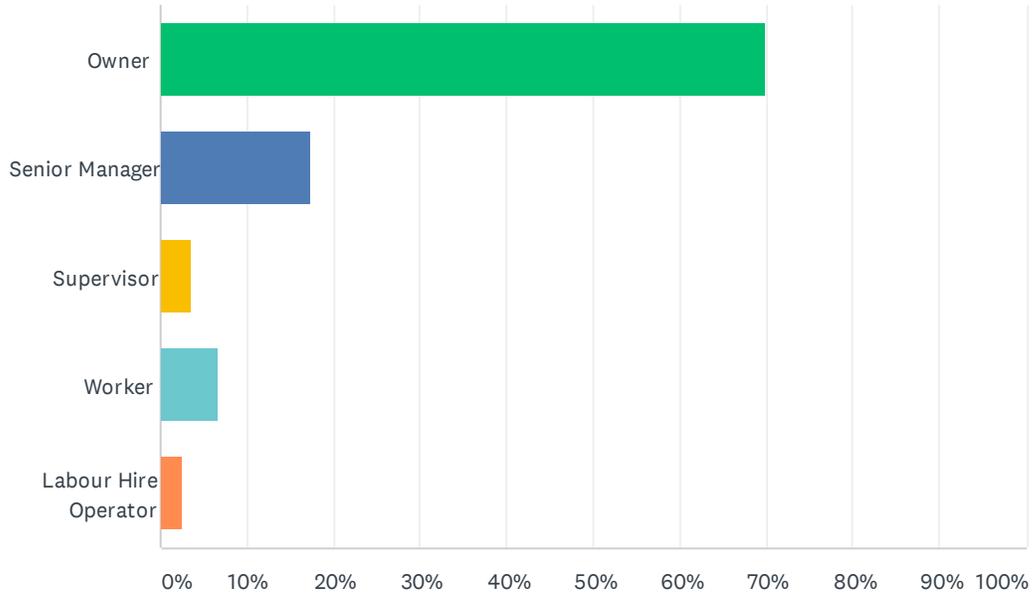
Answered: 182 Skipped: 14



ANSWER CHOICES	RESPONSES	
Citrus	28.57%	52
Pommes	9.89%	18
Stone fruit	17.03%	31
Table grapes	2.75%	5
Berries	21.43%	39
Melons	2.75%	5
Vegetables	9.89%	18
Other	39.01%	71
Total Respondents: 182		

Q4 What is your role?

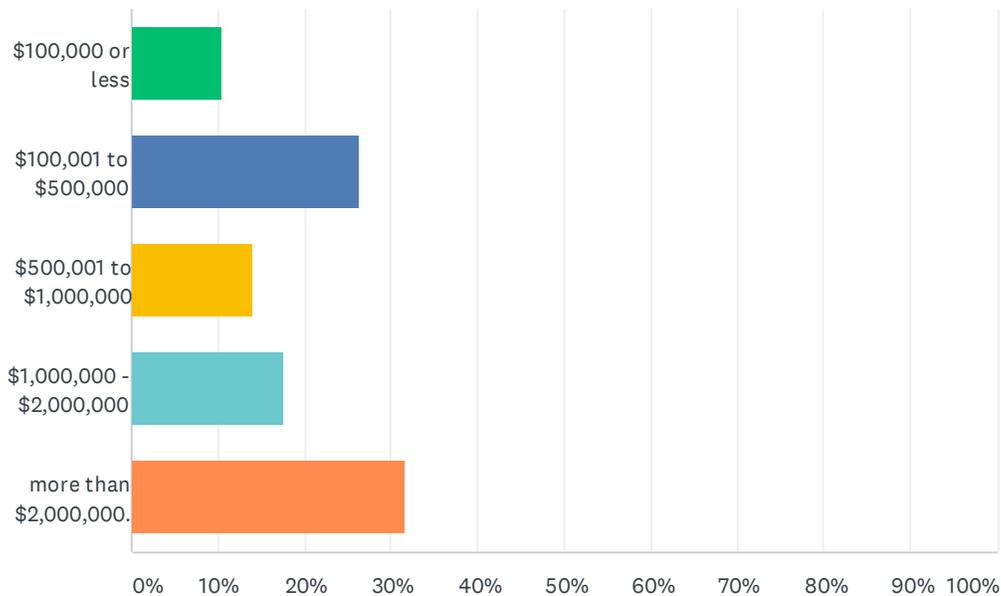
Answered: 196 Skipped: 0



ANSWER CHOICES	RESPONSES	
Owner	69.90%	137
Senior Manager	17.35%	34
Supervisor	3.57%	7
Worker	6.63%	13
Labour Hire Operator	2.55%	5
TOTAL		196

Q5 What is the approximate annual turnover of the farm?

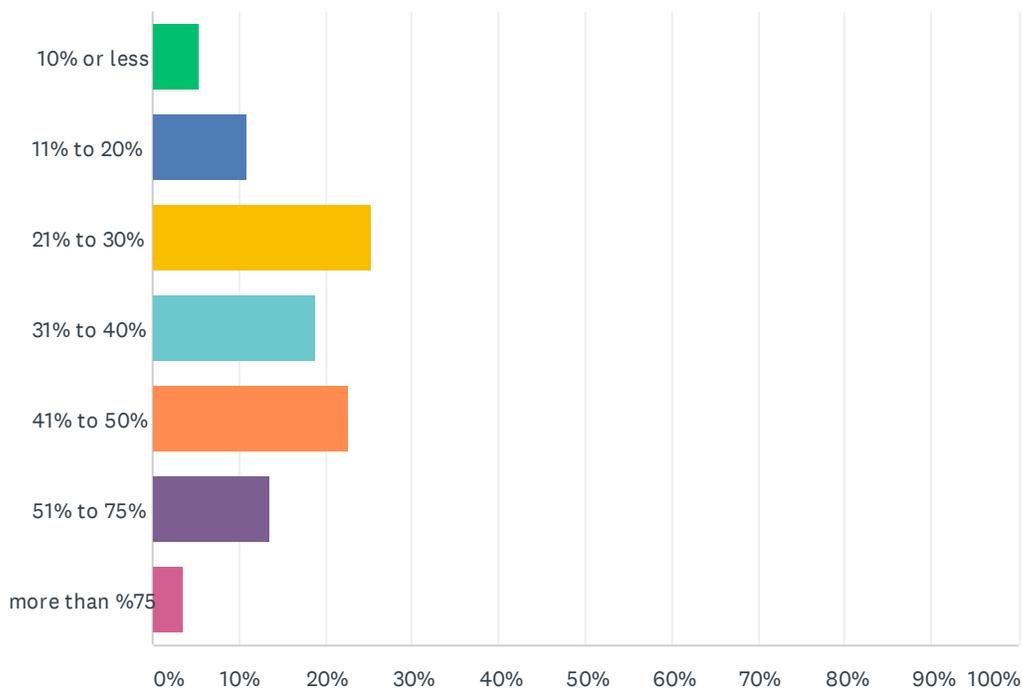
Answered: 114 Skipped: 82



ANSWER CHOICES	RESPONSES	
\$100,000 or less	10.53%	12
\$100,001 to \$500,000	26.32%	30
\$500,001 to \$1,000,000	14.04%	16
\$1,000,000 - \$2,000,000	17.54%	20
more than \$2,000,000.	31.58%	36
TOTAL		114

Q6 What are the workforce costs (i.e. employment, wage expenses) of the farm as a proportion of annual operating costs?

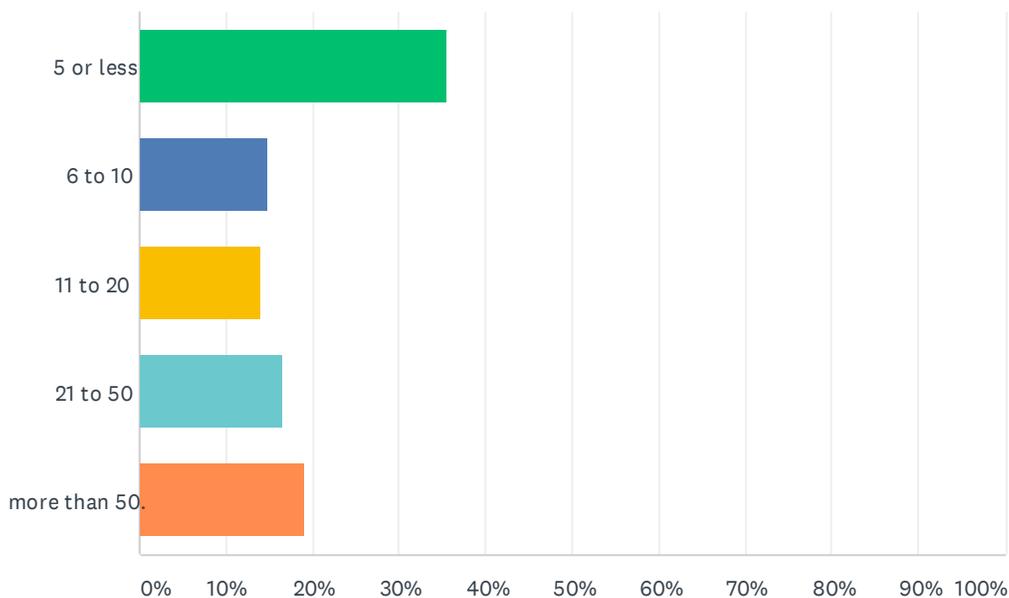
Answered: 111 Skipped: 85



ANSWER CHOICES	RESPONSES
10% or less	5.41% 6
11% to 20%	10.81% 12
21% to 30%	25.23% 28
31% to 40%	18.92% 21
41% to 50%	22.52% 25
51% to 75%	13.51% 15
more than %75	3.60% 4
TOTAL	111

Q7 What is the total size of the 'year-round' workforce (i.e. total number of employees employed over a single year) on the farm?

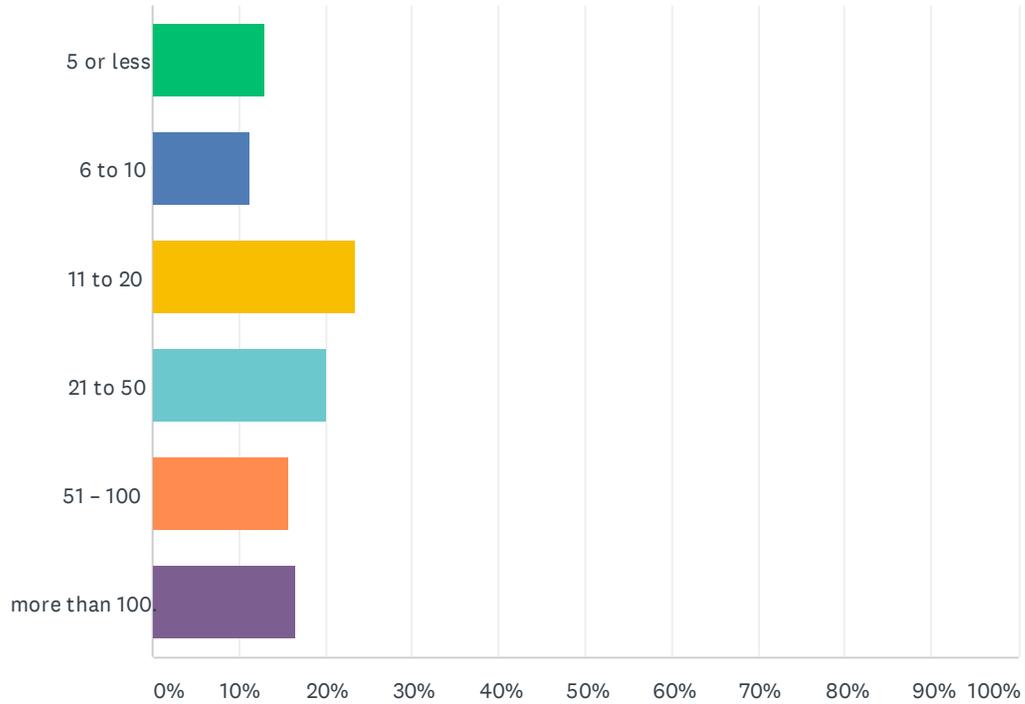
Answered: 115 Skipped: 81



ANSWER CHOICES	RESPONSES
5 or less	35.65% 41
6 to 10	14.78% 17
11 to 20	13.91% 16
21 to 50	16.52% 19
more than 50.	19.13% 22
TOTAL	115

Q8 What is the size of the 'seasonal' workforce (i.e. number of employees hired during peak/harvest season/s) on the farm?

