

10 December 2008



Horticulture Australia Council

### Further submissions concerning the Modern Horticulture Industry Award

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Stage 2 of Award Modernisation:  
Agricultural Group

Modern Horticulture Industry Award

# 1 Introduction

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## 1.1 Consultation before the Commission on 27 November 2008

On 24 November 2008, the Horticulture Australia Council (**HAC**) made submissions to the Commission concerning the modern award to be developed in the horticulture industry.

On 27 November 2008, Mr Anthony Longland (Freehills) appeared before Commissioner Lewin on behalf of HAC in relation to the pre-drafting consultation process for the Agriculture Group.

During the course of this consultation, Commissioner Lewin requested that various interested parties provide the Commission with further documentation by 10 December 2008. Commissioner Lewin also asked certain parties to confer in relation to various matters before the consultation continues on 12 December 2008.

In particular, Commissioner Lewin requested that HAC:

- (a) prepare a table that summarises the ordinary hours of work and overtime provisions within the awards and NAPSAs that currently apply to the horticulture industry;
- (b) prepare a table that summarises the piece rate loadings within awards and NAPSAs that currently apply to the horticulture industry; and
- (c) confer with the National Farmers Federal (**NFF**) and the Australian Workers Union (**AWU**) in respect of various issues in an attempt to reach a consensus.

## 1.2 Schedules

The following schedules have been attached to these submissions:

- (a) **Schedule 1** contains a tabular summary of the ordinary hours of work provisions within the awards and NAPSAs that currently apply in the horticulture industry.
- (b) **Schedule 2** contains a tabular summary of the overtime provisions within the awards and NAPSAs that currently apply in the horticulture industry.
- (c) **Schedule 3** contains a tabular summary of the piece rate loadings within the awards and NAPSAs that currently apply in the horticulture industry.
- (d) **Schedule 4** contains a graph which demonstrates the narrow peak harvest times for figs.
- (e) **Schedule 5** sets out a further draft of HAC's proposed modern award for the horticulture industry (the **Draft HAC Award**). All changes since the last draft have been identified in mark-up.

# 2 Relevant awards and NAPSAs

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Based on the consultation that took place on 27 November 2008, there appears to be a broad consensus in favour of the making of an independent Modern Nursery Industry Award. Accordingly, by contrast to our last set of submissions, these submissions refer only to the awards and NAPSAs that currently apply within the horticulture industry, but not the nursery industry.

In other words, the following 11 industrial instruments have been considered for these purposes (before the carve-out of the nurseries industry there were 16 such instruments):

- 1 *Hop Industry Award 2001* (Federal);
- 2 *Horticultural Industry (AWU) Award 2000* (Federal);
- 3 *Horticultural Industry (State) Award* (NSW);

- 4 *Mushroom Industry Employees (State) Award (NSW);*
- 5 *Farm Employees' Award 1985 (WA);*
- 6 *Fruit and Vegetable Growing Industry Award- State 2002 (Queensland);*
- 7 *Tea Industry Award-State 2003 (Queensland);*
- 8 *Pastoral Industry (SA) Award (SA);*
- 9 *The Dried Vine Fruits Industry Award, 1951 (WA);*
- 10 *The Fruit Growing and Fruit Packing Industry Award (WA); and*
- 11 *Farming and Fruit Growing Award (Tasmania).*

## 3 Ordinary hours of work and overtime

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### 3.1 Summary of current instruments

Schedule 1 sets out a comparison of the ordinary hours of work provisions which currently apply within the 11 industrial instruments identified above. Schedule 2 sets out a comparison of the overtime provisions which apply in these instruments.

The following summarises the days of the week on which ordinary hours can be worked within these industrial instruments:

- Two NAPSAs specify that ordinary hours can be worked on any day of the week (the Queensland *Tea Industry Award - State 2003*) and the *WA Farm Employees' Award 1985*);
- One NAPSAs specifies that there are no limits on which day of the week ordinary hours can be worked for fruit growing and fruit picking (the *WA Fruit Growing and Fruit Packing Industry Award*);
- One NAPSAs specifies that ordinary hours can be any five consecutive days (the Queensland *Fruit and Vegetable Growing Industry Award-State 2002*);
- One NAPSAs allows station hands to work ordinary hours Monday to Saturday where work is essential on Saturday (the *Pastoral Industry (SA) Award*);
- One NAPSAs specifies the ordinary hours that can be worked on Monday to Friday but, with the agreement of the majority of employees affected, may be a work cycle agreed with an average of 38 hours per cycle (the *TAS Farming and Fruit Growing Award*);
- Two NAPSAs specify that ordinary hours can be worked on any day of the week, but provide for 'ordinary time penalty rates' for hours worked on the weekend (i.e. not overtime penalty rates) (the NSW *Horticultural Industry (State) Award*; the NSW *Mushroom Industry Employees (State) Award*); and
- Two awards and one NAPSAs specify that ordinary hours should be worked on Monday to Friday only (the HIA, the *Hop Industry Award 2001* and the *WA Dried Vine Fruits Industry Award*).

On this basis, it is clear that the Modern Horticulture Industry Award should contain a flexible ordinary hours of work clause which reflects the majority of provisions which currently apply in the industry.

It is abundantly clear that the AWU's proposal that no ordinary hours be worked on weekends represents an extreme position. This would significantly reduce the flexibility determined by industrial tribunals across the country in order to be fair and reasonable given the nature of the work to be performed in this industry and the circumstances in which it is to be performed.

### 3.2 HAC's position regarding ordinary hours of work

In our submissions dated 24 November 2008, we set out the basis for our argument that flexible ordinary hours of work are required within the horticulture industry.

