

*Fair Work Act 2009*  
FAIR WORK COMMISSION

s. 156 - 4 yearly review of modern awards

AM2014/196 and AM2014/197

**4 YEARLY REVIEW OF MODERN AWARDS - COMMON ISSUES –  
CASUAL AND PART-TIME EMPLOYMENT**

**AWU CLAIM REGARDING CASUAL OVERTIME ENTITLEMENTS IN THE  
HORTICULTURE AWARD 2010**

**CLOSING SUBMISSIONS**

**Background**

1. The Australian Workers' Union (AWU) is seeking to vary the *Horticulture Award 2010* (the Award) to clarify the overtime entitlements for casual employees.
2. The AWU initially filed a draft determination on 17 July 2015<sup>1</sup> which proposed the extension of the day work ordinary hour provisions in clause 22.1 of the Award to casual employees.
3. As indicated during a Hearing before the Casual and Part-time Employment Full Bench on 11 July 2016<sup>2</sup>, the AWU has since modified this position in response to concerns raised by employers about all hours worked on the weekend by casual employees being treated as overtime.
4. An amended version of the variation sought by the AWU is attached to these submissions and marked "AWU – amended Draft Determination".
5. The amended Draft Determination prescribes overtime entitlements for casual day work employees when:

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<sup>1</sup> See <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/am2014196-197-corr-awu-170715.pdf>

<sup>2</sup> See Transcript for 11 July 2016 at PN1089 to PN1095

- They work more than 38 ordinary hours in a week;
  - They work more than 8 ordinary hours in a day (unless otherwise agreed);  
or
  - They work outside the span of ordinary hours of 6am to 6pm (unless otherwise agreed).
6. Casual shift workers would not be affected by this variation and they would continue to have the same overtime entitlements as full-time and part-time employees in accordance with clause 22.2 of the Award.
7. The granting of this claim will be a significant step towards ensuring the Award and the National Employment Standards provide a fair and relevant safety net of employment conditions in the horticultural industry for the reasons set out below.

### **Key factors in support of the claim**

#### The economic performance of the agricultural industry in Australia

8. Exhibit 186 in these proceedings is a bundle of documents regarding the economic performance of the agricultural industry in Australia tendered by the AWU.
9. Many of the witnesses presented by the National Farmers' Federation (NFF) in these proceedings gave evidence that any increase to current employment costs would have a dramatic effect on their industry because profit margins are already tight.<sup>3</sup>
10. However, the NFF's evidence from a relatively small number of farmers was generally confined to the issue of labour costs. Other important economic information such as production levels, profitability levels and export statistics was not included in their evidence.
11. This is unsurprising given the following Commonwealth Government economic data demonstrates a particularly strong performance by employers in the agricultural sector in recent years:
- The index for total prices received by farmers measured against 1997-98 rates was 152.1 in 2014-15 whereas the index for total prices paid in 2014-

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<sup>3</sup> For example, see paragraph [3] and [5] of the statement of John Dollisson - Exhibit 185; paragraph [9] of the statement of Brock Sutton - Exhibit 187 and paragraph [13] of the statement of Rhonda Jurgens - Exhibit 161

15 was only 146.7. In addition, the price received by farmers for both fruit and vegetables has increased at a higher rate than labour costs for farmers in the agricultural industry since 1997-98<sup>4</sup>;

- From 2011-12 to 2014-15, labour costs for the agricultural industry increased by 3.1% whereas the real net value of farm production increased by 41%<sup>5</sup>;
- The gross value of total farm production from 2011-12 to 2014-15 increased by 14%. The gross value of production for total horticulture increased by 4.3% from 2011-12 to 2014-15 and is forecast to increase significantly in 2015-16 and 2016-17<sup>6</sup>;
- The total value of farm exports increased by 21% from 2011-12 to 2014-15. The total value of horticultural exports increased by 59% from 2011-12 to 2014-15 with further increases forecast for 2015-16 and 2016-17<sup>7</sup>;
- The NFF have recently publicly referred to IBISWorld research which says that of the top 20 Australian industries by growth in export, agricultural products make up at least 10 – “the growth potential of the sector simply cannot be refuted”<sup>8</sup>; and
- The growth in value of deposits into the Commonwealth Government’s ‘Farm Management Deposits Scheme’ is at extremely high levels including in relation to the horticulture industry. At 30 June 2016, the total holdings in the Farm Management Deposits (FMD) Scheme were \$5.07 billion.<sup>9</sup>

12. Further, whilst the horticultural industry obviously has its own unique challenges, it has not suffered the same negative effects of globalisation that many other industries such as manufacturing have endured.

