

Fair Work Commission

Fair Work Act 2009 (Act)

s. 158 – Application to vary a modern award

AM2020/104 – Horticulture Award 2020

**Comments by Fruit Growers Tasmania on the accuracy of the summary of
submissions [2021] FWCFB 5554**

1. Fruit Growers Tasmania (**FGT**) makes these comments in response to the Statement of the Full Bench of the Fair Work Commission on 16 December 2021 and the attached Summary of Submissions (**Summary**) prepared by staff of the Fair Work Commission.
2. FGT offers the following comments for the consideration of staff to be included in the finalisation of the Summary.
3. Paragraph 25 of the Summary states that “FGT further submits that to assist in providing clarity of the intent and application of the minimum wage floor ...”.
4. FGT comments that rather than just seeking to provide clarity, our submission seeks to amend the application of the minimum wage floor as proposed by the Commission. As a result, inclusion of a short explanation of the basis for this amendment is required.
5. Accordingly, we suggest that an accurate summary of our submission on this aspect would be achieved by rewriting paragraph 25 as follows.

[25] FGT further submits that the proposed application of the minimum wage floor is not fair from the employer perspective as it involves an excessive administrative and technical burden for employers and does not cater for the structural issues relating to piecework ‘lumpiness’ which would cause employers to pay twice for work undertaken. FGT further submits that to assist in providing clarity for its proposed revised intent and application of the minimum wage floor, a definition of ‘average hourly rate of a pieceworker’ should be added at draft clause 15.2(a)(iv) as follows.

6. Paragraph 29 of the Summary states that “FGT submits that new definitions be inserted into draft clause 15.2(a) to provide clarity as to the intent and application of the ‘Uplift Term’.
7. FGT comments that rather than just seeking to provide clarity, our submission seeks to amend the application of the ‘Uplift Term’ as proposed by the Commission. As a result, inclusion of a short explanation of the basis for this amendment is required.
8. Accordingly, we suggest that an accurate summary of our submission on this aspect would be achieved by rewriting paragraph 29 as follows.

“[29] FGT submits that an averaging across all of the employer’s pieceworkers competent at the piecework task is required, with new definitions inserted into draft clause 15.2(a) to provide clarity for its proposed revised intent and application of the ‘Uplift Term’. It proposes these definitions read as follows.

9. Following the incorporation of these amendments, FGT would be satisfied with the accuracy of the summary of our submission.

DATED: 20 January 2022



Peter Cornish
Chief Executive Officer
Fruit Growers Tasmania