



**SOUTH AUSTRALIAN WINE INDUSTRY**  
ASSOCIATION INCORPORATED

## *Fair Work Commission*

### *4 Yearly Review of Modern Awards - AM2014/197 – Casual Employment*

**SUBMISSION OF:** SOUTH AUSTRALIAN WINE INDUSTRY ASSOCIATION  
INCORPORATED

**ADDRESS:** First Floor, Industry Offices  
National Wine Centre  
Botanic Road  
ADELAIDE SA 5000

**TELEPHONE:** (08) 8222 9277

**FACSIMILE:** (08) 8222 9276

**EMAIL:** [admin@winesa.asn.au](mailto:admin@winesa.asn.au)

**WEB:** [www.winesa.asn.au](http://www.winesa.asn.au)

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## 1. INTRODUCTION

The South Australian Wine Industry Association (SAWIA) makes these submissions in support of the variation proposed by SAWIA to Clause 13.3 - Minimum Engagement for Casual Employees in the Wine Industry Award 2010 in accordance with the Directions of the Casual Employment and Part-Time Employment Full Bench issued on 29 June 2015.

The South Australian Wine Industry Association (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 recognising its 175 years of service to the South Australian wine industry in 2015.

SAWIA is a registered association of employers under the South Australian *Fair Work Act 1994* and is also a transitionally recognised association under the *Fair Work (Registered Organisations) Act 2009*.

SAWIA is a not for profit incorporated association, funded by voluntary member subscriptions, grants and fee for service activities, whose mission is to provide leadership and services which underpin the sustainability and competitiveness of members' wine business.

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.

These submissions are supported by Wines Tasmania and Wine Victoria.

## 2. 4 YEARLY REVIEW OF MODERN AWARDS

The Fair Work Commission (FWC) is required to conduct a review of all Modern Awards on a four yearly basis (the Review) in accordance with section 156 of the Fair Work Act (the Act).

A Full Bench of the Fair Work Commission considered the legislative context to the Review in its decision *4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues* AM2014/1 FWCFB 1788 dated 17 March 2014 (the Preliminary Decision).

The Preliminary Decision (at [23]) held that the Review is broader in scope than the 2012 Transitional Review and that the FWC in conducting the Review must ensure that Modern Awards meet the Modern Awards Objective in section 134 of the Act. Under the Modern Awards Objective the FWC must ensure that Modern Awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

- (a) relative living standards and the needs of the low paid;
- (b) the need to encourage collective bargaining;
- (c) the need to promote social inclusion through increased workforce participation; and
- (d) the need to promote flexible modern work practices and the efficient and productive performance of work;
- (da) the need to provide additional remuneration for:
  - (i) employees working overtime; or
  - (ii) employees working unsocial, irregular or unpredictable hours; or
  - (iii) employees working on weekends or public holidays; or
  - (iv) employees working shifts;
- (e) the principle of equal remuneration for work of equal or comparable value;
- (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden;
- (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
- (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

Given the wide considerations set out in section 134 of the Act above, the Decision discussed how these considerations should be taken into account as follows:

*[31] The modern awards objective is directed at ensuring that modern awards, together with the NES, provide a 'fair and relevant minimum safety net of terms and conditions' taking into account the particular considerations identified in paragraphs 134(1)(a) to (h) (the s.134 considerations). The objective is very broadly expressed.*

*[32] No particular primacy is attached to any of the s.134 considerations and not all of the matters identified will necessarily be relevant in the context of a particular proposal to vary a modern award.*

*[33] There is a degree of tension between some of the s.134(1) considerations. The Commission's task is to balance the various s.134(1) considerations and ensure that modern awards provide a fair and relevant minimum safety net of terms and conditions. The need to balance the competing considerations in s.134(1) and the diversity in the characteristics of the employers and employees covered by different modern awards means that the application of the modern awards objective may result in different outcomes between different modern awards.*

The Decision (at [60]) held that the reference to stable modern award system in section 134(g) of the Act “suggests that a party seeking to vary a modern award in the context of the Review must advance a merit argument in support of the proposed variation. The extent of such an argument will depend on the circumstances. Some proposed changes may be self evident and can be determined with little formality. However, where a significant change is proposed it must be supported by a submission which addresses the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation.”

### 3. VARIATION SOUGHT

Relevant to matter AM2014/197 SAWIA seeks the following variation to Clause 13.3 of the Wine Industry Award 2010:

- Change the casual minimum engagement from 4 hour's work to 2 hour's work.

This variation is contained in a draft determination that was filed with the FWC on 17 July 2015.

To understand the need for the variation to the casual minimum engagement in the Wine Industry Award 2010, it is necessary to understand:

- the nature and operation of the Australian wine industry; and
- the award regulation in the wine industry prior to 2010.

#### Structure and performance of the Australian wine industry

The Australian Wine Industry in 2014 exported 700 million litres of wine, generating export revenue of \$1.82 billion to the Australian economy.<sup>1</sup> The value of domestic sales was \$2.36 billion in 2012-2013.<sup>2</sup>

Apart from contribution to the nation's overall export revenue, the Wine industry also generates substantial revenue to the tourism industry, attracting close to 700,000 international visitors and generating revenue of \$8.2 billion from domestic and international tourism.<sup>3</sup> A snapshot of key industry data is set out in the summary table on page 6.

From 1991 to 2007, the Australian Wine industry enjoyed considerable success, tripling in size from less than 400 million litres of production to 1.2 billion litres and growth in export from \$212 million to \$3 billion. Close to 100% of the growth was exported into key markets, including the United Kingdom, United States and Canada.<sup>4</sup>

However, from 2007 the Australian Wine industry has been under significant pressure commencing with the global financial crisis (GFC) in August 2007. From 2007 to 2012 wine exports fell significantly, by 64 million litres (8% fall) in volume and by \$1.15 billion (38%) in value. The key factors contributing to this fall were a higher Australian dollar, falling demand for Australian wine in key markets, particularly the United Kingdom, United States and Canada, increased competition from other export countries, including France, Italy, Chile, Argentina, Spain and South Africa, and higher costs.<sup>5</sup>

In addition to the fall in sales, the average wine grape purchase price is at significantly lower levels than 6 to 7 years ago. The average price in 2015 was \$463 per tonne, which should be contrasted with the prices in 2009 and 2008 of \$527 and \$ per tonne respectively<sup>6</sup>. As illustrated by the Figure 1 from 1999-2005 the average wine grape purchase price never fell below \$710 per tonnes.<sup>7</sup>

<sup>1</sup> Australian Grape and Wine Authority 2015, *Wine Export Approval Report*, Moving Annual Total (MAT) to December 2014.

<sup>2</sup> See Winemakers' Federation, Snapshot of Australian Wine Industry table on page 8 of this submission.