We have set out below some specific examples which illustrate why such flexibility is crucial to the operation of this industry. These are real issues and examples which have been collected from actual growers and serve to demonstrate the real-life situations which are currently occurring in the industry. These examples show that even in Queensland (where the ordinary hours of work provisions are relatively generous under the *Fruit and Vegetable Growing Industry Award- State 2002*), growers are struggling to make their businesses sustainable:<sup>1</sup>

- (a) One grower in Queensland informs us that that mangos and table grapes are two products which must be harvested during a short window period of time of approximately three to five weeks. During this period, intensive work must be performed to pick and pack the crops and it is crucial that such work be performed six or seven days of the week. If growers are required to pay overtime rates during these periods, they will need to weigh up the cost of such payments against the possibility of not harvesting at all. If the grower assesses that the cost of labour is too high when compared with the return on the product, the crops will not be harvested. If the grapes are left on the vine for too long, they become unpresentable and difficult to sell. Similarly, mangos will drop to the ground if they are not picked in time.
- (b) One grower of hydroponic cucumbers informs use that he has decided not to grow his crops in December/January simply to avoid penalty rates payable on public holidays.
- (c) Another fruit grower in Queensland informs us that his employees rely on working as many additional hours as possible during critical periods as they do not have a reliable income for the rest of the year. Overtime penalty rates do not allow the employer to provide these additional hours as they are simply unviable. This results in a huge reduction in revenue.
- (d) The graph attached at Schedule 4 demonstrates the very narrow peak harvest times for figs. In this regard, we understand that there is a 24 to 26 hour window period in which growers are able to pick figs which will satisfy the market needs. In other words, if the figs are picked prior to the 24 hour period, they are too green. If they are picked after 36 hours, they become too ripe and second grade fruit.

## 4 Piece rate loadings

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### 4.1 Summary of current instruments

Schedule 3 sets out a comparison of the piece rate loadings which currently apply within the 11 industrial instruments identified above.

The following summarises the piece rate loadings which currently exist in these industrial instruments:

- In one NAPSA, no piece rate loading applies at all (the *WA Dried Vine Fruits Industry Award*);
- One award and one NAPSA contain a piece rate loading of 12.5% (the *HIA* and the *TAS Farming and Fruit Growing Award*);
- Three NAPSAs contain a piece rate loading of 15% (the *NSW Horticultural Industry (State) Award*; the *NSW Mushroom Industry*

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<sup>1</sup> Information sourced from Growcom

*Employees (State) Award and the WA Fruit Growing and Fruit Packing Industry Award*);

- One award and one NAPSA contain a piece rate loading of 20% (the *Hop Industry Award 2001* and the *Queensland Fruit and Vegetable Growing Industry Award- State 2002*);
- One NAPSA contains a piece rate loading of 30% (the *Queensland Tea Industry Award-State 2003*);
- One NAPSA does not contain a piece rate clause (the *WA Farm Employees' Award 1985*); and
- One NAPSA only contains piece rate clauses for employees other than station hands (the *Pastoral Industry (SA) Award*).

## 4.2 HAC's position regarding piece rates

HAC objects to the piece rate provision that has been suggested by the AWU for the reasons set out in its submissions dated 24 November 2008.

Following the discussions that occurred during the last consultation, there appears to be acceptance that the horticulture award should not include a guaranteed minimum base rate of pay for pieceworkers. In other words, the award should include a 'genuine' piece rate clause with a true nexus between labour costs and output. It also appears to have been accepted that the award should not include a provision which allows the employee to terminate the piecework arrangement as in most instances, this will amount to a termination of employment (which is available under the award in any event).

Following discussions with other interested parties, HAC has revisited its position with respect to the question of whether pieceworkers should be engaged on a permanent and/or casual basis. As a result, HAC has now adopted its 'fallback' position. In other words, HAC is no longer pressing for a piece rate clause that differentiates between permanent and casual employees. The piece rate clause that has been included in HAC's draft award (see clause 13) essentially reflects the current piece rate clause that is included within the HIA.

## 5 Other amendments to the Draft HAC Award

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During the past few weeks, HAC has participated in various discussions with both the NFF and the AWU in an attempt to reach consensus in relation to the various terms and conditions of the modern horticulture award.

As a result of these discussions, it is HAC's understanding that the NFF supports the terms of the Draft HAC Award that is attached at Schedule 5 to these submissions.

As a result of these discussions, HAC has proposed the following further changes to the draft award.

### 5.1 Clause 3.1: Definitions

(a) Harvest period

We have removed the reference to 'canning' in the definition of harvest period. We have also removed the reference to 'canning' in clause 4.2(c).

(b) Horticulture industry

We have tidied up this definition to avoid overlap with the definition that has been given to 'horticulture products and crops'.

(c) Horticulture products and crops

We have amended the name of this definition to ensure consistency with other parts of the draft award which refer to it. We have also clarified the list of products and crops and included references to viticulture/grapes and herbs.

We have also removed references to flowers in this definition, and limited the notion of seeds to 'horticulture seeds'. However, in the event that a separate nurseries award is not made by the commission, HAC submits that all flowers and seeds that are produced by horticultural nurseries should be covered by the horticulture award.

- (d) Weekly employee

We have inserted a definition of 'weekly employee' which is consistent with the HIA.

## 5.2 Clause 4: Application

- (a) Clause 4.1

We have inserted wording to ensure that the award also applies to employees who are engaged in the provision of services to the horticulture industry in respect of work in the horticulture industry.

We have also amended the wording of this clause to make it more consistent with the exposure drafts of the priority modern awards which have been published by the Commission.

We have removed the exclusions from this clause and inserted them into clauses 4.4 and 4.5 (where they are more appropriately located).

- (b) Clauses 4.2(a) and (b)

We have moved the reference to 'farm, orchards and plantations' from clause 4.2(a) to the introductory paragraph in clause 4.2. We have also added reference to 'vegetable cultivations or any other horticulture growing environments (including greenhouses and mushroom farms)'.

We have moved the references to 'dehydration and crystallisation' from clause 4.2(a) to clause 4.2(c).

We have amended clause 4.2(b) to clarify that the award applies to the preparation or treatment of 'other growing medium' in addition to the preparation or treatment of land.