13. This is because “the fresh produce industry in Australia generally has a high level of protection from imported produce due to Australia’s geographic isolation and Australian quarantine regulations”.<sup>10</sup>

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<sup>4</sup> See TAB 3, page 148 and 149 of Exhibit 186 – ABARES ‘Agricultural Commodities – vol. 6 no. 2 June quarter 2016

<sup>5</sup> See TAB 3, page 150 of Exhibit 186 – ABARES ‘Agricultural Commodities – vol. 6 no. 2 June quarter 2016

<sup>6</sup> See TAB 3, page 160 and 161 of Exhibit 186 – ABARES ‘Agricultural Commodities – vol. 6 no. 2 June quarter 2016

<sup>7</sup> See TAB 3, page 166 of Exhibit 186 – ABARES ‘Agricultural Commodities – vol. 6 no. 2 June quarter 2016

<sup>8</sup> See TAB 8 of Exhibit 186 – Country News ‘Leave trade deals alone’ 5 July 2016 by Tony Mahar CEO of the NFF

<sup>9</sup> See <http://www.agriculture.gov.au/ag-farm-food/drought/assistance/fmd/statistics>

<sup>10</sup> See TAB 7, page 23 of Exhibit 186 – Costa Prospectus

14. We note John Dollison (CEO of Apple and Pear Australia and Deputy Chair of Voice of Horticulture) initially accepted this<sup>11</sup> but then later reconsidered and stated “I don’t agree with that at all”.<sup>12</sup>
15. However, Peter McPherson (General Manager, Berry Category – Costa Exchange Ltd) subsequently confirmed Mr Dollison’s initial response was accurate.<sup>13</sup>
16. The Commonwealth Government’s economic data identified above is clearly far more relevant to the Commission in determining the appropriate safety net for an entire industry than unsubstantiated assertions from individual farmers and their industrial representatives.
17. We submit it would be dangerous for the Commission to place much weight on the evidence given by farmers and their representatives given examples such as the following:
- Mr Dollison gave evidence that labour costs in the horticultural industry have been rising at a faster rate than the price received by farmers for fruit and vegetables. However, he subsequently admitted this is inconsistent with data collected by the Commonwealth Government<sup>14</sup>;
  - Mr Dollison gave evidence that it is hard to attract employees to work in the industry<sup>15</sup> but then suggested shortly afterwards that the conditions are “quite attractive to the workers”,<sup>16</sup>
  - Mr Dollison agreed there is no great threat in terms of fresh produce imports for Australia<sup>17</sup> but then changed his view entirely shortly afterwards<sup>18</sup>;
  - Alice De Jonge (Monash Business School) gave evidence that a survey arranged by the Voice of Horticulture was not “an appropriate survey” to “give a complete economic picture of the horticulture industry”<sup>19</sup> because, for example, there was no information provided about profit levels but then

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<sup>11</sup> See Transcript for 11 July 2016 at PN1020 to PN1022

<sup>12</sup> See Transcript for 11 July 2016 at PN1033

<sup>13</sup> See Transcript for 11 July 2016 at PN1227

<sup>14</sup> See Transcript for 11 July 2016 at PN886

<sup>15</sup> See Transcript for 11 July 2016 at PN1062

<sup>16</sup> See Transcript for 11 July 2016 at PN1067

<sup>17</sup> See Transcript for 11 July 2016 at PN1022

<sup>18</sup> See Transcript for 11 July 2016 at PN1033

<sup>19</sup> See Transcript for 11 July 2016 at PN1409

attempted to draw inferences about profitability from the same survey data<sup>20</sup>;

- Clint Edwards (hops farmer from Tasmania) gave evidence that paying overtime rates to casual employees when they work more than 38 hours in a week would be problematic<sup>21</sup> but then admitted this would only arise for 1 or 2 weeks each year<sup>22</sup>; and
- Mr Sutton gave evidence that some of the award changes would lead to a decreased use of local labour<sup>23</sup> but then admitted there is no reason why the award changes would impact on the use of either local or foreign labour – the only potential effect would be on general employment levels<sup>24</sup>.