<sup>3</sup> Ibid

<sup>4</sup> Winemakers' Federation 2013, *Expert Report on the Profitability and Dynamics of the Australian Wine Industry*

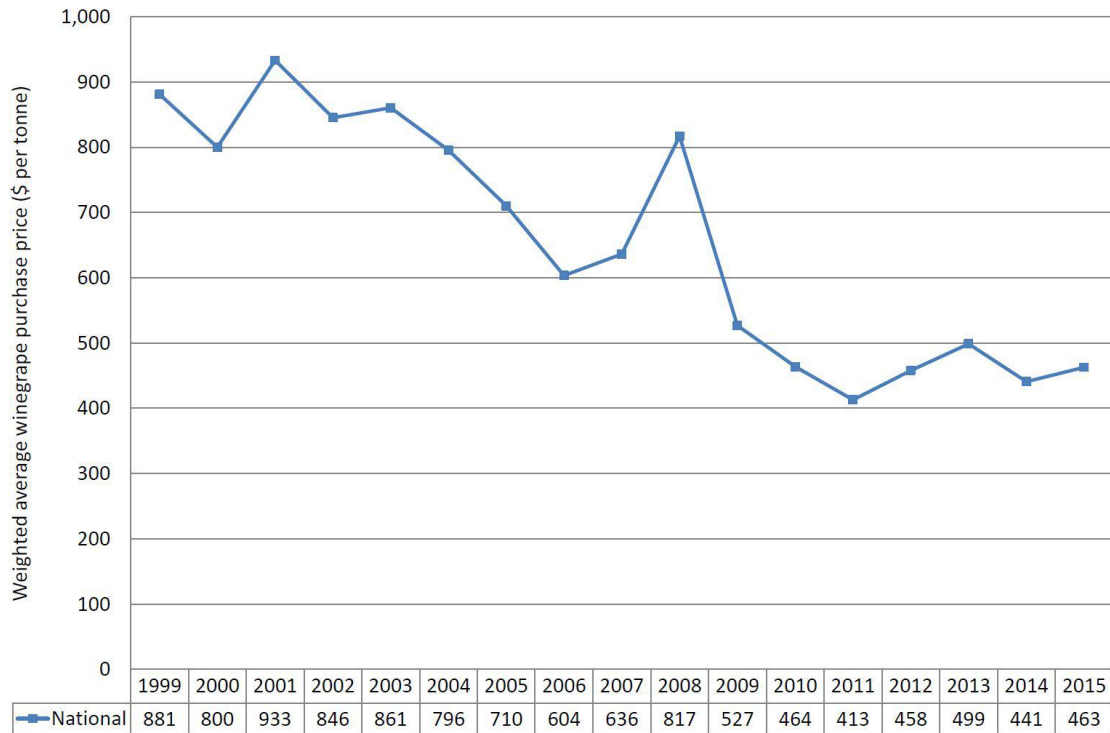
<sup>5</sup> Ibid

<sup>6</sup> Wine Australia 2015, *Price Dispersion Report 2015*, p. 5

<sup>7</sup> Ibid; Wine Australia 2015

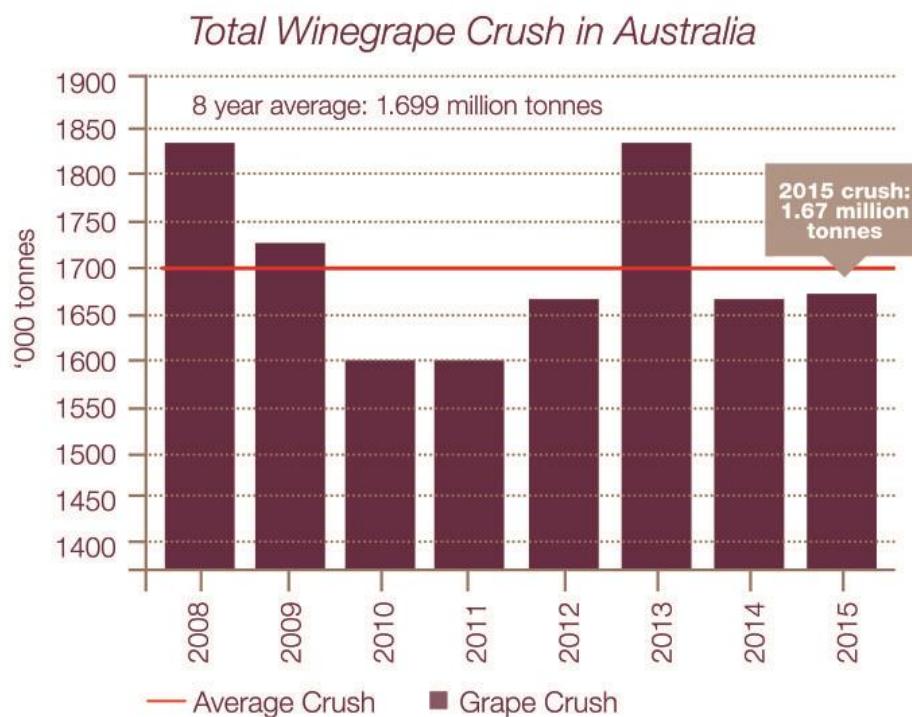
Snapshot of the Australian Wine Industry			
Wine Producers			
Wineries		Value	% change over last 12 months
2013	number	2,573	0.0%
# Increase	number	1	
Wineries by Size of Crush (2013)			
< 500 tonnes	number	2,244	0.04%
500-4,999 tonnes	number	177	-2.3%
5000-9,999 tonnes	number	14	-12.5%
>=10,000	number	28	-9.7%
Unspecified	number	110	0.9%
Direct Employment			
2014-15	number	16 186	0.4%
Viticulture			
Winegrape Crush			
2014	'000 tonnes	1 700	-7.4%
Winegrape Price			
Australian average, all varieties (2014)	\$A	441	-11.6%
Environment			
Water Use (2012-13)			
Megalitres per hectare	ML	2.52	21.7%
Beverage Wine Production			
2014	million litres	1 202	-2.4%
Sales & Trade			
Domestic Sales - Volume			
2013	million litres	459	1.0%
Domestic Sales - Value (wholesale, using fob prices)			
2012-13	\$A million	2 369	-5.0%
Imports - Volume			
2013	million litres	83	-1.2%
Imports - Value			
2013	\$A million	610	9.0%
Exports - Volume			
2014	million litres	700	2.0%
Exports - Value			
2014	\$A million	1 820	2.0%
Exports - Value per Litre			
2014	\$A/litre	\$2.60	0.0%
Wine as % of total value of crops export (fob)			
2013-14	%	8%	
Wine Exports' Ranking on major agricultural, fisheries and forestry commodities exports			
2012-13	ranking	6th	
Australian Wine's Contribution to Value of World Wine Trade (2012)			
Ranking	ranking	4th	
%	%	6%	
Tourism			
			% market share
International visitors to wineries (year ending Sep 2014)	no. of people	696 602	11.0%
Domestic visitor overnight trips to wineries (year ending Sep 2014)	no. of trips in million	3	4.0%
Estimated tourism revenue generated from international and domestic visits (year ending Sep 2014)	\$A billion	8.20	
Consumption			
Wine Consumption Per Capita			
2012-13	litres	29.11	-2.30%
Taxation			
Net Wine Equalisation Tax 2013-14	\$A million	766	3.0%
<b>Sources:</b> ABARES Commodity Statistics, Australian & New Zealand Wine Industry Directory, IBISWorld Industry Report, Tourism Australia, Entwine Member Database, ABS Domestic Sales and Import Statistics and Wine Australia Export Approval Database via Winefacts Statistics; ABS Catalogue No: 1329.0 Australian Wine and Grape Industry, ABS Catalogue No: 8504.0 Shipments of Wine and Brandy in Australia by Australian Winemakers and Importers, , ABS Catalogue No: 4307.0.55.001 Apparent Consumption of Alcohol, Wine Australia and Treasury (Budget and Mid-year Economic and Fiscal Outlook), Aztec Report; Australian Taxation Office, Taxation Statistics; WFA analysis			



**Figure 1: Winegrape average purchase prices over time**

Source: Wine Australia

The 2015 Australian grape crush was 1.67 tonnes, just a 0.4% increase from 2014 and below the 8-year average crush of 1.70 tonnes<sup>8</sup>, as illustrated from the table below:

**Figure 2: Total Winegrape Crush in Australia<sup>9</sup>**

Sources: Historical crush figures – Levies Revenue Service (LRS), ABS and WFA

<sup>8</sup> Winemakers' Federation of Australia 2015, Vintage Report, July 2015, <http://www.wfa.org.au/assets/vintage-reports/WFA-Vintage-Report-2015.pdf>

<sup>9</sup> Ibid

The industry is expected to be under significant pressure for a number of years. While the recent fall in the Australian dollar will contribute to improving the competitiveness of Australian wine exports it is only one factor and it will take a long time to return to the pre-GFC export-levels in terms of volume and value.

