



# DETERMINATION

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

## **4 yearly review of modern awards— Part-time and Casual Employment**

(AM2014/196 and AM2014/197)

### **HORTICULTURE AWARD 2010**

[MA000028]

Agricultural industry

VICE PRESIDENT HATCHER  
SENIOR DEPUTY PRESIDENT HAMBERGER  
DEPUTY PRESIDENT KOVACIC  
DEPUTY PRESIDENT BULL

SYDNEY, 2 APRIL 2019

*4 yearly review of modern awards - part time employment and casual employment - overtime entitlements for casual employees - Horticulture Award 2010.*

A. Further to the Full Bench decisions issued by the Fair Work Commission on 2 April 2019 [2019] FWCFB 2108 and on 9 August 2018 [2018] FWCFB 4695, the above award is varied as follows:

1. By renumbering clause 22.2 as clause 22.3.
2. By inserting a new clause 22.2 as follows:

**22.2** The ordinary hours of work for casual employees other than shiftworkers will not exceed 304 ordinary hours over an eight week period provided that:

- (a) Ordinary hours of work for casual employees can be worked at any time.
- (b) Each ordinary hour of work worked by a casual employee on any day of the week (excluding public holidays) between 5.00 am and 8.30 pm will be paid at the employee's minimum hourly wage for his or her classification plus a casual loading of 25%.
- (c) In a State or Territory that does not observe daylight saving time, by agreement between the employer and a majority of affected casual employees, the 5.00 am to 8.30 pm daily spread of hours can be moved forward one hour (4.00 am to 7.30 pm) for the period of daylight saving time in other States and Territories.

- (d) Each ordinary hour worked by a casual employee on any day of the week (excluding public holidays) between 8.31 pm and 4.59 am (or 7.31 pm and 3.59 am in accordance with clause 22.2(c)) will attract a loading of 15% of the employee's minimum hourly wage for his or her classification (in addition to the casual loading of 25%).
- (e) The maximum number of ordinary hours which a casual employee may work per engagement, or on any day, is 12 ordinary hours.
- (f) All time worked in excess of 12 hours per engagement, 12 hours in a single day or 304 ordinary hours over an eight week period will be deemed overtime.

3. By renaming clause 24.2 as "**Payment for overtime—other than casual employees**".

4. By renumbering clause 24.3 as clause 24.4.

5. By inserting a new clause 24.3 as follows:

**24.3 Payment for overtime—casual employees**

Each hour worked in excess of 12 hours per engagement, 12 hour in a single day or 304 ordinary hours over an eight week period will be paid at a rate of 175% of the employee's minimum hourly wage for his or her classification (inclusive of the casual loading).

6. By deleting clause 15.5(c) and inserting the following:

(c) Clause 24.4—Meal allowance.

7. By renaming clause 28.3 as "**Public holiday rates of pay—other than casual employees**".

8. By inserting clause 28.4 as follows:

**28.4 Public holiday rates of pay—casual employees**

All hours worked by a casual employee on a public holiday (both ordinary hours and any overtime) will be paid at a rate of 225% of the employee's minimum hourly wage for his or her classification (inclusive of the casual loading).

9. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation from 15 April 2019. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after the date of the operation.



VICE PRESIDENT

Printed by authority of the Commonwealth Government Printer