

**4 yearly review of modern awards – Casual employment and Part-time employment**

**Matter No. AM2014/196 and AM2014/197**

**SUBMISSION**

**NATIONAL FARMERS' FEDERATION**

Date: 12 October 2015

**Introduction**

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. On 17 July 2015, the NFF filed a proposed variation in relation to the Pastoral Award 2010 (**the Pastoral Award**) in these proceedings. The proposed variation would reduce the minimum period of engagement for dairy operators (from three to two hours).
3. This submission is made in support of our proposed variation to the Award.

**The statutory framework**

4. Under section 156 of the *Fair Work Act 2009* (**FW Act**), the Fair Work Commission (**Commission**) is required to review each modern award in its own right every four years.
5. Section 134 of the FW Act contains the modern awards objective. Modern awards must provide a 'fair and relevant minimum safety net of terms and conditions' of employment, taking into account the following criteria:
  - a. relative living standards and the needs of the low paid (subsection 134(1)(a));
  - b. the need to encourage collective bargaining (subsection 134(1)(b));
  - c. the need to promote social inclusion through increased workforce participation (subsection 134(1)(c));

- d. the need to promote flexible modern work practices and the efficient and productive performance of work (subsection 134(1)(d));
  - e. the need to provide additional remuneration for employees working overtime; unsocial, irregular or unpredictable hours; on weekends or public holidays; or shifts (subsection 134(1)(da));
  - f. the principle of equal remuneration for work of equal or comparable value (subsection 134(1)(e));
  - g. the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden (subsection 134(1)(f));
  - h. the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards (subsection 134(1)(g)); and
  - i. the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy (subsection 134(1)(h)).
6. Under section 136, a modern award can only include terms that are permitted or required by:
- a. Subdivision B of Part 2-3 (terms that may be included in modern awards)
  - b. Subdivision C of Part 2-3 (terms that must be included in modern awards)
  - c. Section 55 (interaction between the National Employment Standards (**NES**) and modern awards or enterprise agreements); or
  - d. Part 2-2 (NES).
7. Section 138 of the FW Act provides for modern awards to include terms that are either permitted or required to be included, but only to the extent necessary to achieve the modern awards objective and the minimum wages objective.
8. Modern award terms must not exclude the NES, or any provision of the NES (subsection 55(1)).

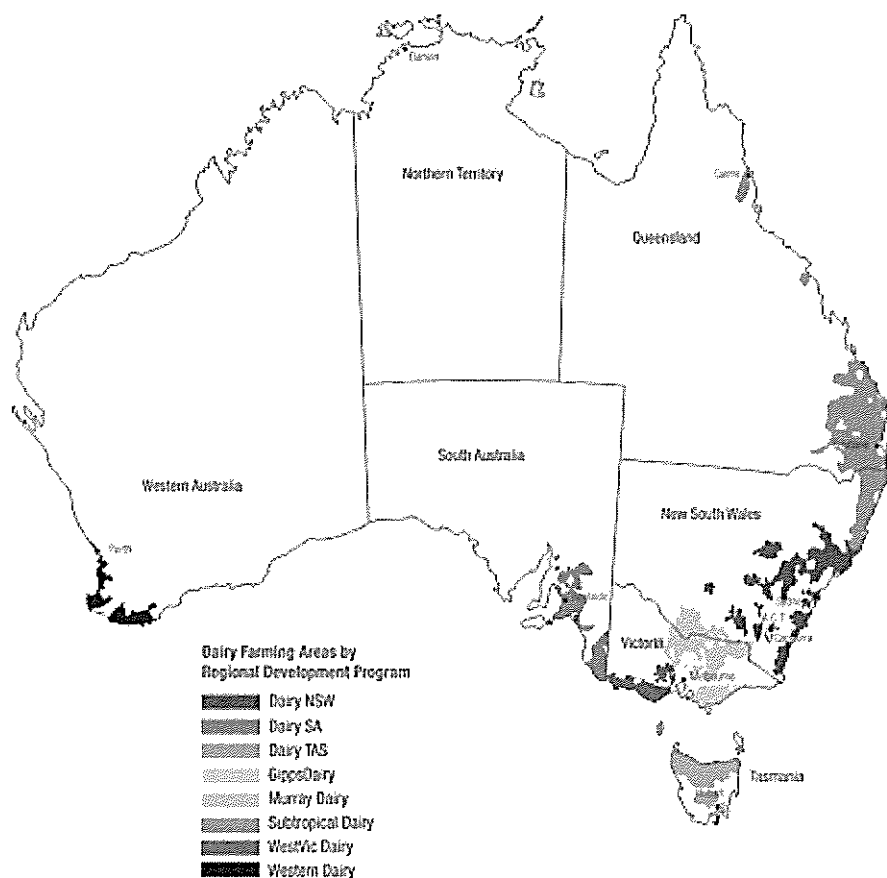
## **The developing case law – key principles**

9. In *4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues* [2014] FWCFB 1788 (17 March 2014) (Preliminary Jurisdictional Issues decision) the Commission confirmed that the 4 yearly review of modern awards would be conducted on the basis that *prima facie* modern awards achieved the modern awards objective at the time they were made (at paragraph 60).
10. The Commission also found that the modern awards objective applies to the 4 yearly review of modern awards, and the Commission may only include terms in an award to the extent necessary to achieve the modern awards objective (s.138) (at paragraph 29).
11. The Commission held that the proponent of a variation to a modern award must demonstrate that if the modern award is varied in the manner proposed then it would only include terms to the extent necessary to achieve the modern awards objective (at paragraph 36).
12. What is ‘necessary’ in a particular case is a value judgment based on an assessment of the considerations in s.134(1)(a) to (h), having regard to the submissions and evidence directed to those considerations (at paragraph 36).
13. The Commission will have regard to the historical context applicable to each modern award, and will take into account previous decisions relevant to any contested issue (at paragraph 60).
14. A party seeking a variation in the context of the 4 yearly review must also advance merit arguments in support of the proposed variations. The extent of the merit argument required will depend on the circumstances (at paragraph 60).
15. Where a significant change is proposed it must be supported by submissions addressing the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation (at paragraph 60).
16. In *Re Security Services Industry Award 2010* [2015] FWCFB 620 (2 March 2015), the Commission stated that “the more significant the change, the more detailed the case must be.” This will usually require detailed evidence of the operation of the award, the impact of the current provisions on employers and employees covered by it and the likely impact of the proposed changes.