It is expected that the 2016 vintage will continue to present challenges to the industry. However, recently concluded trade negotiations in the form of the China-Australia Free Trade Agreement, Japan-Australia Economic Partnership Agreement, Korea-Australia Free Trade Agreement and the Trans-Pacific Partnership Agreement has the potential to provide a number of benefits to the wine industry.

The Australian Wine Industry consists of 65 wine regions across the six states and one territory (ACT), see Figure 3. The wine regions in Figure 4 below are protected “Geographical Indications” (GI) under the *Australian Grape and Wine Authority Act 2013* (AGWA Act) and must only be used subject to the conditions and terms of the AGWA Act.

While wine grape growing and wine production occurs in the six States and the ACT, the crush data demonstrates that South Australia is the single largest State in terms of crush.

**Figure 3: Crush by State and region<sup>10</sup>**

State/Regions	2015 Raw Crush Data Tonnes	% of total crush
South Australia	716,592	47%
New South Wales	332,092	22%
Victoria	60,258	3.9%
Western Australia	30,069	2.0%
Queensland	610	<0.05%
Tasmania	7,197	0.5%
Australian Capital Territory	21	<0.05%
Murray Darling-Swan Hill <sup>11</sup>	381,732	25%
TOTAL	1,528,571	100%

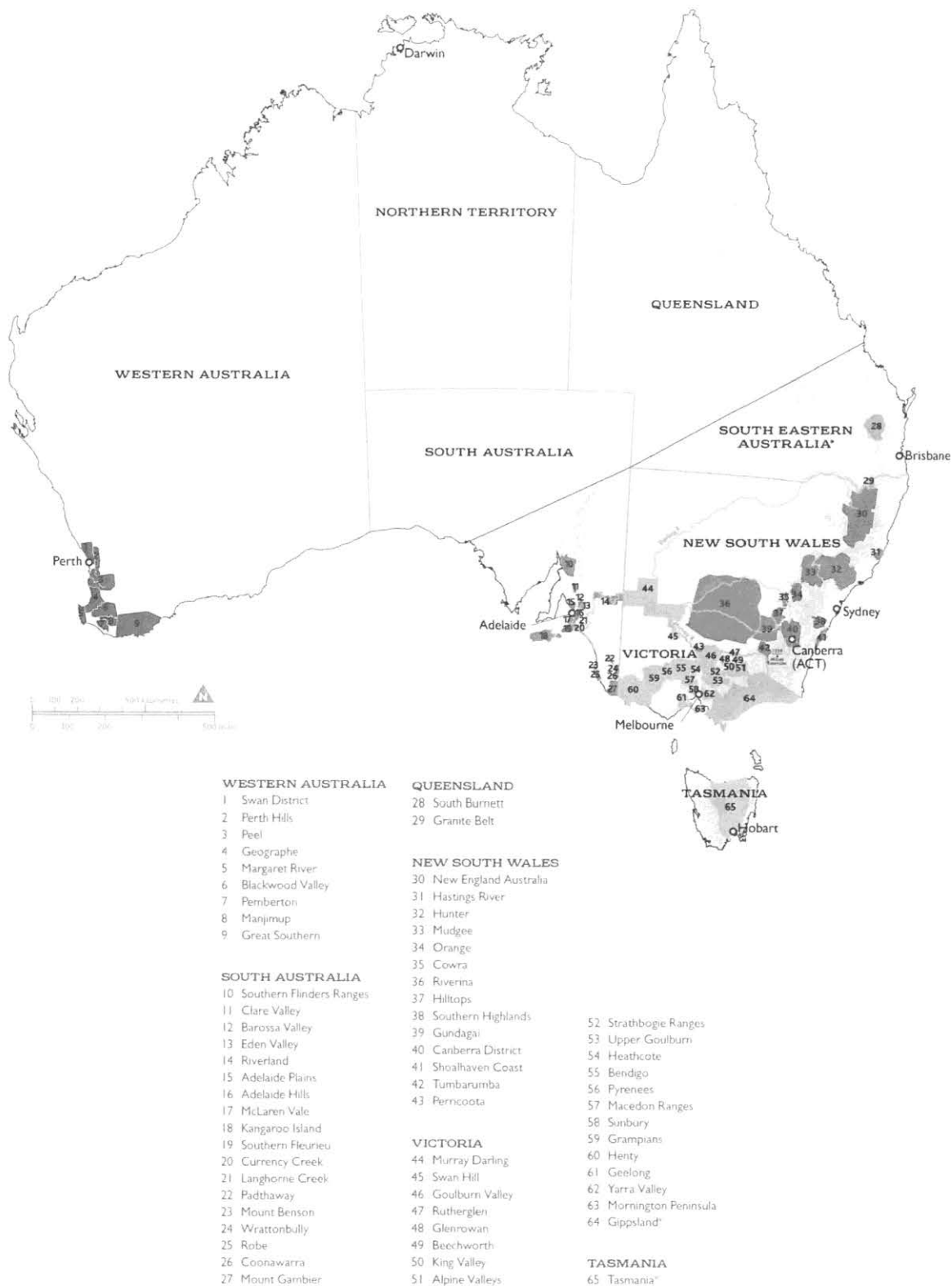
The crush data also reveals that the Australian wine industry comprise of a small number of large wineries and a large number of small wineries. The 20% largest producers account for 85% of the total crush.<sup>12</sup>

<sup>10</sup> Winemakers' Federation of Australia 2015, Vintage Report, July 2015, <http://www.wfa.org.au/assets/vintage-reports/WFA-Vintage-Report-2015.pdf>

<sup>11</sup> This region crosses the State borders of Victoria and New South Wales

<sup>12</sup> Ibid



Figure 4: Map of Australian GI wine regions<sup>13</sup>

<sup>13</sup> Wine Australia 2015, Price Dispersion Report 2015, p. 208

## Employment in the Australian Wine Industry

The Australian Wine industry makes an important contribution to the Australian economy. According to the 2011 Australian Census the industry, including wine producers and wine grape growers, provides direct employment to 22,000 Australians<sup>14</sup>.

The Australian wine industry predominately is based in rural and regional Australia. Applying the Australian Bureau of Statistics' "Australian Statistical Geography Standard Remoteness Structure"<sup>15</sup> which classifies Australia into five classes – major cities, inner regional, outer regional, remote and very remote, of the 65 GI wine regions and zones 58 (89%) are located in inner regional and outer regional areas.

