



National Farmers'
F E D E R A T I O N

**Outline of Submissions to the
Wages & Allowances Review 2006**

1 December 2006

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Introduction

1. The National Farmers' Federation (NFF) seeks to provide submissions in respect to the Wages and Allowances Review 2006.
2. The Wages and Allowances Review 2006 (the Review) concerns applications to vary Awards (pre-reform and transitional) as a result of the recent determination of the Australian Fair Pay Commission (AFPC).
3. NFF submits that there are a number of issues relating to wages and allowances that require the determination of the Full Bench of the Australian Industrial Relations Commission for the first time in regard to both pre-reform awards and transitional awards.
4. The issues are of both a broad nature in terms of consistent application across all awards but there also may well be more narrow issues relating to individual awards that will subsequently require specific attention.
5. The submission of the NFF is divided into three sections, the first relating to pre-reform awards, the second relating to the transitional awards and the third relating to operative date.

Pre-reform Awards

6. Prior to the introduction of WorkChoices on 27 March 2006, pre-reform award wage related allowances were varied as a flow on from the Safety Net Review decisions by way of a formula derived from the Furnishing and Glass Industries Allowances decision [Print M9675, 21 March 1996].
7. Prior to the introduction of WorkChoices on 27 March 2006, pre-reform award expense related allowances were varied by application of the relevant Consumer Price Index.
8. It was usual practice of many parties to increase the expense related allowances at the same time as the application to vary minimum wage rates and work related allowances flowing from the Safety Net Review Decision.
9. The Workplace Relations Act now utilises the term monetary allowances which include both what is historically known as work related and expense related allowances.
10. NFF submits that the Furnishing and Glass Industries Allowances formula [Print M9675, 21 March 1996] should continue to be used in determining the increase to what are considered work related allowances within the definition of monetary allowances. Due to the fact that the AIRC no longer has a wage setting function for pre-reform awards, it would seem consistent for the AIRC to accept the wage increase determined by the AFPC as the appropriate amount to accept to increase the work related allowances in pre-reform awards in accordance with the formula.
11. NFF submits that the consumer price index should remain as the determinant for expense related allowances within the definition of monetary allowances.

Agricultural Awards

12. Prior to WorkChoices commencing in 27 March 2006, two agricultural awards contained formulas to determine both piecework and periodic rates of pay, those being Part B of the Pastoral Industry Award that determine the rates of pay for all shed staff and also the Woolclassers' Award.

13. In both Awards, the formula contains a number of components including a minimum rate, casual rates and allowances, both wage-related and expense related. The allowances have historically been varied in accordance with the usual practice of the AIRC.
14. In the Pastoral Industry Award the determination of the formula then has an impact on wage rates and allowances for remaining shed staff.
15. In consideration of the new provisions of the Act and, consistent with the submissions of the Commonwealth (Section 5 of the Commonwealth Government Submission to the Wages and Allowances Review 2006), NFF accepts that the wage rates that are determined by a formula are now under the jurisdiction of the AFPC. That is, there is no jurisdiction of the AIRC to vary the allowances contained in those relevant formulas that determine the wage rates.
16. As a consequence, NFF submits that the only role for the AIRC in these matters is to vary allowances that are not a component of determining a wage rate or those payments that may be defined as incentive based payments. Those allowances and other payments will need to be accurately identified in the settlement of any orders for the relevant awards.

Transitional Awards

Introduction

17. In accordance with Schedule 6 of the Workplace Relations Act, the AIRC retains full jurisdiction of the transitional awards.
18. The applications before the AIRC in these matters seek to vary the awards in respect to wages and allowances.
19. Included in the applications before the AIRC are the three agricultural awards that NFF represents member organisations, the Pastoral Industry Award, the Horticultural Industry Award and the Woolclassers' Industry Award.
20. NFF submits that a vast majority of its membership is covered by transitional awards. Agriculture is likely to be the industry with the greatest representation in the transitional award system. A breakdown of the estimated coverage of the 130,000 farming businesses in Australia between WorkChoices, Transitional and State systems is attached (marked A) for the consideration of the AIRC. This information has been developed by analysing unpublished ABARE data and consideration of membership records of member organisations.
21. In 2004-05 there were 312,000 people directly employed in Australian agriculture. This number has decreased from 386,000 (19 per cent) in 2001-02. ABARE expects this trend to continue in 2005-06, with the number of people employed in agriculture to decrease to 305,000 (ABARE, 2006).

