

FAIR WORK COMMISSION

C2019/5259

REVIEW OF CERTAIN C14 RATES IN MODERN AWARDS

**National Farmers' Federation —
Submissions in Reply**

Introduction.

1. We refer to the above and the statement published by the President of the Fair Work Commission (**the Commission**) on 22 September 2023 (**the Statement**) which invited (inter alia) interested parties to file submissions-in-reply in this matter.
2. The National Farmers Federation (**the NFF**) has an interest in the Pastoral Award 2020 (**the Pastoral Award**) and the Horticulture Award 2020 (**the Horticulture Award**) and accordingly these submissions respond to the Full Bench's invitation in relation to those Awards.

Reply to submissions filed by employer interests.

3. On 03 November 2023 the NFF filed submissions (**the NFF's Submissions**) which made the following contentions.
 - (a) The current terms of the Pastoral Award and the Horticulture Award (collectively **the Agricultural Awards**), and pay rates and classifications in particular, should not be varied lightly.
 - (b) A change in the nature of the provisional view which the Statement expressed¹ (**the Provisional View**) has potential to significantly affect the farming industry and would therefore need to be carefully considered and ventilated.
 - (c) A case for change within the Agriculture Awards has not been articulated other than in very broad and general terms and not, in our submission, in a way which responds to the requirements of the Fair Work Act 2009 (**FWA**).

¹ At paragraph [8].

- (d) As such, no change should be made without a very detailed examination of existing provisions, including their history and current operation, and any proposals, and their possible impact on business, workers, and the broader economy.
4. There is nothing in the materials which were filed in this matter after 03 November 2023 — including within the submissions made by the AWU and UWU as detailed below — which have caused the NFF to alter or depart from those contentions.
 5. On 06 November 2023, the Ai Group filed submissions (**AIG Submissions**) which:
 - (a) Made certain observations about the accuracy of the Statement and the Provisional View; and
 - (b) Concluded that the Commission should not adopt the Provisional View² or,
 - (c) If the Commission decided to maintain the Provisional View, to conduct a discrete and fulsome review of any proposed variation to an Award which may follow.
 6. On 03 November 2023 the Australian Business Lawyers and Advisors filed submissions in this matter (**ABI Submissions**) which are in similar terms to the AIG Submissions, and which stressed that the rates of pay which the Award stipulate must reflect the value of the associated work, and this should be considered on an award-by-award basis.
 7. The NFF agrees with the AIG Submissions and the ABI Submissions.
 8. On 10 November 2023 the Australian Fresh Produce Alliance filed submissions (**AFPA Submissions**) which:
 - (a) Assert that the Provisional View is not consistent with the provisions of the Horticulture Award; and
 - (b) Observe that automatic, time/experienced based progression from Level 1 to Level 2 was not a historical feature of the industrial instruments used in the horticulture sector or the practice of the horticulture industry.
 - (c) Observe that different farms will have different standards and requirements which are in turn a function of the nature of the crop, logistics, commercial realities, and expectations of suppliers.
 9. The NFF agree with these aspects of the AFPA Submissions.

² Paragraph 42 of the AIG Submissions.

Reply to “Broad view” submissions filed by AWU.

10. On 3 November 2023 AWU filed submissions in chief in this matter (**AWU Submissions**).
11. The AWU Submissions make the broad claim that all Modern Award minimum rates should be equivalent to C13 or provide for a time-based transition from C14 to C13.³
12. For the reasons given in the NFF Submissions and these submissions-in-reply, the NFF disputes that claim in so far as it relates to the Agricultural Awards⁴, and submits that it is not supported by substantive reasons or probative evidence.
13. As has been observed by the Commission, “[v]ariations to modern awards must be justified on their merits”, and that the weight of the argument in justification and evidence in support will vary depending on the nature of the variation.⁵
14. It is the NFF’s position that any change which may arise from these proceedings in relation to the Agricultural Award could, prima-facie, be a substantial variation on both an individual farm-business level and across the industry — *Kleyn [26] to [28]; Guthrey [10] to [12]; Munro [11] to [13]; Cumming [25] to [28]; Grub [19] to [20]; Rowntree [25]; Finch [22] to [24]*
15. It follows that there should be significant evidence and compelling arguments justifying any such change.

Horticulture Award — Reply to submissions filed by AWU.

16. With specific reference to the Horticulture Award, the AWU makes two “proposals”:
 - (a) Firstly, that Level 1 should be set at a rate which is C13 equivalent (**the First AWU Proposal**); or
 - (b) Secondly, and in the alternative, that Level 1 employees should transition to Level 2 within 2 weeks (**the Second AWU Proposal**).
17. In relation to the First AWU Proposal, the AWU makes the following submissions.
 - (a) Firstly:

³ AWU Submission, paragraph 2 to 5.

⁴ i.e. in as much as that assertion calls for a change to current transitional arrangements which, for example, in the case of Dairy Operator Grade 1A provide for the transition to occur after 12 months.

⁵ 4 yearly review of modern awards – Penalty Rates [2017] FWCFB 1001, 265 IR 1 at [269].

- i. The AWU makes contentions about the horticulture workforce, including that workers are “particularly vulnerable to exploitation”, the work is labour intensive and seasonal, and that there is a high proportion of casual and contract labour and temporary migrant workers during harvest.⁶
 - ii. In reply, without admitting or denying these contentions, the NFF observes that their application to the First AWU Proposal⁷ and/or to the Provisional View are not specified and, in the NFF’s submission, *even if true*, are at best tangentially relevant to this matter in as much (only) as they may inform the picture of the horticultural workforce generally.
- (b) Secondly:
- i. The AWU observes that there is no system mandating that employers promote Level 1 to Level 2, whether via training or with reference to duties and competencies.⁸
 - ii. In reply the NFF notes that, while Level 1 workers who are more capable and required to work at Level 2 will progress from Level 1 to 2 as a matter of practice — *Kleyn statement at [24]* — the NFF agrees that there is no mandatory, time-based progression built into the Horticulture Award classifications⁹.
- (c) Thirdly, the AWU claims that a variation which is consistent with the First AWU Proposal:
- is necessary to achieve the modern awards objective of providing a fair and relevant minimum safety net of terms and conditions, in accordance with s 157(1) of the FW Act and having regard to the considerations in s 134(1). The proposed variation is justified by ‘work value reasons’, as required under ss 157(2) - (2B), and is consistent with the minimum wages in s 284.¹⁰
- (d) In reply, the NFF observes that these are unsupported assertions which are not informed by any analysis or evidence and should not, without more, be accepted by the Commission.

