



SOUTH AUSTRALIAN WINE INDUSTRY
ASSOCIATION INCORPORATED

19 October 2015

Ms Katrine Huynh
Associate to Vice President Hatcher
Fair Work Commission

Email: chambers.hatcher.vp@fwc.gov.au

Cc: amod@fwc.gov.au

Dear Associate

**4 YEARLY REVIEW OF MODERN AWARDS : AM2014/197 CASUAL EMPLOYMENT –
FILING OF WITNESS STATEMENTS**

We refer to the extension of time granted by Vice President Hatcher on 12 October 2015 for the South Australian Wine Industry Association to file three witness statements in relation to AM2014/197- Casual Employment by Monday 19 October 2015.

The three witness statements in relation to the proposed variation to the casual minimum engagement in the Wine Industry Award 2010 are enclosed.

Yours sincerely

Henrik Wallgren
Business and Workplace Adviser
South Australian Wine Industry Association

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: Kirsty Balnaves

Address: [REDACTED]

Occupation: Director Marketing & Finance

I, Kirsty Balnaves, of [REDACTED] in the State of South Australia, Director of Marketing and Finance for Balnaves of Coonawarra, 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 Director of Marketing and Finance for Balnaves of Coonawarra. I am responsible for human resource management and administration and financial aspects of vineyard management and contracting, winery contracting, wine making and sales.
3. Balnaves of Coonawarra is a small family owned wine company located in the Coonawarra wine region in South Australia, approximately 380 kilometres from Adelaide.
4. Balnaves Vineyard Services was started by my family in 1988, Balnaves of Coonawarra wines were released in 1990 and our own winery was constructed in 1995.
5. I have been involved in managing the business since 1989
6. I am a member of the South Australian Wine Industry Association (SAWIA) Executive Committee.

Staff and operations

7. We employ 10 permanent and 14 casual employees in the vineyard, cellar/production and cellar door under the Wine Industry Award 2010. During vintage we engage 5 additional casual employees.
8. The vintage period (harvest) is the peak operational period in the winery. While vintage varies from year to year it commonly runs for 12 weeks between the months of March to May.

Cellar door sales

9. We operate a cellar door at the winery which is open seven days a week. The opening hours are Monday-Friday 9am-5pm and Weekends and Public Holidays 12pm-5pm.

10. Previously the cellar door was open from 10am-5pm on Weekends and Public Holidays. However, due to high labour costs on weekends we had to reduce our opening hours to 12pm-5pm on Weekends and Public Holidays.
11. We are now considering a further reduction in our cellar door opening hours to 12pm-4pm on Weekends and Public Holidays, i.e. equivalent to the casual minimum engagement.
12. Customers, tourists and visitors to regional areas expect a winery to operate a cellar door seven days a week and to offer the wine tasting free of charge. However, depending on the number of customers to the cellar door and the number of sales, on weekends in particular, we may not even cover our labour costs.
13. A cellar door visit commonly runs for 30-45 minutes and involves educating visitors about the winery, the region and winemaking, wine appreciation and tasting and customer sales.
14. Ideally in order to provide good customer service and a good tasting experience a cellar door employee would serve not more than 30 customers at any one time.

Minimum Engagement for casual employees

15. Prior to the commencement of the Wine Industry Award 2010, we were covered by the Wine and Spirit Industry (South Australia) Award. The minimum engagement for casual employees under the Wine and Spirit Industry (South Australia) Award was 2 hours.
16. Due to the combination of the 4 hour minimum engagement and the weekend penalty rates it is too expensive to roster more than 1 person in the cellar door on any given day. This means that when the cellar door is busy we may not be able to look after our visitors as well as we would like.
17. In other parts of the business for example the cellar (production), during vintage smaller jobs such as wash downs of machinery and equipment which may involve 1-2 hours of work have to be performed at the completion of the shift in overtime by existing staff.
18. During the Christmas and New Year shutdown there is a need to come on site to do a gas run which takes no more than 2 hours. Occasionally staff have to come to the vineyard during the night/early morning to undertake frost control and frost management work which would take less than 4 hours.
19. With the 4 hour minimum engagement it is cost probative to engage additional casual employees to perform jobs with a duration of less than 4 hours.

Proposed variation to casual minimum engagement

20. I am aware that SAWIA is seeking a variation for the casual minimum engagement to be 2 hours per occasion.
21. With a casual minimum engagement of 2 hours we would reconsider our rostering for the cellar door, which may include increasing the opening hours on weekends and public holidays and engaging one or two additional casual employees.
22. A casual minimum engagement of 2 hours would also enable us to offer additional employment opportunities during vintage by engaging additional casual employees for shorter jobs such in the cellar and relief work in the vineyard.