17. In *4 yearly review of modern awards—transitional provisions* [2015] FWCFB 3523 (18 August 2015) the Commission adopted an approach whereby “the characteristics and circumstances of the industries and parties covered by modern awards vary and the application of the modern awards objective may result in different outcomes between different awards.”

### The Australian dairy industry

18. The Australian dairy industry is an important rural industry. There are approximately 6,000 dairy farmers in Australia, producing a combined total of around 9.7 billion litres of milk each year.<sup>1</sup>
19. The dairy industry directly employs approximately 40,000 Australians on farms and in factories. As a major regional employer, the industry value-adds through the processing of milk to produce fresh lines such as butter, cream, cheese and yogurt. Bulk milk and specialised powdered milks are also significant.
20. The picture below shows the location of dairy farming areas in temperate and some subtropical areas of Australia.



<sup>1</sup> Dairy Australia, <http://www.dairyaustralia.com.au/Industry-information/About-the-industry/About-the-Australian-dairy-industry.aspx>

21. All states have dairy industries that supply fresh drinking milk to nearby cities and towns. The dairy industry also value adds through downstream processing, often occurring close to farming areas, generating economic activity in country regions. A range of high-quality consumer products, including fresh milks, custards, yogurts and a wide variety of cheese types, are produced in most Australian states.
22. Labour shortages are a feature of the agriculture sector and while for some industries this is more evident at particular times of the year, for others it is an issue all year round. Extensive negotiations over a dairy industry labour agreement were recently concluded with the Department of Immigration and Border Protection, demonstrating the ongoing demand for skilled workers in the dairy industry that cannot be met domestically.

### **The Pastoral Award and the minimum engagement**

23. The Pastoral Award was made by the Commission on 3 April 2009 (MA000035; PR986377) and became operative from 1 January 2010.
24. As a result of changes introduced in the award modernisation process, under clauses 10.3(e) and 10.4(f) of the Pastoral Award, part-time and casual employees are entitled to a minimum engagement of three hours for each occasion that they attend for work.
25. Clause 10.3(e) provides as follows:
- “An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.”
26. Clause 10.4(f) provides as follows:
- “On each occasion a casual employee, other than a casual pieceworker, is required to attend for work, casual employees are entitled to a minimum payment of three hours’ work at the appropriate rate.”
27. The NFF has sought a variation to these provisions as follows:
- a. Amend clause 10.3(e) as follows:
- “An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift. *Provided that part-time employees engaged as dairy operators will be rostered for a minimum of two consecutive hours on any shift.*”

b. Amend clause 10.4(f) as follows:

“On each occasion a casual employee, other than a casual pieceworker, is required to attend for work, casual employees are entitled to a minimum payment of three hours’ work at the appropriate rate. *Provided that casual employees engaged as dairy operators are entitled to a minimum payment of two hours’ work at the appropriate rate.*”

28. The table below shows the history of the minimum engagement period in the dairy industry prior to 2010.

State	No. of dairy farms <sup>2</sup>	Total herd <sup>3</sup>	%ge of national herd <sup>4</sup>	Federal award coverage	State Award coverage	Minimum engagement
Vic	5,346	1,180,000	66%	Yes	Pastoral Industry Award Common Rule	No
NSW	924	205,000	11.5%	Yes	Dairying Industry Employees (State) Award	No
Qld	734	125,000	9.1%	No	No	No
WA	222	65,000	3.6%	Yes	No	No
Tas	475	135,000	6%	Yes, 95% covered by federal award	Farming and Fruit Growing Award	Under the State award, casuals attending for work but not required and who were not notified of this the day before were entitled to a min. 4 hrs pay - clause 14(v).
SA	354	100,000	4.5%	Yes	Pastoral Industry (SA) Award	No

29. As the table shows, there was no minimum engagement period in pre-reform awards applicable to the dairy industry, including the predecessor to the Pastoral Award, the federal *Pastoral Industry Award 1998*, and all of the notional agreements preserving state awards (NAPSAs) which covered permanent employees in the dairy industry.

<sup>2</sup> Source: Dairy Australia

<sup>3</sup> Source: Dairy Australia

<sup>4</sup> Source: Dairy Australia

30. Other than the limited exception in Tasmania shown above, there was also no minimum engagement period for casual dairy industry employees under any of these instruments, until award modernisation introduced a three hour minimum for all employees to whom the Pastoral Award applies from 1 January 2010.
31. In NSW, following the *State Part-Time Work Case*<sup>5</sup> a minimum engagement period of three hours applied to part-time work agreements except where a start of two continuous hours, on two or more days per week, was agreed before 26 March 1998; and
- a. the two hour start was sought by the employee to accommodate the employee's personal circumstances; or
  - b. the place of work was within a distance of five kilometres from the employee's place of residence; or
  - c. the applicable industrial instrument permitted such hours of work.