18. The AWU also submits, as a consequential amendment, that Level 2 rates should be lifted to \$23.55 because it ‘splits the difference’ between existing Level 2 and Level 3 rates¹¹

⁶ AWU Submissions, paragraph 9(a).

⁷ Or indeed the Second AWU Proposal.

⁸ AWU Submissions, paragraph 9(b) – (e).

⁹ As indicated in the NFF’s Primary Submissions at paragraph [37].

¹⁰ AWU Submissions, paragraph 10.

¹¹ AWU Submissions, paragraph 11.

and is consistent with statutory requirements having regard to the labour-intensity of the work, and level of responsibility and skill required.¹²

19. In response the NFF notes that “splitting the difference” is not a work value reason or a consideration under the Modern Awards Objective, and any change as to the rates of pay to Level 2 employees are not supported by the annual wage review decision (AWR), the Statement, the Provisional View or any work value assessment. It should therefore not be accepted.
20. In relation to the Second AWU Proposal, the AWU contends that this approach is also supported by the matters it raised in support of the First AWU Proposal.¹³ For the reasons given above at paragraphs 17 and 19, the NFF disputes that contention.
21. In addition, the AWU submits that its second proposal is consistent with the Statement and relevant statutory requirements.¹⁴ The NFF notes that those contentions are, again, not supported by analysis or evidence, and are disputed by the NFF.
22. Finally, in relation to the Second AWU Proposal, the AWU contends that evidence and findings from other matters considering the Horticulture Award give rise to a “strong implication ... that workers in the horticultural industry become competent at their work after 76 hours of performing the task”.¹⁵
23. In reply the NFF notes the following:
 - (a) The evidence to which the AWU refers describes the experiences of a particular witness at a particular farm in relation to a particular task (e.g. picking of particular crop) and production system. It did not comment on the broader horticulture sector or make claims about “workers in the horticultural industry” and their competency generally.
 - (b) Furthermore, the evidence was tendered to demonstrate — and the findings were made — with respect to discrete factual circumstances and for a limited purpose i.e. to establish a piece rate formula and the piece rate calculations which followed. They cannot be said to have universal relevance.
 - (c) As such, the Commission should find that those findings and evidence carry no weight in the context of these proceedings.

¹² AWU Submissions, paragraph 12 – 13.

¹³ AWU Submissions, paragraph 15.

¹⁴ AWU Submissions, paragraph 16 and 17.

¹⁵ AWU Submissions, paragraph 18 to 26.

- (d) In addition, it goes without saying that the *existing* Award classification system (along with the balance of the Awards’ terms) were based on findings made by the Commission in the Award modernisation process. Those findings, made specifically in relation to the provisions under consideration in this matter, should carry far greater weight.
24. In contrast:
- (a) Level 1 Workers at a single farm are expected to have a variety of skills beyond picking one particular crop on one particular farm and will include workers who (are expected to) pack, sort, grade, prune, record, clean, load, etc — *Kleyn [10] to [13]; Guthrey [8] and [9]*.
 - (b) Furthermore, there are differences in the role, as different commodities, different farms, and different production systems have different requirements e.g. apple picking is different to avocado, broccolini, asparagus, lemon, mango or mushroom picking.
 - (c) The AWU Submissions appear to acknowledge the scope of work potentially covered by Level 1, observing that the Horticulture Award provides “ample scope to engage employees to undertake ongoing and productive work at the Level 1 classification.”¹⁶
25. In short, workers at Level 1 need to be capable at a variety of tasks in a variety of contexts and the classification scheme must be flexible enough to accommodate that need.
26. In addition, the evidence indicates that:
- (a) Level 1 provides an entry point, allowing workers who do not have experience or are re-entering the workforce without posing a significant financial, business or administrative risk for the farm — *Kleyn [19] to [27]*.
 - (b) There is frequently a transition from Level 1 to Level 2 and Level 3. Workers who demonstrate value to the farm (and stay beyond a harvest) will be promoted to Level 2 to perform different, more senior work. — *Kleyn [24]*.
 - (c) Employees at Level 1 are entitled to various loadings and penalties, in addition to earning various bonuses, such that while their base rate is C14-equivalent their actual pay is frequently much greater — *Guthrey [7]; Kleyn [7], [15]*

¹⁶ AWU Submissions, paragraph 9(c).

27. In summary, the AWU Submissions do not make a compelling case for any variation to the Horticulture Award in accordance with the Provisional View or provide any probative evidence in support of such change.

Horticulture Award — Reply to submissions filed by UWU.

28. The United Workers Union filed submissions:
- (a) On 03 November 2023 which noted its support for the Provisional View; and
 - (b) On 10 November 2023 which noted its support for “the proposals of the AWU in relation to the” Horticulture Award.
- (collectively, **the UWU Submissions**)
29. In the NFF’s submission, the UWU Submissions do not advance the argument for change.

Pastoral Award — Reply to submissions filed by AWU.

