



**SOUTH AUSTRALIAN WINE INDUSTRY**  
ASSOCIATION INCORPORATED

4 March 2020

Justice Ross  
President Fair Work Commission

Via Email: [amod@fwc.gov.au](mailto:amod@fwc.gov.au)

Dear Justice Ross

**Re: AM2019/17 - Tranche 3 Awards - Exposure Draft - Wine Industry Award 20XX**

**Background**

In accordance with the Decision [2020] FWCFB 421 issued on 29 January 2020 in relation to the 4 yearly review of modern awards and the Exposure Draft - Wine Industry Award 20XX (Exposure Draft), the South Australian Wine Industry Association (SAWIA) provides the following submission.

SAWIA is an industry association representing the interests of wine grape growers and wine producers throughout the state of South Australia. SAWIA is the oldest wine industry organisation in Australia and has existed, albeit with various name changes, since 1840. SAWIA is a registered association of employers under the South Australian *Fair Work Act 1994* and is also a Recognised State-Registered Association under the *Fair Work (Registered Organisations) Act 2009*.

SAWIA membership represents approximately 96% of the grapes crushed in South Australia and about 36% of the land under viticulture. Each major wine region within South Australia is represented on the board governing our activities.

SAWIA has a long-standing interest in employment, immigration and related policy areas. SAWIA's policy positions in relation to employment are proposed and endorsed by our Employee Relations Committee, which comprises of HR Executives and Senior Managers, some with national responsibilities, drawn from the membership.

We take a national lead on behalf of the Australian wine industry in relation to matters pertaining to industrial relations, including modern awards, vocational education and training and migration.

**Specific comments on the Exposure Draft:**

SAWIA advise and assist wine industry employers on a daily basis with the Wine Industry Award 2010 (the Award) and this has given SAWIA an intimate knowledge of the practical application, interpretation and understanding of the Award, not only in South Australia, but nationally. We therefore take a close interest in any matter affecting the Award.

SAWIA wish to raise the following concerns and proposed amendments regarding the Exposure Draft:

**1. Minimum rates – Piecework rates cross reference**

Existing Clause ie Wine Industry Award 2010: Clause 16.4

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Exposure Clause ie Wine Industry Award 20XX: Clause 15.3

Proposal: For the purposes of clarity add a point (d) to clause 15.3 – ‘an employee that has agreed to a piecework rate in accordance with clause 17’.

## **2. Piecework rates – Public holiday exclusion has been removed**

Existing Clause ie Wine Industry Award 2010: Clause 23.4(c) & 23.6(d)(iii)  
Exposure Clause ie Wine Industry Award 20XX: Clause 17.4(c-d) & 17.6(d)(iii-iv)

Proposal: There is a substantive difference between the existing and exposure clause, which is that public holiday penalties would apply to pieceworkers.

To bring the exposure draft into line with the existing clause, replace the references to clause 23.1 – Day workers & 23.3 – Shiftworkers, with ‘23 - Penalty rates’.

This would be consistent with the existing award that states that ‘clause 30 – Overtime and penalty rates’ do not apply to an employee on a piecework rate.

## **3. Accident pay – Remove double up/typo error**

Existing Clause ie Wine Industry Award 2010: 24.8(a)(i)  
Exposure Clause ie Wine Industry Award 20XX: Clause 20.1(a) & (b)

Proposal: Remove clause 20(1)(b) as it is a duplication of clause 20(1)(a). Make 20.1(c) 20.1(b) as a result of this change.

## **4. Overtime – Part time employees – Allow for shiftwork**

Existing Clause ie Wine Industry Award 2010: 12.4(a)  
Exposure Clause ie Wine Industry Award 20XX: Clause 22.1(b)(i)

Proposal: The wording in the exposure clause is tighter than in the existing clause, which reads that overtime would apply to any hours worked outside of day work hours. This could be incorrectly interpreted to mean that any hours, including shiftwork ordinary hours, would attract overtime rates. Remove ‘in clause 13.6’. This would allow for shift work and associated shift penalty rates to be paid.

## **5. Overtime – Casual employees – Allow for shiftwork**

Existing Clause ie Wine Industry Award 2010: 13.4(a)  
Exposure Clause ie Wine Industry Award 20XX: Clause 22.1(c)(i)

Proposal: The wording in the exposure clause is tighter than in the existing clause, which reads that overtime would apply to any hours worked outside of day work hours. This could be incorrectly interpreted to mean that any hours, including shiftwork ordinary hours, would attract overtime rates. Remove ‘in clause 13.6’. This would allow for shift work and associated shift penalty rates to be paid.

To provide greater clarity and consistency with the current Wine Industry Award 2010, SAWIA submits that the Exposure Draft be amended to reflect the substance of the proposals of what is covered above.

Yours sincerely

**ADRIAN RICHARDS**  
Business and Workplace Adviser