

**Matter No: AM2014/196 and AM2014/197**

**Four yearly review of modern awards**

**– Casual employment and Part-time employment**

**HORTICULTURE AWARD, 2010**

## **SUBMISSION**

Date: 29 August, 2018

### **Introduction**

1. TFGA Industrial Association (PET) is the peak industry body in Tasmania representing employers in agriculture, horticulture and viticulture.
2. PET represents over 530 members across the state, over 100 of whom are covered by the *Horticulture Award, 2010* who will be adversely affected by the proposed variations to this Award.
3. PET understands that the Tasmanian berry industry is worth over \$70,000,000 per year.
4. This submission is filed in accordance with the decision of the Full Bench in this matter dated 9 August, 2018.
5. In the 5 July, 2017 Decision, the Full Bench set out five propositions demonstrated by the previous evidence submitted being:

(1) Horticultural businesses tend to be price takers for their product, meaning that they have little or no capacity to pass on any increase of significance in their labour costs. Award variations will significantly increase labour costs and adversely affect profit margins, potentially affect business viability, which ultimately might have adverse employment effects.

(2) Casual employees are used extensively to perform seasonal harvesting

functions. These functions require extensive hours of work to be performed in relatively short periods of time. Weather events may mean that harvesting time lost on particular days must be re-gained in subsequent days, regardless of which day of the week it is.

(3) Casual employees performing seasonal harvesting work are commonly on work or holiday visas. Their preference is (within reason) to work as many hours, and earn as much income, as they can within a short space of time and then follow the harvest trail.

(4) The most likely response of employers within the sector to any onerous overtime penalty rate requirement will be attempts to avoid its incidence. Most would try to achieve this by reducing the working hours of their casuals to a level not attracting any overtime payments, and employ more casuals to cover the hours. However this will be counter-productive resulting in lower incomes per worker. This would produce would reduce the supply of persons willing to work casually in the industry. The alternatives mentioned were to move to less labour intensive crops or reduce output.

- PET agrees with these five propositions.

### **Seasonal work in the Tasmanian horticulture industry**

6. The fruit industry in Tasmania covers a broad range of commodities. These include apples, pears, cherries and many varieties of soft berries (including strawberries, raspberries and blackberries). The growing seasons, harvest times, growing inputs and market demands vary crop by crop.
7. A typical peak season in the horticulture industry varies across commodities and business size. In Tasmania, with increased technology and hydroponics, strawberries and other soft fruits have a harvest period of seven (7) months, sometimes more depending upon the season.
8. Harvest is the busiest time of the year for most horticultural businesses. However, many businesses also require seasonal labour for maintenance, pruning, re-planting and husbandry, which mostly occurs after harvest.
9. A number of issues arise in relation to the potential costs of overtime if introduced for casual employees with many employers refusing to offer overtime for casuals. Our grower members have limited bargaining power in relation to the supply of product to the major buyers and supermarkets. At the time of writing the supermarkets are selling

strawberries for between \$1.00 and \$1.70 per punnet. Many producers have been forced to leave produce unpicked, allowing it to spoil and become unfit for consumption.

10. One of our members provides the following information and the impact upon its business:

- Over 450 employees during harvest, over 130 of which are hourly paid casuals.
- As an employer it cannot afford to pay overtime to casuals and will result in capped hours and increased labour units to reduce the additional cost.
- With capped hours this employer will need 18% more casual Packhouse team members.
- With capped hours the employer will need 32% more casual Supervisors.
- The local area already has an accommodation shortage, so additional staff will have to travel to and from the workplace greater distances to the main population centres.
- With a shortage of accommodation, employees will have to travel from Launceston which is a 70 kilometre return trip.
- As per RACV Private vehicle Expenses 2018, running a medium sized vehicle cost 70.1c/km, = \$49.07/ day cost of driving from Launceston to the workplace return.
- People will not drive to the workplace for only 38 hours per week when it costs \$245.35 per week.

11. Many of our members, as is common in agriculture generally, are located many kilometres from the main population centres and will face similar situations.

### **Averaging period for overtime**

12. Given the seasons, unpredictable weather, and intensive labour needs of growers vary according to the farm business size and the commodity, the length of averaging period that would be most appropriate for each business could vary significantly and an averaging period should not disadvantage one sector of the industry compared to others. Eight (8) weeks may suit and cover apples, but it does not provide an appropriate period for soft berries.

13. PET supports the previous submissions of the National Farmers Federation (NFF) proposing an averaging of 38 hours per weeks across a period of six months to fit into the extended harvest seasons that exist in the berry sector in Tasmania.



14. A six-month period captures the vast majority of peak harvest periods in the horticulture industry, though there are elements of the industry such as strawberry and raspberry producers who operate under protected cropping (that is tunnels and hydroponics) which have longer harvest periods.
15. The season of these two sectors can run beyond the harvest period with up to another two months for re-planting, plant husbandry and general setting up for the next season.
16. It is noted six months is an appropriate averaging period when consideration is given to Australia's migration programs that cater for the seasonal agricultural workforce. The Working Holiday Maker visa program permits the itinerant workers (working holiday makers/backpackers) to work with a single employer in the same location for up to 6 months. This obviously ties in with the proposed averaging provision.
17. The Seasonal Worker Program (subclass 416 visa), enables employers in the agriculture industry to access labour where they can't find enough local Australian workers to meet industry needs. Workers from Pacific island countries and Timor-Leste can travel to Australia to work on a farm for up to six months before they must return to their home countries.
18. Tasmanian Agriculture has strong links with Vanuatu, Timor-Leste and Kiribati and a number of our members are currently engaged in the Pacific Seasonal Worker program.
19. Given that Australia's migration programs recognize that 6-9 months is the period of time for which a seasonal worker may be required in Australian agriculture, our submission for a six (6) month averaging period is consistent with these programs and would accommodate for the harvest seasons, particularly for the berry sector.

## **Conclusion**

20. On behalf of Tasmania's strawberry and raspberry growers PET seeks a six month averaging period as appropriate given that this would cover the vast majority of peak seasons in this sector of the horticulture industry and not disadvantage other sectors.
21. PET supports and endorses the Submissions of VoH, NFF and AIG in all other respects.

Yours faithfully,

Andrew Cameron

Executive Officer

E: [andrew@primaryemployers.com.au](mailto:andrew@primaryemployers.com.au)

M: 0407 200 909