We have removed the references to 'including fruit and vegetables' in both 4.2(a) and (b) as this is already covered by the definition of 'horticulture products and crops'.

- (c) Clause 4.2(c)

We have amended clause 4.2(c) to clarify that the award applies to the 'forwarding' of horticulture products and crops in addition to the despatching of such products and crops.

The AMWU has submitted that there may be potential overlap between work to be covered by the Modern Horticulture Industry Award and work which might be considered to be more appropriately regulated by another award, currently the *Food Preservers Award 2000*.

As set out in our submissions dated 24 November 2008, a number of the awards and NAPSAs that currently apply within the horticulture industry cover activities that can be broadly described as relating to value added or post-cultivation activities. Accordingly, HAC's first preference is that these activities remain within the Modern Horticulture Industry Award.

In the event that this position is not accepted by the Commission, HAC proposes as a second alternative the inclusion of the words, 'on-farm or from the farm' at the end of clause 4.2(c). This would have the effect of limiting these processing activities to those which occur on a farmer's premises and which would not therefore cause any overlap with more significant processing activities.

(d) Silviculture and afforestation (clause 4.2(e))

In line with the draft award proposed by the AWU dated 24 November 2008, HAC has amended the draft award so that silviculture and afforestation are covered by the award provided that they are performed in conjunction with the activities specified in clause 4.2.

(e) The nursery industry (formerly clause 4.2(e))

As set out above, there appears to be a broad consensus in favour of the making of a separate Modern Nursery Industry Award. On this basis, we have removed the clause which extended the application of the draft horticulture award to the nursery industry. This has resulted in consequential amendments to clauses 3.1 (the definition of 'plant nurseries') and clause 4.2(a).

If the Commission does not ultimately make a separate Nursery Industry Award, HAC submits that the nursery industry should be included in the Modern Horticulture Industry Award (and the amendments referred to above should therefore be reverted back).

### **5.3 Clause 4.3: Overlap with Modern Agriculture Industry Award**

We have removed the clause which excluded certain activities dealt with by the Modern Agricultural Industry Award. However, we have only done this on the basis that the following clause be included in the Agricultural Industry Award:

*'This award does not apply to...any work which otherwise would be covered by this award in circumstances where the principal activity of the employer is covered by the Horticultural Industry Award 2010.'*

HAC also submits that 'crops' in the Agriculture Award should not cover 'specialised crops' as this will also inevitably lead to overlap with the horticulture industry. However, HAC would be prepared for the term, 'specialised agricultural crops' to be included within this definition.

### **5.4 Clause 12: Casual employment**

We have included an additional line within clause 12.1 to clarify that casual employees are not weekly employees for the purposes of the award. This reflects wording used in the HIA (see clause 15.4.1 of the HIA).

### **5.5 Clause 13: Piece work**

As set out above, in an effort to reach agreement with the other interested parties, HAC has reverted to what was previously its second preferred position in respect of piece rates.

In other words, HAC proposes that a piece rate clause be included which, in essence, reflects the current piece rate clause that is included within the HIA. HAC is no longer pressing for a piece rate clause that differentiates between permanent and casual employees.

### **5.6 Clause 16: Wage rates**

We have corrected the minimum weekly wage for a Level 3 employee.

### **5.7 Clause 23.1: Superannuation**

We have removed the last line of this clause which provided for the specification of a superannuation fund.

**5.8 Clause 24: Ordinary hours of work**

We have made some minor amendments to each of the alternative clauses that have been proposed. These changes ensure greater consistency with the equivalent wording used within the HIA.

**5.9 Clause 27.4: Call back**

We have corrected a typographical error within this clause.

**5.10 Clause 30: Community service leave**

We have removed the clause concerning reimbursement for jury on the basis that this matter will be dealt with by the NES.

