

From: Stephen Crawford <stephen.crawford@nat.awu.net.au>
Sent: Wednesday, 15 September 2021 11:03 AM
To: Chambers - Easton DP <Chambers.Easton.DP@fwc.gov.au>
Cc: Ben Rogers <BRogers@nff.org.au>; AMOD <AMOD@fwc.gov.au>; Jason Letchford <scaa@scaa.org.au>
Subject: Re: Request to join Conference by Telephone re Listing - AM2021/54 - Casual terms review - Pastoral Award - Clause 50

Dear Associate,

Ahead of today's Conference in Matter AM2021/54 in relation to the Pastoral Award, the following may assist the FWC and the other parties in understanding the AWU's concerns about the NFF's proposal to simply insert full-time/part-time piece rates into the Pastoral Award which do not include a 25% casual loading.

Currently, a non-found shearer is entitled under clause 51.1 to a piece rate of \$331.98 per 100 sheep. Assuming a shearer shears 500 sheep per week during a 4-week engagement, they would earn: $5 \times \$331.98 \times 4 \text{ weeks} = \$6,639.60$.

If the 25% casual loading is removed from the formula, the non-found piece rate would be \$289.54 per 100 sheep. A shearer shearing 500 sheep per week under a 4-week fixed term contract would earn: $5 \times \$289.54 \times 4 \text{ weeks} = \$5,790.80$.

The worker would accrue 1/3 of a week of annual leave in 4 weeks. It is unclear what rate annual leave would be paid at given the exclusion in clause 20.3(a) of Pastoral Award, but even using a best-case scenario of the piece work earnings, the value of that annual leave would be $5 \times \$289.54 \times 1/3 + 17.5\% \text{ leave loading} = \567.02 . Assuming this annual leave is paid out on termination, the total earnings would be $\$5,790.80 + \$567.02 = \$6,357.82$. Under this example, the worker is \$281.78 worse off over the 4-week period.

The worker would accrue less than a day of personal/carer's leave during 4 weeks (again, the payment rate would be unclear) and would not be entitled to notice of termination or redundancy conditions due to the exclusion in s 123(1)(a) of the FW Act. Fixed-term employment appears to be the only conceivable type of employment that would be offered to any full-time or part-time employee given the seasonal and transient nature of shearing and other associated work.

It is also unclear what rate would be paid to a full-time or part-time piecework employee if there is no work to perform – given piece rate earnings can only be generated where work is performed.

The AWU considers these are very serious and important issues that would need to be carefully considered in a procedurally fair manner with reference to evidence about the industry before any widespread changes are made to the payment provisions in Part 9 of the Pastoral Award.

It also appears any change to the piecework rates in clause 51 of the Pastoral Award may need to be justified by work value reasons due to the operation of s 284(3) and 157(2) of the FW Act.

Regards,

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