### **Reducing the minimum engagement to two hours in the dairy industry**

32. The NFF seeks to vary the Pastoral Award to reduce the minimum engagement period for casual and part-time dairy operators from three to two hours. The change is sought because the requirement to pay employees for three hours each time they attend for work means that the Pastoral Award does not meet the modern awards objective in relation to the dairy industry, particularly in relation to milking.
33. Milking is a function that must be carried out twice each day (see statement of Simon Fiddelaers, at paragraph 10). The average time it takes to do a milking varies, depending on the season, the number of cows and the technology employed on the farm.
34. The table below shows industry data collected in 2009 for the CowTime Program, which allows farmers to assess the performance of their existing milk harvesting system and compare it with industry standards.<sup>6</sup> Data was collected from

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<sup>5</sup> [1998] NSWIRComm 142 (26 March 1998)

<sup>6</sup> The CowTime study data was collected in 2009 by the 'CowTime' team, led by Darold Klindworth at the Department of Primary Industries, Ellinbank. Research was sponsored by Dairy Australia, Department of Primary Industries (Victoria), Sustainability Victoria, Department of Primary Industries and Fisheries (Queensland) and the University of Melbourne.

approximately 100 farms from each type of dairy represented: double-up, rotary and swing-over. The average herd size was 268.<sup>7</sup>

Milking process	Type of dairy		
	Double-up	Rotary	Swing-over
Average no. of cows	172.22	447.57	179.17
Milkings per day	2	2	2
Average herd collection time (mins)	27.35	34.14	28.7
Average morning milking time (mins)	106.84	119.11	109.33
Average afternoon milking time (mins)	94.56	110.02	100.85
Average machine cleaning time (mins)	13.79	13.36	14.12
Clean shed (mins)	11.66	13.17	13.77
Clean yard (mins)	14.44	12.16	16.58
*Total morning Milking time (hours)	2.47	2.78	2.54
*Total afternoon Milking time (hours)	2.26	2.63	2.39

\*Total milking time is an approximate value and does not include vat cleaning, shed or yard.

35. The number of persons required to perform the tasks associated with milking also varies. It is common for one person to bring in the cows and to wash down the shed and the yards, with a second person assisting only with the actual milking.
36. A typical milking process is set out in more detail at paragraphs 9 and 10 of the statement of Mr Noel Campbell. At Mr Campbell's dairy, two staff members are involved in the actual milking process, but duties associated with milking, such as bringing in the cows, washing down the yards and the dairy, are done by a single staff member. The actual milking at Mr Campbell's dairy takes about 1 hour and 45 minutes.
37. Time is a critical factor in productive milking. The case study of Andrew Lester, a Tasmanian dairy farmer (**at Attachment A**) shows how the length of time taken to do a milking can significantly impact on staffing levels. Milking at Mr Lester's dairy took about two hours during the peak season. Shorter milking times, in this case achieved through a new milking method, meant one less person needed in the dairy during the milking.

<sup>7</sup> Australian Dairy Industry In Focus 2014.

38. In the case of Chris Eggert, a dairy farmer from Wauchope, NSW (see case study at **Attachment B**), milking took one hour and fifty minutes in the morning and one hour and forty minutes in the afternoon at the peak of their season. Introducing a new milking routine shortened milking times further by approximately 20 to 30 minutes.
39. The three hour minimum has acted as a barrier to job creation. It has meant the loss of employment for some employees, either for reasons particular to the employee or because three hours work is not what the business needs.
40. A three hour minimum shift is incompatible with seasonal industries where the environment plays a major role in the organisation of work. The statement of Susan Wearden explains (at paragraph 5) how the December to February period is the hottest part of the year, when flies are bad and milking conditions are not always pleasant, either for the milkers or the cows. Everyone involved in the milking wants the work to be done quickly so that they can get out of the heat and away from the flies, and can achieve milking times of less than two hours, even though the minimum engagement is three hours.
41. For some employees, the three hour minimum engagement has limited their options for employment. As the evidence filed in the proceedings shows, longer working hours at the dairy are often incompatible with competing work or school schedules.
42. The statement of Nicole Jolley provides an example of an employee who resigned from her job at the dairy, because she could no longer get to her other job in hospitality in time.
43. The statement of Cheryl McCartie outlines the experience of a casual employee, Ned, a single dad. Ned came and went from the dairy as it suited him, which meant he could work early in the morning and be home before breakfast with his children, and then come back to feed the cows. The arrangement was mutually beneficial – the McCarties had help around the farm, and Ned had a job that suited his needs. The three hour minimum engagement period changed this arrangement so that Ned left the dairy.
44. The three hour minimum engagement operates as a disincentive to job creation, reducing the opportunity for young workers to get experience and earn some cash. For many dairy farmers, it means they now undertake tasks they would previously have employed a casual employee to do, because they cannot justify the cost. This is in

tension with the need to encourage more people into the dairy industry, where there is an ongoing skilled labour shortage.

45. The statement of Anne Wearden gives the account of a school student interested in casual work at the dairy, either on weekends or evenings after school. By the time the student arrives at the dairy, milking is well underway and he either helps out with milking or does other work, such as feeding calves. Both the Weardens and the student would prefer an arrangement of less than three hours, so the student can do his homework and so the farm can control its labour costs.
46. Similarly, as the statement of Leigh Shearman shows, students who are keen to work in the afternoons after they finish school will often arrive after the milking has commenced. By this time, there is insufficient work to fill the three hour minimum period and this means the students are only employed on weekends. During the week, the farming family is under more pressure, as they are required to do the work themselves, reducing their own family time and affecting their wellbeing.
47. The evidence confirms that there are many situations where working arrangements of less than three hours can create employment opportunities, especially for young people and those with family responsibilities. Limiting access to work in the dairy industry through the imposition of a minimum engagement period of three hours acts as a barrier to job creation, and is neither fair nor relevant to the needs of the dairy industry and its people.

#### **The modern awards objective – section 134 criteria**

##### *Relative living standards and the needs of the low paid (subsection 134(1)(a))*

48. The three hour minimum limits the capacity that the dairy industry has to provide work for employees who need greater flexibility in their work arrangements in comparison to many other casual and part time jobs. Dairy farmers are financially restricted from employing casual and part time employees for their milking operations due to the high cost involved in paying an employee for a minimum of three hours work when they may in fact only require them for two hours, or may have sufficient capacity within their operations to cater for an employee who wishes to work for less than three hours due to their particular personal circumstances.

49. The three hour minimum engagement therefore impacts on the relative living standards and the needs of the low paid as it constitutes a barrier to job creation and growth.

