

**4 yearly review of modern awards
Award stage – Sugar Industry Award 2010**

Matter No. AM2017/56

SUBMISSIONS

NATIONAL FARMERS’ FEDERATION

Date: 18 June 2018

1. These submissions are made by the NFF in reply to the submissions made by AWU on 8 June 2018 (**the AWU’s Submissions**) and are supplemental to the submissions which the NFF made on 7 June 2018 (**the NFF’s Primary Submissions**).

Paragraphs [1] to [13] of the AWU’s submissions

2. The NFF makes no submission in reply to paragraphs [1] to [12] of the AWU’s Submissions.
3. In relation to paragraph [13] of the AWU’s Submissions, we refer to the NFF’s Primary Submissions and paragraphs [20] to [25] in particular.

Paragraphs [14] to [22] of the AWU’s submissions

4. With respect to paragraphs [14] to [22], the NFF notes that the clause 20.2(a) provides a methodology for calculating the “minimum piecework rate” — in advance of the performance of that work — rather than guaranteeing a minimum amount of payment. Nevertheless, the argument is irrelevant to the matters presently at issue.

Paragraphs [22] to [28] of the AWU’s submissions

5. Much of the AWU’s argument at paragraphs [22] to [28] is founded on the specific language of clause 20.2(a) of the Sugar Award. In the NFF’s submission this line of argument is fundamentally flawed.
6. The language of clause 20.2(a) of the Sugar Award is derived, essentially verbatim, from clause 5.5 of the *Sugar Field Sector Award – State 2005* (**the Queensland Award**). That pre-modernisation award did not provide for the payment of any casual loading. As such the language in that provision, at least in the pre-modernisation context, could not have

AWU's arguments at paragraphs [23] to [25] of their submission, which rely on the terms "payment for actual hours worked" at clause 20.2(a) of the Sugar Award.

- c. The NFF does not dispute the AWU's submission at paragraphs [26] to [27] that clause 20.2(a) ensures that the minimum piecework rate should be calculated to include the overtime loading which the worker would have received if he/she was working on an hourly rate. However, in our submission the fact that the Award makes this express reference to overtime but not to any other form of payment or loading — or indeed (contrary to paragraph [31] of the AWU's submission) to "all relevant loadings"³ — suggests that there was no intention for the piece rate to pick-up those other loadings. It would have been a simple matter for the Award to make reference to "all relevant loading" or to just omit the language which the AWU emphasizes at paragraph [26] of the AWU's Submissions. It did not. Instead, it refers only to overtime.

Paragraphs [29] to [37] of the AWU's submissions

9. We do not comment on paragraphs [29] and [30] of the AWU's submissions except to say that the fact that the piece rate must be reviewed does not assist their arguments that it should compound the casual rate. Furthermore, it is our view that the notional 'burden' to which the AWU refers is not one which should bear on the Commission's decision in this matter.

Paragraphs [31] to [37] of the AWU's submissions

10. It appears that the submissions in these clauses summarises arguments made early in the AWU Submissions. As such, in reply we merely repeat and rely on our previous submissions on those issues.

Pastoral Award

11. The NFF notes that clause 10.4 of the *Pastoral Award 2010* provides for shearers, wool pressers and wool classers to be engaged as casual pieceworkers. Clause 45 provides the formulae for calculating the rate they are paid. Those formulae clearly specify that the

³ Or, indeed, any other form of loading or penalty rate.