Horticulture sector award	Ordinary hours of work per week	Can the ordinary hours be averaged?	On what days can the ordinary hours be worked?	Between which hours can the ordinary hours be worked?	Is there a maximum number of ordinary hours which can be worked on a day?	Rate of pay for ordinary hours worked on weekends
<p>AP811240 - <b>Hop Industry Award 2001</b> (Federal Award)</p>	<p><b>Clause 23.1.1 &amp; 23.2</b> An average of 38 ordinary hours per week can be worked by weekly and casual employees.</p>	<p><b>Clause 23.1.3 &amp; 23.2</b> The ordinary hours can be averaged over 28 days. Hence, 152 ordinary hours can be worked over 28 days.</p>	<p><b>Clause 23.1.1</b> Ordinary hours can be worked between Monday and Friday.</p>	<p><b>Clause 23.1.2</b> There is no limit on when the ordinary hours can be worked during Monday to Friday. This is to be agreed between the employer and the employee.</p>	<p>For permanent employees, there is no maximum number of ordinary hours which can be worked on one day. <b>Clause 23.4</b> For casual employees, an employee can work up to 12 hours on a day subject to certain requirements being met.</p>	
<p>AP784867 - <b>Horticulture Industry (AWU) Award 2000</b> (Federal Award)</p>	<p><b>Clause 26.1.1 &amp; 26.1.2 (Schedule A Respondents)</b> 40 ordinary hours per week can be worked by weekly employees. <b>Clause 26.2.1 (Schedule B &amp; C Respondents)</b> An average of 38 ordinary hours per week can be worked by weekly employees</p>	<p><b>Clause 26.2.1 (Schedule B &amp; C Respondents)</b> An average of 152 ordinary hours can be worked in a consecutive period of 4 weeks.</p>	<p><b>Clause 26.1.1 &amp; 26.1.2 (Schedule A Respondents)</b> Ordinary hours can be worked by employees on blocks on any five days of the week other than Sunday, except during February to May and where fruit picking is carried on, December to January, when ordinary hours can be worked on 5 ½ days on any day of the week. For packing house employees, ordinary hours can be worked on Monday to Friday. <b>Clause 26.2.1 &amp; 26.2.2 (Schedule B &amp; C Respondents)</b> Ordinary hours can be worked between Monday and Friday. Ordinary hours can include work on a Saturday if the employer and a majority of the employees in a section or sections of an enterprise or in respect of the whole enterprise agree.</p>	<p><b>Clause 26.1.1 (Schedule A Respondents)</b> There is no limit on when ordinary hours can be worked for employees on blocks. For packing house employees, ordinary hours can be worked between 6:00am and 6:00pm. <b>Clause 26.2.1 (Schedule B and C Respondents)</b> Ordinary hours can be worked between 6am - 6pm. <b>Clause 26.2.2</b> provides that the spread of hours may be varied by mutual agreement between the employer and employee.</p>	<p><b>Clause 26.1.1 &amp; 26.1.2 (Schedule A Respondents)</b> There is no limit on the maximum number of ordinary hours that can be worked for employees on blocks. A maximum number of 8 ordinary hours can be worked by packing house employees. <b>Clause 26.2.3 and 26.2.3(a) &amp; (b) (Schedule B and C Respondents)</b> A maximum of 8 ordinary hours can be worked on a day, or greater than 8 hours subject to an agreement of the employer and the employees in the plant or sections concerned. Subject to such an arrangement, ordinary hours greater than 10 but not exceeding 12 on any day may be worked so long as certain requirements are met.</p>	
<p>API20247 - <b>Horticulture Industry (State) Award</b> (New South Wales)</p>	<p><b>Clause 2(1)(a)</b> 38 ordinary hours per week can be worked for permanent and casual employees</p>	<p><b>Clause 2(1)(b)</b> The ordinary hours may be worked in any of the following ways – (i) Five equal days of five and one-half days per week (sic). (ii) 19 equal days in a 20 day cycle. (iii) Four equal days and one short day per week. (iv) No more than 20 days are</p>	<p><b>Clause 2(1)(a)</b> Ordinary hours can be worked on any day of the week, Monday to Sunday. <b>Clause 2(1)(d)</b> Ordinary hours for Bunchy Top Detectors can be worked Monday to Friday.</p>	<p><b>Clause 2(1)(a)</b> Ordinary hours can be worked 5am - 8pm. Clause 2(1)(d) Ordinary hours for Bunchy Top Detectors can be worked between 7am – 5pm.</p>	<p><b>Clause 2(1)(a)</b> A maximum of 10 ordinary hours can be worked on a day.</p>	<p><b>Saturdays: (Clause 9(a))</b> Ordinary time worked on a Saturday shall be paid at the rate of time and a quarter (or rate and a quarter for pieceworkers). <b>Sundays: (Clause 9(b))</b> Ordinary time worked on a Sunday shall be paid at the rate of time and a half (or rate and a half for pieceworkers).</p>

Horticulture sector award	Ordinary hours of work per week	Can the ordinary hours be averaged?	On what days can the ordinary hours be worked?	Between which hours can the ordinary hours be worked?	Is there a maximum number of ordinary hours which can be worked on a day?	Rate of pay for ordinary hours worked on weekends
		worked in a 28 consecutive day period.				
<p>AN120357 - <b>Mushroom Industry Employees (State) Award</b> (New South Wales)</p>	<p><b>Clause 3(1)</b> An average of 38 ordinary hours per week can be worked.</p>	<p><b>Clause 3(2)</b> The ordinary hours may be worked in any of the following ways –</p> <ul style="list-style-type: none"> <li>(a) Five equal days or five and one-half days per week.</li> <li>(b) 19 equal days in a 20 day cycle.</li> <li>(c) Four equal days and one short day per week.</li> <li>(d) No more than 20 days are worked in a 28 consecutive day period.</li> </ul>	<p><b>Clause 3(1)</b> Ordinary hours can be worked any day of the week, Monday to Sunday.</p>	<p><b>Clause 3(1)</b> Ordinary hours can be worked between 5am – 8pm</p>	<p><b>Clause 3(1)</b> A maximum number of 10 ordinary hours can be worked on a day.</p>	<p><b>Saturdays: (Clause 3(5))</b> Ordinary time worked on a Saturday is paid at the rate of time and a quarter (or rate and a quarter for pieceworkers).</p> <p><b>Sundays: (Clause 3(6))</b> Ordinary time worked on a Sunday is paid at the rate of time and a half (or rate and a half for pieceworkers).</p>
<p>AN160126 - <b>Farm Employees' Award 1985</b> (Western Australia)</p>	<p><b>Clause 7</b> There is no limit on the number of ordinary hours that can be worked (by agreement).</p>	<p><b>Clause 7</b> There is no limit on how ordinary hours can be worked (by agreement).</p>	<p><b>Clause 7</b> Ordinary hours can be performed on any day by agreement, provided an employee is allowed one full day off per week subject to necessary attention to stock.</p>	<p><b>Clause 7</b> There is no limit on when ordinary hours can be worked (by agreement).</p>	<p><b>Clause 7</b> There is no restriction on the maximum number of ordinary hours that can be worked on a day (by agreement).</p>	
<p>AN140126 - <b>Fruit and Vegetable Growing Industry Award- State 2002</b> (Queensland)</p>	<p><b>Clause 6.1</b> For all employees other than casuals: 40 ordinary hours can be worked per week.</p>	No averaging provisions.	<p><b>Clause 6.1</b> For all employees other than casuals: the ordinary hours can be worked on any five days out of seven, Monday to Sunday. At least two days allowed off each week.</p>	<p><b>Clause 6.1</b> There is no limit to the hours that can be worked.</p>	<p><b>Clause 6.1</b> For all employees other than casuals: a maximum of 8 ordinary hours can be worked on a day.</p>	
<p>AN140295 - <b>Tea Industry Award-State 2003</b> (Queensland)</p>	<p><b>Clause 6.1.1</b> For all employees 40 ordinary hours can be worked in any one week.</p>	No averaging provisions.	<p><b>Clause 6.1.1</b> The ordinary hours can be worked over any five consecutive days in each week.</p>	<p><b>Clause 6.1.1(a)</b> Ordinary hours can be worked between 6am - 6pm or other times as agreed between the employer and the union.</p>	<p><b>Clause 6.1.1</b> A maximum of 8 ordinary hours can be worked on a day or other times as agreed between the employer and union.</p>	<p><b>Saturdays: (Clause 6.5.1(a))</b> Work performed on Saturday is paid at the rate of time and a half.</p> <p><b>Sundays: (Clause 6.5.1(b))</b> Work performed on Sunday is paid at the rate of double time.</p>
<p>AN150104 - <b>Pastoral Industry (SA) Award</b> (South Australia)</p>	<p><b>Clause 57.1</b> 38 hours per week can be worked by station hands. There is no limit on the number of ordinary hours for station cooks. <b>Clause 25.12</b> Shearers, crutchers, shed hands and wool pressers can work 40 ordinary hours per week.</p>	<p><b>Clause 57.1</b> For station hands, the ordinary hours can be averaged over a consecutive period of 4 weeks. Hence, 152 ordinary hours can be worked by station hands over 4 weeks.</p>	<p><b>Clause 57.1.1</b> The ordinary hours of work for station hands can be worked</p> <ul style="list-style-type: none"> <li>(a) over five days in the week, Monday to Friday;</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>(b) over five and a half days in the week, Monday to Saturday, where work is essential on Saturday</li> </ul>	<p><b>Clause 57.1 &amp; 57.3</b> There are no limits on when ordinary hours can be worked for station hands and station cooks. <b>Clause 25.1</b> Ordinary hours shall be worked by shearers and crutchers in two hour runs between the hours of 7:30am and 5:30pm, or other hours by agreement.</p>	<p><b>Clause 57.1 &amp; 57.3</b> There are no limits on the number of ordinary hours that can be worked on a day for weekly station hands and station cooks. <b>Clause 57.2</b> Casual station hands can work a maximum of 8 hours on a day</p>	

