

Justice Ross, President
Vice President Catanzariti
Commissioner Riordan

I am making a submission to the proposed "floor" pay rate based draft variation to the Horticulture Award.

I find it very disturbing that the report stated that there was widespread non-compliance of the award which is not true.

99.99% of the farmers under the Horticulture Award pay by the award and with piece rates, which is agreed by both parties prior to starting depending on picking conditions with an average picker always well exceeding the hourly rate, most the time it is the picker that decides the rate as the picker has the upper hand due to severe picker shortages which has been the case over last 20 years and more so since covid.

I think by the passing of the "floor" pay rate you are exploiting the farmer given the severe shortage of harvest labour to the point where you are rewarding rouge workers who will exploit the rules . The "floor" rate is also causing discrimination between the pickers, some are great pickers, some not so great, some only want to work 3 hours per day because of other commitments. Some are retirees who just want to work to supplement their pension, which would work out to costly per unit picked on the hourly rate so we would not be able to employ them, which would be fine if we could source other workers to replace them which we can't, in turn potentially doubling the picking cost for some of the picking for the work done by slower workers on hourly rate .

I am a citrus grower in the Riverina and I find it very difficult to come to terms why the Horticulture Award would need to be changed.

We have always paid by piecework and have always rewarded our pickers by paying by piecework and never had any issue with pickers coming back every season.

Now we are burdened with more admin/ red tape for something which was simple and worked well in rewarding hard work and catered for retired people to do some work if they wanted to at their own pace.

The extra burden of the paperwork to make sure that we can prove that they are earning in excess of the hourly rate when it all happen without cost or time to the farmer it will entail an extra family person or another employee which we can't source to keep track of this, on an already tight budget due to competing on a world market.

The burden of the paperwork will it be upon the farmer or the contractor, as many farmers engage contractors to source their pickers and hence pay a premium for that. All of the family farms have no capacity to keep track of the humungous amount of paperwork this will entail,

Where does the buck start and stop in this instance, who keeps the paperwork trail, who is legally responsible in the end if the contractor does not pay the right amount of money to the picker. All these questions need to be answered before any of this starts.

If the contactors have been the problem in the past why do you not licence the contactor and audit the contractor on a regular basis rather than attacking the family farmers who are doing the right thing.

We as farmers are price takers not price givers, our pickers receive piecework rates and they are extremely high due to the shortage of labour. The picker usually determines what they are going to work for, if you don't pay them enough they just go somewhere else. Work is unlimited they are not restricted to one farm. .

Piecework is exactly that "piecework", you get paid for what you pick. You reward productivity and it is the best method of payment for seasonal work and getting productivity from workers.

There are significant challenges if this is now coming into effect which we have no idea as the devil will be in the detail and to date we have no details.

15.2 Pieceworker rates:

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(iii) pieceworker competent at the piecework task means a pieceworker who has at least 2 week's experience performing the task.

Does this mean that he has had to have experience in say orange picking for two weeks, how is this to be proven.

If the picker has had no experience the floor rate in question is far too high. Remembering we as farmers do not have choice if the picker does very little to no work on an hourly rate we have no one else to go to there are no other pickers.

Why must all the average competent employee earn at least 15% more per than the minimum rate. Sometimes they earn 50% more than hourly rate some time only 10% why does it need to have a constant number farming is not constant some blocks are better than others this will mean we will need to keep adjusting the piece picking rate sometimes on a daily basis

Pieceworker rates are set unilaterally by the grower and presented to the employee on a "take or leave it" basis, this is the biggest mistruth and lie. The pickers usually tell the farmers what they want to be paid according to the crop and conditions they are working in. We are continually in negotiations as the crop progresses and if it is not up to standard, the farmer pays a lot more. How can the farmer dictate terms when we have trouble sourcing enough workers due to labour shortage I find this statement very misleading especially being in the draft determination.

We are not able to add the extra costs to what we are getting paid, we do not determine the price paid per tonne for which we receive. We are not like a factory that can just add it to the price, we cannot do that.

Most pieceworkers earn significantly more than the target rate and they are well rewarded for their efforts. We employ all walks of life to pick our oranges, some are good pickers, some not. Productivity is the only way a farmer can survive against the high costs in Australia. We are competing on a global field and that is why there are so many backpackers coming to Australia, because it is not a level playing field with the rest of the world, we pay a premium to have our produce picked in Australia compared to other countries competing against us on the world market. Australia has the highest piece rates in the world, that is why we attract pickers from overseas. Making the pickers unproductive is not part of our farming, we survive by producing the best produce, not necessary the cheapest due to our high labour cost.

The real pickers determine their own breaks and meal times, we go along with what they decide. They start and finish when they want, we cannot make them start at a particular time and finish, have breaks determined by us, we are not factories, pickers start at all different times of the day when weather suits, they work according to their schedule not ours, we have no choice in the matter, we need the pickers and they usually determine the factors and conditions of their employment don't tapper with what is working well .

I feel the ruling brought down is far too harsh for farmers because I think there has been a lot of assumptions being made on what happens in the field without being in the field to see first hand what actually happens, and how things really work.

The existing pieceworker provisions in the Horticulture Award are fit for purpose, there is no safety net for farmers we pay according to the work carried out, which is fair and equitable to all.

Introducing a minimum wage floor will not provide an incentive for unproductive workers, it will create more unproductive workers because they will be getting paid whether they work or not. If

they are unproductive they will be dismissed thus creating more unemployment in Australia, and a further labour shortage and more hardship to farmers.

The Draft clause is intended to make the piecework term simpler and easier to understand, reduce regulatory burden and promote compliance is an understatement to say the least. The farmer is being burdened with more costs, paperwork and an administrative nightmare and give incentive to the least productive worker.

Regards

Frank Battistel

A solid black rectangular redaction box covering the signature area.