Answered: 115 Skipped: 81



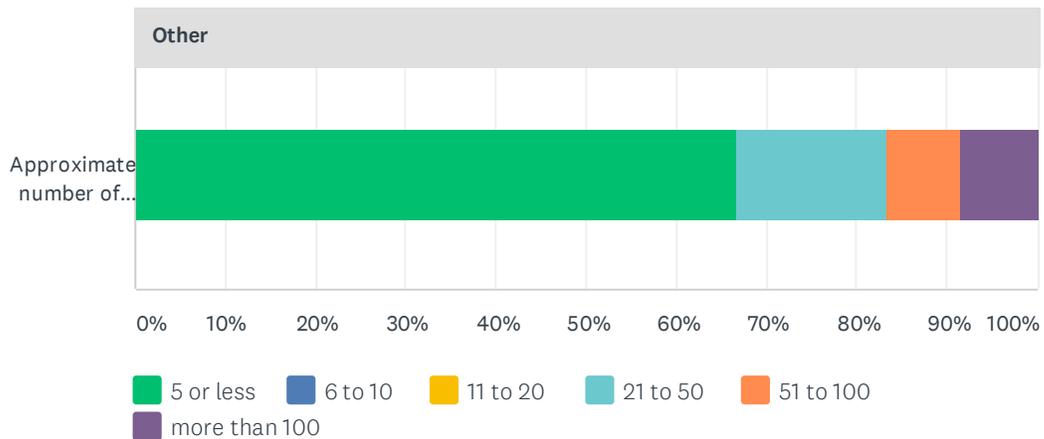
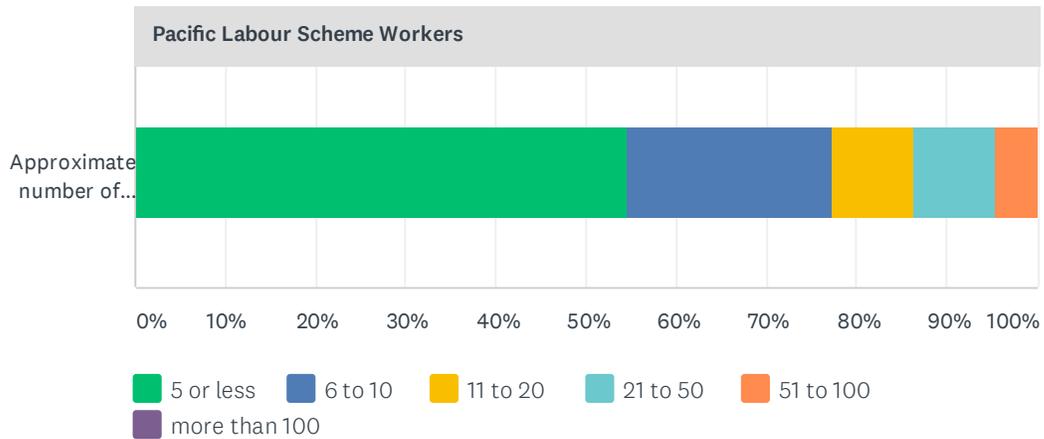
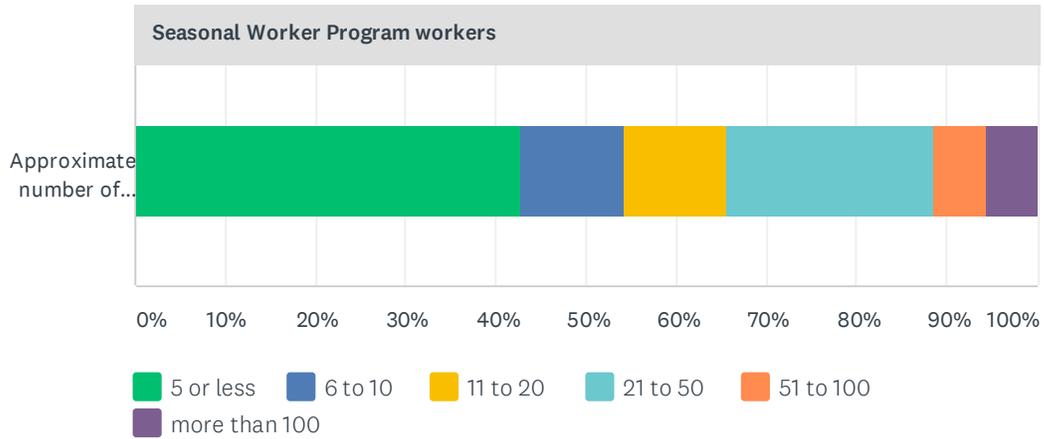
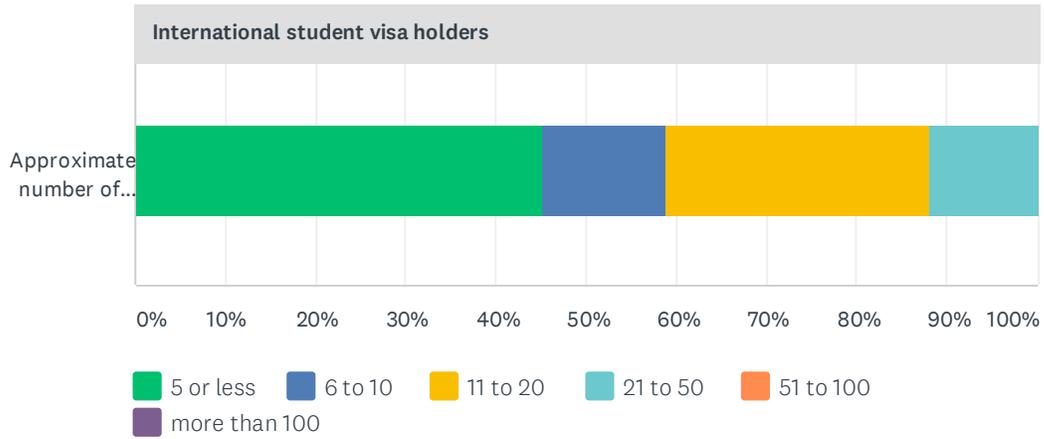
ANSWER CHOICES	RESPONSES	
5 or less	13.04%	15
6 to 10	11.30%	13
11 to 20	23.48%	27
21 to 50	20.00%	23
51 - 100	15.65%	18
more than 100.	16.52%	19
TOTAL		115

Q9 'What is the make-up/background of your seasonal workforce over an average season?'

Answered: 116 Skipped: 80



NFF Piece Rates in Horticulture Survey

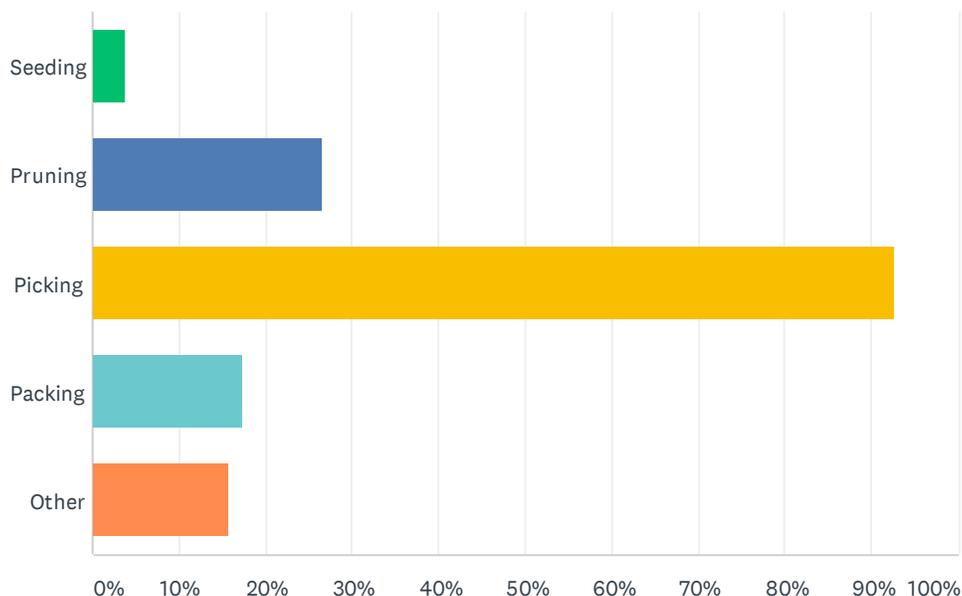


NFF Piece Rates in Horticulture Survey

Locals							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	56.84% 54	17.89% 17	7.37% 7	8.42% 8	7.37% 7	2.11% 2	95
Grey nomads/Australian itinerant workers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	65.12% 28	20.93% 9	9.30% 4	4.65% 2	0.00% 0	0.00% 0	43
Backpackers/working holidaymakers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	24.10% 20	12.05% 10	18.07% 15	32.53% 27	10.84% 9	2.41% 2	83
International student visa holders							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	45.10% 23	13.73% 7	29.41% 15	11.76% 6	0.00% 0	0.00% 0	51
Seasonal Worker Program workers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	42.86% 15	11.43% 4	11.43% 4	22.86% 8	5.71% 2	5.71% 2	35
Pacific Labour Scheme Workers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	54.55% 12	22.73% 5	9.09% 2	9.09% 2	4.55% 1	0.00% 0	22
Other							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	66.67% 8	0.00% 0	0.00% 0	16.67% 2	8.33% 1	8.33% 1	12

Q10 Which of the following types of work do you use piece rates to calculate payments?

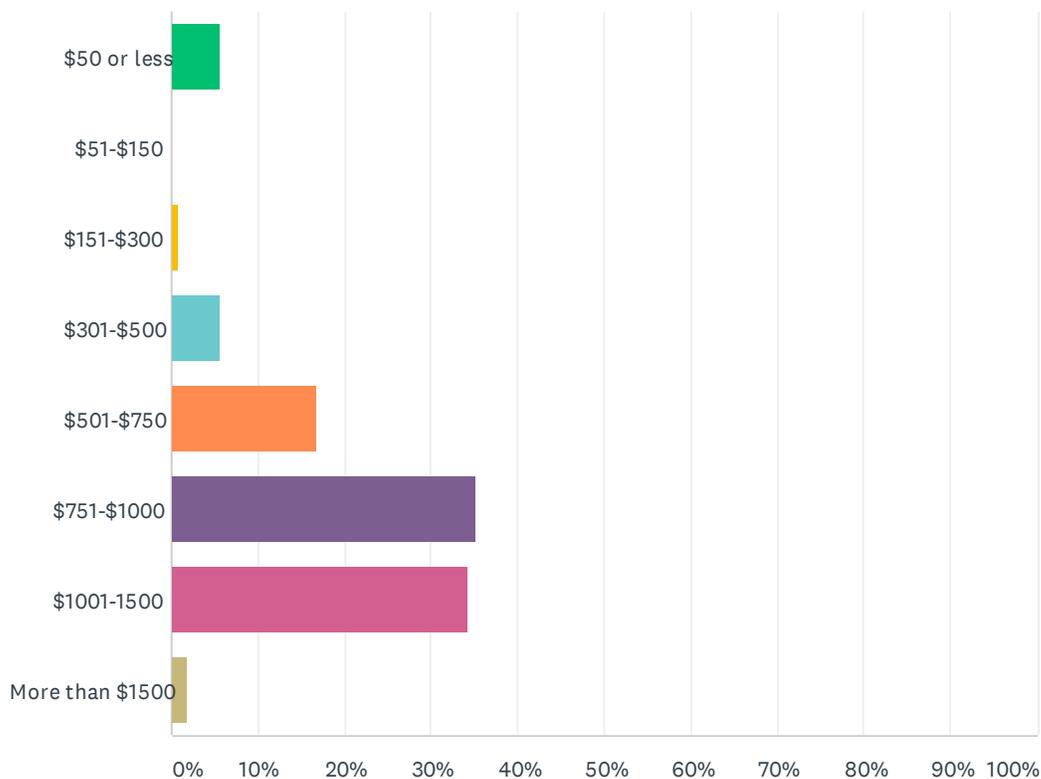
Answered: 109 Skipped: 87



ANSWER CHOICES	RESPONSES	
Seeding	3.67%	4
Pruning	26.61%	29
Picking	92.66%	101
Packing	17.43%	19
Other	15.60%	17
Total Respondents: 109		

Q11 What is the average weekly earning of a piece-rate worker on the farm?