SWORN/AFFIRMED

At [place]... COONAWARRA

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

On [date]... 16th OCTOBER 2015

Name of witness... DOUGLAS IAN BALNAVES

On [date]... 16th OCTOBER 2015

Address of witness...

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... [Signature] J P 10295

**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: Fred Peacock

Address: [REDACTED]

Occupation: Chief Executive Officer and Proprietor

I, Fred Peacock, of [REDACTED], Chief Executive Officer and Proprietor of Bream Creek Vineyard Pty Ltd and Fred Peacock Viticulture and Consulting 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 have been the Chief Executive Officer and Proprietor of Bream Creek Vineyard and Fred Peacock Viticulture and Consulting since 1990.
3. I have been involved in the Tasmanian wine industry for 40 years in a number of positions. In the mid-1970s I was employed by the Tasmanian State Government to assist with the establishment and development of the modern Tasmanian wine industry. In the early 1980s I was appointed the Tasmanian State Government's first Viticultural Officer and remained in that role until January 1989.
4. Bream Creek Vineyard is 7.5 hectare vineyard located in Bream Creek on Tasmania's East Coast, approximately 55 kilometres east of Hobart.
5. In addition to managing the Bream Creek Vineyard I also manage vineyards on behalf of other property owners and operate a small vineyard labour hire agency to undertake mainly hand pruning, handpicking and bird net application and retrieval.

Operations and staffing

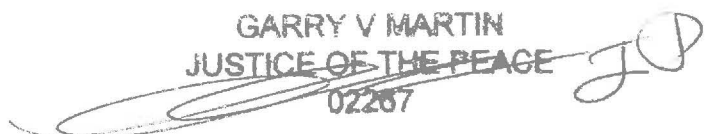
6. I employ 4 permanent employees to work in the vineyard. During the peak operational periods of pruning from May to September and harvesting from February to May the casual workforce commonly increases to 18 employees.

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JUSTICE OF THE PEACE
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Minimum Engagement for casual employees

7. The 4 hour minimum casual engagement is very problematic for our business which undertakes hand pruning and hand picking in a climate subject to sudden changes in weather. We undertake hand pruning from May to September and hand harvesting from February to May.
8. With hand harvesting during adverse weather seasons, we must decide if the likely weather will allow us a clear 4 hours minimum to engage the team. It is imperative that in adverse seasons we take every opportunity to hand harvest the grapes whilst they are dry and still in acceptable condition.
9. Whilst we take every care to assess the forecast and likely weather, in some seasons with atmospheric instability the Bureau of Meteorology cannot give us a high degree of forecast certainty and thus we are forced to at least commence the harvesting process. If we get rain then we must stop and this can happen in as short a time as after 2 hours – about the limit of the current local weather radar scans available to us.
10. An unfinished block means we have to return and take another risk in an adverse season that we may again not make the 4 hour minimum engagement, thus having to pay the minimum 4 hours in wages, potentially on two occasions (8 hours pay) for no more than 4 hours of work.
11. We cannot endure a situation where 4 hours in wages are paid for work not completed for long before the crop gets written off due to the escalating and non-productive costs. Once the crop is written off then none of the casuals get the harvesting work. In order to reduce the cost of not meeting the minimum engagement we have had to reduce the number of casual employees we engage at any one time.
12. If the weather turns particularly unpleasant - not just from rain but from high winds, and extreme temperatures, in many cases our casual employees want to leave inside the 4 hours to avoid the weather. With a 4 hour minimum we are forced to push on much to everyone's discomfort where undertaking pruning work and where it is safe to do so. However, this leads to costly and inefficient work practices due to the pressure of the prevailing conditions.
13. The wet and slippery conditions in the vineyard can make it too hazardous to continue working in which case work has to stop. Once again we then may have to pay the minimum 4 hours where work cannot be performed.
14. With small holdings, the 4 hour minimum does not reasonably allow more than one employer to use the team per day, even though a block may be able to be finished in less than 4 hours and for the team to be able to move immediately into another employers block. Instead we employ less pickers to stretch the work out and forego the additional work available to the team. Multiple block harvesting is good for the casuals and allows other vineyards better access to an experienced team, reduces costs and reduces the risks of harvesting delays and the resultant fruit rejection.
15. Unforeseen machinery breakdowns which force the cessation of operations inside 4 hours add to the already high cost of rescheduling and repairs. Machinery breakdowns are not common but always a risk which must be considered.
16. There are also casuals who want to work shorter than 4 hours so that they can earn some wages but still undertake parenting/caring duties, undertake other non-vineyard related work or attend personal appointments. These are generally the more enthusiastic and capable staff who are very keen to work. However, even when this would suit the business and the casual employee, we are

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unable to agree to this given the 4 hour minimum engagement.