The value-add effect of the wine industry has seen many rural economies prosper with new housing, services and local employment opportunities.

For an industry predominately located in a regional area the wine industry is faced by a number of challenges from a human resources perspective. One is access to and availability of skilled employees. Industry feedback indicates that where skilled or unskilled positions are unable to be filled by applicants from the local town or region, it may be difficult to attract domestic applicants from metropolitan areas. This is because potential applicants based in metropolitan areas may not be attracted to move either temporarily or permanently to a small country town in a regional area where most of Australia's wine industry employers are located.

Another challenge relates to the lack of access and availability of local training and development and therefore the additional costs of time-out-from-work, travel and accommodation for employees to undertake training and development outside the local area.

Further, during peak operational periods, including vintage (harvest) and pruning the industry relies on a large number of casual employees. Wineries have reported that their casual workforce in vineyard commonly increases by a tenfold during these periods. One of the challenges related to this is how to organise temporary accommodation and transport for these casual employees.

In regional areas the wine industry provides important employment opportunities to local residents. The Australian Bureau of Statistics report wine industry employment in two areas – "agriculture" for wine grape growing and "manufacturing" for the wine production. The proportion of employees working in these industries in the following winegrowing and winemaking locations are set out below<sup>16</sup>:

Wine region	State	Statistical Locality	Agriculture % of employees	Manufacturing % of employees
Coonawarra	SA	Penola	31%	21%
Barossa Valley	SA	Barossa	7%	23%
Riverland	SA	Berri and Barmera Loxton Waikerie	12% 24%	12% 8%
Margaret River	WA	Margaret River Augusta	4% 18%	14% 12%
Hunter Valley	NSW	Cessnock	2%	12%

<sup>14</sup> This figure incorporates wine producers and wine grape growers, whereas the table on page 7 of this submission includes employment by wine producers only.

<sup>15</sup> ABS 2011, Australian Statistical Geography Standard (ASGS): Volume 5 – Remoteness Structure, Maps, Australia, July 2011, Catalogue 1270.0.55.055, [http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/EB3374C05104D74ACA257D1E00128192/\\$File/1270055005\\_2011\\_remoteness\\_structure\\_maps.pdf](http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/EB3374C05104D74ACA257D1E00128192/$File/1270055005_2011_remoteness_structure_maps.pdf)

<sup>16</sup> Australian Bureau of Statistics, 2011 Census

Riverina	NSW	Riverina	12%	11%
Yarra Valley	VIC	Healesville-Yarra Glen	4%	12%
		Lilydale-Coldstream	2%	14%
		Wandin-Seville	5%	13%
Tasmania	TAS	George Town	4.3%	24%
		West Tamar	2.9%	10%

### Structure of the Wine Industry

The wine industry is both unique and complex in nature. It takes raw produce, wine grapes, and turns them into a value added product, wine, that is sold throughout the world. Unlike other manufacturing sectors, the wine industry's viticultural foundations require long lead times to produce a crop and based on the vagaries of nature each vintage makes the balance of supply and demand a constant challenge.

The industry is 'vertically integrated', spanning agriculture (growing wine grapes), wine processing and production (winemaking) and sales into a global marketplace.

Businesses in the wine industry are extremely diverse, and employ persons in any number of the following occupations under the Wine Industry Award 2010:

- agriculture (grape growing);
- manufacturing (winemaking);
- science (laboratory);
- retail and hospitality (cellar door sales);
- bottling;
- warehousing and distribution; and
- barrel manufacturing (coopers).

The wine industry is characterised by a diverse group of people, or in the case of small businesses a need for a person with a diverse skill set. The variable employment is seen in skills utilised: the vineyard employee driving a tractor, the cellar employee transferring grape juice, the laboratory technician who collects and analyses samples to meet quality specification, the information technology software professional who develops the system of tracking the product from a row in a vineyard to the wine in a bottle, the winemaker, the marketer, the sales force.

It is common for small, medium and large employers to employ persons in the vineyard through to bottling wine. Some employees work between the vineyard, the cellar, on the bottling line, the laboratory, the warehouse, out 'on the road' selling (or any combination of them) depending on the time of the year, their skill level and the demands or nature of the business operation. In other cases the employee may just work in one work area.

Whilst the formula for growing and making wine may remain largely unchanged other parts of the operations, like promoting and selling wine, have had to morph and remain fluid with the changes in demand both in variety, style and experience. For example in order to enhance the cellar door experience, apart from traditional wine tasting and wine sales, cellar doors are increasingly providing a number of other services and products to attract visitors, including tutored tastings, tours of cellars and production facilities, tasting plates, degustation, coffee and tea, merchandise, functions and lunches.

## 4. REASONS FOR VARIATION SOUGHT

Supported by probative evidence from Australian wine industry employers, SAWIA contends that there are a number of compelling reasons to demonstrate, that the current 4 hour casual minimum engagement is not meeting the Modern Awards Objective in section 134 of the Act, and that a 2 hour minimum engagement should be provided instead.

### **Fair and Relevant Safety Net**

The current 4 hour minimum engagement while intended to provide some certainty to casual employees and a minimum guaranteed income while being rostered on for has led to adverse outcomes for employers and employees alike in the wine industry, in particular in the following streams of the industry:

#### *Cellar door sales:*

The unpredictable nature of cellar door visits and the relatively short duration of each visit 30-45 minutes means that it is difficult to guarantee 4 hours of work. Where coach/group bookings are accepted a tasting session commonly runs for 1.25-1.75 hours including preparation time and cleaning up.

For a casual employee specifically engaged to deliver a tasting session for a coach/group there may be little if no additional work after the group tasting session has been completed.

The 4 hour minimum engagement has resulted in that large tour bookings regularly are declined, that the number of employees in the cellar door are kept at a bare minimum, usually only one at a time resulting in a lower level of service to visitors during peak times.

Wine industry employers report that in the cellar door there is a need for additional assistance with washing dishes, picking up glasses, cleaning up and covering lunch breaks. These jobs of relatively short duration, no more than 2 hours, could provide additional income and work experience for local residents (including school students). However, the current 4 hour minimum engagement means that these jobs are simply not provided to additional casual employees. Instead they end up being completed by existing staff in addition to their other responsibilities.

In most cases casual cellar door employees are usually located within the relevant wine region or close by. Wine industry employers report that the casual cellar door position provides an opportunity to work and supplement their income while balancing family and caring responsibilities, studies or running their own businesses. However, the current 4 hour minimum engagement means that wine industry employers are unable to accommodate the requests received from time to time from employees wishing to work a shorter engagement due to other responsibilities where such arrangements would be mutually beneficial.

#### *Vineyard:*

During the peak operational period of vintage (harvest) and pruning wine industry employers engage a large number of casual employees to carry out harvesting and pruning.

The vintage period which varies from region to region and year to year depending on weather patterns and climate provides a short window to harvest the fruit. Delays could potentially compromise the fruit and the ultimate product.

In South Australia vintage may commence in late January to early March and finish in late May. In Tasmania on the other hand vintage commonly runs from late February to June. To

date the length of the vintage depends on the quantity and quality of the fruit and may in some regions and in some years be as short as 20 days, whereas in other regions and other years could run for as long as 106 days.