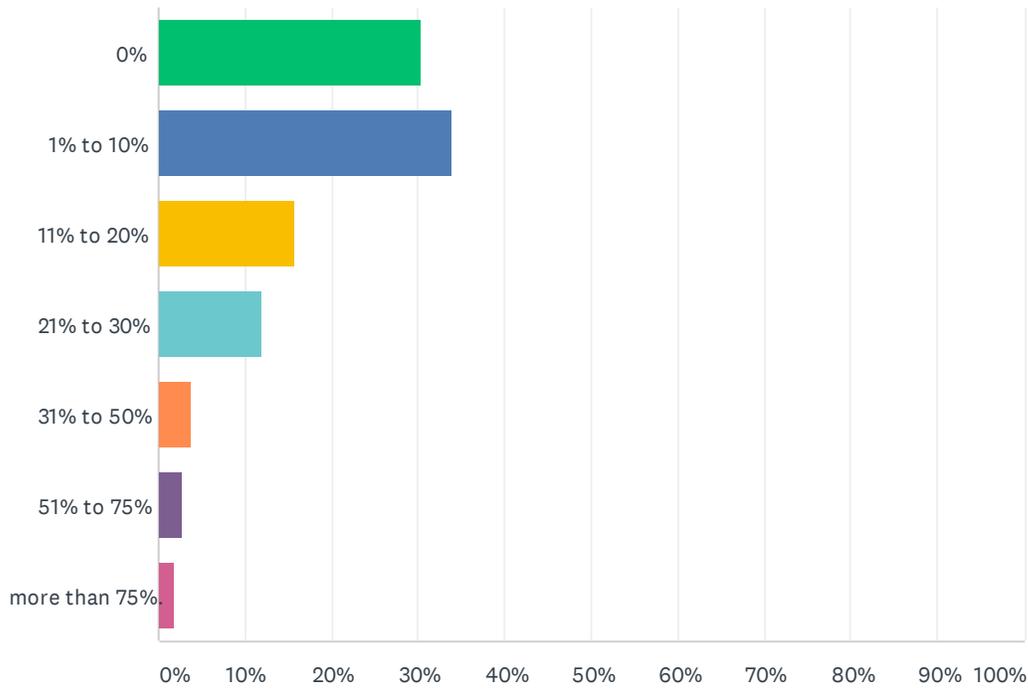
Answered: 108 Skipped: 88



ANSWER CHOICES	RESPONSES	
\$50 or less	5.56%	6
\$51-\$150	0.00%	0
\$151-\$300	0.93%	1
\$301-\$500	5.56%	6
\$501-\$750	16.67%	18
\$751-\$1000	35.19%	38
\$1001-1500	34.26%	37
More than \$1500	1.85%	2
TOTAL		108

Q12 What is the proportion of piece-rate workers who make less than \$24.80 an hour?

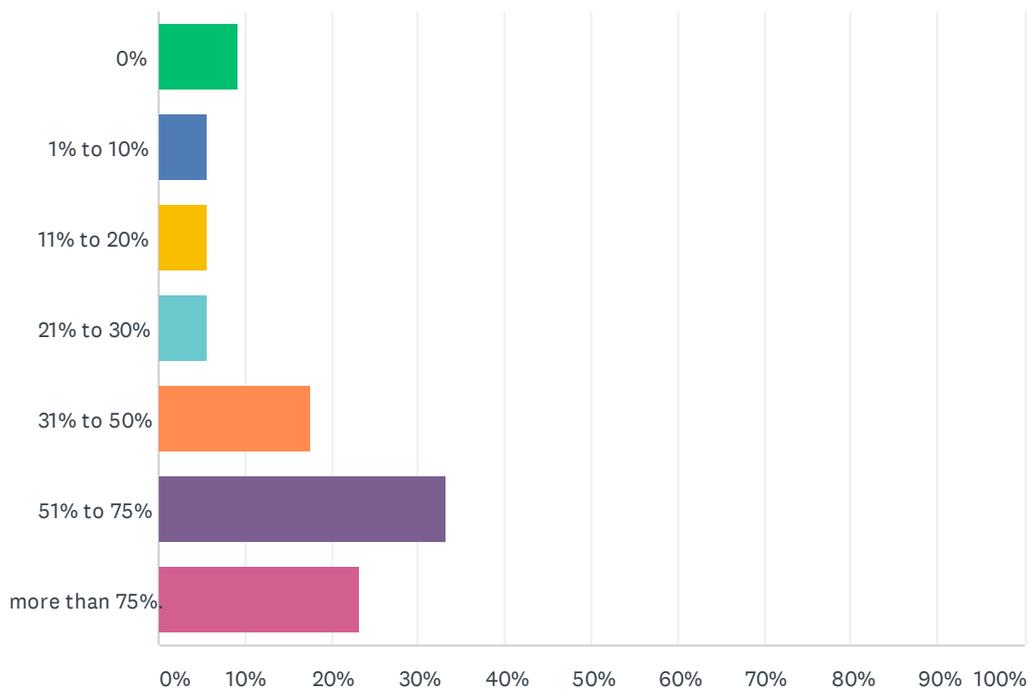
Answered: 109 Skipped: 87



ANSWER CHOICES	RESPONSES	
0%	30.28%	33
1% to 10%	33.94%	37
11% to 20%	15.60%	17
21% to 30%	11.93%	13
31% to 50%	3.67%	4
51% to 75%	2.75%	3
more than 75%.	1.83%	2
TOTAL		109

Q13 What is the proportion of piece rate workers who make more than \$28.00 an hour?

Answered: 108 Skipped: 88



ANSWER CHOICES	RESPONSES	
0%	9.26%	10
1% to 10%	5.56%	6
11% to 20%	5.56%	6
21% to 30%	5.56%	6
31% to 50%	17.59%	19
51% to 75%	33.33%	36
more than 75%.	23.15%	25
TOTAL		108

Q14 What will be the likely consequences for you/your business if the AWU application succeeds?

Answered: 107 Skipped: 89

#	RESPONSES	DATE
1	extra costs for picking/lees productivity. workforce decline as most pickers know they can make more money on a piece rate	6/9/2021 1:58 PM
2	Production costs would soar. My normal picking team - who deliberately seek piece work opportunities would be distinctly disadvantaged.	6/8/2021 2:57 PM
3	Profit margins will be significantly reduced due to slower pick speeds. Expansion plans will be stopped which results in reduced employment potential of local and seasonal workers. Reduced employment with the current full time/salary workforce due to a pressure to decrease overheads.	6/7/2021 3:46 PM
4	The earning opportunity of our top earners will be hindered	6/4/2021 4:43 PM
5	I will close the doors	5/27/2021 9:04 PM
6	Our business costs will increase significantly, thus reducing profitability and viability. Tracking and administration costs would also increase. Productivity is also likely to significantly decrease, as there will be no incentive to work efficiently. This could cause us to be late in meeting harvest and delivery deadlines - again, causing financial loss to our business and customers.	5/26/2021 3:56 PM
7	This consequence is already occurring as the workers are aware of the minimum hourly rate and are starting to work to that rate rather than do what was the best they could do working in groups. Fair work has directed us to pay hourly and that has slowed there work rate done to about 50 per cent.	5/16/2021 11:48 AM
8	did not employ workers last season	5/11/2021 10:10 PM
9	Extra and ongoing costs, less profit, less employment opportunities. Extra administrative work, eating into the bottom line and adversely affecting profit margin.	5/11/2021 6:59 PM
10	We will lose those experienced pickers who have the ability to earn in excess of the award wage - as we will not be in a position to pay overtime we have to limit everyone's hours- if retailers pay us more then the price to consumers also goes up so it is a vicious cycle- the loss of these pickers from the community will also have a compounding effect on money in the community	5/10/2021 9:39 AM
11	More paperwork most pickets want piece rate to stay as they earn more we also provide free onsite accommodation	5/9/2021 4:18 PM
12	We would consider exiting industry it is not possible to pay minimum capped wage work force turn over would be excessive creating much more work and giving food producers a poor reputation. Officials making these decisions should spend time on farms to watch how inefficient some workers are it is high time growers got a fair deal growers can't pass on additional costs to the market bloody terrible	5/9/2021 2:39 PM
13	This would be very detrimental to our business. The piece work rates as calculated currently allows for the employee to make considerably more income than wages SO LONG AS they have a go, if they decide not to have a go then their productivity will be insufficient as will their income levels. If a minimum piece work rate was introduced it would be akin to wages. The thing we have noticed that under a piece work arrangement our employees a very much more productive and make a lot more wages so long as they try. This proposal by the Unions would kill a lot of the drive employees have and in fact encourage potential employees not to work for you if they could not get a piece rate for of employment. It would be very much a situation similar to when over time was introduced for casuals, as a casual you already get a loading but to get more than normal time (for example time and a half) is unsustainable for a lot of farming organisations especially small ones like us. As a result if the employees can't work	5/8/2021 1:54 PM

NFF Piece Rates in Horticulture Survey

more than 38 hours they do not want to work for you and we can not afford to pay penalty rates on their wages. The piece work rate mechanism is a way the employer can get people to work as required, get the productivity, pay a reasonable rate and get the job done. COVID has magnified these issues SIGNIFICANTLY as there are massive shortages of farm workers and as a direct result costs of employment are through the roof. For us a direct result is that the crops we produce are not managed to the levels they need to be causing reduced yield and pricing when sold and even if we grow the crop there is nobody willing to harvest it so crops are lost. We have a 150 tonnes of pumpkin that will be disced in as we can not get anyone to harvest them. The whole situation is a disgrace.