Influence of AFPC decision

22. NFF acknowledges the impact of Clause 8 of Schedule 6 of the Act in terms of the consideration of the decision of the AFPC decision by the AIRC in determining the wages and allowances of transitional awards.
23. Nevertheless, NFF submits that while the AIRC should have regard to the decision of the AFPC and the potential consequences of the comparisons to the two systems, the AIRC is not bound by the decision.

24. NFF submits that the AIRC has discretion to differentiate between the AFPC and its own findings if there is evidence that those employers under its jurisdiction are experiencing different economic circumstances than those consider at a broader level by the AFPC.
25. NFF submits that the AIRC should take into account the significant number of farmers in the transitional award system and the economic conditions currently being faced by the agricultural industry in times of create uncertainty due to drought conditions.

Drought

26. It has been well reported that Australia is experiencing one of, if not the worst, drought on record. The Bureau of Meteorology indicated that August 2006 was the driest August in the historical record from 1900, as well as being the warmest since high-quality monthly temperature records began in 1950. This dry pattern continued throughout September, October and November 2006.
27. As a result, The Australian Bureau of Agriculture and Resource Economics (ABARE) downgraded its forecast for the wheat crop to 9.5 million tonnes, representing a 63 per cent decrease on last year's crop. Depending on the eventual price of harvested grain, this is expected to remove between 2-3 billion dollars from grain producer's incomes.
28. Yet the effects of the continued dry are not only impacting on grain producers, the livestock sector is also bracing itself for poor availability of feed this spring and summer. At the end of September 2006, Meat and Livestock Australia (MLA) reported a 20 per cent increase in the numbers of cattle sold during the month, while lamb sales trends are reflecting the same de-stocking patterns as that of the disastrous 2002-03 season.
29. The combined effects of the dry have brought about predictions of a 0.7 per cent decrease in gross domestic product, and ABARE has more recently forecast a 35 per cent decline in farm production values to its lowest level in 12 years.
30. Farmers' average incomes have decreased by almost 70 per cent over the past five years as a result of the drought, in conjunction with the high Australian dollar and rising fuel costs. These factors have effectively offset the recent gains from higher commodity prices.

Level of Wage Increase

31. As a consequence of drought conditions, NFF submits, consistent with our submission to the AFPC, that any increase to wages and allowances to transitional awards should be no greater than the increase to the consumer price index.

32. In the NFF submission to the AFPC, we stated the following:

EXECUTIVE SUMMARY

- In terms of the development of the federal minimum wage, the National Farmers' Federation (NFF) has been a proponent of the view that wage increases should be based on productivity gains at the workplace and as such the establishment and maintenance of legislative based minimum wages should fundamentally be based on one federal minimum wage to ensure an adequate safety net.*
- NFF seeks an outcome from the Australian Fair Pay Commission that will enhance workplace flexibility and productivity through flexible labour markets where remuneration is clearly linked to productivity growth.*
- If the Commission believes a wage increase is warranted, NFF submits that any increase to the federal minimum wage should be set at a moderate and reasonable level that is no more than the CPI rate. An increase beyond the CPI rate would not be consistent with the NFF objective of wage increases being set in accordance with productivity gains at the workplace.*
- NFF submits that the capacity of the unemployed and low paid to obtain and remain in employment is premised on the ability of industry to generate employment.*
- NFF seeks that the Australian Fair Pay Commission take into account the capacity of each industry to pay a wage increase and as a consequence the industry's ability to provide new employment opportunities as opposed to decreasing employment due to the enforcement of wage increases beyond what is reasonable.*
- Australia continues to endure drought conditions across a large portion of prime agricultural country. As a result, many farmers have been declared by Government as facing exceptional circumstances.*
- The future of Australia's agriculture industry, particularly its capacity to contribute to growth and jobs, depends largely on the conditions they face in overseas markets. However, with declining terms of trade in this sector expected to continue on world markets, Australian agriculture is being challenged to maintain a low cost base in order to remain competitive. Indeed, Australia's balance of payments is strongly dependent on this being the case.*
- Demand for labour in regional Australia is more responsive (elastic) to wage changes than in the cities. This is believed to be largely a result of high amounts of family labour which is used as a substitute for hired labour, especially when wages are high (Lewis Report, 2003).*

33. NFF seeks that the NFF submissions to the AFPC be considered and accepted by the AIRC in regard to determining the level of increase in the transitional awards.
34. That is, NFF submits that the AIRC should not accept the finding of the AFPC.