Work during vintage and pruning may be greatly affected by weather events. For example, in regions with cool climates where the weather may be more variable such as Tasmania, pruning and harvest work may not be able to be undertaken in heavy rain. With a 4 hour minimum engagement wine industry employers, including small wineries and independent wine grape growers are currently exposed to the financial risk of having to send home a large number of casual vineyard workers, (40-80 employees in some instances) after only 1-2 hours of work due to the weather, but with the obligation to pay the remainder of the minimum engagement.

To minimise this risk, wine industry employers have reported reducing their casual workforce by replacing hand harvesting with machine harvesting. Other strategies include cancelling vintage shifts in the morning prior to commencement if there is any risk of rain.

#### *Cellar:*

During the peak operational period of vintage the harvested grapes get crushed in the cellar (production). Wine industry employers have reported that there is need for assistance with completing jobs of relatively short duration (up to 2 hours of work) for example sampling of the grape juice after crush and during fermentation, washing and cleaning up the production facilities at the completion of the shift.

While these jobs could provide additional income and work experience for local residents with the current 4 hour minimum engagement these jobs are simply not provided to additional casual employees.

#### *Fair and relevant*

A 2 hour casual minimum engagement would provide a fair and relevant safety net to casual employees within the wine industry taking the unique features of the wine industry into account:

- the vertical integration of the industry;
- regional nature of the industry;
- the seasonal nature of the industry with work dependent on weather events and weather patterns;
- the relatively short visits to the cellar door;
- the condensed period of casual work in the vineyard during pruning and vintage; and
- the availability of support jobs with short duration in cellar door sales and cellar (production).

SAWIA submits that the current 4 hour casual minimum engagement is not relevant taking the wine industry's unique features into account and considering the Modern Awards covering other industries involving primary production, sales, hospitality and tourism.

The table below sets out the casual minimum engagement in the following Modern Awards which cover industries with similar operational requirements and/or skills sets as required by employees in the various streams of the wine industry:

<b>Modern Award</b>	<b>Clause</b>	<b>Minimum Engagement</b>
Horticulture Award 2010	10.4	None
Pastoral Award 2010	10.4	3 hours
Restaurant Industry Award	13.2	2 hours

Hospitality Industry (General) Award 2010	13.2	2 hours
Amusement, Events and Recreation Award 2010	10.4(e)	3 hours
General Retail Industry Award 2010	13.4	3 hours

The Sugar Industry is an example of another vertically integrated industry covering the growing of the crop, harvesting, manufacturing, packaging and warehousing. While, the industry is materially different from the wine industry it worth noting that the casual minimum engagement is 3 hours under Clause 11.3(c) of the Sugar Industry Award 2010.

As illustrated none of the above Modern Awards have a 4 hour casual minimum engagement. In fact whereas a grower of table grapes could engage casual employees for picking, pruning and spraying table grapes, a grower of wine grapes would be required to provide a 4 hour casual minimum engagement.

In fact in a regional area the same person may undertake casual harvesting and pruning for a grower of table grapes during one period of the year, while for a different period of the year undertaking casual vineyard work involving harvesting a pruning for a winery or wine grape grower.

SAWIA argues that there is nothing to justify the significantly higher casual minimum engagement in the Wine Industry compared to the industries above. There are no rational reasons why a wine industry employer has to provide a 4 hour casual minimum when harvesting and pruning wine grapes while a grower of table grapes does not have to provide any minimum engagement.

### Award coverage of the Australian wine industry

Prior to the commencement of the Modern Award, the industry was covered by awards with the following minimum engagement:

State	Award	Clause	Minimum Engagement
South Australia	Wine and Spirit Industry (South Australia) Award (AN150168)	4.1.3.2	2 hours
New South Wales	Wine Industry Consolidated (State) Award (AN120649)	7	None
Western Australia	Wine Industry (WA) Award 2005 (AN160339)	2.2.3(c)	4 hours
Victoria (named respondents) and Tasmania (members of AiG, VECCI, TFGA Industrial Association or VFF)	Horticultural Industry (AWU) Award 2000 (AP784867); Schedule B & C <i>"preparation of vineyard products"</i>	15.4.2	3 hours
Victoria, New South Wales & Queensland (named respondents), 2 respondents in SA	Wine Industry - AWU - Award 1999 (AP802322)	12.3.5	4 hours
Tasmania	Farming and Fruit Growing Award (AN17003)	14(c)	4 hours
Queensland	Fruit and Vegetable Growing Industry Award - State 2002 (AN140126)	4.4	None

The minimum engagement in the above awards varied from 0-4 hours. In addition to the awards above, it should be noted that stand-alone wine grape growers in South Australia were award-free, meaning that they were able to engage casual employees without any minimum engagement.



Therefore, there was no uniform standard of 4 hours across the industry.

### **Relative living standards and the needs of the low paid**

SAWIA submits that a change in the minimum engagement for casual employees will not materially affect the safety net provided by the Wine Industry Award 2010. Casual employees would continue to be entitled to a number of minimum terms and conditions, including overtime and penalties, rest and meal breaks and casual conversion.

During pruning and harvest, weather permitting, there will be an ongoing need for casual employees to work 4-8 hours in the vineyard, or longer where necessary. In the cellar door there will be an ongoing need for casual employees to 4-8 hours. During the peak operational period of vintage casual cellar (production) employees will continue to be engaged to work shifts of up to 12 hours to complete the grape crush.

However, importantly with a 2 hour casual minimum engagement the wine industry has the ability to facilitate additional employment to casual employees to assist in the cellar door with group tasting sessions, covering of breaks, washing dishes and cleaning the cellar door.

Wine industry employers have also reported that they would be able to engage additional casual employees to assist with cleaning, washing up and testing in the production areas.

Wine industry employers have also reported that a 2 hour casual minimum engagement provides the type of flexibility that better accommodate requests they receive from time to time from their cellar door employees for greater worklife balance and to schedule staff meetings and important training.

The variation would ensure that casual employees would continue to receive a greater guarantee of minimum hours compared to employees under the Horticulture Award 2010.

### **The need to encourage collective bargaining**

Whereas larger employers in the wine industry tend to be covered by enterprise agreements, smaller employers are less likely to engage in enterprise bargaining and more commonly remain covered by their Modern Award.

SAWIA submits that the variation will have no impact on the level of enterprise bargaining in the industry.

### **Social inclusion through increased workforce participation**

Wine industry employers have reported that the current 4 hour casual minimum engagement creates a disincentive to provide a number of short-term jobs to additional casual employees. Instead of being able to provide valuable work experience to local people (including secondary school students) a number of jobs with less than 4 hours duration has to be absorbed by existing staff.

In the cellar door this may compromise the level of service and the tasting experience, it also affects the availability of services provided and the viability of accepting coach and group tasting bookings.

Additional employment could be provided in the cellar door by being able to offer casual jobs to assist with group tasting sessions, covering of breaks, washing dishes and cleaning the cellar door.

In the vineyard with a 2 hour casual minimum engagement, wineries who traditionally have undertaken hand picking would find it more financially viable to continue offer this seasonal employment rather than replacing casual employees with machinery and equipment.

SAWIA submits that the variation would have a positive impact on the workforce participation in the regional areas where wine industry employers primarily are located.

**Flexible modern work practices and the efficient and productive performance of work and productivity, employment costs and the regulatory burden**

SAWIA submits that the variation would promote flexible modern practices and the efficient and productive performance of work. It would enable existing employees to focus their effort on value-adding activities whether in the cellar door or in the cellar (production) by freeing up time currently spent on ancillary activities such as cleaning, washing up and non-productive tasks.