14	We will lose the ability to build incentive and reward for effort into our harvest jobs. Our costs will increase dramatically and it will possibly mean our business will be unviable	5/7/2021 7:51 PM
15	Our business will cease to operate	5/7/2021 4:21 PM
16	There will be absolutely no incentive to work any harder or pick that extra bin. It would be an absolute disaster and would make it even harder to find enough pickers. We would essentially be paying people just to turn up for work.	5/7/2021 4:08 PM
17	Able to encourage more pickers	5/7/2021 3:39 PM
18	Less production/productivity More cost More Administration and worker supervision time and costs Less viable business Possible crop loss Will have to employ more workers to get the job done Some workers won't work as hard as they won't be rewarded like piece rate Some seasonal workers only want piece rate therefore it would reduce number of available workers	5/7/2021 3:09 PM
19	If an underlying base rate of pay is implemented, piece rate worker's will not be any where near as productive and picking costs will increase over and above a fair and reasonable rate.	5/7/2021 2:50 PM
20	reduced flexibility in decision making and higher costs	5/7/2021 12:18 PM
21	I will not be able to employ pickers who cannot earn the award rate even if they wish to continue the work.	5/6/2021 2:41 PM
22	The productivity of our employees will largely drop. We already know this will occur as we see this happen before piecework starts each season. Pickers & packers take much longer to harvest the same amount of fruit while on hourly rate. Once piecework starts the harvest is completed much faster.	5/6/2021 11:34 AM
23	Harvesting fruit will become more expensive, and might actually lose workers as they cant earn as much	5/5/2021 8:47 AM
24	No one can afford to pay slow pickers \$24.80 an hour. would be better to hand them your property. Having used backpackers in the past who enjoy the holiday, but not really interested in any output.	5/5/2021 8:11 AM
25	I rely heavily on contract labour hire to harvest my crop, as I work full time in other employment. This allows me the greatest flexibility to pick when required and have access to the number of pickers needed. The workers in an average year are generally backpackers who are completing the required time of work in country areas to extend the length of their Visa/stay in the country. A small portion of these workers are using the harvest period as a serious money making opportunity to fund their next travel plans whilst the majority of backpackers I engage with and employ are simply going through the motions and ticking the boxes required by the Australian Government. This results in very few of the pickers working to their maximum capabilities and output varying incredibly between workers. It means that those working hard pick 8-10 bins in a day, whilst others amble and are happy to pick 2 bins. This flexibility and variable output works for both the backpackers and my business as the potential for pickers to earn considerable money exists and I have the benefits of the total sum of work completed meeting my requirements. If piece rates are abolished I fear the opportunity for this mutually beneficial situation would cease, as I could no longer employ workers that are not going to work at their maximum capabilities. The fruit being picked will not increase in value, therefore the expectations on the pickers will be greatly increased. The pickers with a casual approach will simply not be accepted on my property. If their current output levels continued, the cost of these workers would completely abolish the ability of my business to operate at all due to harvest costs ballooning far above a level my business could absorb. I would be forced to sell my property and abandon my plans of expanding my operation and becoming a full-time grower.	5/5/2021 8:02 AM

NFF Piece Rates in Horticulture Survey

26	We will downsize our operation relating to blueberries	5/4/2021 9:47 AM
27	Those pickers who are able to pick at 2 to 3 times the piece rate will not pick effectively if placed on an hour rate and will incur loss of income. This will also mean loss of productivity.	5/4/2021 9:06 AM
28	It certainly will. But more importantly, it will have a bigger impact on less efficient, less productive, less experienced, and lower earning employees. I am happy to employ nice people who are not fast pickers who want to work because it is: a) their first job b) they are retired and just like being outside c) they are regularly unemployed but enjoy getting outside doing something productive for a short part of the year. In normal seasons (2020/21 and I expect 2021/22 are extra ordinary in that there has been a pandemic resulting in a shortage of labour), it would be better for us either not to hire applicants without picking experience or to let people go after a couple of days who show they are slow as this would improve my picking speed and averages. But I presently choose to employ a diverse group of people, under a piece work arrangement where some people understand they are not making the award wage, because they want the work and it is good for the community. But the first thing that will happen when there is a minimum floor added, then some people will not be asked to start or return to work on our farm sadly. This choice will be taken from me and these people but the imposition of this regulation. A better focus for the AWU would be to press the government to provide more resources to Fairwork Australia to enable them to ensure that the current piecework system is implemented correctly. Exploitation is abhorrent and needs to be driven out of our industry. But if the regulator isn't resourced to check, then the only people paying workers correctly are the good farmers. And the only people who will be burdened by new regulations and the abolition of piecework wages will be good farmers. Bad farmers (business people more broadly) will not follow rules in any case and will have a further economic advantage if good farmers need to follow more regulations.	5/4/2021 12:29 AM
29	Productivity will be reduced by pickers.	5/3/2021 8:26 PM
30	There would be a need for more people in the orchards in supervisory roles who could weed out the people who were not likely to pick enough bins in a day to meet minimum requirements. This then takes away from the picking workforce so would take longer for fruit to be harvested. There are time constraints whereby fruit needs to be picked within a certain time frame or it becomes overripe and then unable to be sold. Introduction of a floor rate would take away the incentive for pickers to pick more than the average required to make wages, detrimental to fruit quality and harvest times.	5/3/2021 1:54 PM
31	Increase labour costs at a time of year when we have very little income	5/3/2021 11:43 AM
32	Productivity will completely drop as there are no incentives	5/3/2021 11:30 AM
33	Disaster.	5/3/2021 10:20 AM
34	We will need to look at previous pickers and ensure we only employ pickers who are experienced and known for picking a good average lug number each day	5/3/2021 10:11 AM
35	Down size	5/2/2021 6:55 PM
36	with no margins in horticulture I will finish after 50 years and 3 generations and convert to cattle. My employees will be upset with many of my staff been here up to 20 years	5/2/2021 7:27 AM
37	Less productive workforce, higher costs, would need to look at cutting back production.	4/30/2021 10:43 PM
38	Will have to spend more time in field to monitor staff and expect a higher turnover of staff that are not performing	4/30/2021 9:02 PM
39	reduced access to labour as cannot afford to employ less productive workers (mostly lazy workers who day dream on the job/ often sitting in cars instead of working!)	4/30/2021 7:47 PM
40	It's really hard for the farmers to earn money. We have to wait nearly end of the season to know what we have profit or not.	4/30/2021 7:42 PM
41	Negative	4/30/2021 5:47 PM
42	I would have to employ twice as many people to work and the productivity of my business would be halved	4/30/2021 2:42 PM
43	Will have to put employees off if not making wages.	4/30/2021 2:06 PM
44	Productivity is essential to the success of any business. Piece rates reward those who work	4/29/2021 8:22 PM

NFF Piece Rates in Horticulture Survey

hard and fast, are fair to those who work at an average pace and still pay those who are not engaged or interested in their work. They allow our business to remain viable and still be fair to our staff. As "price takers" in horticulture our viability is often in the balance and this is a further hurdle for us.

45	Sell water entitlements, let farm die & retire	4/29/2021 2:38 PM
46	Higher cost for worker supervision Higher staff turn over due to need to make persons redundant due to poor work performance and attitude Trend towards season workers program away from locals and backpackers	4/29/2021 2:18 PM
47	We receive \$5 per kg on average, we pay \$1 per kg picked. We have 15kg lugs and we have the rate set to a competent worker should be able to pick 2 lugs per hour which is \$30. Staff that cannot pick at this rate be it laziness or just not skilled to pick that quick we politely suggest to them maybe this industry is not for them or we advise them we have no positions as we cannot have people on our books not making minimum wage. Our shed staff are hourly, we personally do not draw a wage we work off farm in jobs to support our farms. We have to factor in chemical, fertiliser, stay fresh registration, packaging, transport, super and workers Comp. If hourly rate comes in the staff not making two lugs per hour would be let go and our fruit would not get off the trees in it's entirety. We do not charge accommodation for people staying on site. We would have to charge for accommodation and ultimately I would see it ruining our business and forcing us to close. Given the current workforce situation with covid the pool of skilled workers is not great so we do not have the ability to pick and choose the skilled labour.	4/29/2021 1:30 PM
48	1	4/29/2021 12:40 PM
49	very little as very little piece work workers	4/29/2021 12:22 PM
50	The people I employ will not work for me by the hour because they earn more money harvesting per piece	4/29/2021 9:41 AM
51	Loss of productivity, higher picking costs	4/29/2021 8:58 AM
52	I will only be able to employ good experienced pickers whilst turning away less experienced pickers who sometimes are only looking for some extra money and they don't care if it takes them a little longer to pick as they can pick at their own pace	4/29/2021 8:33 AM
53	It will cost me more money in wages and on costs to employ more people and my productivity will be less. My pickers that know what they are doing can earn 30 to 50 percent above minimum wage. They wont work for hourly wages. They want to be paid piece rates. Go and ask any of the unionized shearers in Australia if they want to be paid by the hour rather than by the sheep.	4/29/2021 8:02 AM
54	Cost of picking would increase	4/28/2021 9:22 PM
55	It will add significantly to labour costs. During a very intense harvest period it will be a huge additional burden to record both units picked and time	4/28/2021 9:18 PM
56	Will be unaffordable to pay pickers a hourly rate and extremely inefficient	4/28/2021 8:56 PM
57	I will need to halve the time that I will employ worker in the season ,just can't afford to employ workers with more cost .	4/28/2021 8:07 PM
58	We have no workers at this time. Without peace rates people will clock up hours an not pick the fruit our business will be not viable	4/28/2021 8:02 PM
59	The costs to grow produce will rise but the inflation won't be passed on to the consumer resulting in me just breaking even or running at a loss	4/28/2021 7:15 PM
60	It will cause friction between hard working staff and lazy staff and every new employee would be put on a 3 month trial and employment terminated if performance isn't fair, which will mean more training and interruptions in production and unnecessary increase in production costs	4/28/2021 6:19 PM
61	Hard to get seasonal workers because they want to earn more than wages. They want to be paid for effort	4/28/2021 6:13 PM
62	We will consider selling	4/28/2021 6:09 PM
63	No comment	4/28/2021 5:17 PM

NFF Piece Rates in Horticulture Survey

64	In the event of a good worker shortage, I would likely have to employ inexperienced workers whom I would most likely be paying excessive amounts for the work that is carried out in turn making my business not profitable	4/28/2021 5:06 PM
65	Sell the farm go on the dole	4/28/2021 4:45 PM
66	It would be disastrous. We will have even more problems to deal with, that will take away the incentive to pick a decent amount in a day. There is very good money to be made if someone applies them selves	4/28/2021 4:43 PM
67	Workers will slow down and pick less. Poor performing worker will get rewarded	4/28/2021 4:36 PM
68	Fair for farmer and workers fixed peace rate	4/28/2021 3:47 PM
69	Decreased productivity from pickers leading to a slower harvest and product quality deterioration.	4/28/2021 3:40 PM
70	We will go to machine harvesting, crops that don't need harvesting by hand, and/or sell off the property for housing or accommodation.	4/28/2021 3:24 PM
71	We would be considered a fair industry that pays its employees fairly. The horticultural will not attract workers if they can not guarantee a minimum wage.	4/28/2021 2:53 PM
72	less profit margin to sustain a viable business	4/28/2021 2:14 PM
73	We will fail to be able Harvest our crops economically. We pay fairly. There are an enormous amount of people that work for us. Some attend work, some work really hard, and most people have a good work standard. People need to be rewarded for hard work. Piece rate does that.	4/28/2021 1:37 PM
74	Increase in labour cost, loss in productivity & efficiency, less motivation to use piece rate	4/28/2021 1:30 PM
75	Loss of profit and needing to employ someone full time to record start and finish times and to ensure each person is actually working for the duration of their shift.	4/28/2021 1:29 PM
76	Bankrupt or sell out	4/28/2021 1:28 PM
77	Reduce the size of our business	4/28/2021 1:19 PM
78	Increased cost of production resulting in a lot lower returns, and unharvested fields because it is harder and harder to find competent workers. This will drive up incompetently of labour force as they know, the worst case scenario, they don't have to work to hard to earn the minimum hourly rate.	4/28/2021 1:19 PM
79	Move to innovate - invest heavily in more mechanisation of processes currently carried out by labour force which would ultimately remove 90% of the jobs for humans from our farm	4/28/2021 11:13 AM
80	Not good	4/28/2021 10:40 AM
81	nil	4/28/2021 7:42 AM
82	Inability to inspire workers to go faster or longer , potentially leaving fruit unpicked	4/28/2021 7:13 AM
83	Reduce hrs worked,increase machinery need,backpackers will look for more work elsewhere, slow production	4/28/2021 7:07 AM
84	Reduced productivity by 25% No longer effective tool for incentivising employees to improve.	4/28/2021 6:36 AM
85	Increase costs and decrease productivity. Higher staff turnover with associated costs. Lower quality of output and probably force production to decrease over time. 70% of my staff earn over the piece rate. Having a floor price of \$18 would be okay but not equal to the hourly rate. I subsidise my learners for the first two-three weeks anyway.	4/28/2021 6:23 AM
86	?	4/28/2021 6:02 AM
87	None. We do not use piece ratez	4/27/2021 8:06 PM
88	Nil - we do not use piece work at this time.	4/27/2021 7:29 PM
89	It will force incremental increases in costs. As a small grower serious consideration has to be given to closing the business down. What's frustrating is that primary producers are continually being forced to carry the costs of the rest of societies 'initiatives' with no way of increasing the sale price of their produce in order to stay viable	4/27/2021 6:36 PM