Horticulture sector award	Ordinary hours of work per week	Can the ordinary hours be averaged?	On what days can the ordinary hours be worked?	Between which hours can the ordinary hours be worked?	Is there a maximum number of ordinary hours which can be worked on a day?	Rate of pay for ordinary hours worked on weekends
			<p>morning for good husbandry or tending stock.</p> <p><b>Clause 57.2</b> Ordinary hours for casual station hands can be worked between Monday to Friday.</p> <p><b>Clause 25.1 &amp; 25.2.2</b> Ordinary hours for shearers, crutchers, shed hands and wool pressers can be worked Monday to Friday.</p>	<p>Between May and August the employer may advance the clock by half an hour to ensure against failure of sufficient daylight to complete 8 hours of work.</p> <p>Shearing and crutching work may be extended at the option of the employer if on a Friday after 5:30pm the tail end of a mob of ewes remain(Clause 25.3.1)</p> <p><b>Clause 25.2</b> The ordinary hours of shed hands and wool pressers are the same as those of shearers and crutchers, plus an additional 30 minutes if required to clean up after work.</p>	<p><b>Clause 25.1</b> A maximum of 8 ordinary hours can be worked per day by shearers, crutchers, shed hands and wool pressers, plus additional an 30 minutes if required to clean up after work for shed hands and wool pressers.</p>	
<p>AN160101 - <b>Dried Vine Fruits Industry Award, 1951, The</b> (Western Australia)</p>	<p><b>Clause 17(1)</b> 40 ordinary hours can be worked per week.</p>	No averaging provisions.	<p><b>Clause 17(1)</b> The ordinary hours can be worked Monday to Friday.</p>	<p><b>Clause 17(3)</b> The ordinary hours are to be worked between 7am – 6pm. There are no limits on when ordinary hours can be worked by cleaners.</p>	<p><b>Clause 17(3)</b> A maximum of 8 ordinary hours can be worked on a day.</p>	
<p>AN160134 - <b>Fruit Growing and Fruit Packing Industry Award, The</b> (Western Australia)</p>	<p><b>Clause 10(1)</b> The ordinary hours of work for fruit packing and sorting employees are 40 hours per week.</p> <p><b>Clause 10(2)</b> There is no limit on ordinary hours of work for fruit growing and fruit picking employees. However, these employees receive additional pay rates for hours worked in excess of 40 hours per week, and additional pay rates for hours worked in excess of 52 hours per week.</p>	No averaging provisions.	<p><b>Clause 10(1)</b> The ordinary hours can be worked between Monday to Friday for fruit packers and sorters.</p> <p><b>Clause 10(2)</b> There is no limit on the days on which the ordinary hours can be worked for fruit growing and fruit picking.</p>	<p><b>Clause 10(1)</b> The ordinary hours for fruit packing and fruit sorting can be worked between 7am – 5pm, however the spread of hours can be varied by agreement between the employer and the worker(s) concerned.</p> <p><b>Clause 10(2)</b> There is no limit on the span of hours during which ordinary hours can be worked on any day for fruit growing and fruit picking.</p>	<p><b>Clause 10(1)</b> A maximum 8 ordinary hours are to be worked on any day for fruit packers and fruit sorters.</p> <p><b>Clause 10(2)</b> There is no limit on the maximum number of ordinary hours that can be worked on any day for fruit growing and fruit picking</p>	
<p>AN170032 - <b>Farming and Fruit Growing Award</b> (Tasmania)</p>	<p><b>Clause 19(a)(i) &amp; (ii)</b> 38 hours or an average of 38 hours can be worked per week with agreement.</p> <p><b>Clause 19(b)(i) &amp; (ii)</b> Dairy farm employees can work 38 hours per week or an average of 38 hours can be worked per</p>	<p><b>Clause 19(a)(ii) &amp; (b)(ii)</b> Ordinary hours of work (including those of dairy farm employees) can be as follows -</p> <ul style="list-style-type: none"> <li>• 38 hours within work cycle not exceeding 5 days in seven consecutive days; OR</li> <li>• 76 hours within work cycle not</li> </ul>	<p><b>Clause 19(a)(i)</b> The ordinary hours are to be worked between Monday and Friday.</p> <p><b>Clause 19(b)(i)</b> The ordinary hours for dairy farm employees are to be worked between Monday and Friday.</p>	<p><b>Clause 19(a)(i)</b> The ordinary hours are to be worked between 6am – 6pm.</p> <p><b>Clause 19(b)(ii)</b> Dairy farm employees can work ordinary hours in two periods during a span of any hours, provided that during one period</p>	<p><b>Clause 19(a)(i)</b> A maximum of 8 ordinary hours can be worked on a day or 10 hours by agreement.</p> <p><b>Clause 19(b)(i)</b> Dairy farm employees can work a maximum of 8 hours on a day or 12 hours by agreement.</p>	