*The need to encourage collective bargaining (subsection 134(1)(b))*

50. Collective bargaining is not prevalent in the agriculture sector. In March 2015, there were only 134 current enterprise agreements covering a total of 6,800 employees in the agriculture, forestry and fishing sector.
51. There is no reason to believe that a reduction in the minimum engagement period for the dairy industry, to better align the Pastoral Award with practices in that industry, will have any impact on enterprise bargaining in the sector. The better off overall test operates so that any changes to the minimum engagement could only be made if the Commission was satisfied that employees affected would be better off overall (for example, because they receive the equivalent of three hours pay per engagement, despite working only for two hours). Accordingly, there is no financial incentive for business to engage in collective bargaining to address the issue of the three hour minimum engagement.
52. Despite any reduction in the minimum engagement, employees will be entitled to be paid for the hours that they work, whether it is two hours or more.
53. For these reasons, we consider the criterion to be neutral in relation to our claim.

*The need to promote social inclusion through increased workforce participation (subsection 134(1)(c))*

54. The three hour minimum engagement is inconsistent with the need to promote social inclusion through increased workforce participation, especially for young workers or those with family responsibilities. The three hour minimum effectively locks away a potential employment option for employees who require more flexibility in terms of hours of work because of their competing responsibilities.
55. Greater workforce participation flows from an environment where new employment opportunities are made available. The dairy industry is in a unique position to offer employment to those who cannot take on full time work, because it can allocate discrete tasks such as milking or feeding to casual staff. Much of the training in the dairy industry is done on the job, and can be provided to anyone with the relevant aptitude and interest in learning.

*The need to promote flexible modern work practices and the efficient and productive performance of work (subsection 134(1)(d))*

56. A shorter minimum engagement period is consistent with the need to promote flexible modern work practices and the efficient and productive performance of work.

57. As the recent Productivity Commission Staff Working Paper on Forms of Work in Australia revealed, the recent rapid growth of casual employees, labour hire workers and independent contractors in previous decades has not continued in recent years.<sup>8</sup> However, 40 per cent of the employed agricultural workforce is casual and therefore, casual employment plays an important role in the sector.

58. The dairy industry is in a unique position to offer casual and part time employment opportunities, especially for employees whose personal circumstances require a high degree of flexibility in their work arrangements, including employees living on-farm who can blend shorter hours of casual work with their children's schooling times or with other community or work obligations (community car drivers, meals on wheels, child carers, cleaners, and so on).

59. The case studies attached to this submission highlight how flexible modern work practices can improve productivity in the dairy industry. As the material filed confirms, milking usually takes less than three hours, and it is both inefficient and a source of frustration to have to find work to fill up a three hour shift, even though both the employer and employee are happy with a shorter arrangement.

60. For many dairy farmers, the three hour minimum has meant a decision to forgo the employment of casual and part time workers and do the work themselves, increasing their own heavy workloads and impacting on the health and wellbeing of farming families, making them tired and less productive.

*The need to provide additional remuneration for employees working overtime; unsocial, irregular or unpredictable hours; on weekends or public holidays; or shifts (subsection 134(1)(da));*

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<sup>8</sup> Anthony Shomos, Erin Turner and Lou Will, *Forms of Work In Australia*, Productivity Commission – Staff Working Paper April 2013, p39.

61. This consideration is neutral in relation to the three hour minimum engagement period. Wage rates applicable to work performed at certain times of the day will remain in place, despite any change in the minimum engagement period.

*The principle of equal remuneration for work of equal or comparable value (subsection 134(1)(e))*

62. This criterion is neutral in relation to our claim.

*The likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden (subsection 134(1)(f))*

63. As set out in this submission, the three hour minimum engagement period for the dairy industry has a negative effect on productivity, while increasing employment costs and the regulatory burden.

64. The dairy industry is subject to fluctuating commodity prices, set by forces outside the control of the producer (see, for example, the statement of Susan Wearden, at paragraph 6). Reductions in price must be absorbed by the dairy as there is often no scope to increase the cost of milk.

65. Where the milking takes less than three hours, the farmer must pay employees for time they are not required to work or find work for them to do, which they can ill afford.

66. Alternatively, the farmer can choose to do the work themselves in a 7 day operation, increasing their own workload, becoming fatigued and less productive through lack of rest over a seven day working week.

67. In a 'win, win' situation where the farmer needs an extra hand for a couple of hours and an individual needs a bit of extra cash or flexible hours, the Pastoral Award prevents agreement being reached for the benefit of both parties. Instead, they are forced either to walk away from the arrangement or have the farmer pay for work that is not required.

*The need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards (subsection 134(1)(g))*

68. Reducing the minimum engagement period to two hours will deliver a more stable and sustainable modern award system, by making the terms of the Pastoral Award more relevant to how the dairy industry operates, particularly in relation to milking.

*The likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy (subsection 134(1)(h))*

69. The three hour minimum engagement period for the dairy industry inhibits employment growth and therefore, the competitiveness of industry and the broader economy.

70. Farmers cannot afford to pay casual and part-time employees for more work than they require, so they may choose not to employ an extra hand, or to offer casual work to a student after school. This limits employment opportunities for young people in rural areas, despite high youth unemployment in many areas, and reduces the sector's capacity to encourage more people into regional agricultural work.

71. Reducing the minimum engagement period to two hours will allow more dairy farmers to employ school students and other individuals seeking flexible work because of their competing responsibilities. In this way, it will promote jobs growth and make the dairy industry more sustainable by helping it to attract and retain more local workers.

## **Conclusion**

72. The evidence filed in these proceedings demonstrates that the three hour minimum engagement period is out of step with the needs of many dairy farmers in the agriculture sector. It operates as a barrier to employment and drives up farm costs with no productivity return.

73. In our submission, reducing the minimum period of engagement from three to two hours is necessary to ensure that the Pastoral Award meets the modern awards objective in the context of the dairy industry under section 134 of the FW Act.