18. It is likely that these types of inconsistencies would have been revealed from other NFF witnesses if time had permitted more extensive cross-examination in these proceedings.

### The Queensland experience

19. Casual employees in Queensland were entitled to overtime penalty rates of time and a half for the first three hours and double time thereafter under clause 6.4.2 of the *Fruit and Vegetable Growing Industry Award – State 2002* (QLD Award). This entitlement arose when a casual employee worked more than 40 hours over a period of seven days.

20. The evidence of Donna Mogg (formerly a Workplace Relations Manager for Growcom) is “the majority” of employers in Queensland in the horticultural industry were paying employees under the QLD Award until 2010.<sup>25</sup>

21. Ms Mogg also stated that Growcom has advised employers in Queensland from July 2010 onwards that overtime rates are not payable to casual employees.<sup>26</sup>

22. Numerous farmers speculated in their evidence about catastrophic consequences if they were compelled by the Award to make overtime payments to casual employees. For example, Brock Sutton – who operates a

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<sup>20</sup> See Transcript for 11 July 2016 at PN1410

<sup>21</sup> See Transcript for 11 July 2016 at PN813

<sup>22</sup> See Transcript for 11 July 2016 at PN819

<sup>23</sup> See Transcript for 11 July 2016 at PN1152

<sup>24</sup> See Transcript for 11 July 2016 at PN1155 and PN1156

<sup>25</sup> See Transcript for 11 July 2016 at PN1288

<sup>26</sup> See Transcript for 11 July 2016 at PN1310

vegetable farm in Queensland, referred to reduced production levels if penalty rates for casual employees were included in the Award.<sup>27</sup>

23. However, data collected by the Queensland Government about the gross value of production for fruits, nuts and vegetables from 1985-86 to 2014-15 does not demonstrate any identifiable link between overtime entitlements for casual employees and the value of production figures.<sup>28</sup>

24. For example, the value of production for both fruit and nuts and vegetables rose relatively consistently from 1985-86 through to 2009-10 despite casual employees having overtime entitlements under the QLD Award.

25. Further, as overtime entitlements for casual employees in Queensland disappeared either immediately or gradually<sup>29</sup> from 2010-11 onwards, there has not been any dramatic increase in the value of production for fruit and nuts or vegetables. Ms Mogg accepted this during cross-examination.<sup>30</sup>

26. The highest recorded figure for the gross value of fruit and nut production was in 2006-07 when overtime rates were payable to casual employees and the gross value of production figure for vegetables was higher in 2006-07 and 2007-08 (when casual employees were entitled to overtime payments) than in 2011-12 and 2013-14 (after the alleged removal of overtime entitlements for casual employees).

27. These figures make a mockery of the unsubstantiated assertions from numerous farmers that the payment of overtime entitlements to casual employees will decimate the horticultural industry in Australia.

28. The reality is the main factors affecting farm viability will remain the weather and prices paid to farmers for horticultural products.<sup>31</sup>

### Working conditions in the horticultural industry

29. The evidence from two AWU Organisers, Adam Algate<sup>32</sup> and Ron Cowdrey<sup>33</sup>, is that employees in the horticultural industry work a very large number of hours during harvest season.

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<sup>27</sup> See Transcript for 11 July 2016 at PN1153 and PN1156

<sup>28</sup> See TAB 6 of Exhibit 186

<sup>29</sup> The reduction may have been gradual if transitional provisions were applied – although Ms Mogg did not refer to any transitional arrangements in her evidence.