**Freehills**

Horticulture sector award	Ordinary hours of work per week	Can the ordinary hours be averaged?	On what days can the ordinary hours be worked?	Between which hours can the ordinary hours be worked?	Is there a maximum number of ordinary hours which can be worked on a day?	Rate of pay for ordinary hours worked on weekends
	week with agreement	<p>exceeding 10 days in fourteen consecutive days; OR</p> <ul style="list-style-type: none"> <li>• 114 hours in work cycle not exceeding 15 days in twenty-one consecutive days; OR</li> <li>• 152 hours in work cycle not exceeding 20 days in twenty-eight consecutive days; OR</li> <li>• Any other work cycle agreed by an employer and majority of employees during which 38 ordinary hours shall be worked over an agreed cycle.</li> </ul> <p>any work cycle can be agreed upon by an employer and majority of employees affected during which a weekly average of 38 ordinary hours shall be worked over the agreed work cycle.</p>		not less than three of those hours are worked between 6am – 8pm.		

Horticulture Sector Award	Saturday Work	Sunday Work	Public Holiday Work	Other Overtime Rates
AP811240 - Hop Industry Award 2001 (Federal) (Federal Award)	<p><b>Clauses 25.1. 25.2</b></p> <ul style="list-style-type: none"> <li>Time and a half for the first 2 hours and double time thereafter</li> <li>Exception for harvest period: time and a half for the first 8 hours and double time thereafter</li> <li>Applies to weekly and casual employees</li> </ul>	<p><b>Clauses 25.1. 25.2</b></p> <ul style="list-style-type: none"> <li>Double time</li> <li>Casual employees entitled to minimum of 3 hours</li> <li>Applies to weekly and casual employees</li> </ul>	<p><b>Clause 31.4</b></p> <ul style="list-style-type: none"> <li>Weekly employees entitled to double time and a half</li> <li>Weekly employees entitled to minimum of 3 hours work</li> </ul>	<p><b>Clauses 25.1. 25.2</b></p> <ul style="list-style-type: none"> <li>Work performed in excess of ordinary hours: time and a half for the first 2 hours and double time thereafter</li> <li>Exception for harvest period</li> <li>Applies to weekly and casual employees</li> </ul>
AP784867 - Horticulture Industry (AWU) Award 2000 (Federal Award)	<p><b>Clause 28.2.2 (Schedule B &amp; C Respondents)</b></p> <ul style="list-style-type: none"> <li>Time and a half</li> <li>If a majority of employees in an orchard or vineyard required to work on a Saturday elect to work on a Sunday instead, they will be paid at the rate prescribed for Saturday work.</li> <li>Applies to weekly employees only</li> </ul> <p><b>Schedule A Respondents</b></p> <ul style="list-style-type: none"> <li>No penalty rate applies</li> </ul>	<p><b>Clause 28.2.2 (Schedule B &amp; C Respondents)</b></p> <ul style="list-style-type: none"> <li>Double time</li> <li>Exception for harvest period: time &amp; half for 1st 5 hrs, then double time</li> <li>Paid for minimum of 3 hrs</li> </ul> <p><b>Clause 28.1.6 (Schedule A Respondents)</b></p> <ul style="list-style-type: none"> <li>All pieceworkers (whether employed on a weekly basis or not) are paid at the ordinary piecework rates in addition to the appropriate time-work rate if employed on the Friday preceding and the Monday following the Sunday.</li> </ul>	<p><b>Clause 33.3.8 (Schedule B Respondents)</b></p> <ul style="list-style-type: none"> <li>Double time (but can be time off in lieu by consent)</li> </ul> <p><b>Clauses 28.1.6 and 33.1.4 (Schedule A Respondents)</b></p> <ul style="list-style-type: none"> <li>Weekly employees: ordinary rates.</li> <li>Pieceworkers employed in packing sheds, cool stores and dehydrators (whether on a weekly basis or not) receive the ordinary weekly rate in addition to piece rate of pay for work performed on a public holiday. Does not apply if the pieceworker is absent one day before or after the holiday.</li> <li>Pieceworkers employed on an orchard or vineyard paid one day's pay at ordinary weekly rate plus piece rate of pay for each public holiday (provided the employee remains employed for a specified period). Does not apply if the pieceworker is absent one day before or after the holiday.</li> <li>Non pieceworkers in packing houses: time and a half (but can agree to time off in lieu).</li> <li>Non pieceworkers on blocks: double time for employees (but can agree to time off in lieu).</li> </ul>	<p><b>Clause 28.2.1 (Schedule B &amp; C Respondents)</b></p> <ul style="list-style-type: none"> <li>Employees allowed paid time off or pay</li> <li>Applies to weekly employees only</li> </ul> <p><b>Clause 28.1 (Schedule A Respondents)</b></p> <ul style="list-style-type: none"> <li>Employees on blocks: work done in excess of 40 hours per week paid at time and a half for the first 2 hours and then double time</li> <li>Packing house employees: time worked in excess of 8 hours per day is paid at time and a half for the first 2 hours and then double time</li> </ul>
AP120247 - Horticulture Industry (State) Award (New South Wales)	No overtime penalty rate applies (but penalty rate applies for ordinary hours worked).	<p><b>Clause 2(2)(b)</b></p> <ul style="list-style-type: none"> <li>Bunchy Top Detectors: Double time (or double rates for pieceworkers). Can agree to time off in lieu</li> <li>Minimum of 4 hours</li> </ul>	<p><b>Clause 10(c)</b></p> <ul style="list-style-type: none"> <li>Double time &amp; a half</li> <li>Minimum of 4 hrs</li> <li>No payment if absence without leave on day before or after</li> </ul>	<p><b>Clause 2(2)(a)</b></p> <ul style="list-style-type: none"> <li>Excess of ordinary hours: time and a half for first 2 hours, then double time</li> <li>Can take time off in lieu at ordinary time rate.</li> </ul>
AN120357 - Mushroom Industry Employees (State) Award (New South Wales)	No overtime penalty rate applies (but penalty rate applies for ordinary hours worked).	<p><b>Clause 7(1)</b></p> <ul style="list-style-type: none"> <li>Time worked in excess of ordinary hours on a Sunday: double time</li> </ul>	<p><b>Clause 9(3)</b></p> <ul style="list-style-type: none"> <li>Double time and a half</li> <li>Minimum of four hours</li> </ul>	<p><b>Clause 7(1)</b></p> <ul style="list-style-type: none"> <li>Time worked in excess of ordinary hours: time and a half for the first 2 hours and double time thereafter</li> </ul>
AN160126 - Farm Employees' Award 1985	No overtime penalty rates apply.	No overtime penalty rates apply.	<b>Clause 8</b>	No overtime penalty rates apply.