Allowances

35. Prior to the introduction of WorkChoices on 27 March 2006, award wage related allowances were varied as a flow on from the Safety Net Review decisions by way of a formula derived from the Furnishing and Glass Industries Allowances decision [Print M9675, 21 March 1996].
36. Prior to the introduction of WorkChoices on 27 March 2006, expense related allowances were varied by application of the relevant Consumer Price Index.
37. It was usual practice of many parties to increase the expense related allowances at the same time as the application to vary minimum wage rates and work related allowances flowing from the Safety Net Review Decision.
38. NFF submits that the Furnishing and Glass Industries Allowances formula [Print M9675, 21 March 1996] should continue to be used in determining the increase to what are considered work related allowances within the definition of monetary allowances based on the minimum wage increase awarded by the AIRC.
39. NFF submits that the consumer price index should remain as the determinant for expense related allowances within the definition of monetary allowances.

Operative Date

40. NFF submits that there should not be any retrospective operative dates in regard to any of the applications before the AIRC for both pre-reform and transitional awards.
41. Operative dates should be the date the order is finalised by the AIRC in relation to each of the individual awards.
42. There is no binding requirement of the Act that specifies the operative date of allowances for pre-reform awards and wages and allowances in transitional awards must be consistent with the operative date of the wage increases for pre-reform awards.
43. In the opinion of the NFF, the argument put by the ACTU as to an 18 month delay to assist in the justification of a retrospective date is a furphy. In many instances it is only just 12 months since the last increase for many awards including the Pastoral Industry Award that was last varied on 31 October 2005.
44. NFF submits that the AIRC should continue its position of exceptional and limited circumstances upon which retrospectivity can occur. NFF submits that those circumstances do not exist in any of these applications.
45. If the AIRC does not accept the submissions of the NFF in regard to operative date for the pre-reform award applications, it should do so for the transitional awards.
46. It is not, in accordance with the Act, automatic that transitional awards will have the same wage increase as that determined by the AFPC, therefore, we have been unable to advise farmers of the quantum of any increase. This argument is particularly pertinent given that the applications currently before the AIRC are the first time upon which Schedule 6 has been considered against an AFPC decision, therefore, uncertainty remains. Hence, transitional award employers, certainly NFF members, have not been notified prior to 1 December 2006 of the wage increases as it is impossible to advise them of such until a determination by the AIRC in respect to the current applications.
47. NFF also supports the submissions of the Australian Chamber of Commerce and Industry in respect to operative date.

Jurisdictional Coverage of Agricultural Industry before & after Introduction of WorkChoices

Approximately 90% of Australia's 130,000 farming businesses are not incorporated. However, there are no statistics to clarify what proportion of those employ or not employ. Further, a large majority of farmers operate under the federal jurisdiction as opposed to the State jurisdiction with the exception of Queensland prior to WorkChoices. The below figures are estimates only by NFF and its member organisations.

Jurisdictional Coverage before Work Choices

<i>State</i>	<i>Federal Jurisdiction</i>	<i>State Jurisdiction</i>
Queensland	0%	100%
NSW	75%	25%
Victoria	100%	0%
Tasmania	80%	20%
South Australia	70%	30%
Western Australia	70%	30%
Northern Territory	100%	0%
ACT	100%	0%

Jurisdictional Coverage after commencement of Work Choices

<i>State</i>	<i>Federal Jurisdiction</i>		<i>State Jurisdiction</i>
	<i>Work Choices</i>	<i>Federal Transitional Awards</i>	
Queensland	10%	0%	90%
NSW	10%	70%	20%
Victoria	10%	90%	0%
Tasmania	10%	75%	15%
South Australia	10%	65%	25%
Western Australia	10%	65%	25%
Northern Territory	100%	0%	0%
ACT	100%	0%	0%