<sup>30</sup> See Transcript for 11 July 2016 at PN1300

<sup>31</sup> See Transcript for 11 July 2016 at PN978

<sup>32</sup> Statement of Adam Algate – Exhibit 173 at [17] and [18]

<sup>33</sup> Statement of Ron Cowdery – Exhibit 175 at [8]

30. The survey evidence filed by the NFF also states the average number of hours worked by employees during harvest is 50 per week.<sup>34</sup>
31. Mr Dollison gave evidence that work in this industry is “not work that a lot of people want to do. It’s hard work”<sup>35</sup> and “whether you have a roof over you, or you don’t have a roof over you, it’s basically hard work, and you’re working, you know, out in the Australian sun. It’s not – what can you do to improve conditions?”<sup>36</sup>
32. This is consistent with the evidence of Mr Cowdrey that “employees often work in harsh conditions in terms of weather and the work is very physically demanding”.<sup>37</sup>
33. Alarming, the evidence of Ms Mogg reveals that many casual employees in Australia working in these difficult conditions are actually receiving less remuneration when they work over 38 hours in a week because superannuation is only being paid on the first 38 hours of work.<sup>38</sup>
34. Mr Sutton gave the following evidence in cross-examination about the poor treatment of labour hire workers in the horticultural industry:

*There has obviously been a number of unfortunate circumstances that have been highlighted in the media over the past couple of years, and that paragraph is more a statement towards our risk management, and, as it says, to the benefit of the workers, to make sure the right think is being done by them.*<sup>39</sup>

35. This evidence about workers being mistreated in this industry is consistent with that given by three AWU Organisers.<sup>40</sup>
36. It can also reasonably be inferred that most casual employees in this industry are paid at the Level 1 rate because progression to the Level 2 classification requires three months of structured training.<sup>41</sup> This is consistent with the evidence of Mr Edwards who indicated most of his employees are paid at the Level 1 rate.<sup>42</sup>

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<sup>34</sup> Statement of Alice De Jonge – Exhibit 191 at page 4 of 10

<sup>35</sup> See Transcript for 11 July 2016 at PN1062

<sup>36</sup> See Transcript for 11 July 2016 at PN1065

<sup>37</sup> Statement of Ron Cowdrey – Exhibit 175 at [6]

<sup>38</sup> See Transcript for 11 July 2016 at PN1328

<sup>39</sup> See Transcript for 11 July 2016 at PN1150

<sup>40</sup> See Statement of Adam Algate – Exhibit 173 at [8] to [12]; Statement of Keith Ballin – Exhibit 174 at [6] and Statement of Ron Cowdrey – Exhibit 175 at [4] to [11]

<sup>41</sup> See Schedule B.2.2 of the *Horticulture Award 2010*

<sup>42</sup> See Transcript for 11 July 2016 at PN828

## Views of employees

37. Mr Algate, an AWU Organiser, gave the following evidence:

*Based on conversations I have had with these workers they are often too scared to complain or ask for better conditions because they fear losing work or even being sent back home.*

*AWU members from the sites I look after are constantly complaining about not getting overtime rates.<sup>43</sup>*

38. Another AWU Organiser, Keith Ballin, similarly gave evidence that:

*My experience has been that it is very difficult to find employees who are prepared to speak out about industrial issues such as not getting overtime rates because they are scared/fear of retribution where the result will be they have no work.*

*I have heard this explanation from many employees in the horticultural industry during my time with the union.<sup>44</sup>*

39. In any event, a number of farmers gave evidence to the effect that employees in this industry are, unsurprisingly, simply looking to earn as much money as possible.<sup>45</sup>

## Increased employment opportunities

40. In *Registered Clubs Association of NSW v Australian Liquor, Hospitality and Miscellaneous Workers' Union, NSW Branch* [2000] NSWIRComm 262 (14 December 2000), Justice Glynn analysed a range of historical cases regarding the purpose of overtime payments and then stated:

191        *Some of the cases mentioned above are concerned with overtime per se and, others particularly in the steel industry, with overtime worked at the weekend. It can be seen from those cases that the issue of overtime has dimensions of public interest that give it an intensity not to be found to the same degree in many of the other workplace circumstances which require compensation for the employees affected. Compensation for overtime has underpinning it society's disapprobation of its being worked*

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<sup>43</sup> Statement of Adam Algate – Exhibit 173 at [12] and [19]

<sup>44</sup> Statement of Keith Ballin – Exhibit 174 at [16] and [17]

<sup>45</sup> See Statement of Rhonda Jurgens – Exhibit 161 at [14]; Statement of Mick Dudgeon – Exhibit 157 at [9]; Statement of Susan Finger – Exhibit 158 at [17]



*at all, it being seen not only as undermining the hard fought right to shorter hours enshrined in legislation but also as inimical to the fair sharing of employment opportunities.*