30. In relation to the Pastoral Award, the AWU Submissions “in the alternative to the broad contention for removing instances of sub-C13 rates from modern awards”¹⁷ make the following assertions:
- (a) FLH1 Station Hands, FLH1 Cattle Farm Workers, FLH1 Dairy Operators Grade 1A, and FLH1 Poultry Farm Workers should “only fall under that classification” if they have less than 3 months experience in the industry.
 - (b) Station Cooks should be paid the C13 Equivalent rate — and presumably therefore classified at FLH2 — upon commencing in that role.
 - (c) Station Cook’s Offsiders should only fall under the classification if they have less than 3 months experience in the industry.
 - (d) Piggery Assistant PA1 should “continue” to be limited to employees who are undertaking a 38-hour induction training.
 - (e) Piggery Assistant PA2 employees should be paid a base rate equivalent to C13 of \$23.23/hour.
31. As noted above at paragraph [13]: “Variations to modern awards must be justified on their merits”, and the weight of the argument in justification and evidence in support will vary

¹⁷ Paragraph 97 of the AWU Submissions.

depending on the nature of the variation.¹⁸ It follows that there should be compelling arguments and significant evidence justifying any significant change.

32. In our submission, the AWU Submissions regarding the Pastoral Award¹⁹ do not:
 - (a) Provide any substantial arguments for change or refer to any probative evidence in support of such arguments.
 - (b) Provide any basis in fact, or industrial practice or history, for a change in the classifications or transition periods.
 - (c) Justify the change on the basis of work value, the modern awards objective, or any other legislative grounds.
33. Furthermore, the AWU Submissions fail to indicate how the changes which they propose in relation to specific classifications should be given effect in the Award or how it could operate in practice.
34. In particular, the submissions do not account for the fact that, in a number of cases, the Awards do not provide a pathway which would accommodate the AWU's proposal.
 - (a) For instance, the AWU Submission indicate that FLH1 Station Hands and FLH1 Dairy Operators Grade 1A should only cover workers "if they have less than 3 months experience in the industry"²⁰ without indicating what should happen at the point a worker acquires 3 (or more) months experience.
 - (b) FLH1 Station Hands and FLH1 Dairy Operators Grade 1A do not progress to FLH2 i.e. to the next Farm and Livestock Hand classification level. Instead, the transition is straight to FLH3 (a process which followed the progression methodology and language of the industrial award which was the basis for the modern Pastoral Award).²¹
 - (c) Furthermore, both FLH3 Station Hand and FLH3 Dairy Operator Grade 1B are expressly described as applying to employees with at least 12 months experience in the industry.

¹⁸ *4 yearly review of modern awards – Penalty Rates* [2017] FWCFB 1001 at [269].

¹⁹ At paragraphs 96 to 101 of the AWU Submissions.

²⁰ At paragraphs 98(a), 98(e), 101 of the AWU Submissions.

²¹ the Pastoral Industry Award 1998 (and all previous versions) AP792378CRV.

- (d) Therefore, it is unclear what the AWU proposes should happen to a worker with more than 3 months and less than 12 months experience.
35. There is a related difficulty with Poultry Farm Worker PW1. Workers in that role transition to PW2 (inter alia) after 12 months experience where they are paid at a minimum (base) rate of \$23.55/hour. It is notable that the pay rate is equivalent to the FLH3 and higher than C13 so that in practice the problem is the same.
36. Within these constraints and given that they cannot be easily accommodated by the existing award classification structure, it is unclear how the AWU's proposal should operate.
37. In relation to the Piggery Attendant Roles, the AWU proposes that PA1 should:
continue to be limited to 38 hours' induction training and clause 36.3(a) should be amended to make clear that progression to 'Piggery attendant level 2 (PA2)' is not dependent on the completion of structured training or obtaining competencies.²²
38. In response, the NFF reiterates our comments at paragraph 50 of the NFF Submission, that:
- (a) PA1 applies to (1) those employees who are undertaking induction training and (2) those employees who are "employed as general hand in a general capacity to perform basic tasks..." and satisfies the criteria specified at clause 36.2(b).
- (b) As is the case with all classifications in the Pastoral Award, the Piggery Attendant classifications reflect industry practice and award history and should not be varied without proper analysis and consultation.

Pastoral Award — Reply to Statement of Shane Roulstone (AWU)

39. In support of its submission in relation to the Pastoral Award the AWU has filed a statement of Shane Roulstone dated 3 November 2023 which simply states that "in his experience" (which is not described with any precision):
- (a) "lower-level workers in the pastoral industry" undertake difficult work in harsh conditions and are from low-socio economic backgrounds with limited career opportunities; and
- (b) entry-level pay rates are often insufficient to attract workers to the industry.

²² Paragraph 99 of the AWU Submissions.

40. In response to the observations of Mr Roulstone, the NFF makes the following submissions:
- (a) Without admitting these claims, queries their relevance (even if accurate) as anything other than tangentially related to this matter or the points at issue.
 - (b) Those submission notwithstanding, and while rejecting any implication that a rational increase in pay rates would have a substantial impact on the number of workers available to the industry, the NFF accepts that as a general statement the industry continues to experience significant workforce shortages — *Rowntree [6]; Cumming [8], [23]; Finch [8]; Burk [4] to [6]*

Pastoral Award — Support for existing classifications

41. In contrast, and without conceding that it is necessary to raise an argument, the NFF makes the following observations in support of the current provisions.
- (a) The current transitional arrangements in the Pastoral Award reflect the historical position. To the extent that the Pastoral Industry Award 1998²³ (which was the basis for the modernised Pastoral Award in 2010) and other pre-modern awards and NAPSAs specified time-based or experience-based transitions, they are by-and-large consistent with current arrangements in the Pastoral Award for transition between levels.
 - (b) The current transitional arrangements are consistent with practice within the industries covered by the Pastoral Award. The evidence demonstrates that:
 - i. Employees are engaged at the first level of the Pastoral Award while they are being exposed to the entire cycle of production on farm, learning the basic capabilities, and developing necessary experience — *Finch [10] to [14], [20]; Cummings [9] to [11], [18]; Rowntree [9] to [11]; Grubb [10] to [11]*.
 - ii. The farming cycle which a new employee needs to become familiar with will (depending on what is farmed) frequently last an entire year as the farm passes through each season with its different requirements and needs — *Grubb [10] to [14]; Tully [17] to [20]*.
 - iii. There is a range of tasks performed by the first level employees which, while not extremely technical, require training and the oversight of a more senior employee — *Cummings [17]; Munro [7] to [8]; Burke [18]; Rowntree [10]*.

