



STATEMENT

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards – Overtime for casuals

(AM2017/51)

VICE PRESIDENT HATCHER
VICE PRESIDENT CATANZARITI
DEPUTY PRESIDENT BULL

SYDNEY, 30 SEPTEMBER 2020

4 yearly review of modern awards – common issue – overtime for casuals – draft determination – Pastoral Award 2010.

[1] In paragraph [302] of our decision issued on 18 August 2020,¹ we included the *Pastoral Award 2010* in a list of awards in relation to which there was a consensus that the overtime penalty rate is applied to an ordinary hourly rate consisting of the minimum hourly rate and the casual loading (i.e. the compounding approach). This was an error, as submissions filed by the National Farmers Federation on 25 August 2020 pointed out. We had intended to include the *Pastoral Award 2010* in the list of awards contained in paragraph [300] in relation to which the consensus was that the casual loading and the overtime penalty rate are added separately to the minimum hourly rate (i.e. the cumulative approach).

[2] Attached to this Statement is a draft determination for the variation of the *Pastoral Award 2010* which will make it clear that the cumulative approach is to be taken to the calculation of the overtime rate for casual employees. Interested parties are invited to file submissions concerning the form of the variation within seven days of the days of this Statement.



VICE PRESIDENT

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¹ [2020] FWCFB 4350



DRAFT DETERMINATION

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards—Overtime for casuals

(AM2017/51)

PASTORAL AWARD 2010

[MA000035]

Agricultural industry

VICE PRESIDENT HATCHER
VICE PRESIDENT CATANZARITI
DEPUTY PRESIDENT BULL

SYDNEY, XX MONTH 2020

4 yearly review of modern awards – common issue – overtime for casuals – Pastoral Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on XX Month 2020 [[2020] FWCFB XXXX], the above award is varied as follows:

1. By inserting the word “ordinary” before the word “hour” in clause 10.4(c).
2. By renumbering clauses 10.4(e) to (g) as clauses 10.4(f) to (h).
3. By inserting a new clause 10.4(e) as follows:
 - (e) For each overtime hour worked, a casual employee must be paid the overtime rates prescribed by clauses 31.2(b), 36.1(b), 36.2(b) and 42.2(b).

4. By deleting clause 31.2 and inserting the following:

31.2 The rate of pay for overtime for a Farm and livestock hand will be as follows:

- (a) for a full-time or part-time employee—150% of the hourly rate (plus any all-purpose allowance payable), except on Sunday when the rate will be 200% of the hourly rate (plus any all-purpose allowance payable), except in the case of feeding and watering stock when such work will be paid for at the rate of 150% of the hourly rate (plus any all-purpose allowance payable);

- (b) for a casual employee—175% of the hourly rate (plus any all-purpose allowance payable), except on Sunday when the rate will be 225% of the hourly rate (plus any all-purpose allowance payable), except in the case of feeding and watering stock when such work will be paid for at the rate of 175% of the hourly rate (plus any all-purpose allowance payable).

NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 10.4(c) to the overtime rates for full-time and part-time employees prescribed by clause 31.2(a).

5. By deleting clause 36.1 and inserting the following:

36.1 All time worked by Piggery attendants before the ordinary commencing time or after the ordinary ceasing time or in excess of ordinary hours of work in any one day or in any one week will be regarded as overtime and will be paid for at the following rates:

- (a) for a full-time or part-time employee—150% of the hourly rate (plus any all-purpose allowance payable) for the first two hours and 200% of the hourly rate (plus any all-purpose allowance payable) after two hours;
- (b) for a casual employee—175% of the hourly rate (plus any all-purpose allowance payable) for the first two hours and 225% of the hourly rate (plus any all-purpose allowance payable) after two hours.

NOTE: The overtime rates for casual employees have been calculated by full-time and part-time employees prescribed by clause 36.1(a).

6. By deleting clause 36.2 and inserting the following:

36.2 All overtime worked on Saturday will be paid for at the following rates:

- (a) for a full-time or part-time employee—150% of the hourly rate (plus any all-purpose allowance payable) for the first two hours and 200% of the hourly rate (plus any all-purpose allowance payable) after two hours;
- (b) for a casual employee—175% of the hourly rate (plus any all-purpose allowance payable) for the first two hours and 225% of the hourly rate (plus any all-purpose allowance payable) after two hours.

NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 10.4(c) to the overtime rates for full-time and part-time employees prescribed by clause 36.2(a).

7. By deleting clause 42.2 and inserting the following:

42.2 The rate of pay for overtime will be as follows:

- (a) for a full-time or part-time employee—150% of the hourly rate (plus any all-purpose allowance payable), provided that 200% of the hourly rate (plus any all-

purpose allowance payable) will be paid for all work performed on Sunday except in the case of feeding or watering the stock when such work will be paid for at the rate of 150% of the hourly rate (plus any all-purpose allowance payable);

- (b) for a casual employee—175% of the hourly rate (plus any all-purpose allowance payable), provided that 225% of the hourly rate (plus any all-purpose allowance payable) will be paid for all work performed on Sunday except in the case of feeding or watering the stock when such work will be paid for at the rate of 175% of the hourly rate (plus any all-purpose allowance payable).

NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 10.4(c) to the overtime rates for full-time and part-time employees prescribed by clause 42.2(a).

8. By updating the cross-references accordingly.

B. This determination comes into operation on **XX DATE 2020**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect in relation to a particular employee until the start of the employee's first full pay period that starts on or after **XX DATE 2020**.

VICE PRESIDENT

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