Horticulture Sector Award	Saturday Work	Sunday Work	Public Holiday Work	Other Overtime Rates
(Western Australia)			No overtime penalty rates apply (ordinary rates are paid).	
<b>AN140126 - Fruit and Vegetable Growing Industry Award- State 2002</b> (Queensland)	No overtime penalty rates apply.	No overtime penalty rates apply.	<b>Clause 7.6.1</b> <ul style="list-style-type: none"> <li>• Double time and a half</li> <li>• Minimum of 4 hours</li> </ul>	<b>Clause 6.4.2</b> <ul style="list-style-type: none"> <li>• Employees other than casuals who work more than 8 hours per day or 40 hours per week: time and a half for the first 3 hours and double time thereafter.</li> <li>• Casuals who work more than 40 hours in any 7 days: time and a half for the first 3 hours and double time thereafter.</li> </ul>
<b>AN140295 - Tea Industry Award-State 2003</b> (Queensland)	<b>Clause 6.4.2</b> <ul style="list-style-type: none"> <li>• Time worked in excess of ordinary hours or before start or after end times on Saturday: Time and a half for the first 3 hours and double time thereafter</li> <li>• Minimum of 3 hours</li> </ul>	<b>Clause 6.4.2</b> <ul style="list-style-type: none"> <li>• Time worked in excess of ordinary hours or before start or after end times on Sunday: Double time</li> <li>• Minimum of 3 hrs</li> </ul>	<b>Clause 7.6.1</b> <ul style="list-style-type: none"> <li>• Double time and a half</li> <li>• Minimum of 4 hours</li> </ul>	<b>Clause 6.4.1</b> <ul style="list-style-type: none"> <li>• Time worked in excess of ordinary hours or before start or after end times on Monday to Friday: time and a half for the first 3 hours and double time thereafter</li> <li>• Minimum of 3 hours work</li> </ul>
<b>AN150104 - Pastoral Industry (SA) Award</b> (South Australia)	<b>Clause 57.2.4</b> <ul style="list-style-type: none"> <li>• Casual station hands: Work on a Saturday paid at time and a half.</li> </ul>	<b>Clause 57.1.3</b> <ul style="list-style-type: none"> <li>• Station hands engaged by the week (other than station cooks): Work performed in excess of ordinary time on a Sunday: Time off in lieu or payment of time and a half (unless in the case of feedings, milking or watering the stock which is paid at time and a half).</li> </ul> <b>Clause 57.2.4</b> <ul style="list-style-type: none"> <li>• Casual station hands: Work on a Sunday paid at time and a half.</li> </ul>	<b>Clause 57.2.4</b> <ul style="list-style-type: none"> <li>• Casual station hands: Work on a public holiday paid at time and a half.</li> </ul>	<b>Clause 25.2.3, 25.2.4</b> <ul style="list-style-type: none"> <li>• Shed hands and wool pressers: Where required to work more than 30 minutes on one day: paid at time and a half.</li> </ul> <b>Clause 57.1.3</b> <ul style="list-style-type: none"> <li>• Station hands engaged by the week (other than station cooks): Work performed in excess of ordinary time (other than on a Sunday): Time off in lieu or payment of time and a half.</li> </ul> <b>Clause 57.2.4</b> <ul style="list-style-type: none"> <li>• Casual station hands: Work in excess of 8 hours per day Monday to Friday paid at time and a half.</li> </ul> <b>Clause 57.3</b> <ul style="list-style-type: none"> <li>• A station cook who is required to work more than 5.5 days in any week is entitled to additional penalty rates (depending on whether the cook works 6, 6.5 or 7 days).</li> </ul>
<b>AN160101 - Dried Vine Fruits Industry Award, 1951, The</b> (Western Australia)	<b>Clause 19(2)(a)</b> <ul style="list-style-type: none"> <li>• Work performed before usual start time or after usual end time or before 12 noon on Saturday: Time and a half for the first 2 hours and double time thereafter</li> <li>• Work performed after 12 noon on a Saturday: double time</li> <li>• Workers required to work on Saturdays can agree with the employer to work on a Sunday instead, in which case they will be paid time and a half for the first two hours prior to 12 noon and double time thereafter.</li> </ul>	<b>Clause 19(2)(a)</b> <ul style="list-style-type: none"> <li>• Double time</li> </ul>	<b>Clause 19(2)(b)</b> <ul style="list-style-type: none"> <li>• Double time and a half</li> </ul>	<b>Clause 19(1)</b> <ul style="list-style-type: none"> <li>• Work performed before usual start time or after usual end time Monday to Friday: Time and a half for the first 2 hours and double time thereafter</li> </ul>
<b>AN160134 - Fruit Growing and Fruit Packing Industry Award, The</b> (Western Australia)	<b>Clause 11(2)</b> <ul style="list-style-type: none"> <li>• Time worked in excess of ordinary hours on a Saturday before 12 noon: time and a half for the first 2 hours and double time thereafter.</li> <li>• Time worked in excess of ordinary hours on a</li> </ul>	<b>Clause 11(2)</b> <ul style="list-style-type: none"> <li>• Time worked in excess of ordinary hours on a Sunday: double time.</li> <li>• Time off can be taken in lieu (hour for hour).</li> <li>• Applies to fruit packing employees only (i.e.</li> </ul>	<b>Clause 11(3)</b> <ul style="list-style-type: none"> <li>• Double time and a half</li> <li>• Time off can be taken in lieu (hour for hour).</li> <li>• Applies to fruit packing employees only (i.e. no overtime for other employees).</li> </ul>	<b>Clause 11(1)</b> <ul style="list-style-type: none"> <li>• Time worked in excess of ordinary hours Monday to Friday: Time and a half for the first 2 hours and double time thereafter</li> <li>• Applies to fruit packing employees only (i.e.</li> </ul>