²³ AP792378CRV

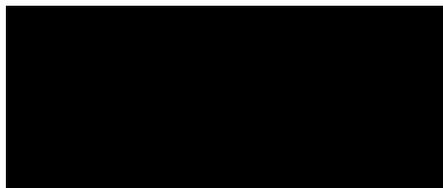
- iv. The employees at the first levels work in support of the farmer or more senior employees and/or under the direct supervision and frequently with the direct assistance of managers and senior workers — *Munro [7]; Rowntree [10]; Burk [8]*.
 - v. Very often, the first levels enable the employer to offer the new workers an introduction to the industry and a ‘foothold’ in the job market without the employer bearing too much risk — *Burke [7.]*
- (c) If an employee at the first level were to perform their work without adequate supervision or experience, then they would:
- i. Create risk for their health and safety of themselves, co-workers, and other persons attending the farm — *Finch [16]; Cummings [16]; Grubb [12]; Tully [10]*.
 - ii. Pose a significant risk to the health and wellbeing of livestock and farm animals — *Finch [16]; Grubb [12]; Burke [12]; Rowntree [12] to [14]*.
 - iii. Create significant financial and other risk to the farm business — *Finch [13] to [17]; Cummings [14]; Burke [4]*.
42. It may also be observed that employees at the first level require much more of the time and focus of their employers, which is a business expense which the employer has to absorb — *Cummings [15]; Munro [7]*.
43. Employees during the first years acquire valuable skills (many of which could only be acquired through practical experience) which they will be able to use in future roles, even those not in the same industry — *Tully [10]; Rowntree [15] to [16]*.
44. Furthermore, the evidence indicates that pay rates at the first level do not require a change for the reason contemplated by the AWR and the Statement:
- (a) employees working at lower level are frequently paid more than the base (e.g. C14) rate; for example they earn casual loadings, overtime pay, non-wage benefits, performance bonuses, and above-award pay rises — *Finch [21]; Cummings [22] to [23]; Munro [10]; Grubb [15] to [18]; Rowntree [20] to [23]; Burke [11]*.
 - (b) Employees working at the first levels under the Pastoral Award are often young people, such as school children, school leavers, and backpackers — *Cumming [5] to [6]; Finch [6] to [7]; Munro [4], [6]; Tully [7]; Rowntree [8]* — who, in addition to having no farming experience, typically do not have dependants or family responsibilities.

45. An increase to the first level pay rates or change (reduction) in the timing of the transition to higher levels would have serious and problematic implications for farm businesses — *Finch [23] to [24]; Cummings [25] to [27]; Munro [11] to [13]; Burke [13] to [14]; Tully [21]*.
46. The totality of the evidence leads to the conclusion, at least on a prima facie basis, that any change to the current classification or pay rates is not necessary to reflect the value of the work performed by employees and the requirements of business.
47. It follows, in the NFF’s submission, that not only is there no basis within the legal framework for the Commission to make the variations sought by the AWU — or any which may be extrapolated from the Provisional View — but that any change at this point in time would be contrary to that framework.

Summary and conclusion

48. In summary, in the NFF’s respectful submission:
 - (a) There is not a compelling case for a variation to the Agricultural Awards in accordance with the Provisional View.
 - (b) The statutory framework has not been addressed in the context of any such variation and there is no probative evidence in support of any such change.
 - (c) In contrast the evidence would support the retention of the current arrangements.
49. It follows, in our view, that at present the burden of proving a need for change is not found in the submissions of the AWU, UWU or otherwise, and no such change should be made.

DATED 5 December 2023



Ben Rogers
National Farmers Federation

IN THE FAIR WORK COMMISSION

Matter No: C2019/5259 Review of certain C14 rates in modern awards

Re: Submission by National Farmers' Federation

STATEMENT OF ANDREE ROWNTREE

On the 5th December 2023, I, Andree Rowntree of [REDACTED]
[REDACTED] in the State of New South Wales, make the following statement:

1. I am a co-owner and operator of Windridge Farms, a diverse family farming business located in the NSW south western slopes region near the town of Young. Our business encompasses pigs, pastoral and cropping operations and a feed mill.
2. My family has been farming in the area for a number of generations and is involved in a number of local community and school groups. I have been a member of the NSW Farmers Pork Committee for 10 years and am a Delegate for Australian Pork Limited. I am also a partner at a regional law firm.
3. Our piggery has operated since the 1970's and has expanded and modernized over time. We currently house 4200 sows across 3 sites near Young in NSW and a contract grower site. Our pigs are raised for pork which goes to supermarkets, butchers and restaurants. We generate power from pig manure, which helps run our feed mill, and are a Registered Carbon Farm under the Emission Reduction Fund. Pig waste is also used as a fertiliser on the farm.
4. Our piggery operation engages 40 full time staff across pigs sheds and maintenance.
5. Last financial year Windridge Farms piggery operations had a turnover of about \$26.7 million, wage related expenses of \$3.7 million and total costs of production of about \$25.5 million.
6. Labour and skills shortages are a longstanding issue for the Australian pork industry and regional areas, a situation which was exacerbated by the COVID-19 pandemic. Shortages exist across different skill (classification) levels and roles in the industry. Our business provides opportunities for all people to develop a career in the pig production and agriculture more broadly.

Background on employees employed at level 1 (PA1) and development of PA1 employees

7. We have a well established team of skilled staff working in our piggery. Lower

classification levels are only utilized for a small proportion of employees as an entry level role, before transitioning through to higher levels.