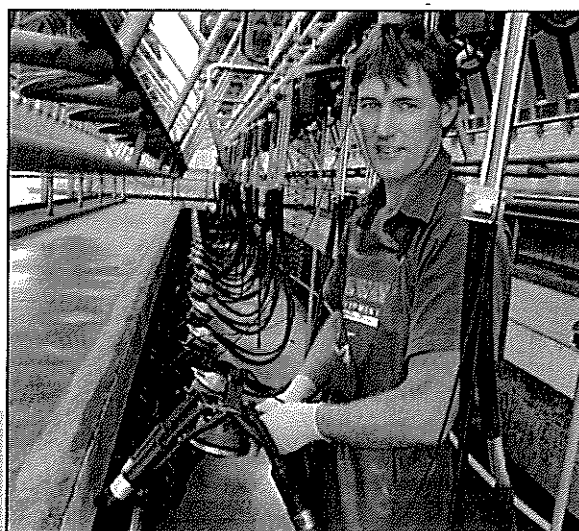
**Sarah McKinnon**  
**General Manager, Workplace Relations & Legal Affairs**  
**National Farmers' Federation**  
**12 October 2015**



making milking easier

## Case study

Andrew Lester, Tasmania



# Labour, lifestyle revolution

Saving 15 minutes a milking prompted Andrew Lester to completely re-think the farm's labour management and routine, which in turn revolutionised lifestyle for everyone involved. It all started with CowTime's Shorter Milking Secrets.

Andrew farms with his wife Angela and his parents Trevor and Clare at Herrick in north east Tasmania. The 270-cow spring calving herd is milked in a 26-aside herringbone with automatic cup removers.

Andrew agreed to try out CowTime's Shorter Milking Secrets because he was keen to have the dairy operating as efficiently as possible.

"At the peak of season each milking took about two hours and next season will be longer as we are expecting to expand to 300 milkers," said Andrew.

The secret is very simple: it is a waste of time waiting for slow milking cows to milk right out. CowTime calculated the Maximum Milk Out Time for Andrew's herd at the peak of season.

"What this means is that we should never leave the cups on a cow for more than about nine minutes," said Andrew.

Only about 10% of the herd takes longer than this anyway, so it only means taking the cups off a few cows before they are finished milking.

"We instantly saved about 15 minutes a milking which means going home early," said Andrew.

What I didn't expect was that a few minutes could have so much impact on our farming operations and our lifestyle," said Andrew.

Milking had always involved two operators, but it soon became obvious this was no longer needed. "Two operators was a bit of an overkill but it was hectic with a single operator until we saved that 15 minutes. Now it's very comfortable with just one milker," he said.

Freeing up a labour unit from the dairy meant that Trevor could reduce his involvement in milking which has improved his health.

It also meant that chores such as shifting the irrigation could be completed earlier in the day by the person who would previously been the second milker. And that's allowed Andrew to spend more time on other farming enterprises and a second farm.

"The big impact really was that it got me thinking outside the square," said Andrew.

Initial concerns about the potential impact on mastitis and milk production have proved unfounded.

## The secret's out

Find out the secret to saving time in your dairy. Attend *Shorter Milking Secrets*, CowTime's 2007 Shed Shake-up, coming to your region soon.

Most Shorter Milking Secrets involve little or no cost but challenge current milking routines and practices.

You'll go home with your herd's Maximum Milk Out Time and a free timer to get started the very next milking.

For more information phone CowTime on 03 5624 2221.

CowTime is supported by Dairy Australia and DPI Vic. Your Dairy Services levy making milking easier.



## Shorter Milking Secrets

- Cups on accounts for about 80% of the time a cow spends in the dairy so the trick is to maximise cluster throughput
- Removing the cups early from slow milking cows cuts milking time without compromising production or milk quality; The trick is to know your herd's Maximum Milk Out Time.

(based on research conducted by the National Milk Harvesting Centre, Ellinbank)



making milking easier



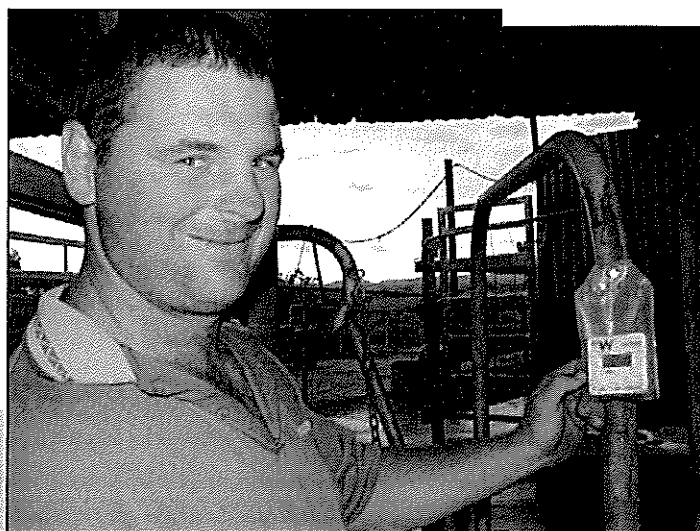
DAIRY AUSTRALIA  
Delivering for the dairy industry



making milking easier

## Case study

Chris, Jenny and Paul Eggert, NSW



# Cut a third off milking time

Wauchope dairy farmer, Chris Eggert, has cut his milking time by a third without spending a cent! He simply follows CowTime's Shorter Milking Secrets. The result: an hour more a day to spend as he likes.

Chris farms in partnership with his parents, Jenny and Paul Eggert at their organic property Redbank, milking 170 cows year round. At the peak of season, milking in their 10 aside double-up dairy takes about 1:50 in the morning and about 1:40 in the evening.

Both Chris and Paul milk, and admit they were sceptical when CowTime invited them to test Shorter Milking Secrets. "We weren't convinced it would be possible to save much time, and we were a little concerned about the effect on milk quality," Chris said.

But the clock was the clincher. CowTime calculated the Maximum Milk Out Time was about 6½ minutes for the Eggert's herd. That means the cups could be taken off all cows after 6½ minutes without affecting production or quality.

When the Eggerts used the CowTime timer they discovered most of the herd was milked within the 6½ minutes but about 10 took much longer.

"That really convinced us to give it a go," said Chris. Knowing a few cows were holding up milking prompted the Eggerts to completely re-think their milking routine.

"We used to have a row-by-row approach. Now we are more flexible, and much more aware of cow flow," he said.

These days Chris and Paul open the gates before all the cups are off, allowing the cows to exit at their own pace. They also enter at their own pace, while he cups up the other row. The cups are put on the slower milking cows as a priority. When the rest of the row is finished, most of the slow cows will have their cups removed, even if milk is still flowing.