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90	Inability to reward productive and engaged workers and removes a key tool in incentivising employees that work below the average. Less likely to hire local employees due to lack of productivity and therefore lack of capital utilisation. Loss of a valuable management tool.	4/27/2021 6:23 PM
91	Our small family business would become unprofitable	4/27/2021 5:35 PM
92	No Consequence we pay an hourly rate to all workers	4/27/2021 5:32 PM
93	More work for less people	4/27/2021 5:26 PM
94	Lower productivity. High costs. Poorer performing workers will be dismissed sooner as their productivity is too low. Higher Turnover.	4/27/2021 5:24 PM
95	Good workers will be penalised the most. As they will either accept an hrly rate and reduce the amount of their output as they will begrudge the less serious pickers who are not working as hard, the employer will be more selective in staff he uses. Caboolture Q. 4510 has one of the highest unemployment - yet despite 30 applications from locals - none have turned up for work in three years. if these same people were paid the min wage then work - when all the time on piecerate there is no reason why they should not earn over \$28 per hr. (yet they wont work hard to get / earn it. support the bludgers and make farmers pay - piece off!! i have to prove 1 in 5 can earn \$28.80 p/hr I have old ladies over 50yrs young earning on piecerate \$35.00 and more per hr and on the same day had other workers in the sam paddock sam conditions and earn less than \$20.00 per hr - documented , time sheets, kept why reward the incompetent worker.	4/27/2021 3:49 PM
96	Lower productivity, less motivation, no incentive to make money, cost of production increased (higher production rate), less good quality pickers, less competition. Invites unmotivated workers to be even less productive. Likely to move to an industry (city based) that can provide a higher wage with added benefits that comes with urban life.	4/27/2021 10:42 AM
97	Complete loss of professional pickers from the industry	4/27/2021 5:54 AM
98	It would slow the harvest and spoil some of the fruit	4/26/2021 3:26 PM
99	Without piecework rates there is no incentive to work hard. The workers will just sit around and make no effort. Why should we pay the slow ones the same as the fast ones? There has to be incentive. Our business would not survive on hourly wage with the lack of quality and conscientious workers in this area	4/26/2021 10:32 AM
100	At present, if someone does not perform well and they are happy to keep working we will keep them on as long as they are respectful and polite. Money isnt every workers main driver. If it succeeds we will likely be looking to sack these slower workers which are often backpackers needing 88 days, school kids etc. It will just add significant costs to labour with no more output, result in a need for increased performance supervision of workers and a much higher turnover of staff.	4/25/2021 4:15 PM
101	harvesting fruit will become uneconomical	4/25/2021 1:23 PM
102	Reduced efficiency and productivity for some jobs on wages it is unfair for the better workers trying to work as a harvest team with the slack employees not pulling there weight	4/25/2021 7:25 AM
103	People who work on peace rates won't come back because they won't earn the money they made on peace rates, it will also raise my cost to pick fruit and I won't be able to put extra cost on top of fruit sale because we don't get a cost price for fruit	4/24/2021 8:18 PM
104	I am not likely to survive. We cannot directly access the PLS as I am a sole trader. Therefore immediately we have to deal thru a labour hire company and the additional cost would send us broke	4/24/2021 6:45 PM
105	A reduction in productivity and increased demand for workers who are not currently available due to the decrease in productivity From individual workers	4/24/2021 6:27 PM
106	Dire consequences! I need enthusiastic hard working pickers to harvest the crop in a timely manner. The work is physically hard and the conditions challenging but the money that can be earned with piece work is good. An hourly rate would slow everything down and be a disincentive to productivity.	4/23/2021 5:53 PM
107	m	4/23/2021 4:36 PM

Q15 Do you have any additional comments?

Answered: 79 Skipped: 117

#	RESPONSES	DATE
1	no	6/9/2021 1:58 PM
2	My employees want piece work opportunities whenever they can be offered as a remuneration option. Simply put - they make more money and their working hours are the ones they choose. Their productivity and my profitability are inexorably linked. We both want the same thing - that is, the maximum number of fruit items, moving from the tree to the processor or packing shed. Furthermore, the individual picker then has the satisfaction of knowing it was their initiative, their planning and their industry, that they are being remunerated for. My regular employees expect to be on wages when selective picking of the first mature fruit occurs but they would be very unhappy if they were denied the opportunity to move in to a piece work "contract" when the bulk of the crop is being harvested.	6/8/2021 2:57 PM
3	I'm sick and tired of fair work telling us how to operate Australia was not Built on 38 hours o would only expect idiots to accept this we must push back hard	5/27/2021 9:04 PM
4	Working on farms on hourly rates has dropped our productivity and lowered the earning to the workers as a concersquence of working slower for the hourly rate.	5/16/2021 11:48 AM
5	less likely to employ casual workers	5/11/2021 10:10 PM
6	Union officials and policy makers do not understand the practicalities of the situation and need to visit and have boots on the ground actually first handedly observing day to day operation of a primary production facility.	5/11/2021 6:59 PM
7	Rural communities have relied on agriculture for decades- these days is no different & horticulture is the fastest growing ag sector and is contributing vast amounts to the balance of payments with increased exports- if piece work is removed and we lose production we lose most in rural communities- the flow on to the community in terms of service providers, - ag supplies, tyre supplies, sporting clubs, schools- the list goes on- It is not about not paying people for the work they do- if it goes to hourly rate we will lose the competent pickers as they will not earn the dollars they are able to- piece work rewards those who want to work hard- an hourly rate will mean less people have the opportunity to earn money- a grower cannot afford to pay someone who simply cannot grasp the concept & skill of picking- that is why we allow them a couple of days to try and if they cannot earn a reasonable amount for a days work we advise them to try something else.	5/10/2021 9:39 AM
8	The hourly rate will encourage some people to do the very minimal amount of work instead of the best they can do	5/9/2021 4:18 PM
9	The Unions have put out various articles about how employers rip off the employees and even stating that some employees were working for as little as \$2 per hour, I find this hard to believe but even if it were true this is very much the MINORITY of cases and I would like to know the detail if the \$2 thing were true. The vast majority of employers do the right thing, if the Union wanted to look into the area where employees get ripped off they should take a good long hard look at the contractor industry as it is here where employees are taken advantage of, but again it is not all contractors, despite the contractor rules and regs that were introduced. The Union needs to have a look at some of the table grape farms that have to pay their employees up to \$10 a box to pick (normally about \$3) grapes how are the employers meant to pay all the expenses and survive. Admittedly it is the severe worker shortage that has caused this to occur but all the Unions want to push is how hard done by workers are when in fact in times like this it is the workers making a lot more than the employers with no risk, no debt, no pressure, no commitment no nothing all they have to do is turn up for work put in and go home with out a worry in the world, makes you think why the bloody hell are we doing this at all.	5/8/2021 1:54 PM
10	I have prepared a submission but need guidance as to where to send it	5/7/2021 7:51 PM
11	We don't use piece rates because the law makes it a ridiculous excercise. The motivation to work as hard as possible for the employee to earn the maximum possible should be enough for	5/7/2021 4:58 PM

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a person that is serious about their job. The laws encourage people to do as little as possible so we pay an hourly rate.

12	We have always worked very hard to ensure conditions enable a average picker to make wages. Fit average employees can make far more than wages allow. It is our interest for people to do well and therefore stay until the season has finished	5/7/2021 4:21 PM
13	Picking conditions vary a lot - some days are good and some are not so good but a picker takes the good with the bad and the good picking can be very very good where they can make \$40/hour. The good workers will be disadvantaged as everyone will be just paid an hourly rate.	5/7/2021 4:08 PM
14	In previous fruit harvesting seasons we have had picker's on piece rates exceeding wage rates by 30%. When picking on wages, productivity has fallen by 40% adding approximately 33% to picking costs.	5/7/2021 2:50 PM
15	we do not use piece rate on our farm	5/7/2021 11:16 AM
16	This move will make it cost prohibitive to employ inexperienced pickers and It will also mean beginner pickers will not be able to be employed to develop skills to become good pickers and a shortage of pickers will be the result. Good pickers will see the situation as unfair.	5/6/2021 2:41 PM
17	We do agree that a minimum rate of some kind should be in place but the minimum hourly rate is of concern to us due to productivity concerns. We also strongly believe that employers should definitely be keeping hours for their records as this is the only way an employer can accurately ensure correct piecework rates are being used.	5/6/2021 11:34 AM
18	I agree with a minimum payment for piece workers, because a lot of workers are being underpaid. A lot of backpackers have given me horror stories. Piece rate is the reason the agricultural industry has a bad name in this country. If there was a minimum then we may get more locals to work and redeem our name in the country and overseas.	5/5/2021 12:01 PM
19	Many.	5/5/2021 8:11 AM
20	We only pay blueberry picking piece rates. Avocado picking is paid per hour work	5/4/2021 9:47 AM
21	Those that are picking under the piece rate are placed with top pickers to increase their picking rate if this cant be done they may be offered additional work cleaning or small jobs at the hourly rate to ensure they can earn effectively.	5/4/2021 9:06 AM
22	I think covers most of my opinions	5/4/2021 12:29 AM
23	With peace work employees are given a incentive to work consistently all day.Some people are just slow workers and not much value to fruit picking jobs.	5/3/2021 8:26 PM
24	The answers to questions 11, 12 and 13 were based on 1 days picking from last fortnight paid. The day chosen was a day when most of the pickers were on site for an entire day. Given the current structure pickers are not required to be on site all day and could leave early if it was raining or for any other personal reason. This is one of the benefits of having piece rates as it gives pickers the flexibility.	5/3/2021 1:54 PM
25	No	5/3/2021 11:43 AM
26	Piece rate is critical for our industry as workers that put more effort get rewarded for their hard work. We never pay anyone less than the hourly award rate and generally find that most of the workers would be paid on average more than \$28 per hour.	5/3/2021 11:30 AM
27	If the application is successful it will likely mean young inexperienced locals will not be employable as they generally take a little longer than the more experienced workers	5/3/2021 10:11 AM
28	There are enough rules in place now to make the system work And if someone brakes the rules they should be harsher penalty s	5/2/2021 6:55 PM
29	my casuals on piecework make big money here and other districts to make up for downtime.	5/2/2021 7:27 AM
30	I've been lucky enough to have some wonderful people work on my property, some of these don't aim to work as productively as they could, they are good because they show up and are happy with the come and go system that we run. Sadly, we will have to change the way we work with these people in the future if these changes are made	4/30/2021 9:02 PM
31	It is not fair to punish those doing the right thing because there are few who do the wrong thing!! Prosecute those who do not pay their work force properly (address the problem) instead	4/30/2021 7:47 PM

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of creating a band-aid fix that will hurt the innocent. We are mostly price-takers and they are proposing to take away another measure that allows us to have some control over costs/inputs.