8. At present we have 4 to 5 employees classified as PA1. These employees typically commence with the business with very little or no work skills and experience, no experience with pigs and are initially engaged to undertake simple tasks under direct supervision. They may be young people that have not finished school, longer term unemployed people, or older people seeking employment. Sometimes they are referred to us by local employment agencies. They are almost all employed on a full time basis.
9. Upon commencement, employees engaged at PA1 would undertake induction which includes information on the enterprise, production processes, use of equipment, WHS, work and record keeping procedures. A key part of this is introducing employees to the company's biosecurity protocols. Piggeries maintain strict biosecurity standards and operate under Biosecurity Management Plans, to protect against the entry and spread of pests and diseases. Standards must be upheld by all staff and visitors.
10. Following initial induction, PA1 employees would continue to learn on the job and build understanding of the pig farming operations. They would be undertaking simple tasks of a manual nature, under direct supervision with regular feedback. Tasks may include assisting moving pigs, checking and tending to pigs, pig feeders and drinkers, cleaning and assisting with basic maintenance. As well as being taught simple record keeping procedures, with results checked frequently.
11. At the PA1 level, a period of time undertaking structured training beyond immediate induction is important to ensure employees are able to progress to higher levels with less intense supervision. We support new entrants acquiring skills quickly via theoretical and practical means, however structured training takes time given the complex nature of pig farming and importance of ensuring all people working with pigs achieve required competencies and understanding of animal behavior.
12. Pigs must be cared for by personnel who are skilled in pig husbandry and are competent to maintain the health and welfare of the animals in accordance with animal welfare standards, or are under direct supervision of such personnel. This is required by state legislation and a code of practice.
13. Our business supports our staff to further their skills, from when they commence. We typically put all new piggery staff through a Certificate III in Pork Production, delivered on-site. This covers safe handling of pigs, animal health care and welfare, workplace health and safety, quality assurance and biosecurity measures. Mastering these skill

minimizes animal handling stress, improves animal welfare, and job satisfaction.

Development of PA1 employees, transition from PA1

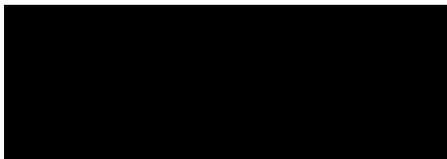
14. The intensive nature of raising pigs and high standards of animal care and biosecurity that must be maintained means we need appropriately skilled, reliable and committed staff in our team. Absences of people in the workplace can create welfare and hygiene issues, and can present a biosecurity risk.
15. During their time as a PA1, we would be working with the individual to provide structured training so as enable them to work at PA2 or higher, and ascertaining their skill development and commitment to the role in order to offer ongoing employment and reclassification accordingly.
16. Whilst employees' individual skills and performance are being continuously assessed, given the nature of undertaking structured training in the workplace and closely supervised work for new entrants, we ideally need a 6 month window to undertake this. This aligns with a probation period and my understanding is that this is common in the industry.
17. Generally by this stage the employee would transition to PA2 as minimum or higher and from there to higher classifications again, with associated pay increases and responsibilities.
18. At higher levels, less direct and frequent supervision is needed and responsibility for the quality of the individual's work increases.
19. As a business with many employees it is our preference to review all staff salaries once a year at or about 30 June.

PA1 wages, consequence of early transition

20. With competition in the labour market, employers may pay above award rates. Employees may also work additional overtime or weekends which attract penalty rates.
21. An amount of weekend work is required at piggeries, with staff working sometimes every second weekend, sometimes every third weekend depending on number of staff at the site or in that team and other staff absences. These are shorter days and penalty rates are paid at time and a half for the first two hours on Saturdays and double time after 2 hours and on Sundays. We try to arrange the work week so less work and less complicated tasks are undertaken on weekends.
22. Additionally, Windridge Farms pays all piggery staff a production-based bonus every

quarter once they have been employed for 6 months. Typically this payment is about the equivalent of an additional weeks pay (or an additional months pay over 12 months).

23. Staff that work at our site out of town are also paid a daily travel allowance.
24. The industry is accustomed to the classifications in the Pastoral Award 2020 and any change to classifications should be done with widespread industry consultation to avoid unintended consequences and give the industry time to adapt.
25. A 38 hour induction period before transitioning to a higher level seems to me to make the PA1 entry level pointless and would create additional upfront costs and administration. Further, when an employee transitions from one award level to another we like to discuss this promotion with them, explain why they are being promoted and what they are doing well and what additional roles and responsibilities they will have on the next award level.
26. I know the facts above to be true unless it otherwise appears.



Signature
Andree Rowntree

Date: 5/12/2023

IN THE FAIR WORK COMMISSION

Matter No: B2019/5259

Matter Name: Review of certain C14 rates in modern awards (C14 Review)

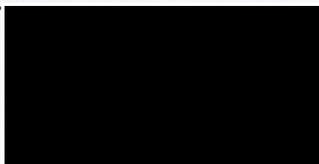
STATEMENT OF Benjamin F Grubb

I, Benjamin Grubb, of [REDACTED] Tasmania make the following statement:

1. I am a farmer running a mixed farming enterprise across two properties in northern Tasmania.
2. The current enterprise mix is superfine merino sheep, commercial Angus cattle, primeline composite sheep, Australian stock horses, and irrigated cropping of potatoes, cereals and fodder.
3. I have a Commerce degree from Melbourne University where I majored in Agricultural Business Management and Marketing.
4. Prior to returning to the family farm, I spent 13 years working in senior management roles for Elders Rural Services in North-East Victoria, Southern Riverina area of New South Wales and Tasmania.
5. I am currently the Vice-President of Primary Employers Tasmania, a registered employer organisation. I also serve as Vice-President of the Tasmanian Angus Breeders Group.
6. As such I am constantly in touch with our members and other agriculture producers across various commodities in relation to employment matters and staffing issues.
7. Our business currently employs one full-time and two casual staff.
8. No matter the experience of any employee when starting at a new farm it takes substantial time and supervision for the employee to learn about the farm and its operations as no two farms are alike due to climate, topography, facilities, stock numbers and commodities grown or produced.
9. There is an acute shortage of local workers across all classifications agriculture in Tasmania which means that farmers are having to employ inexperienced staff to meet the demands on farm.
10. Agriculture is a seasonal industry with the duties of employees varying from season to season, particularly in a mixed farming enterprise. It takes a full year for an employee to experience all the duties that are required, and direct supervision is required until the employee is able to perform the duties alone or as part of an unsupervised team.
11. The typical year on our farm is as follows:
 - January- Cereal Harvest & foot pairing of merino sheep, spraying gorse
 - February- Sowing of new crops under irrigation, pregnancy testing cows, shearing composite ewes
 - March- Calf Weaning
 - April- Merino ewe shearing, Autumn sowing of pastures, rams out to ewes, harvesting of potatoes
 - May- Ground preparation for winter cereals
 - June- Fencing and general farm maintenance, pregnancy scanning of cross-bred composite ewes
 - July- Fencing and general farm maintenance, pregnancy scanning Merino ewes, calving commences, pre-lambing drench and vaccinate composite ewes
 - August- Pre-lambing drench and vaccinate Merino ewes, cross-bred lambing begins
 - September- Merino ewes lambing, thistle spraying