"We know from the timer that the cups have been on longer than 6½ minutes by then," he said. The Eggert's approach is not rigid. Fresh cows and those prone to mastitis get some leeway.

Since introducing this approach, Chris has consistently saved half an hour on every milking, and Paul saves 20 minutes a milking. There's been no impact on production or milk quality. "An added bonus has been the cows are much more relaxed in the dairy," said Chris.

## The secret's out

Find out the secret to saving time in your dairy. Attend *Shorter Milking Secrets*, CowTime's 2007 Shed Shake-up, coming to your region soon.

Shorter Milking Secrets involve little or no cost but challenge current milking routines and practices.

Everyone will go home with ideas to put into practice at the next milking, their herd's Maximum Milk Out Time and a timer to get started.

For more information phone CowTime on 03 5624 2221. CowTime is proudly supported by Dairy Australia and DPI Vic. Your Dairy Services levy making milking easier.

## ➔ Shorter Milking Secrets

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(based on research conducted by the National Milk Harvesting Centre, Ellinbank)

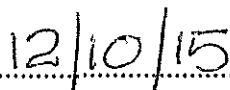


## Statement of Noel Campbell

1. My name is Noel Campbell and I am a third-generation dairy farmer from Yannathan, south east Victoria. I run our operation with my wife Ann and a sharefarmer and we milk 480 cows across two farms. I was elected President of Australian Dairy Farmers (ADF) in 2012.
2. As the representative of Australian dairy farmers, I believe the 3-hour minimum engagement in the *Pastoral Award 2010* adds unnecessary costs and difficulties to Australian dairy farmers. The Commission should reduce the 3-hour minimum engagement requirement in the Pastoral Award to make it more flexible to acknowledge the unique workforce requirements of the dairy industry.
3. Furthermore, I believe that the uptake of technology is making our farms more efficient with less need for staff to work longer hours to gain efficiencies. However, there is little gain in introducing time-saving technologies to the farm if staff still have to be engaged for a set amount of time, rather than the hours they are required.
4. The Australian dairy industry employs 43,000 people directly on farms and in dairy processing, and a further 100,000 Australians rely on dairy for their livelihoods. It is a dynamic industry with many roles offered right through from relief milker with skills typically learnt on farm, through to Farm Business Managers with a Diploma of Agriculture.
5. The nature of the dairy industry dictates that there are peaks and troughs in regard to labour need. At different times of the year, staff are required for varying periods of time.
6. In my own case, we currently operate two farms with a sharemilker in charge of the day-to-day operation of the properties. On the larger farm we have about 280 cows.
7. On the larger farm, for approximately 6-8 months of the year around Spring, the cows produce more milk and it therefore takes longer to milk the herd.
8. Two staff members are required twice a day to be milking in busy periods. We have two staff on in this time as we want to make the milking as quick as possible to minimise the amount of time the cows are spent in the dairy shed and the milking yard. It is important for cows' health and welfare that they maximise the time spent in the paddock eating and drinking, rather than in an enclosed space such as the concrete yard.
9. In our dairy, we operate a herringbone swing-over system. A description of the milking process is as follows:
  - a. Every milking one staff member retrieves the cows from the paddock. The cows then make their way into the dairy. The second staff member is not required to start until the cows have entered the dairy.

- b. When milking starts, two staff members are actively milking.
  - c. Both staff wash down the cows teats if required and put cups on the teats.
  - d. Once the cow has been milked, the cups are automatically removed.
  - e. The staff then spray sanitizer on the teats, wash the cups, hang up the cups on the cleaning cluster and set the sanitization washing in place.
  - f. The cows make their way back to the paddock and while this is happening, one staff member is required to wash down the dairy.
10. In the morning, one staff member also washes down the yards. During this period, two people are only employed for the actual milking of the cows (not the duties before and after), which takes approximately 1 hour and 45 minutes in peak season.
11. During the quieter periods of the year, we only have one staff member in the dairy.
12. The three hour minimum engagement is prohibiting us from hiring a staff member to assist with rearing calves. Before the three hour rule was brought in, we used to hire someone to help my wife or myself to feed the calves in the morning. However, this is now financially unviable as it only takes 1.5 hours to perform this task.
13. In our case, the three hour rule has meant that someone is not being usefully employed, and it takes longer to feed the calves, which impacts on our workload and lifestyle.

  
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Signature

  
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Date

## Statement of Simon Fiddelaers

1. My name is Simon Fiddelaers of S & KM Fiddelaers.
2. We farm 630 hectares in Victoria.
3. Before 1 January 2010 we were covered by the Pastoral Industry Award 1998, which was a common rule award in Victoria.
4. We have always been covered by that award as respondents via membership of the Victorian Farmers 'Federation Industrial Association
5. This award had no minimum engagement provisions for part-time and casual employees.
6. We milk 1100 cows twice a day over 11 months of the year.
7. Two family members work on the farm.
8. We have six full-time employees and eight casual employees.
9. The casual employees do the milking and cleaning up.
10. Milking takes 2 hours twice per day.
11. The 3 hour minimum has changed the way we engage staff as we try to fill in the 3 hours by having a list of jobs for them to do if they have half an hour spare. This is time consuming for us and the employees do not always want to stay and fill in time.
12. The 3 hour minimum hasn't impacted on the farm family personally; however, it has had a financial impact in that it costs more for milking.

.....*S Fiddelaers*.....