32	Please take care for both employers and employees . Because the employers couldn't make any profits how can they survive for their lives and families. It should be fair for both.	4/30/2021 7:42 PM
33	No	4/30/2021 5:47 PM
34	No	4/30/2021 2:42 PM
35	Majority of employees prefer piece rates as they can make good money if prepared to work hard.	4/30/2021 2:06 PM
36	I hope they bring this in....I am at retirement age, or I could go on the dole.	4/29/2021 2:38 PM
37	This is not the right time to be discussing or bringing it in. We do not mistreat our staff and I feel for the employers doing the right thing our businesses will be detrimentally impacted and you will see the industry as a whole reduce. When people work on hourly they slack off. But also the staff that are good pickers picking 20-30 lugs per day the will be impacted also and will turn hem them away from the industry.	4/29/2021 1:30 PM
38	1	4/29/2021 12:40 PM
39	no	4/29/2021 12:22 PM
40	Employees who work for me are happy to work per piece because they earn more than if they were to work per hour. if I was to employ people by the hour they would earn less and My business would be less productive and less profitable	4/29/2021 9:41 AM
41	People are only human,some people can move faster than others the best example is shearers.should a guy who shears 5 sheep be payed the same as the guy who shears 10 sheep	4/29/2021 8:33 AM
42	Piecerate rewards the hard workers. The pickers i have this year looked for piecerates so that they could earn more per hour if they worked hard instead of basic hourly rate.	4/28/2021 9:22 PM
43	As an employer I will be very reluctant to employ anyone who cannot earn the hourly wage. This will mean learner pickers will not get a chance to become competent pickers	4/28/2021 9:18 PM
44	When we are not viable you will have to import fruit and veg	4/28/2021 8:02 PM
45	Farmers already have very small profit margins compared to the businesses/companies that buy and sell their produce. unfortunately those businesses/companies would increase their product prices but won't pass those prices onto the grower.	4/28/2021 7:15 PM
46	Piecerate is a fairer system for employers and hard workers as the lazy employees will be compensated with the people that achieve a higher work rate and keeps employees with good work ethic rewarded	4/28/2021 6:19 PM
47	The people who want to work make great money on piece rates. We cannot afford to pay people to stand around all day and not be productive	4/28/2021 6:09 PM
48	No comments	4/28/2021 5:17 PM
49	We rarely use piecework rates. I have noticed that our productivity is 2-3 bins/day whilst piecework farms are commonly 4-6 bins/day.	4/28/2021 4:53 PM
50	Please do not go this way it will be grossly unfair for all	4/28/2021 4:43 PM
51	No	4/28/2021 4:36 PM
52	No	4/28/2021 3:47 PM
53	I did have but after I typed them you didn't save them and told me to do the survey again.	4/28/2021 3:24 PM
54	This form was hard to fill out if you have a different view point, not all farmers like to exploit staff.	4/28/2021 2:53 PM
55	There is such a huge variance in how hard people work, not just how long they work for. There needs to be reward for hard work. When you have a great team working for you, you will always have a huge variance in people's skills. There is a huge difference in some person who	4/28/2021 1:37 PM

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tries hard and does not make enough money. Compared to some persons who do not want to work hard and equally earn the same money. We can totally help those who work hard and make them better pickers through training, as they have their own motivation. It is difficult to help people who don't really want to be there, but may require them to attend work for various reasons, like visa requirements or their service provider requires them to work. Understanding that all people can become adequate pickers with self.motivation and help. As.a farmer it is also in our best interest that everyone picks fast and remains satisfied with their work.

56	If this had have come into effect this year we WOULD NOT have been able to get the fruit off the trees. We found that people were turning up for a couple of hours, picking a bin and sitting under the tree or in their car. They then failed to turn up to work the following day with no communication. We have our regular seasonal workers who come back year after year because they know we pay well, pay a bonus for returning employees and pay a bonus to those that stay and pick until the last day of harvest. These people can make upward of \$500 per day because they work. It will be the true pickers who will miss out if the application succeeds...the ones who are there to actually work.	4/28/2021 1:29 PM
57	Good pickers make good money always have but the larger proportion of the team only works at a slow pace or is virtually unemployable elsewhere and they get the same kg rate as a person picking possibly 3-5 times more produce who can work and has experience. The market pays us for kg of product so to pay on an hourly rate that is out of proportion to the kg produced is the perfect business model to go broke. The only alternative is for crops to be valued a lot more at the farm gate,(not happening). I am not in the veg business at the moment but have had 35 years involvement that is why I filled out the survey. Apologies if this makes my information invalid.	4/28/2021 1:28 PM
58	This is not the solution.	4/28/2021 1:19 PM
59	For Piece Rates to be fairly administered there needs to be a set of clear standards that farmers MUST use - there is too much ambiguity now which allows those wanting to exploit to be able to do so. The NFF should invest in creating & communicating a best practice approach to the application of piece rates - and then work with FWO to police it to give growers & workers confidence in the system.	4/28/2021 11:13 AM
60	AWA is wrong workers and farmers are happy as it is	4/28/2021 10:40 AM
61	No	4/28/2021 7:07 AM
62	Piece rates are great at managing underperformance - it puts the responsibility fairly in the workers hands to be more productive and rewards them extremely well.	4/28/2021 6:36 AM
63	If we only paid hourly rate we would not attract a competent workforce. The staff love piecerates as they can earn great money. Our top picker will earn over \$45 an hour and planters this year are earning \$68. There are probably some unscrupulous operators out there but why penalise the entire industry and workers, find those unscrupulous employers and penalise them directly.	4/28/2021 6:23 AM
64	?	4/28/2021 6:02 AM
65	I do not use piece work	4/27/2021 7:56 PM
66	From my reading, the AWU submission is to require that piece rate workers must earn at least the minimum hourly rate. That sounds fair if there are enough workers to let go under-performers. If the employer sets un achievable piece rates and as a consequence the employees who work hard do not make more than the minimum hourly rate, then that is an unfair system.	4/27/2021 7:29 PM
67	Australia is becoming a country where too much is spent on social welfare without those recipients contributing to society	4/27/2021 6:36 PM
68	With average year on year picking wages paid at between \$29-\$31/hour on piece rate (when calculated over all hours worked) we have no quarms with paying over the minimum for high quality workers. However there needs to be a counter measure for ineffective employees, rewarding ineffective employees at the same rate as highly motivated staff reduces the overall morale and suces of the workforce.	4/27/2021 6:23 PM
69	No	4/27/2021 5:32 PM
70	Piece rates are very effective at attracting hard workers. Good workers know they can earn	4/27/2021 5:24 PM

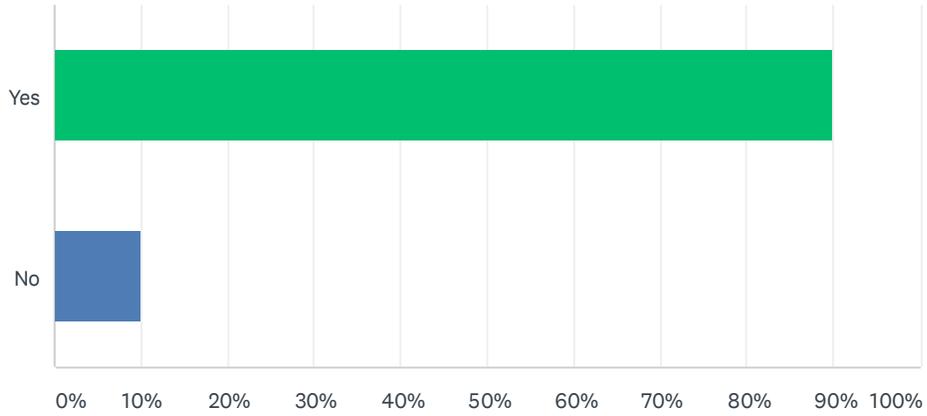
NFF Piece Rates in Horticulture Survey

excellent money on piecework and seek out these positions. When applied fairly as we do, piece rates are both fair to the employee as they get rewarded for their efforts and skill, and fair to the employer. I take great pleasure in seeing our pieceworkers high equivalent hourly rate. The removal of piece rates would have a really negative effect on labour productivity.

71	many more	4/27/2021 3:49 PM
72	We operate in a low socio-economic area and there are too many people taking advantage of us at present. Bludgers who have any excuse to run off to the toilet or I've forgotten my water bottle or I need to make this phone call..... Tell the Union that the horticultural award is \$27.15 an hour including Superannuation. We cannot have workers abusing this high cost of labour. In our industry it takes at least 3 weeks to train people to become profitable for us, and nine times out of ten, they don't turn up after the first week. So at least on Piecework rates they would be trained up at their own cost. Piecework Rates are the fairest way to pay in our industry. In fact, even the young Asian backpackers slowdown when they are on an hourly wages. Why do they need to push themselves when the slow ones are earning the same? No incentive to work fast. We need to keep Piecework Rates.	4/26/2021 10:32 AM
73	With the labour shortage piece rates are being driven up dramatically due to competition between and within industries. Strawberry industry is particularly badly effected by this.	4/25/2021 4:15 PM
74	The Virus has shown us there is not enough good labour in Australia	4/25/2021 1:23 PM
75	We need a minimum price for our product for this to work.Help farmers so farmers can help workers	4/24/2021 8:18 PM
76	at the moment the big farms are acquiring all the hard workers because they can supply them with more work and the smaller farms are left with those who are only interested in their 2nd visa(backpackers) who do not stay the season so constantly looking for new workers. Hence the lopsided pays a few mainly locals who exceed the award and many who don't. Please note this lopsided pays have only occurred in the last 5-8 years as pay rates / hr have grown exponentially and as a grower for nearly 40 years the return to farm gate has not increased in that time.	4/24/2021 6:45 PM
77	Employees enjoy working on a piece work rate which encourages extra productivity and allows them extra income over I standard hourly rate	4/24/2021 6:27 PM
78	We use contractors for most of our harvest. Currently we place an order for the amount of bins of fruit to be picked and pay the contractor for that amount of labour. I am at a loss as to how this would work effectively under the proposed changes. It would be an extra burden on my time to supervise the workers to ensure I am getting value for money. Everyone picking at my farm is treated equally with piece rates. Male, Female, Tall, Short, Old, Young are all paid on the work completed. Can't get fairer than that.	4/23/2021 5:53 PM
79	m	4/23/2021 4:36 PM

Q17 As an employee, are you paid (always or occasionally) by piece-rate?

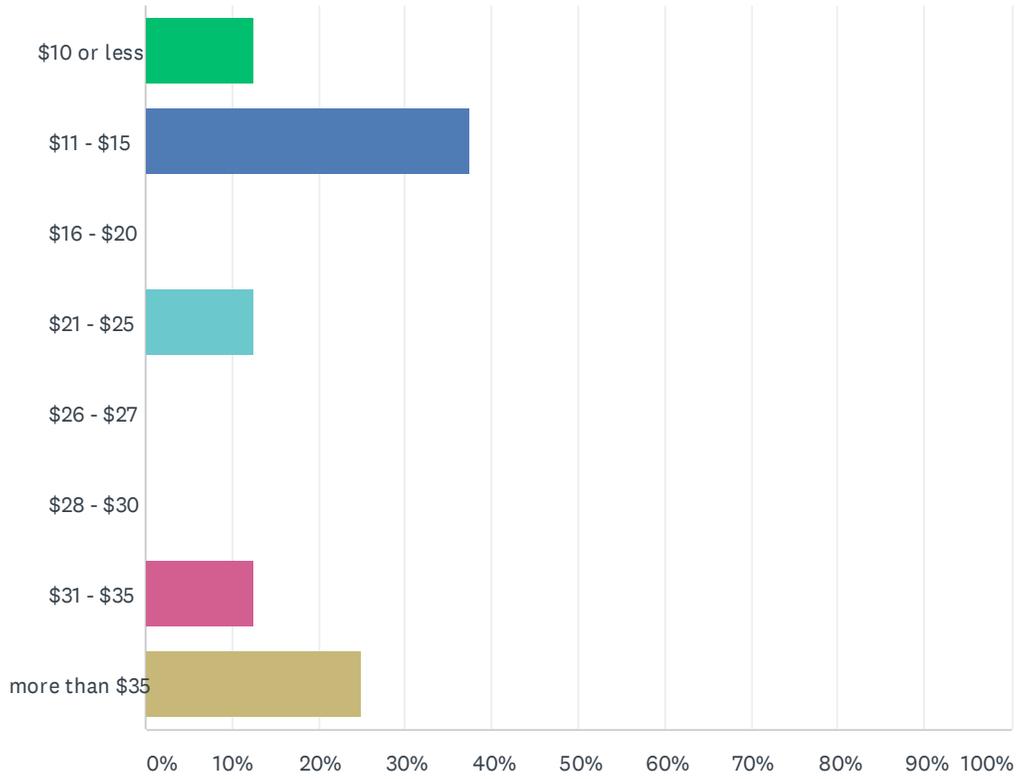
Answered: 10 Skipped: 186



ANSWER CHOICES	RESPONSES
Yes	90.00% 9
No	10.00% 1
TOTAL	10

Q18 As an employee paid by piece-rate, what are your typical weekly earnings per hour?

