

Australian Industry Group

Application to vary the Horticulture
Award 2020

Submission
(AM2020/104)

26 NOVEMBER 2021

Ai
GROUP

AM2020/104 – APPLICATION TO VARY THE HORTICULTURE AWARD 2020

1. INTRODUCTION

1. These submissions are made by the Australian Industry Group (**Ai Group**) in response to the invitation at paragraph [586] of the Decision by the Full Bench issued on 3 November 2021 (**November Decision**) to comment on the proposed draft determination for the *Horticulture Award 2020* (**Horticulture Award**) and the provisional views expressed in that Decision.
2. Ai Group has reviewed the draft determination at Attachment D to the November Decision and holds the following concerns regarding the wording of proposed cl. 15.2:
 - The definition of ‘hourly rate for the pieceworker’ in proposed cl. 15.2(a)(i) should confirm that the minimum hourly rate is that provided for under the Horticulture Award;
 - Proposed cl. 15.2(e) should clarify that it applies only to work performed at the request of the employer.
3. We recommend that the above issues are rectified prior to issuing the determination amending the Horticulture Award.

Clause 15.2(a)(i)

4. Proposed cl. 15.2(a)(i) provides the following definition of an ‘hourly rate for the pieceworker’:

hourly rate for the pieceworker means the minimum hourly rate for the pieceworker’s classification level plus the 25% casual loading under clause 11.3 for a casual pieceworker

5. It should be confirmed that this rate only pertains to minimum hourly rates under the Horticulture Award and does not incorporate over-award rates paid pursuant to an employment contract.

6. For this purpose, we propose the following variation:

hourly rate for the pieceworker means the minimum hourly rate for the pieceworker's classification level under this Award plus the 25% casual loading under clause 11.3 for a casual pieceworker

Clause 15.2(e)

7. Proposed cl. 15.2(e) reads:

If a pieceworker does any work in addition to the task for which they are being paid a piece rate, the pieceworker must be paid for that additional work at the hourly rate for the pieceworker.

8. Amounts should only become payable under proposed cl. 15.2(e) as a result of work performed at the request of the employer. As such, Ai Group proposes the following amendment:

If ~~a pieceworker does~~ an employer requests a pieceworker to perform any work in addition to the task for which they are being paid a piece rate, the pieceworker must be paid for that additional work at the hourly rate for the pieceworker.