In the vineyard it would reduce the financial impact of rapid weather changes which may prevent work from being continued in the vineyard during vintage or pruning. Currently, wine industry employers are paying substantial amounts in wages where no work is being performed and are discouraged from rostering on casual employees if there is a risk of rain.

SAWIA submits that the variation would ensure that the wine industry would not be any more restricted in utilising casual employees than employers in other industries involving primary production, sales, hospitality and tourism.

## **5. CONCLUSION**

SAWIA submits that the casual minimum engagement in the Wine Industry Award 2010 is inconsistent with the Modern Awards objective. The 4 hour casual minimum engagement does not establish a “fair and relevant minimum safety net of terms and conditions” as it gives rise to a number of adverse outcomes taking the considerations in section 134 of the Act into account.

The proposed variation balances the factors set out in section 134 of the Act.

Commonwealth of Australia  
STATUTORY DECLARATION  
*Statutory Declarations Act 1959*

I, Jeremy Dineen, of 370 Relbia Road, Relbia TAS 7258, Chief Winemaker and General Manager for Josef Chromy Wines

make the following declaration under the *Statutory Declarations Act 1959*:

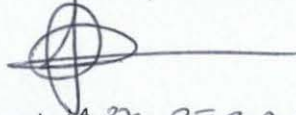
1. I am the Chief Winemaker and General Manager for Josef Chromy Wines and have been in this position for 10 years.
2. I have been in the wine industry for 18 years, working in viticulture and winemaking and have a Bachelor of Agricultural Science (Oenology) from University of Adelaide.
3. Josef Chromy Wines located in Relbia, approximately 12 kilometres from Launceston in Northern Tasmania was established in 2004. We specialise in cool climate viticulture and our practices and processes designed to produce high quality fruit.
4. The winery consists of a 61 Ha Vineyard, production facility with onsite bottling and warehousing, cellar door sales, restaurant, function centre and events venue.
5. We employ 21 full-time employees in the business.
6. Up to 80 casuals are working in the vineyard at peak times of harvest and pruning. 6 casual employees work in the winery during harvest and 3-4 casuals bottling and warehousing most of the year.
7. Up until 2010 we were covered by the Horticultural Industry (AWU) Award 2000. For businesses engaged in the preparation of vineyard products the minimum engagement for casual employees was 3 hours.
8. The minimum engagement period is particularly critical for vineyards in cool climates with variable weather. Pruning and Harvesting are the two major labour cost activities and both are at risk of inclement weather. If there is any risk of rain we now no longer call in the harvest casuals due to the risk of 60-80 casual employees being paid for a minimum 4 hours even if they have only worked 2 hours.
9. For this reason we now harvest much more by machine and consequently engage our casual employees for fewer hours than we used to. Prior to 2010 we used to harvest over 60% by hand whereas now we harvest less than 35% by hand.
10. The risk of inclement weather is just as important as unexpected weather events. If we suspect that rain is due we are less likely to bring employees in due to the 4 hour minimum than we would be under a shorter minimum engagement.
11. Each pruning and harvest season there would be approximately 5 to 10 days where there would be 20 to 30 casual staff sent home earlier due to inclement weather and another 3 to 7 days where 40 to 60 pickers are sent home for the same reason. This is equivalent to paying up to \$20,000 in wages for work not being performed.
12. In the case of bottling and packaging we have specialised equipment from Italy and Spain and no local service or support so if a breakdown occurs it could take days rather than hours to fix. If a breakdown occurs early in the production run then we need to attempt to find constructive work for 4 to 5 casual staff to fill the 4 hour requirement. Cleaning is the usual fall back but often is not required so we are just getting the staff to perform non-productive tasks.
13. I am aware that the South Australian Wine Industry Association has made an application for the casual minimum engagement in the Wine Industry Award 2010 to be 2 hours per occasion.



14. If the casual minimum engagement was 2 hours we would consider increasing the number of employees engaged in hand harvesting. We would also be willing to provide work on days where there was some risk of rain. Overall this would provide more opportunities for paid employment.
15. A casual minimum engagement of 2 hours would also reduce the risk of having to pay wages for work not being performed due to unexpected weather events.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 Signature of  
person making  
the declaration

3 

4 Place  
5 Day  
6 Month and year

Declared at <sup>4</sup> 870 REBIARD, on <sup>5</sup> 7<sup>th</sup> of <sup>6</sup> OCTOBER, 2015.  
REBIA

Before me,

7 Signature of  
person before  
whom the  
declaration is  
made (see over)

7 

8 Full name,  
qualification and  
address of person  
before whom the  
declaration is  
made (in printed  
letters)

8 VITTORIO MAGNUTTA  
CHARTERED ACCOUNTANTS  
15 MARKER ST  
HEALESVILLE VIC 3777

*Note 1* A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

*Note 2* Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

**A statutory declaration under the *Statutory Declarations Act 1959* may be made before—**

(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:

Chiropractor	Dentist	Legal practitioner
Medical practitioner	Nurse	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public  
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)

Bailiff

Bank officer with 5 or more continuous years of service

Building society officer with 5 or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with 5 or more years of continuous service

Employee of the Australian Trade Commission who is:

(a) in a country or place outside Australia; and

(b) authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and

(c) exercising his or her function in that place

Employee of the Commonwealth who is:

(a) in a country or place outside Australia; and

(b) authorised under paragraph 3 (c) of the *Consular Fees Act 1955*; and

(c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Force who is:

(a) an officer; or

(b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service; or

(c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

(a) the Parliament of the Commonwealth; or

(b) the Parliament of a State; or

(c) a Territory legislature; or

(d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

(a) the Commonwealth or a Commonwealth authority; or

(b) a State or Territory or a State or Territory authority; or

(c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

(a) the Commonwealth or a Commonwealth authority; or

(b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution



## **AFFIDAVIT**

### **IN THE FAIR WORK COMMISSION**

#### ***Review of the Wine Industry Award 2010***

### **CASUAL EMPLOYMENT**

**Matter No: AM2014/197**

**Applicant: South Australian Wine Industry Association**

Affidavit of: **Steven Todd**

Address: **57 Kays Road, McLaren Vale SA 5171**

Occupation: **General Manager**

I, Steven Todd, of 57 Kays Road, McLaren Vale in the State of South Australia, General Manager for Kay Brothers make oath and say/do solemnly and sincerely declare and affirm:

1. I make this affidavit based on my own knowledge, information and belief unless otherwise stated. This affidavit is true and correct to the best of my knowledge and belief.

#### **Background and operations**

2. I have been the General Manager for Kay Brothers since February 2014. Originally an electrical engineer, my professional life has been spent in a number of production management roles mainly in the food industry. For the last 12 years I've been a General Manager for a number of SME companies.
3. Kay Brothers is a small family owned winery in McLaren Vale founded in 1891. The company employs 13 staff members across cellar (production), vineyard, cellar door sales and management and administration.
4. Our cellar door is open 7 days per week, 9am-5pm Monday-Friday and 11am-5pm Saturday-Sunday. On public holidays the cellar door is open from 12pm-5pm. Coaches and limousines are by appointment only.