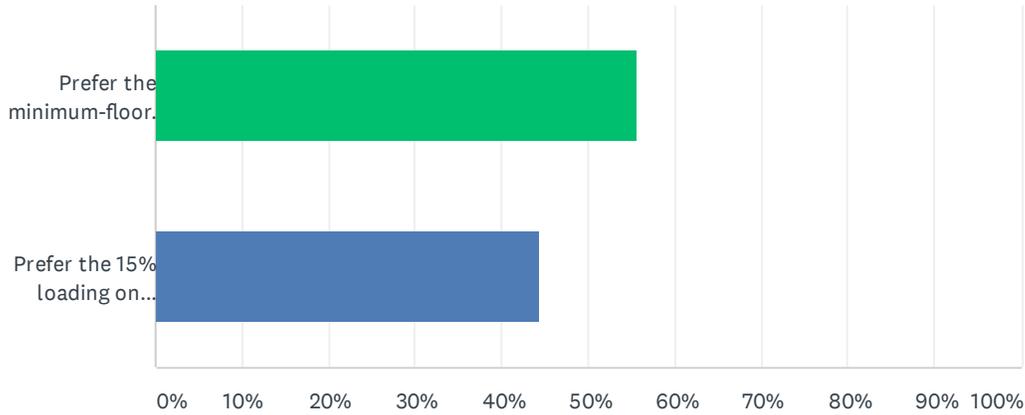
Answered: 8 Skipped: 188



ANSWER CHOICES	RESPONSES	
\$10 or less	12.50%	1
\$11 - \$15	37.50%	3
\$16 - \$20	0.00%	0
\$21 - \$25	12.50%	1
\$26 - \$27	0.00%	0
\$28 - \$30	0.00%	0
\$31 - \$35	12.50%	1
more than \$35	25.00%	2
TOTAL		8

Q19 As an employee paid by piece-rate, would you be more inclined to accept the AWU's proposal for a minimum floor-rate, or a 15% loading on your earnings?

Answered: 9 Skipped: 187



ANSWER CHOICES	RESPONSES
Prefer the minimum-floor.	55.56% 5
Prefer the 15% loading on earnings.	44.44% 4
TOTAL	9

Q20 'Do you have any additional comments?'

Answered: 3 Skipped: 193

#	RESPONSES	DATE
1	no	5/10/2021 1:41 PM
2	You would think if there was a loading that the employers would then reduce the rates by 15% so there would be no benefit. A minimum floor would assist when made to pick in poor conditions.	5/3/2021 8:44 AM
3	█ the AWU	4/28/2021 6:29 PM

Q21 'If you are open to being contacted by the NFF in relation to this matter, please provide your best contact details (this information will be kept confidential).'

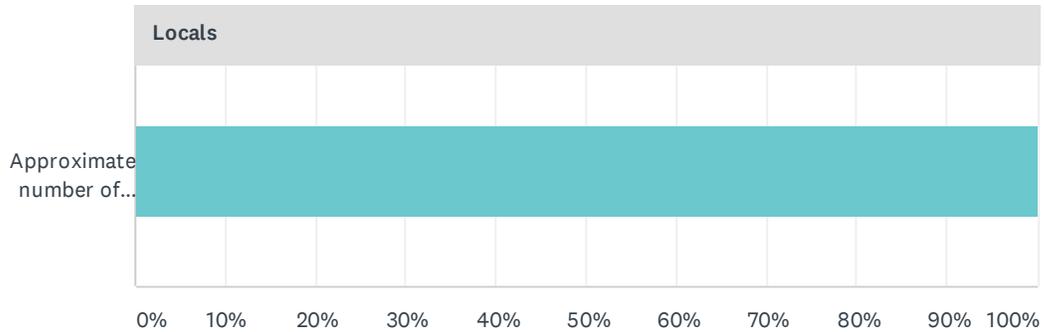
Answered: 1 Skipped: 195

ANSWER CHOICES	RESPONSES	
Name	100.00%	1
Company	100.00%	1
Address	0.00%	0
Address 2	0.00%	0
City/Town	100.00%	1
State/Province	100.00%	1
ZIP/Postal Code	100.00%	1
Country	0.00%	0
Email Address	100.00%	1
Phone Number	100.00%	1

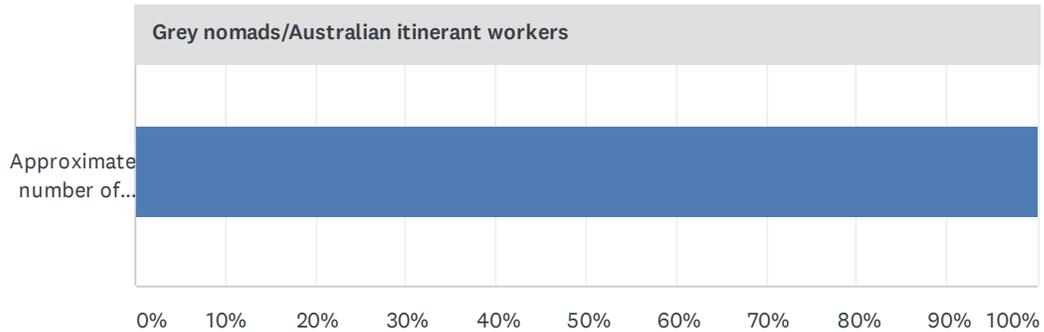
#	NAME	DATE
1	██████	4/26/2021 5:22 PM
#	COMPANY	DATE
1	Best Employment	4/26/2021 5:22 PM
#	ADDRESS	DATE
	There are no responses.	
#	ADDRESS 2	DATE
	There are no responses.	
#	CITY/TOWN	DATE
1	██████	4/26/2021 5:22 PM
#	STATE/PROVINCE	DATE
1	Qld	4/26/2021 5:22 PM
#	ZIP/POSTAL CODE	DATE
1	██████	██████████
#		DATE
	There are no responses.	
#	EMAIL ADDRESS	DATE
1	██████████████████	4/26/2021 5:22 PM
#	PHONE NUMBER	DATE
1	██████████	4/26/2021 5:22 PM

Q22 'What is the make-up/background of your labour workforce over an average year?'

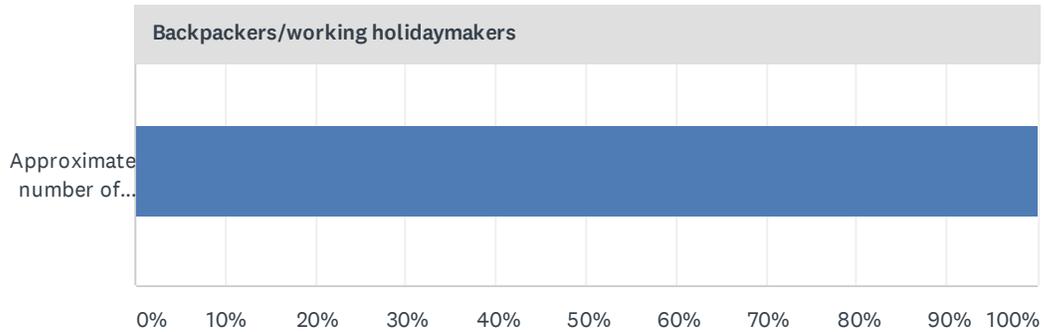
Answered: 1 Skipped: 195



5 or less 6 to 10 11 to 20 21 to 50 51 to 100
more than 100

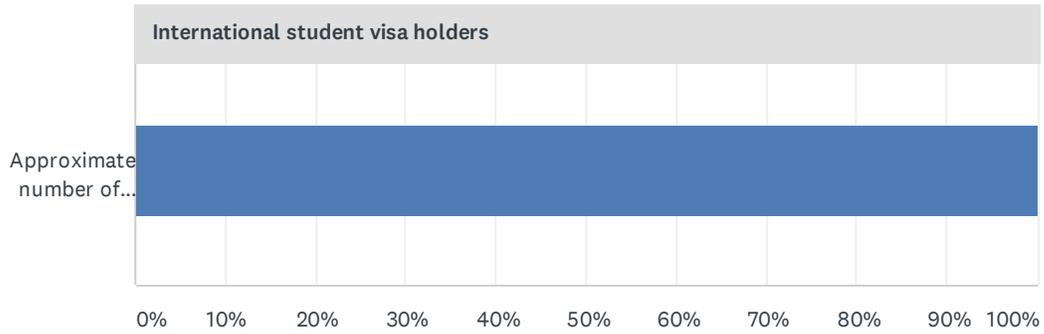


5 or less 6 to 10 11 to 20 21 to 50 51 to 100
more than 100

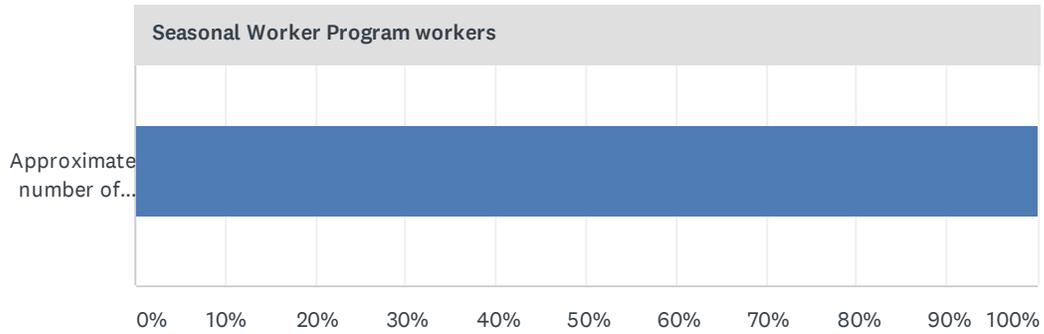


5 or less 6 to 10 11 to 20 21 to 50 51 to 100
more than 100

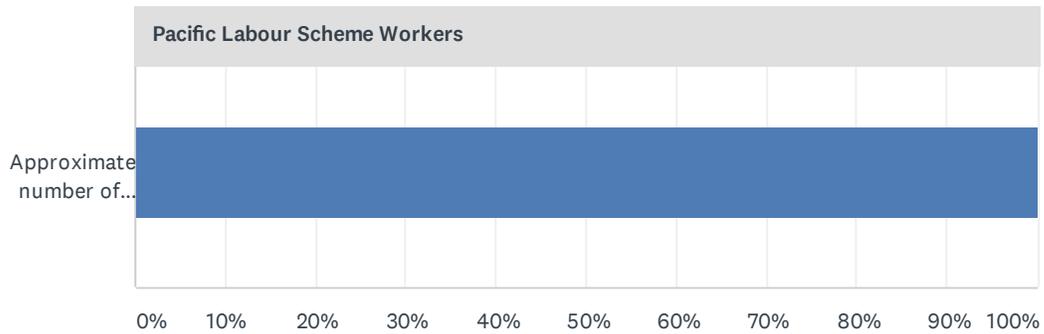
NFF Piece Rates in Horticulture Survey



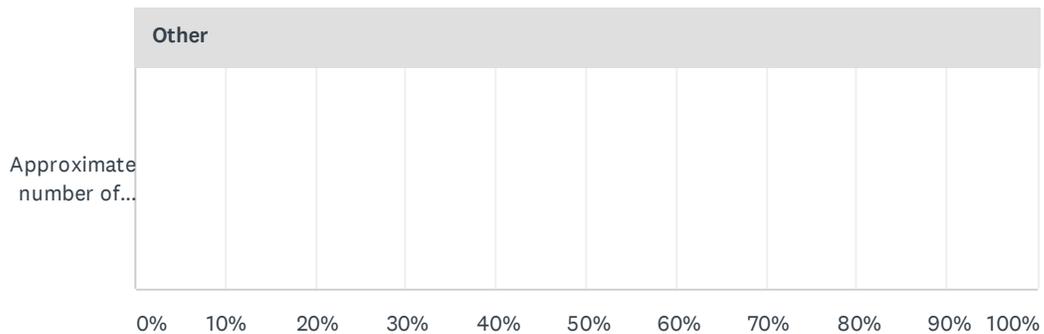
5 or less 6 to 10 11 to 20 21 to 50 51 to 100
more than 100