192 *It was also recognised in those cases and in the legislation (the 1940 Act, s 66) that there were circumstances where, although it was to be discouraged, the working of overtime would take place, and, indeed, might be necessary. The rates struck to compensate for working that overtime were aimed, not only to compensate the employees, but also to discourage management practices that were regarded as being subversive of public policy and of the public interest.*

193 *The working of overtime would appear to represent the essence of what the legislature sees as representative of situations in the workplace which call for "penalty" rates i.e. in respect of overtime, to call for rates which are primarily intended to discourage employers calling on employees to work overtime, other than for the most cogent reasons, and, if overtime must be worked, to suitably compensate the employees.*

194 *Those are the penalty rates specifically nominated by the legislature as not to be taken into account as "ordinary pay" in terms of s 3 of the LSL Act. They are rates whose primary purpose is deterrence against employers' activities that may impinge adversely on employees as individuals or as groups. The compensatory factor is secondary, and a punitive component dominant.*

41. This passage highlights the importance of overtime penalty rates in terms of preserving hard-fought conditions for shorter hours of work per week and creating additional employment opportunities.

42. A number of farmers gave evidence in these proceedings that the granting of overtime entitlements to casual employees would lead them to hire more employees. Strangely, this appeared to be perceived as a negative outcome.<sup>46</sup>

43. However, this is precisely the outcome that overtime penalty rates are specifically designed to achieve – that is, encouraging employers to employ more people instead of getting a smaller number of people to work an excessive amount of hours.

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<sup>46</sup> For example, see Statement of Donna Mogg – Exhibit 190 at [6] and the Transcript for 11 July 2016 at PN1331; Statement of Rhonda Jurgens – Exhibit 161 at [14]; Statement of Pennie Patane – Exhibit 166 at [11]; Statement of Kylie Collins – Exhibit 155 at [14]; Statement of Susan Finger – Exhibit 158 at [16]

## **The modern awards objective**

44. All of the material above is relevant to an assessment by the Commission of a fair and relevant safety net of conditions in the horticultural industry as required by section 134 of the *Fair Work Act 2009* (the Act).

45. In relation to the specific matters identified in section 134 (1) of the Act, we make the following additional points.

### (a) relative living standards and the needs of the low paid

46. As stated above, most casual employees in the horticultural industry are paid at the Level 1 rate. The Level 1 rate in the Award is the National Minimum Wage rate.

47. The National Minimum Wage rate is set according to a weekly rate for 38 ordinary hours of work – it is not intended that this rate should be paid for 50 or 60 hours of work per week.

48. If the employers are correct and casual employees are not currently entitled to overtime rates, the Award is clearly failing to meet the needs of the low paid because it is allowing the National Minimum Wage hourly rate to be paid for an indefinite amount of hours each week.

### (b) the need to encourage collective bargaining

49. This factor supports the granting of our claim given most employers are currently paying under the Award as opposed to utilising enterprise agreements.<sup>47</sup>

50. If the granting of casual overtime entitlements actually creates significant problems for any employers, they will have the opportunity to negotiate different conditions in an enterprise agreement subject of course to the Better Off Overall Test.

### (c) the need to promote social inclusion through increased workforce participation

51. As stated above and in accordance with the intended punitive effect of overtime penalties, the granting of this claim will increase employment opportunities in Australia.

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<sup>47</sup> See Transcript for 11 July 2016 at PN1415

(d) the need to promote flexible modern work practices and the efficient and productive performance of work

52. A number of farmers have suggested their response to this claim will be to employ more people for shorter periods of time.

53. The benefits of this outcome are well articulated in the evidence of Susan Finger (apple farmer):

*Best practice in the industry for the growing season indicates that orchard work needs to be done on a timely basis to obtain optimum results. Five workers for one week produce much better results than one worker for five weeks.<sup>48</sup>*

54. Hence the granting of the claim will promote the efficient and productive performance of work in this industry.

(da) the need to provide additional remuneration for:

- (i) employees working overtime; or
- (ii) employees working unsocial, irregular or unpredictable hours;
- or
- (iii) employees working on weekends or public holidays; or
- (iv) employees working shifts;

55. This is obviously a very strong factor in support of our claim.

56. According to the interpretation of employers, the Award is currently failing to provide any additional remuneration to employees for working overtime.

