

Australian Industry Group

Review of C14 Rates

Submission
(C2019/5259)

27 September 2024



C2019/5259 REVIEW OF C14 RATES

1. INTRODUCTION

1. The Australian Industry Group (**Ai Group**) files this submission in relation to the:
 - (a) draft determination published by the Fair Work Commission (**Commission**) concerning the *Horticulture Award 2020* (**Award**); and
 - (b) one of the provisional views expressed by the Commission in its decision of 16 April 2024 (**Decision**) regarding the Award.¹
2. The submission is made in response to the direction at paragraph [235] of the Decision.

2. THE FIRST PROVISIONAL VIEW

3. The Commission's first provisional view regarding the Award is as follows: (emphasis added)

The definition of Level 1 in clause A.1 should be varied to add a requirement that progression for Level 1 to Level 2 must occur after three months' industry experience. A consequential amendment should be made to the first item in clause A.2.2.

4. We seek to raise two concerns regarding the underlined element of the provisional view, which is also reflected in the draft determination.
5. *First*, an employee would be required to be reclassified after three months' experience in the industry, irrespective of whether that experience was gained with another employer or in respect of different crops or activities.
6. This requirement should, in our submission, be limited to circumstances in which the relevant experience was gained in respect of the same crop. Experience gained in respect of one crop is in many cases entirely irrelevant to an employee's proficiency or capability to undertake work in respect of another. The

¹ *Review of C14 and C13 rates in modern awards* [2024] FWCFB 213 at [132].

fact of experience in relation to the first should not, in such circumstances, result in the employee being entitled to a higher rate of pay in respect of the second.

7. *Further*, the requisite experience ought to have been gained recently, in order to justify payment at a higher rate. For example, experience gained several years ago should not of itself warrant classification at Level 2. Rather, a reasonable temporal limitation (e.g. 12 months) should be placed on the requirement.