Signature

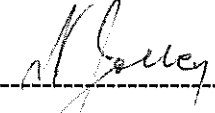
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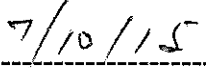
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## **Statement of Nicole Jolley**

1. I previously worked for TARIPTA Dairy. My role in the business was to work primarily in the dairy and undertake tasks such as milking the cows, treating the cows for any illnesses and cleaning up the dairy once milking has finished.
2. When I started milking I knew that the hours of the job constantly changed as the needs of the animals changed. In the Spring and Autumn months we had half of our herd calving, so we were introducing new cows into the dairy, requiring us to separate the milk as well as feeding calves and checking on any cows that are due to calve.
3. Milking takes longer at that time of the year than when we are not in calving season. It would take myself and another employee about two and a half hours to set-up, milk, treat cows and clean up the dairy together.
4. However, in the off season when we dried off certain cows and had a smaller herd it would take myself and another employee about an hour and a half to two hours.
5. We were never there for three hours in one stint whether it is in our busy season or not, unless we had a major problem which is rare.
6. The three hour minimum meant that the work load was no longer shared. We needed to have one milker and one farm hand working in the dairy to achieve the three hour minimum. For example, I would have the farm hand help me milk but I would have to get the cows, clean up and finish off the dairy duties by myself as the farm hand works for the rest of the day.
7. I felt this was an unfair way of working, as the jobs should be shared and not left to one person to finish. This was one of the reasons I resigned from my position at TARIPTA dairy. It was unfair that I was the one finishing off the jobs every time while the other worker got to leave as they had worked for three hours or more.
8. Another reason for my resignation was the fact that the three hour minimum affected my second job at Hurley's Bar & Bistro in Kyabram.
9. On the nights where I worked at my second job, I had to leave the farm by 5:30pm to be able to begin work at 6pm at the Pub. Before the 3 hour minimum, this was no problem as I was always finished and home by 5:30pm. After the 3 hour minimum started, I couldn't leave the farm until 6pm, which caused a problem with my other employer. As I had to get out of there before 6pm in order to be ready for my second job I would cut corners and not finish off my jobs to the standard I normally would.
10. I believe that the 3 hour minimum rule could be reformed to better suit the different industries. It isn't plausible for a rule like this to be used in the agricultural industry. A two hour minimum introduced for the dairy industry would work more efficiently and make more sense.

11. Unless you are milking a herd of 500 cows or more, you can get through a milking in two and a half hours depending on certain variables such as the size of the dairy. A 2 hour minimum rule would mean that I could work the hours agreed on between my employer and I and work within a business that is fair and shares the workload and is more flexible.
12. If the three hour law was not introduced, I would never have left Tarianta dairy as I really enjoyed working there, and both of my employers were amazing people to work for, but this rule was making it impossible for me to enjoy my work and continue to have my second job at Hurley's Bar & Bistro.

  
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Signature

  
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Date

## Statement of Cheryl McCartie

1. My name is Cheryl McCartie of TJ van Brecht and CF McCartie.
2. We farm 217 hectares in Tasmania.
3. Before 1 January 2010 we were covered by the Pastoral Industry Award 1998 as respondents via membership of the TFGA Industrial Association.
4. This award had no minimum engagement provisions for part-time and casual employees.
5. We milk 450 cows twice a day over 12 months of the year.
6. We have one fulltime employee and one casual employee.
7. Milking usually takes:
  - i. 2.75 hours twice per day for about 2 months of the year;
  - ii. 2 hours twice per day for about 8 months of the year;
  - iii. 1 hour twice per day for another 2 months of the year. (We usually do the milkings at this time because it is too expensive to have a casual come in for only an hour.)
8. The 3 hour minimum has changed the way we engage staff.
9. Before the 3 hour minimum came in we used to have a casual employee, Ned, who was a single dad. He lives at Talawa about 10 kilometres away and it took him about 10 minutes to get to work. He just wanted to milk so that he could then go home for breakfast with the kids and come back after that to do other work such as feeding cows.
10. He would come and go three or four times a day. This gave both our employee and us a lot of flexibility, but when the 3 hour minimum came in, we couldn't continue to operate that way and so he got another job.
11. We would like to have another casual employee to help take the load off us but we can't afford it.
12. The 3 hour minimum results in a loss of productivity as the employees only work between 2 and 2.75 hours and we have to pay for 3 hours. There is no point in trying to fill the 3 hours up with other jobs because the employees need breakfast.
13. The 3 hour minimum has impacted on the farm family personally as we don't have as much time off anymore.

.....*Cheryl McCartie*.....

Signature

.....*9 Oct 2015*.....

Date

## Statement of Leigh Shearman

1. I own a dairy farm with my partner at "Lees Crossing" in Goolmanger, NSW.
2. We farm 121.56 hectares, with 180 cows that each need to be milked twice a day, every day, 52 weeks of the year.
3. We have three casual employees and two part-time employees and one school based trainee. They live nearby and it takes them about 10-20 minutes to get to work.
4. We like to employ school students to help with the daily milking. It is an easy job and they are fully supervised. What we find is though, consistently to fit in with school finishing times we find that we have to start milking before they are able to arrive. This is especially the case in winter, when it is dark and cold necessitating we start afternoon milking earlier. We like to employ young school students as it gives them experience and helps train workers for the future. I also do not like to keep them to do unnecessary jobs when they have school work to complete.
5. Milking at our dairy takes 2-2.5 hours depending on the time of year. We pay for 3 hours on each occasion under the award.
6. We try and find extra work for employees to do to fill up the 3 hours, but there are limits to job we can find that are supervised. Juniors cannot necessarily do a lot of jobs without supervision so you are very limited with what they can do. In the summer, we can't send employees out into the hot sun to do additional work before milking and it is getting too late at completion of milking. Sometimes we ask them to help with cleaning the dairy, but there is a limit to how much cleaning you can do.
7. We have tried to milk more cows to justify the additional minimum hourly cost but this only works if the farm can carry the extra cows. It costs us more to do that when we have to buy in feed when we get short. We don't feel that it is a smart business move to only focus on staff hours and not the business as a whole.

8. It is better for the cows to be out in the paddock than to be standing around waiting in the yards, but because staff have to stay at work for at least 3 hours, there is no incentive to work efficiently. Usually, we let the staff go home early so that the work gets done more efficiently and it is also a better work ethic for young workers. You also find that they are not focused on the job and they miss cows that have problems and that creates a far greater issue.

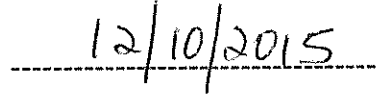
9. Farmers need flexibility every day, but especially on weekends when we just want staff to milk the cows, as it costs too much for what we receive for our milk.