#### **Minimum Engagement for casual employees**

5. We employ 4 casual employees in the cellar door, some whom are only working weekends. Hence, in order to conduct essential staff training and meetings, including work health and safety training we have to ask our casual staff members to come in on an extra day. Recently, we implemented a new work health and safety system in the company which resulted in additional training being provided to our staff, including our casual cellar door employees.
6. The 4 hour casual minimum engagement means that we have to pay our casual employees 4 hours even though this far exceeds the duration of our staff training and meetings. We try to arrange other communications and or work to fill in the time when our casual staff come in, however, it is not really an efficient use of time either for the company or for the staff concerned. The 4 hour casual minimum engagement greatly adds to our cost of training.

7. The 4 hour casual minimum engagement also affects our cellar door operations as it limits the number of cellar door staff that we can roster on for group or coach bookings to the cellar door. A tasting session for a group of 10 visitors typically takes 15 minutes to prepare, 45-90 minutes for the tasting and then 15-20 minutes for washing glasses and cleaning tables etc. Rostering an additional casual employee for 4 hours is not viable where the actual session takes no more than 2.5 hours.
8. While we would like to be able to accept all group bookings, unless we can book in two consecutive sessions, the 4 hour casual minimum engagement makes it unviable to run a group tasting.

**Proposed variation to casual minimum engagement**

9. I am aware that the South Australian Wine Industry Association has made an application for the casual minimum engagement in the Wine Industry Award 2010 to be 2 hours.
10. With a 2 hour casual minimum engagement we would be able to more easily roster and conduct important staff training and meetings.
11. We would also be able to offer more shifts to our casual cellar door employees as we would be able to accept more group bookings.

**SWORN/AFFIRMED**

At [place]... MCLAREN VALE .....

by [signature of deponent]... [Signature] .....

On [date]... 25 October 2015 .....

Name of witness... ARKIAN HOOPER LACEY .....

On [date]... 25 October 2015 .....

Address of witness... 10 Mahrin Road, Glenelg SA 5045 .....

Capacity of witness [Justice of the peace/Solicitor/Barrister/Commissioner for affidavits/Registrar and Deputy Registrar of the Industrial Relations Court] JUSTICE OF THE PEACE.

Signature and ID of witness... [Signature] J.P. (13689) .....

## **AFFIDAVIT**

### **IN THE FAIR WORK COMMISSION**

#### **Review of the *Wine Industry Award 2010***

### **CASUAL EMPLOYMENT**

**Matter No: AM2014/197**

**Applicant: South Australian Wine Industry Association**

Affidavit of: **Anthony Grundel**

Address: **Murray Street, Greenock SA 5360**

Occupation: **General Manager**

I, Anthony Grundel, of Murray Street, Greenock in the State of South Australia, General Manager for Murray Street Vineyards make oath and say/do solemnly and sincerely declare and affirm:

1. I make this affidavit based on my own knowledge, information and belief unless otherwise stated. This affidavit is true and correct to the best of my knowledge and belief.

#### **Background**

2. I am the General Manager for Murray Street Vineyards and have been with the company for 8 years, including 6 years as Business Manager and the last 2 years as General Manager. I have been a Director of the company since 2014.
3. In my current position I am overseeing all aspects of the winery and the business operations.
4. Murray Street Vineyards is a small winery based in Barossa Valley, approximately 70 kilometres north of Adelaide. The company was founded in 2001 and consist of two vineyards (Greenock and Gomersal), tasting room and cellar door sales, barrel store and production facilities. Throughout the year we organise a number of functions and events, including weddings, at the winery.

#### **Organisation**

5. We employ 12 full-time employees and 8 casual employees across the winery, cellar door and functions. During vintage from January to June we employ 3 additional casual employees in the winery.
6. Our tasting room and cellar door in Greenock is open from 10am to 6pm seven days per week.

#### **Minimum Engagement for casual employees**

7. With a number guests coming visiting the tasting room and cellar door sales facility to enjoy our taste our wines and enjoy local produce platters there is a need for washing dishes and cleaning up. There is also a need for covering lunch breaks.


8. During vintage there is also need for cleaning and washing in the cellar production facility at the completion of shifts.
9. These are short jobs and would not take more than 2 hours to complete, but would provide particularly local secondary school students an opportunity to gain valuable work experience and be introduced to the local industry.
10. However, with the current 4 hour minimum engagement it is not viable to provide these jobs to casual employees, instead the jobs have to be filled by existing staff.
11. Prior to 2010 we were covered by the Wine and Spirit Industry (South Australia) Award which had a minimum engagement for casual employees of 2 hours. This is something we had as standard practice prior to 2010 changes.

**Proposed variation to casual minimum engagement**

12. I am aware that the South Australian Wine Industry Association has made an application to vary the casual minimum engagement in the Wine Industry Award 2010 to be 2 hours per occasion.
13. If the casual minimum engagement was 2 hours we would be happy to provide shorter casual jobs such as cleaning up in the cellar production facility and assisting with picking up glasses, washing dishes and cleaning up in the tasting room and cellar door sales facility to local people.
14. It would also assist with the rostering of breaks and provide flexibility to other staff members who may want to leave early on occasions.

**SWORN/AFFIRMED**

At [place] Munasy Street Vineyard, Greenock SA.

by [signature of deponent] 

On [date] 8-10-15

Name of witness KERRIE I. WOODARDS

On [date] 8.10.15

Address of witness 53 Pennice Rd. Angaston 5353

Capacity of witness [Justice of the peace/Solicitor/Barrister/Commissioner for affidavits/Registrar and Deputy Registrar of the Industrial Relations Court]

Signature and ID of witness  JP21377.

**Kerrie I. Woodards J.P.**

No. 21377

A Justice of the Peace  
for South Australia



## **AFFIDAVIT**

### **IN THE FAIR WORK COMMISSION**

#### **Review of the *Wine Industry Award 2010***

### **CASUAL EMPLOYMENT**

**Matter No: AM2014/197**

**Applicant: South Australian Wine Industry Association**

**Affidavit of: Rhys Robinson**

**Address: 1216 Pipers Brook Road, Pipers Brook TAS 7254**

**Occupation: Vineyard Manager/Viticulturist**

I, Rhys Robinson, of 1216 Pipers Brook Road, Pipers Brook in the State of Tasmania, Vineyard Manager/Viticulturist for Pipers Brook Vineyard make oath and say/do solemnly and sincerely declare and affirm:

1. I make this affidavit based on my own knowledge, information and belief unless otherwise stated. This affidavit is true and correct to the best of my knowledge and belief.

#### **Background**

2. I am the Vineyard Manager/Viticulturist for Pipers Brook Vineyard and have been in this position for 4 years. Prior to that I was the Vineyard Manager at Norfolk Rise Vineyard in Mount Benson, South Australia for 7 years.
3. I have been in the wine industry for 20 years.
4. Pipers Brook Vineyard is a company with six different vineyard sites located in the North East of Tasmania and the Tamar Valley. We have a winery, cellar door, café and bottling facility at our winery site in Pipers Brook. The closest major town to Pipers Brook is Launceston, approximately 51 kilometres away.

#### **Employment**

5. We employ 4 permanent staff in the winery and 5 casual employees during vintage from late February to June.
6. We employ 1 permanent staff in the cellar door and 4 casual employees during the busy warmer months, from October to April.
7. In our bottling facility we employ 4 permanent staff. 2 casual staff are engaged when we are bottling about once every 3 weeks.
8. In the vineyard we employ 4 permanent staff and 6 casual employees year round. In addition, during pruning from June until the end of September we engage 50 casual labour hire staff.