- October- Bulls out with cows, cross-bred lamb marking, shearing Merino wethers, calf marking, sowing potatoes
 - November- Lamb marking merino lambs, gorse spraying, crutching cross-bred ewes,
 - December- Weaning of cross-bred lambs (including jetting of all lambs and ewes etc), weaning merino lambs, crutching merino ewes.
12. For a new employee these tasks require significant supervision and training to ensure a basic understanding of the duties involved and to ensure that eventually they can work safely on their own, not put other employees at risk, or risk injury or even death of animals.
 13. It takes a full twelve months for a new farm employee to experience the full gambit of tasks and duties.
 14. Part of the training in the employee's first year on the job is ensuring that the employee understands how the various tasks and seasonal duties fit into the whole farm system. Only then, after training and supervision over the full twelve months is the worker is ready to move to the FLH3 classification level where they can work with minimal supervision and a trust by the employer that they can operate safely and for the benefit of the farm.
 15. To attract staff many of our members and other farmers I talk to offer above award wages and other benefits such as free housing, free electricity, firewood and even private use of farm vehicles. Many are also provided with meat on a regular basis.
 16. Experience has also shown that many choose working in farming due to the nature of outdoor work, an affinity to working with animals and recreational activities that are available to them on the farm such as hunting or fishing.
 17. Employees who live on farm also appreciate the lifestyle it provides for their family and the experiences it offers their children.
 18. Due to the seasonal fluctuations and periods of peak demand, for instance during harvest, calving or lambing, additional hours of work are available, all paid at overtime rates.
 19. If the FLH1 level was restricted to only six months this would cost an additional \$928.72 per employee in the first year of employment, without taking into account superannuation, workers compensation and overtime.
 20. To consider such an increase in labour costs when the industry is currently severely affected by low farmgate prices for meat and crops, high interest rates on farm borrowings and increased input costs would put enormous strain on many farms in Tasmania.
 21. I know the facts above to be true unless it otherwise appears.

.....
Benjamin Grubb:



.....
Date:

30TH NOVEMBER, 2023

IN THE FAIR WORK COMMISSION

Matter No: C2019/5259 Review of certain C14 rates in modern awards

Re: Submission by National Farmers' Federation

STATEMENT OF BRETT GUTHREY

On 1 December 2023, I, Brett Guthrey of [REDACTED] New South Wales, state as follows:

1. I am a persimmon grower and am a member of the NSW Farmers Horticulture Committee and on the Persimmons Australia Inc Committee.
2. I am the 3rd generation of our family to farm the current site at [REDACTED] NSW. The farm was purchased in 1958. Initially vegetables were grown then stonefruit and now persimmons. I have 3 adult sons, 2 are working in the horticulture industry but not at the grower level. Our orchard would be suitably classified as a small family farm. It is just less than 100 acres in size and turnover typically around \$500,000. It is situated in the Sydney basin and has required innovative and adaptive skills to maintain its presence.
3. The orchard primary operates in the "niche" market. Most fruits are sold in the East Coast (Sydney, Melbourne, Brisbane) through boutique fruit shops in high value areas. Approximately 30% of our product is sold direct to consumers.
4. We grow, pick, grade, pack store and sell our persimmons on the orchard property. This allows the efficient migration of labour to be focused where needed during harvest period, which can last between 6 to 8 weeks. The entire yearly farm income is dependent on the outcome of harvest.
5. For the duration of the year, my wife and I work on the farm assisted by casual employees as needed from time to time.
6. During harvest, we employ around 15 casual employees. Some of these are returning workers from prior years. This cohort is made up of members of the local community and backpackers, they predominantly perform picking, sorting and packing tasks.
7. Most of these workers are accommodated on site at a heavily subsidised rate of \$5 per person per night which includes the supply of fresh produce. They are paid at level 1 casual rate as prescribed in the *Horticulture Award 202*, with the exception of two individuals who perform tractor driving and forklift driving duties. Pay rate for the worker performing tractor driving duties is aligned to level 2 casual pay rate, while pay rate for the worker performing forklift driving duties is aligned to level 3 casual pay

rate.

8. Picking tasks include using snips to cut the fruit, picking into a harness, using a ladder. It is low skilled but physical labour tasks.
9. There is a lot of training involved with training employees to be able to sort and pack the fruits according to a prescribed standard. Full training is around 2 days, where there would be little packing output achieved during this time. Thereafter, constant supervision will be applied for the duration of the season. From time to time there would be workers deemed not suitable for this job and they would be reassigned to other tasks where possible. The fruits go through a grader which washes and sorts the fruits according to sizes, thereafter packers have to pack the fruits into the boxes to ensure optimal quality and presentation.
10. Last season, I reviewed the labour costs involved in washing buckets that we use as part of the harvest operation. It is more expensive to pay staff wages to wash the buckets than to replace with buckets with new ones.
11. Increasing labour costs, with no proportional increase in revenue, is one of the key reasons that we have decided this year to sell the farm.
12. The administrative burden involved with employing staff for a small business like mine is enormous, the proposed changes to the *Horticulture Award* will increase the complexities even more. The fear of getting something wrong is debilitating.