10. If we could pay for work actually done, instead of for 3 hours each time, it would save us more than \$130 a week, or \$6000 each year, including an average half an hour each milking shift. 6 days per week, over the year.

11. It would also improve our family life. At the moment, we work very long hours and do as much as we can ourselves. We can't afford to pay 3 hours for someone to feed the calves, even if they are good at it and want the work, because we can't stretch the job to 3 hours.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a dashed line.

Signature

A handwritten date '12/10/2015' in black ink, positioned above a dashed line.

Date

## Statement of Anne Wearden

1. I own a dairy farm with my husband in northern Victoria. We operate a partnership, and we have one full-time employee.
2. During Autumn, which is our busiest time of the year, we calve 200 cows, sow or oversow 75 per cent of pastures, rear calves, introduce heifers, transport agisted stock and irrigate.
3. When we go away for a break, or when our full-time employee takes leave or has his allocated days off, we need extra help.
4. In Autumn, we need extra hands to help with milking, calf rearing and feeding. These are jobs that can be done individually, and take from one to two hours.
5. Milking on the weekends usually takes about two hours.
6. One of our neighbors, who is still at school, has asked us for a job. He is interested in agriculture or animal science as a future career, and is available to work on weekends and some nights after school.
7. We have employed him to work when he is available. By the time he arrives at the dairy after school, we are half way through milking, so he either helps with the milking or does other jobs like feeding calves.
8. Under the award, we have to pay him for 3 hours at a time, but he doesn't want to stay at work for that long when he comes. He has homework and other commitments, and just wants some extra cash.
9. As a business, we have to account for every dollar we spend. It does not make economic sense for us to pay more for the work than we can afford.
10. The 3 hour minimum engagement rule means that we have to choose between suffering financially to assist him into the industry or deny him the opportunity for work. Either way, we feel like we both lose.

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Signature

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Date

## **Statement of Susan Wearden**

My name is Susan Wearden. My husband (Peter) and I farm 150 hectares at Kyabram in Victoria.

We milk 350 cows twice a day over the year.

My husband and I run the farm along with one full time trainee, one regular milker and a pool of 3 others that work as milkers on a casual basis.

Milking takes about 2.5 - 3 hours in the peak seasons (August to December and February to May) twice a day. The low season in our business is from mid-December to mid-February and June to mid-August. During this time we are milking less cows and it usually takes between 1.5 and 2 hrs (also twice a day).

In these shorting milking periods (December to mid-February), it is the hottest part of the year. Flies are bad and milking conditions are not as pleasant, either for the milkers or the cows. We therefore have an "all in" approach to get the job (milking) done as quickly as possible, so staff and ourselves can seek respite from heat and flies or do other recreational activities.

As dairy farmers we are price takers. We cannot adjust the price paid for our milk up to compensate for increased production costs and we survive on a constant endeavour to increase our efficiencies to create profit. For example this year, \$34,000 was wiped off our budgeted milk income for our farm, due to global conditions and a subsequent drop in our milk price passed on by our milk factory.

Milking cows is a unique pastime and requires staff to have both an aptitude and desire for working with cows, early mornings, often dirty, split shifts and other tasks that may not appeal to many. It does not attract people who do have a propensity for these things. As farmers, we are well aware that to attract and keep staff, we need to ensure that they are remunerated properly, well looked after and have a pleasant as possible working environment.

With the above in mind, people that apply for work with us have identified it as a position that fits their needs and provides a timetable that they deem might work for them.

Examples of staff that have done this are:

Christy - a young mum with three young children. . It takes her 8 minutes to get to work as she lives 5km away. It suited her to commence work at 5 am for the morning milkings, as long as she could get home to organise her school age child and before her husband had to leave for work a 7.30 am. She knew unconditionally that she could leave at her desired time, and therefore could often not do her minimum 3 hrs. We work with her for the afternoon shift, where she would normally start work at 3.00pm, but occasionally arranged to start later as she needed to do the school pick up, which also meant that she would be short of the 3 hr requirement.

Robyn - mature lady with her own small holding (hobby farm), and as a former dairy farmer herself, seeking to supplement her income and maintain her connection to the industry. It takes her 10 minutes to get to work as she lives 6km away. She occasionally prefers to leave early to attend to needs at her own farm (e.g. irrigation commitments), which we are very happy to accommodate.

Nicole - University student working in hospitality in conjunction with her job with us. It takes her 8 minutes to get to work as she lives 5km away. Evening milking is from 3pm (3 hr minimum would mean she worked until 6pm), but she wanted to be gone by 5.30 pm in order to be ready to start work in her hospitality job by 6pm.

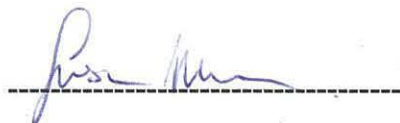
Tom - a 16 year old school student (one of many we have employed). It takes him 8 minutes to get to work as he lives 5km away. He comes to milk cows for pocket money and skill development. He arrives at approximately 3.35pm so milking has already well and truly commenced and therefore usually only achieves 2 hrs employment in any shift.

We see employment of school students as complementary with the way we operate the dairy. Students are not a pivotal part of the milking team (particularly in their early months), but we are happy to invest in training them as it is as much about giving kids a go, an introduction into the workforce and our industry and potentially someone who may become part of our milking team or on another farm.

On such example is Wil, who worked with us after school for 3 years, before moving on to full time work on another farm before he left to go to university at Warrnambool. Whilst at Warrnambool, he was able to secure milking at dairy farm in that region to provide student income. A win for him, a win for the industry and the community in general.

Our industry is seasonal and our daily workload is weighted to early mornings and evenings - that fact cannot be changed. It is unique in that way and needs to be recognised as such. We require labour to achieve our production and recognise that staff need to be rewarded and looked after to achieve our work requirements, consequently we build flexibility that works for both into our business.

The three hour minimum is a costly constraint and works against the efficiency of our business. We feel a two hour minimum would be much more suitable for the dairy industry.



Signature

April 15, 2015

Date