

**4 yearly review of modern awards – Wine Industry Award**

**Matter No. AM2014/249**

**NATIONAL FARMERS' FEDERATION**

**SUBMISSIONS IN REPLY ON EXPOSURE DRAFT**

Date: 6 February 2017

1. The National Farmers' Federation (**NFF**) is the peak industry body representing Australian farmers and agribusiness across the supply chain, including all of Australia's major agricultural commodity groups.
2. This submission responds to the submissions of the Australian Workers' Union (AWU) and United Voice on the *Wine Industry Award* exposure draft, in accordance with Directions issued on 14 December 2016.

**Items opposed by the NFF**

3. Items pursued by other parties that are opposed by the NFF in these proceedings include items 35, 49, 53 and 62.

*Calculation of loadings*

4. Items 35, 49 and 62 deal with how relevant loadings should be expressed and calculated in the Exposure Draft.
5. Items 35 and 49 deal with whether in each case the loading should be referred to as a percentage of the "minimum hourly rate" or as a percentage of "the rate then applying".
6. Item 62 deals with the meaning of "ordinary time rate".
7. The table below compares the text of each of these items under the current modern award and the Exposure Draft.

<b>Item</b>	<b>Modern Award</b>	<b>Exposure Draft</b>
<b>35</b>	<b>29.4</b> An employee not given a meal break in accordance with clauses 29.1, 29.2 and 29.3 must be paid from then on a loading of 50% until the meal break is given.	<b>9.4 Working through meal break</b> An employee not given a meal break in accordance with clauses 9.1, 9.2 and 9.3 must be paid from then on with an additional loading of 50% of the minimum hourly rate until the meal break is given.
<b>49</b>	<b>24.6(a) Boilers and flues</b> An employee engaged in washing out and chipping boilers or in cleaning flues must be paid 50% extra while they are engaged in such work.	<b>16.2(d) Boilers and flues</b> An employee engaged in washing out and chipping boilers or in cleaning flues must be paid 150% of the minimum hourly rate while they are engaged in such work.

<b>62</b>	<p><b>34.3 Rostered day off falling on a public holiday</b></p> <p>(a) Except as provided for in clauses 34.3(b) and (c) and where the rostered day off falls on a Saturday or a Sunday, where a full-time employee’s ordinary hours of work are structured to include a day off and such day falls on a public holiday, the employee is entitled, at the discretion of the employer, to either:</p> <p>(i) 7,6 hours of pay at the ordinary time rate; or ....</p>	<p><b>24.3 Rostered day off falling on public holiday</b></p> <p>(a) Except as provided for in clauses 24.3(b) and (c) and where the rostered day off falls on a Saturday or a Sunday, where a full-time employee’s ordinary hours of work are structured to include a day off and that day off falls on a public holiday the employee is entitled, at the discretion of the employer to either:</p> <p>(i) 7.6 hours of pay at the minimum hourly rate; or ....</p>
-----------	---	--

8. The NFF supports the wording in the Exposure Draft in each of items 35, 49 and 62. In our submission, the revised text provides certainty as to how to calculate relevant entitlements and meets the modern awards objective of providing a fair and relevant minimum safety net of terms and conditions of employment.
9. We note that the meaning of “ordinary time rate” as it appears in item 62 is currently being considered in separate proceedings relating to the Manufacturing and Associated Industries and Occupations Award. In our submission, item 62 should only be considered after the outcome of those separate proceedings is known.

*Item 53: Clause 19.1(b) - Overtime*

10. Item 53 would represent a substantive change that is not consistent with the aim of exposure draft proceedings and is not agreed between the parties. Our understanding is that the parties have agreed for the matter to be dealt with once the Casual and Part-time Full Bench proceedings are concluded.

**Item 72 – revised rates table**

*Item 72: Schedule B.2.3 – Casual adult employees - overtime*

11. The NFF has reviewed the table at Schedule B.2.3 and does not oppose its insertion into the Exposure Draft.

**Sarah McKinnon**  
**General Manager, Workplace Relations and Legal Affairs**

**6 February 2017**