Signature
Brett Guthrey

Date: 1/12/23

IN THE FAIR WORK COMMISSION

Matter No: C2019/5259 Review of certain C14 rates in modern awards

Re: Submission by National Farmers' Federation

STATEMENT OF KATE MUNRO

On 1 December 2023, I, Kate Munro of [REDACTED] New South Wales, state as follows:

1. I co-manage HE Kater & Sons with my husband since 1997. HE Kater & Sons is a mixed farming operation encompassing merino stud, broadacre cropping, commercial sheep, fat lambs and cattle. Recently we have also started growing cotton. I perform several functions in the business which include human resource management, administration, and management of facilities.
2. We currently employ around 26 employees, of which 8 are jackaroos, 4 casual employees and 14 permanent staff across the various operations. Jackaroos are trainee workers who are completing Certificate II or III.
3. We believe in training of our workforce and progress them within the business as much as possible. Jackaroos who stay beyond their two years will generally be aligned to Farm and Livestock Hand (FLH) level 5 classification if they can prove to have the ability to work unsupervised.

Background on employees employed at level 1 (FLH 1) and development of FLH 1 employees

4. We assign new recruits with no background in the industry, who are employed to perform general labouring duties that require low skills or basic duties, to level 1. Those recruited to level 1 roles are generally backpackers (workers with a working holiday maker visa) employed as general farm hand on a temporary basis. From time to time, we may also employ a permanent employee on level 1 if the individual is unskilled and inexperienced. Promotion to higher classification and pay is dependent upon experience and the ability to work without constant supervision.
5. When we employ station cook, who perform home cooking duties to feed the employees, the role is aligned to level 1. There is no classification progression for station cook as we believe the expected skill set, responsibilities and accountabilities remain static therefore it is justified for the role to continue to be classed at level 1.
6. Currently we have 3 employees who are classified and paid as FLH 1 classification of the *Pastoral Award*. They are all casual temporary staff with a working holiday maker visa.
7. There is regular supervision and checking involved with the employment of level 1 staff. Our approach is to assign a senior manager assigned to train and supervise the individual.
8. Tasks generally performed by level 1 employees include basic labouring duties, cleaning, irrigation work (moving, starting and stopping water siphon), ploughing, which are performed under supervision.
9. While backpackers are generally employed for six months or less due to their visa conditions, we believe progression beyond the level 1 classification should require up to 12 months experience. It is a suitable timeframe to adequately facilitate training, opportunity for the employee to perform the tasks repetitively to gain and exhibit competency to a level where they no longer require regular supervision.

FLH 1 wages and consequence of early transition

10. All employees of the Company are provided with on-farm accommodation in addition to their wages. The Company also provides backpackers and jackaroos with cooked meals for no charge.
11. Labour costs make up about 25% of total cost of production and the percentage is likely to increase due to the tight labour market and significant minimum wage increases.
12. Should there be earlier step up required, it will increase both labour costs and administration costs for the business. It should be noted that any increase to the base wage will have a multiplier effect in workers compensation, superannuation and payroll tax.
13. I estimate that the cost of a transition from FLH 1 to FLH 3 after 3 months at the current award rates, with the company's pattern of work, would be \$8,500 per annum, equivalent to 1 Ag Motorbike a year. The figure is based on assumption that we employ 6 level 1 employees during the year.
14. We will likely consider an earlier assessment of new inexperienced employees to ensure that the individual has attained required competency to warrant the higher pay. While we would prefer to avoid shortening the time period for an employee to show their progression, the Company will need to ensure the operation is financially viable.

General comments

15. Cost of inputs for farm production is escalating at an incredible rate. Return on commodity has significantly declined in the past year & productivity is in reverse.
16. We are being squeezed from all 4 corners of the ring. High inflation, low commodity prices, scarcity of 'practical' skilled labour, escalating cost with protecting our land from feral pests, noxious weeds & trespassers.
17. Good reliable skilled labour is built through time. Senior management spending time to train, mentor & oversee. In our experience it is a rarity for this to be achieved in 3 months.



Signature
Katherine Munro

Date:1st December 2023

IN THE FAIR WORK COMMISSION

Matter No: B2019/5259

Matter Name: Review of certain C14 rates in modern awards (C14 Review)

STATEMENT OF MATTHEW KLEYN

I, Matthew Kleyn of [REDACTED] Queensland, make the following statement.

Background

1. I am an avocado farmer with 25 years-experience growing avocados, and the North Queensland Director of Avocados Australia.
2. I married into farming, so although I consider it to be my vocation, career, lifestyle and identity, I have a varied work history prior to farming, including 5 years a spell as a penal officer at Lotus Glen Correctional Facility.
3. I currently own five avocado farms in Atherton Tablelands with my wife, Louise, along with three other farms which we lease.
4. In total, our operation covers roughly 520 hectares (1285 acres) of which 250 ha are Avocados. This year we will grow about 3 million kilograms of avocados, but we have begun an expansion and are on track to grow 5 million by 2025.
5. We also own and operate a centralised avocado packing facility in Tolga in North Queensland which processes all of our produce together with that of 6 other farming organisations.

Employment on the Farm

6. Across our business we currently have 30 permanent employees, 28 of whom are full time, 2 part time. We also have 2 ongoing casuals. The roles range across managers, marketers, mechanics, supervisors, general farm labourers and packing shed operators.
7. All of our farm business's employees are engaged under the Horticulture Award 2020 (**the Horticulture Award**) and their classifications range from level 5 to Level 1.
8. Those on-going workers are classified at all levels under the Horticulture Award, depending on their duties, capabilities, and experience. However, they are all paid in excess of the base rate specified for their Classification/Level, taking into account the quality of their work and value to the business.
9. We have engaged Five employees initially at Level 1 through the Federal government's program to help give long term unemployed people a start. We currently have one of them still with us who is at Level 2.