Horticulture Sector Award	Saturday Work	Sunday Work	Public Holiday Work	Other Overtime Rates
	Saturday after 12 noon: double time. <ul style="list-style-type: none"> <li>Time off can be taken in lieu (hour for hour).</li> <li>Applies to fruit packing employees only (i.e. no overtime for other employees).</li> </ul>	no overtime for other employees).		no overtime for other employees).
<b>AN170032 - Farming and Fruit Growing Award (Tasmania)</b>	<b>Clause 18(c)(i)</b> <ul style="list-style-type: none"> <li>Casual employees other than dairy farmers: Time and a half for the first 3 hours and double ordinary time thereafter.</li> <li>Full-time dairy farmers: Time and a quarter for first 4 hours and time and a half thereafter (unless averaging agreement reached).</li> <li>Casual dairy farmers: Ordinary time for the first 4 hours and time and a half thereafter.</li> </ul>	<b>Clause 18(c)(ii)</b> <ul style="list-style-type: none"> <li>Casual employees other than dairy farmers: Double time.</li> <li>Full-time dairy farmers: Time and a half for the first 4 hours and double time thereafter.</li> <li>Casual dairy farmers: Time and a half for the first 4 hours and double time thereafter.</li> </ul>	<b>Clause 18(a)</b> <ul style="list-style-type: none"> <li>Double time and a half.</li> <li>Minimum engagement of 3 hours.</li> </ul>	<b>Clause 18(3)</b> <p><u>Full-time employees (other than dairy farmers)</u></p> <ul style="list-style-type: none"> <li>Work performed in excess of maximum ordinary hours or outside span of hours or in excess of 8 hours per day: Time and a half for first 3 hours and double time thereafter.</li> <li>Can take time off in lieu (at ordinary rates).</li> </ul> <p><u>Casual employees (other than dairy farmers)</u></p> <ul style="list-style-type: none"> <li>Work performed in excess of 8 hours a day or outside of ordinary span of hours: Time and a half for the first 3 hours and double ordinary time thereafter.</li> </ul> <p><u>Full-time dairy farmers</u></p> <ul style="list-style-type: none"> <li>Work in excess of maximum ordinary hours or outside span of hours or in excess of 8 hours per day: Time and a half for first 3 hours and double time thereafter.</li> </ul> <p><u>Casual dairy farmers</u></p> <ul style="list-style-type: none"> <li>Work in excess of 8 hours per day or prior to or following the ordinary span of hours: time and a half for the first 3 hours and double time thereafter.</li> </ul>

Horticulture Sector Award	Piece Rate Loading
AP811240 - Hop Industry Award 2001 (Federal) (Federal Award)	<b>Clause 17</b> Enables the average employee to earn at least 20% above the prescribed time rate.
AP784867 - Horticulture Industry (AWU) Award 2000 (Federal Award)	<b>Clause 18.4</b> Enables the average employee to earn at least 12.5% above the prescribed time rate.
AP120247 - Horticulture Industry (State) Award (New South Wales)	<b>Clause 7</b> Enables the average competent employee to earn at least 15% above the prescribed time work rate.
AN120357 - Mushroom Industry Employees (State) Award (New South Wales)	<b>Clause 5</b> Enables the average competent employee to earn at least 15% above the prescribed time work rate.
AN160126 - Farm Employees' Award 1985 (Western Australia)	No piece rate clause.
AN140126 - Fruit and Vegetable Growing Industry Award- State 2002 (Queensland)	<b>Clause 4.5.1</b> Enables the average competent employee to earn not less than 20% above the hourly rate for the class of work performed.
AN140295 - Tea Industry Award-State 2003 (Queensland)	<b>Clause 4.2</b> Enables the average competent employee to earn 30% over the minimum wage fixed by the Award.
AN150104 - Pastoral Industry (SA) Award (South Australia)	Piece rate clauses only apply to employees who are not station hand employees.
AN160101 - Dried Vine Fruits Industry Award, 1951, The (Western Australia)	<b>Clause 23(2)</b> No loading applies (pieceworkers to be paid at least the time rate of pay).
AN160134 - Fruit Growing and Fruit Packing Industry Award, The (Western Australia)	<b>Clause 25(1)</b> Enables the average competent employee to earn not less than 15% above the hourly rate of the class of work performed.
AN170032 - Farming and Fruit Growing Award (Tasmania)	<b>Clause 5(a)</b> Employee shall earn at least 12.5% more than the hourly equivalent for an employee classified as Farm and/or Orchard Hand Level 2 (as defined).