5 or less 6 to 10 11 to 20 21 to 50 51 to 100
more than 100



5 or less 6 to 10 11 to 20 21 to 50 51 to 100
more than 100



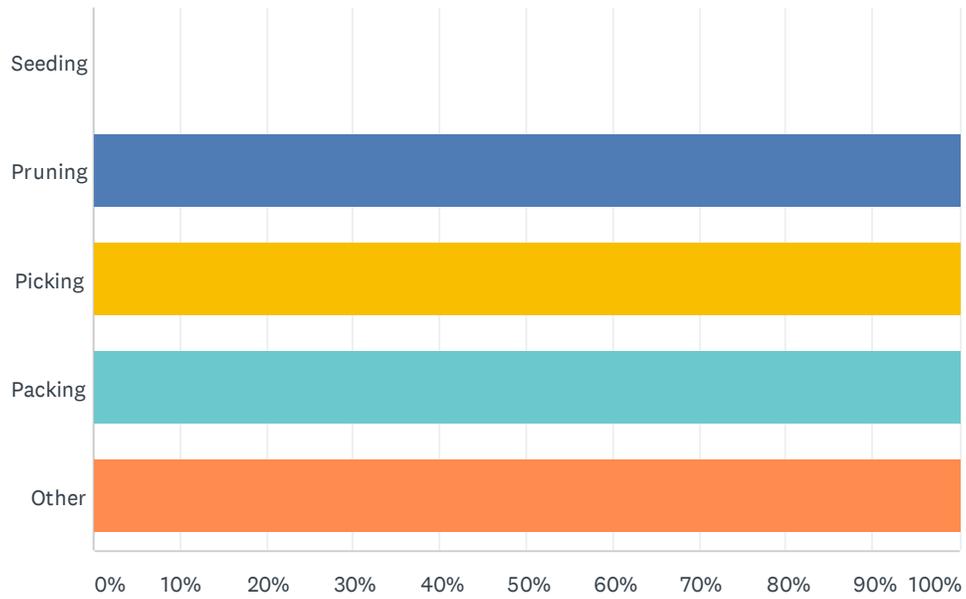
5 or less 6 to 10 11 to 20 21 to 50 51 to 100
more than 100

NFF Piece Rates in Horticulture Survey

Locals							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	0.00% 0	0.00% 0	0.00% 0	100.00% 1	0.00% 0	0.00% 0	1
Grey nomads/Australian itinerant workers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	0.00% 0	100.00% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	1
Backpackers/working holidaymakers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	0.00% 0	100.00% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	1
International student visa holders							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	0.00% 0	100.00% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	1
Seasonal Worker Program workers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	0.00% 0	100.00% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	1
Pacific Labour Scheme Workers							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	0.00% 0	100.00% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	1
Other							
	5 OR LESS	6 TO 10	11 TO 20	21 TO 50	51 TO 100	MORE THAN 100	TOTAL
Approximate number of workers	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0

Q23 'Which of the following types of work do you use piece rates to calculate payments?'

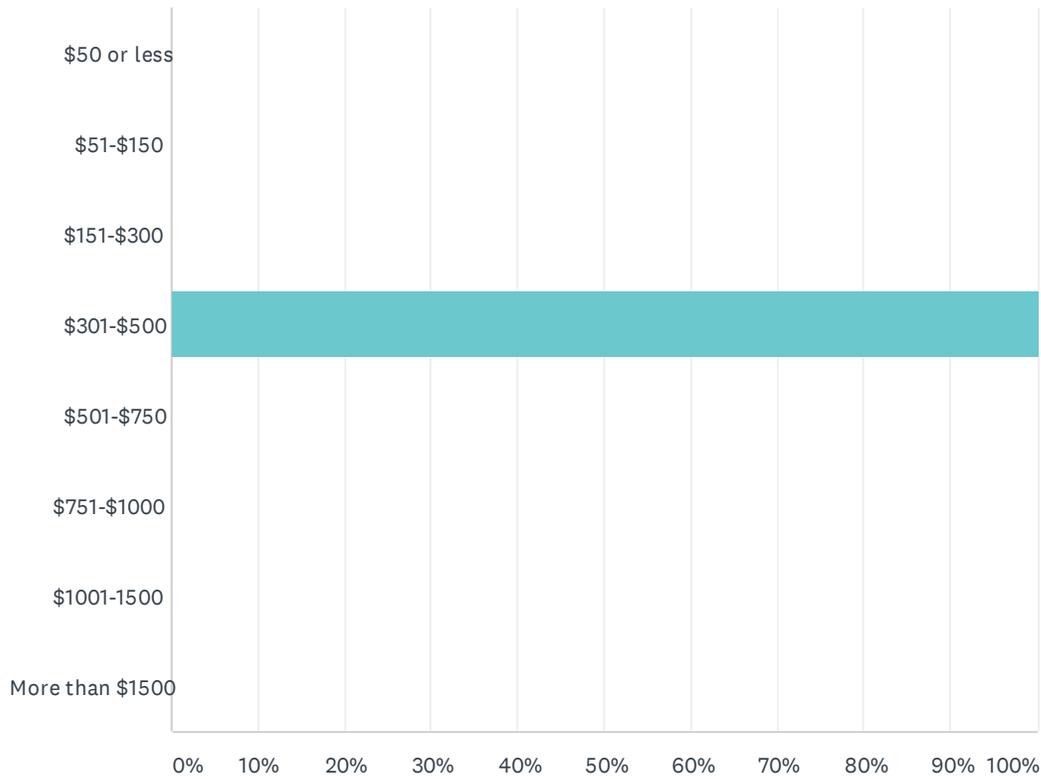
Answered: 1 Skipped: 195



ANSWER CHOICES	RESPONSES	
Seeding	0.00%	0
Pruning	100.00%	1
Picking	100.00%	1
Packing	100.00%	1
Other	100.00%	1
Total Respondents: 1		

Q24 What is the average weekly earning of a piece-rate worker on the farm?

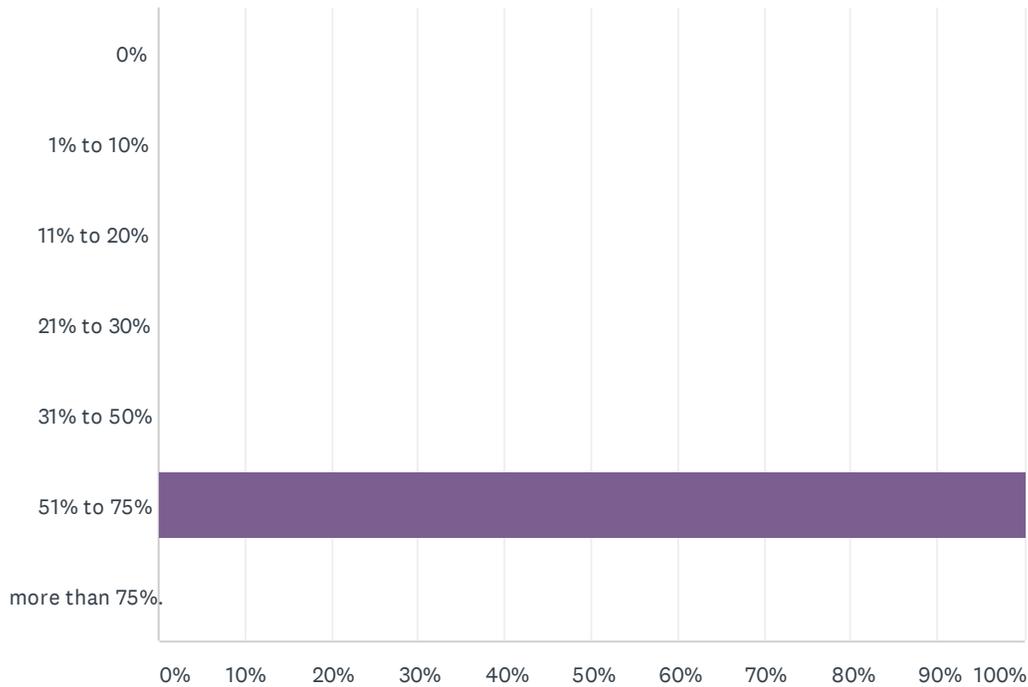
Answered: 1 Skipped: 195



ANSWER CHOICES	RESPONSES
\$50 or less	0.00% 0
\$51-\$150	0.00% 0
\$151-\$300	0.00% 0
\$301-\$500	100.00% 1
\$501-\$750	0.00% 0
\$751-\$1000	0.00% 0
\$1001-1500	0.00% 0
More than \$1500	0.00% 0
TOTAL	1

Q25 'What is the proportion of piece-rate workers who make less than \$24.80 an hour?'

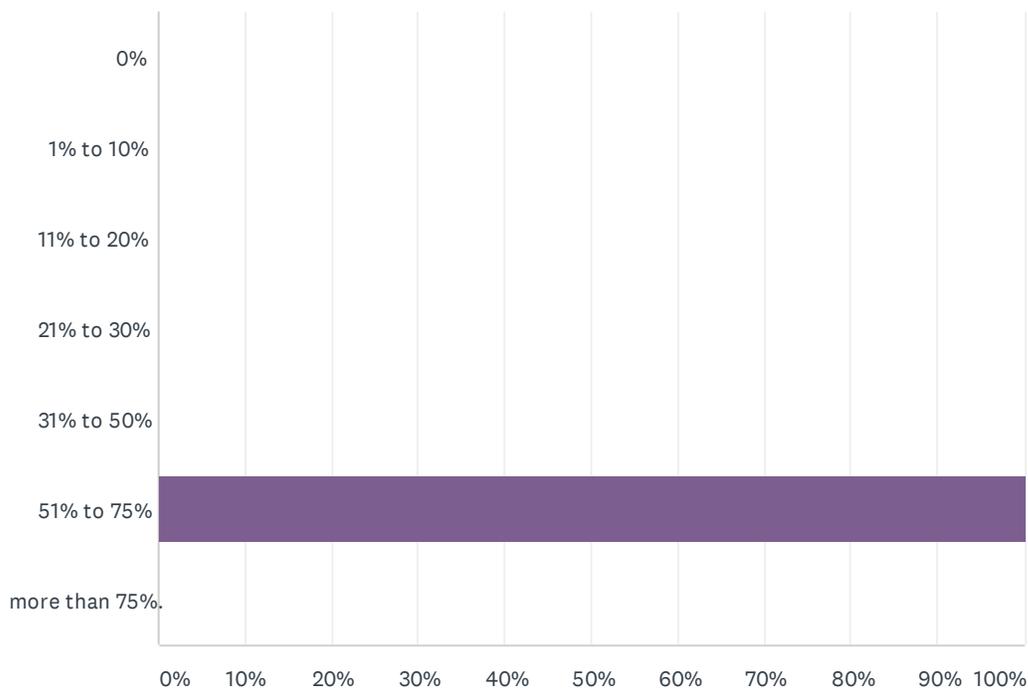
Answered: 1 Skipped: 195



ANSWER CHOICES	RESPONSES
0%	0.00% 0
1% to 10%	0.00% 0
11% to 20%	0.00% 0
21% to 30%	0.00% 0
31% to 50%	0.00% 0
51% to 75%	100.00% 1
more than 75%	0.00% 0
TOTAL	1

Q26 'What is the proportion of piece rate workers who make more than \$28.00 an hour?'

Answered: 1 Skipped: 195



ANSWER CHOICES	RESPONSES
0%	0.00% 0
1% to 10%	0.00% 0
11% to 20%	0.00% 0
21% to 30%	0.00% 0
31% to 50%	0.00% 0
51% to 75%	100.00% 1
more than 75%	0.00% 0
TOTAL	1

Q27 'What will be the likely consequences for you/your business if the AWU application succeeds?'

Answered: 1 Skipped: 195

#	RESPONSES	DATE
1	Industrial trainer in Fruit need for possible fairer payment system to be inclusive of all ie for new workers hourly rate 1st 2 or 3 days then piece rate	5/10/2021 8:25 AM

Q28 'Do you have any additional comments?'

Answered: 1 Skipped: 195

#	RESPONSES	DATE
1	only to reinforce the above that a fairer system for new workers to establish skills in initial period	5/10/2021 8:25 AM