17. In situations where there is unexpectedly more work in the day than estimated and the team is struggling to finish the day's work, having a 4 hour minimum discourages the employer from engaging additional willing casual workers to assist the team to complete the task in reasonable time on that day, or before weather conditions dictate a halt.
18. Conversely it prevents members of our team assisting another employer with a similar problem if we finish earlier than expected as the other employer also would be required to pay for 4 hours where the additional work might no more than 2 hours.

Proposed variation to casual minimum engagement

19. 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.
20. If the casual minimum engagement was 2 hours we would be able to engage more casual employees to undertake pruning and harvesting and be willing to provide casual work on days where there was some risk of adverse weather.
21. In the event the harvest team was struggling to complete the work on time or before the advent of adverse weather we would be able to bring in additional casual employees to assist.
22. Overall, more opportunities for paid employment would be provided.

The variation would where mutually beneficial, allow us to offer casual employment to those who wish to work shifts that are shorter than 4 hours to enable them to meet their parenting/caring duties, undertake other non-vineyard work and attend personal appointments

SWORN/AFFIRMED

At [place]..... HOBART

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

On [date]..... 19-10-2015

Name of witness..... Garry Martin

On [date]..... 19-10-2015

Address of witness. [Redacted Address]

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..... [Signature]

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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: Samantha Robinson

Address: [REDACTED]

Occupation: Brand, Site and Communications Manager

I, Samantha Robinson of [REDACTED], Brand, Site and Communications Manager for Morris Wines 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 organisation

2. I am the Brand, Site and Communications Manager for Morris Wines and have been working in the wine industry for approximately 2 years. Prior to this my career was predominately focused on Call Centre Management.
3. Some of my tasks include the management of our Cellar Door, events, visitation, wine club, stock management, community engagement and most importantly customer engagement and experience.
4. Morris Wines is a boutique winery in the Rutherglen Wine Region in North East Victoria. Our site includes a Cellar Door, production facility, lab and vineyard. We do some bottling on site however we use a mobile bottling truck to facilitate this. On a regular week day we would have approximately 12 staff on site. During Vintage there can be as many as 40. For major events we would increase our staffing by approximately 15.
5. Our cellar door is open 6 hours a day, seven days a week. I use a rotating roster with four casuals all of whom are balancing work with caring responsibilities, studies or running their own businesses.

Minimum Engagement for casual employees

6. The 4 hour minimum engagement is problematic both for our business and for our casual cellar door staff.
7. I am often left short with staff needing to finish 1-2 hours early for school pickups et cetera. At these times there is increased pressure on additional staff or I am required to fill in the gaps.

8. On the other hand in quiet times with few visitors to the cellar door the current 4 hour engagement is unproductive where there is not a lot a work in the cellar door.
9. Our cellar door staff have often raised their frustration at the 4 hour minimum engagement and the impact on their rostering. In our discussions they have raised that they would prefer at times to split the day between two staff members to assist with life/work balance, for example to attend children's sporting activities. However, we are unable to do so under the current provision.
10. Many of our events see us receive visitation in waves. For example we have an event called Winery Walkabout; it is one of the largest and longest running wine events in Australia. It is not unusual for us to have one thousand people pass through our gate at 10.00 am, once they clear we can have an hour and half without activity – with the currently regulations staffing an event of this magnitude (approximately 14000 visitors over 2 days) effectively is difficult.

Variation to casual minimum engagement

11. 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.
12. A 2 hour casual minimum engagement would enable us to roster staff more effectively in the cellar door and provide greater flexibility to our staff. Ideally would could then to offer one staff member four hours in the morning and then the remaining two hours to another staff member.
13. It would also enable us to roster additional casual staff for the morning rush in the cellar door, to cover lunch breaks or to allow the option of a shorter day.
14. I am never short of people who would be willing to do a couple of hours at a time.

SWORN/AFFIRMED

At [place]... Dulwich

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

On [date]... 16 October 2015

Name of witness... Cassandra Ostle

On [date]... 16 October 2015

[Redacted] [Redacted] [Redacted] [Redacted]

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

Signature and ID of witness... [Signature]

Cassandra Ruth Ostle
A Commissioner for taking affidavits
in the Supreme Court of South Australia