During November to January this drops down to 30 casual labour hire staff. For 10 days during harvest we engage up to 70 casual labour hire staff.

### **Minimum Engagement for casual employees**

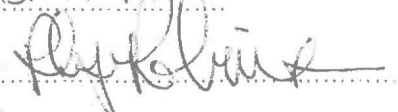
9. The major issue we have with the minimum 4 hours is during pruning when the weather is unpredictable and we can have up to 50 additional staff coming on site. If the weather turns bad then the staff cannot undertake work in the vineyard and we have to send home the staff early.
10. When this happens staff may only have worked for 1 hour so that we have to pay 3 hours in wages when no work is being performed. This is a significant cost where people haven't worked for 4 hours and we could pay up to \$3,300 per occasion just in award wages. To reduce the risk of this I often cancel work if more than 2mm of rain is forecast in the morning, so we aren't wasting money if we have to send them home early.
11. This then puts pressure on finishing pruning in a timely manner. Skilled labour is hard to come by in regional Tasmania so simply getting more people to make up for this is not a realistic option.
12. If on the other hand the weather is good during pruning, an average daily shift is 8 hours.
13. Also we can't get people in for short jobs like sampling of the juice after grape crush and during fermentation they need a minimum of 4 hours work whereas we could easily get it done in just 2 hours. Therefore, rather than offering more job opportunities existing staff have to complete jobs that are less than 4 hours.

### **Variation to casual minimum engagement**

14. I am aware that the South Australian Wine Industry Association has made an application for the casual minimum engagement in the Wine Industry Award 2010 to be 2 hours per occasion.
15. With a casual minimum engagement of 2 hours in the vineyard the financial risk of bad weather would be reduced as we would be able to send employees home without having to pay 3-4 hours in wages if the weather turns bad.
16. We would also be able to provide shorter jobs to additional casual employees when required, such as spraying of vines if there is an outbreak of pests and diseases.
17. Given the cool climate in Tasmania there is a need to undertake frost control and frost management to protect the vines from frost damage. When staff come in for frost control and the weather improves they can finish up and go home instead of working to fill the 4 hours and then going home.
18. Winery staff can come in and do checks that only take a couple of hours and then go home instead of filling in the 4 hours before going home.

SWORN/AFFIRMED

At [place] FARLEY' BRIDPORT RD ROERS BROOK TAS.

by [signature of deponent] 

On [date] 9/10/15

Name of witness IAN SAUER J.P.

On [date] 9/10/15

Address of witness FARLEY' 4196 BRIDPORT ROAD ROERS BROOK TASMANIA

Capacity of witness [Justice of the peace/Solicitor/Barrister/Commissioner for affidavits]

Signature and ID of witness 

IAN SAUER J.P.

## **AFFIDAVIT**

### **IN THE FAIR WORK COMMISSION**

#### **Review of the *Wine Industry Award 2010***

### **CASUAL EMPLOYMENT**

**Matter No: AM2014/197**

**Applicant: South Australian Wine Industry Association**

Affidavit of: **Richard van Ruth**

Address: **50 McMurtrie Road, McLaren Vale SA 5171**

Occupation: **General Manager, Primo Estate Winery**

I, Richard van Ruth, of 50 McMurtrie Road, McLaren Vale in the State of South Australia, General Manager for Primo Estate make oath and say/do solemnly and sincerely declare and affirm:

1. I make this affidavit based on my own knowledge, information and belief unless otherwise stated. This affidavit is true and correct to the best of my knowledge and belief.

#### **Background and operations**

2. I am the General Manager for Primo Estate and have been with the company for the past seven years as Business Development Manager, Assistant General Manager and General Manager. I have worked in the wine industry for the past 20 years in a wide variety of roles, including sales, marketing and management.
3. I am also a board member of the McLaren Vale Grape Wine & Tourism Association and member of the South Australian Wine Industry Association (SAWIA) Executive Committee.
4. Primo Estate has three vineyard sites around greater Adelaide. Our winery is based on our Virginia property north of Adelaide while the business is run from the McLaren Vale cellar door complex, approximately 40 kilometres south of Adelaide. We have 8 full time staff split between the administration and production sides of the business. During vintage we typically hire 3 additional casual production staff for between three and six months each. We employ 6 casual staff in our cellar door. Cellar door staff are typically based within the region or close by.
5. Primo Estate offers a tutored wine tasting of our flagship JOSEPH range 7 days per week in our McLaren Vale Cellar Door. The tasting usually takes around 45 minutes to complete. Group bookings for the JOSEPH tasting range from 8 to 40 people, both corporate and leisure.

#### **Minimum Engagement for casual employees**

6. The current minimum engagement of 4 hours primarily affects our cellar door operations. We find that the 4 hour minimum engagement limits the number of staff we are able to roster on as we typically do not require all the staff to be here for 4 hours. Depending on group size, the JOSEPH tasting typically requires 15-30 minutes for preparation, 45 minutes for the tasting then 15-30 minutes for cleaning glasses, tables etc, in total 1.25-1.75 hours. Given that it is not possible to

always book in two consecutive sessions to fill the 4 hour minimum engagement we regularly decline large group bookings.

7. Cellar door visitation has been rising steadily over the past 18 months, especially on weekends. We are able to track the number of visitors during each hour of the day by visitation records. We use these statistics to set staff levels for each day.
8. The current 4 hour minimum engagement limits the number of staff we are able to employ as often we only require additional staff for an hour or two. With award rates at their current levels we have to be very careful not to over staff our cellar door, where our wage percentage (the percentage of gross sales paid as wages) regularly exceeds 40%.
9. This means that while we would be able to provide a greater service to our visitors if we had more staff rostered on, with the current 4 hour minimum engagement this would be too expensive.

#### **Proposed variation to casual minimum engagement**

10. I am aware that the South Australian Wine Industry Association has made an application for the casual minimum engagement in the Wine Industry Award 2010 to be 2 hours.
11. Primo Estate would offer more shifts to casual cellar door staff if there the casual minimum engagement was reduce to 2 hours as we would be able to accept more group JOSEPH tastings bookings.
12. In addition, Primo Estate would also add additional casual cellar door shifts during weekend periods when we know there will be short periods where visitation spikes. Our business would benefit from the additional sales revenue generated as a result of accepting additional group bookings as well as being able to provide a higher level of personal service to cellar door visitors during peak periods.
13. I also believe there would be a broad benefit for tourism in South Australia, including to the McLaren Vale region resulting from a reduced minimum engagement period under the Wine Industry Award 2010. While South Australia already enjoys a strong reputation for our wine regions, offering increased levels of service and hospitality in the cellar doors would be likely to result in a greater visitor experience increased repeat visitation and word of mouth referrals.

SWORN/AFFIRMED

At [place]..... McLough Vile .....

by [signature of deponent].....  .....

On [date]..... 12/10/2015 .....

Name of witness..... ~~REDA~~ ADRIAN HOOPER LACEY .....

On [date]..... 12/10/2015 .....

Address of witness..... 10 MATURIN ROAD, BLENNELB SD45 .....

Capacity of witness [Justice of the peace/Solicitor/Barrister/Commissioner for affidavits/Registrar and Deputy Registrar of the Industrial Relations Court]

Signature and ID of witness..... AKenny JP (13689) .....