57. Alarming, the evidence of Ms Mogg actually suggests casual employees are currently receiving less remuneration for working overtime than they receive for working ordinary hours.

58. This is a disgraceful situation in Australia in 2016 and it clearly needs to be addressed by the Commission.

(e) the principle of equal remuneration for work of equal or comparable value

59. This appears to be a neutral factor.

(f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden;

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<sup>48</sup> Statement of Susan Finger – Exhibit 158 at [9]

60. Our claim is likely to increase employment costs although the extent of this is difficult to determine given numerous farmers have indicated they are likely to make operational changes to minimise the impact.

61. It is significant that the extra costs are not of a permanent nature – they will generally only arise during busy harvest periods when overtime work is required. This means the impact on employers is far less than, for example, an increase to the hourly rates of pay.

62. In any event, based on the industry level data referred to above, employers in the horticultural industry will be able to manage the additional costs and forecasts for the future of this industry in Australia are quite positive.

63. Significantly, during cross-examination Mr Sutton confirmed that overtime payments to casual employees when they work more than 38 ordinary hours in a week would be manageable.<sup>49</sup>

(g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards

64. This appears to be a neutral factor.

(h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy

65. As referred to above, the granting of this claim is likely to increase employment opportunities in the industry given numerous farmers have indicated they are likely to employ more workers to avoid having to pay overtime rates.

66. The granting of the claim will also constitute a small step towards improving employment conditions in this industry. This is ultimately the best means of addressing the perceived current labour shortage because if conditions are improved they will be more attractive to local and foreign workers.

## **Conclusion**

67. We submit the evidence led in these proceedings, the above submissions and our earlier submissions dated 14 October 2015<sup>50</sup> provide a sound basis for

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<sup>49</sup> See Transcript for 11 July 2016 at PN1167

<sup>50</sup> See <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014231-sub-awu-141015.pdf>

the Commission to amend the Award in the terms of the attached “AWU – amended Draft Determination”.

A handwritten signature in black ink, appearing to read 'SC', is positioned above the typed name.

Stephen Crawford

**SENIOR NATIONAL LEGAL OFFICER**

5 August 2016

**“AWU – amended Draft Determination”**

**DRAFT DETERMINATION**

*Fair Work Act 2009*

Part 2-3 Division 4 – 4 Yearly Review of Modern Awards

s.156(2)(b)(i)

**Horticulture Award 2010**

(MA000028)

**4 Yearly Review of Modern Awards**

(AM2014/231)

Vice President Hatcher

Deputy President Bull

Senior Deputy President Hamberger

Deputy President Kovacic

Commissioner Roe

SYDNEY, X 2016

Review of modern awards to be conducted.

[1] Further to the decision and reasons for decision <<decision reference>> in <<file\_no.>>, it is determined pursuant to section 156(2)(b)(i) of the Fair Work Act 2009, that the *Horticulture Award 2010* be varied as follows.

[2] Delete the words in clause 10.4 (a) and insert the following:

*(a) A casual employee is one engaged and paid as such. A casual employee’s ordinary hours of work are prescribed in clause 22.*

[3] Delete the words in clause 22.1 and insert the following:

***22.1** The ordinary hours of work for all employees other than shiftworkers are as follows:*

*(a) The ordinary hours of work for full-time and part-time employees will not exceed 152 hours over a four week period and will be worked between Monday and Friday inclusive except by arrangement between the employer and the majority of full-time and part-time employees in the section/s concerned that the ordinary hours will be worked between Monday and Saturday inclusive.*

*(b) The ordinary hours of work for casual employees will be the lesser of 38 hours per week or the hours required to be worked by the employer and will be worked between Monday and Sunday inclusive.*

*(c) The ordinary hours for all employees will be worked between 6.00 am and 6.00 pm except if varied by arrangement between the employer and the majority of the employees in the section/s concerned.*

*(d) The ordinary hours for all employees will not exceed eight hours per day except by arrangement between the employer and the majority of employees in the section/s concerned in which case ordinary hours should not exceed 12 hours on any day.*

*(e) All time worked in excess or outside of the ordinary hours will be deemed overtime.*

[4] This determination will operate on and from .....

VICE PRESIDENT