10. The duties which our Level 1 staff performs year-round will include, in addition to picking, packing and pruning, slashing, spraying, and other general agricultural tasks such as cleaning, spreading mulch and basic tree care and maintenance.
11. In the off-season — i.e. when avocados are not being harvested — we engage Level 1 workers to “tip” branches and inject trees with phosphonic acid to protect them from root disease. At present we have 27 casual employees engaged in this work.
12. During the peak season when avocados are harvested, from February to July, we engage an extra 40 staff (or about 100 employees in total) to do the picking, packing, and pruning.
13. The fruit picking is performed by workers classified at Levels 1, 2 and 3. The Level 1 workers collect avocados from ground level, Level 2 workers operate cherry pickers to collect avocado above ground level, and the Level 3 worker are their supervisors.
14. Avocado picking is not rocket science, but there is skill involved. Avocados have to be picked carefully as they are easily damaged and to ensure they meet the strict criteria set by retailers, allowing for packing and transport time.
15. All of our peak season workers are paid the Award rates, including (as they are engaged as casual employees) the 25% casual loading and overtime as per the Horticulture award. They would average 38-42 hrs per week.
16. We don’t use piece rates at all because I am concerned that it encourages pickers to work too fast, which risks damaging the fruit. Instead, workers who are not productive enough are simply moved on.
17. In addition, a high proportion of those peak-season workers are engaged under the Pacific Labour Mobility (AKA “PALM”) scheme.
18. Some roles at our packing shed are staffed by casual employees. In our offseason to get them to stick around to the next season we find tasks to keep them employed, some of which are tipping new shoots, which is helpful but not essential. These staff are manly local level 1 over 38 hours per week.

Observations about Level 1 and Proposed Change

19. As a very general statement, Level 1 duties are quite low skilled and while the roles which they fill are collectively very important to the success of the business, in isolation, the farm will not be crippled if they are not performed on an individual/isolated basis.
20. For the example of “tipping” (which is snapping the end 25mm off new branches, which is to shape trees and encourage growth), it doesn’t matter if it’s not done exactly right or exactly on time, so it isn’t critical if, for example the worker fails to do the work with 100% precision or accuracy, or if they are absent for a day or two due to unreliability.

21. Also, I don't need to rely on Level 1 employees to the same extent as higher-level employees so if they don't show-up for work or prove to be unreliable on the job — which is not an unusual occurrence — I can find someone else to do the job within the relatively flexible time frames the work can allow.
22. At higher classification, stuff ups can be very costly. For example, if our irrigation system, which is operated and controlled by a Level 3 Worker with a diploma in Horticulture, is not properly interpreted and operated then it could cost the business more than \$500,000 in a week.
23. In my view, Level 1 classification provides an entry point into employment and the industry for unskilled workers and/or those who may find it difficult to demonstrate their reliability and work ethic which an employer can rely upon. They represent a less risky investment by the business.
24. In my experience, good, reliable employees who are interested in the work and want on-going employment transition up through the classifications from Level 1 to Level 2 and 3. That is our practice and how we find and keep good employees on the farm, and how we have acquired a large proportion of our level 2 and three, on-farm employees.
25. Many of our permanent staff have worked for us for over 3 years and we have had two employees who have been with us for 13years, one of which has just left to take his family travelling around Australia.
26. If there is a significant change to the classification structures (for example to mandate a transition from Level 1 to Level 2 rates within less than 6 months) then I will need to rethink about how I manage labour on our farms.
27. I will probably be significantly more selective about who I offer jobs to. This may affect the number of people we employ, or if not at least the number of people without reliable work history that we give chances to. This will be disappointing, as this principle is one of the things, I like most about owning a large business. There are many risks every employer takes when committing to employ someone. This just makes it more risky. It may also have some effect on the ways I engage people, where I look for employees, and type of employment programs we use. For example, I will be much less likely to engage with government programs I referred to in paragraph 9 above, if I know the employees have to transition to Level 2 after a short period.
28. It may also impact on the growth of the business. For example, if I had known about this change when I chose to expend the operation, then I may have thought twice. Two of our farms are yet to be developed and Avocados planted. The burden on businesses is growing exponentially and thus we will not go ahead unless things change.
29. I would also note that I already find the Horticulture Award quite complicated, and difficult to understand and apply.

30. I am very scrupulous to make sure we pay all employees properly (with as background as a penal officer, I am highly sensitive to the way the farmers are portrayed and viewed) but I do find it difficult and stressful to stay on top of.
31. At least, at present I have managed to understand the Horticulture Award with some help along the way. A further change to the Award to require transition away from Level 1 after a fixed, arbitrary time frame will make staff management even more complicated and time consuming. I am sure this is true for other growers too.
32. Any change to classifications should at least be done with industry consultation to avoid unintended consequences and give the industry time to adapt to the changes and increased cost.

Matthew Kleyn



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Date: 1st December 2023

IN THE FAIR WORK COMMISSION

Matter No: C2019/5259 Review of certain C14 rates in modern awards

Re: Submission by National Farmers' Federation

STATEMENT OF NARELLE BURKE

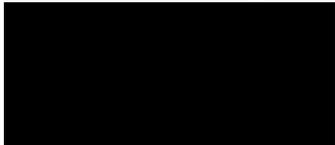
On the 30th November 2023, I, Narelle Burke of [REDACTED]
[REDACTED] New South Wales, state as follows:

1. My husband and I own and operate Glenwarrie Partnership, a mixed farming enterprise based in Tamworth. The business has been in operation since the 1980s, we are involved in poultry egg production, pullet rearing (raising day old chicks until the point of lay), cropping, feed milling and some livestock (cattle and sheep).
2. We operate a circular production model. Manure and mortalities from the chickens is composted and used as fertilizer on the farm for cropping activities. The crops we harvest are put through the feed mill for livestock feed. We crop around 2500 to 3000 acres per year, and have around 106,000 laying hens, 27,000 pullets, 800 ewes and 100 head of cattle.
3. In the business, I perform all functions relating to employment related matters, including attraction, retention, training, staff management, rostering and payroll. It is not uncommon for me to be involved in operational activities, including packing eggs, when there is shortage of workers. Being in a regional area, attracting and retaining staff is very difficult.
4. Currently, we employ ten employees in the poultry egg operation, eight of whom are casual employees. Our poultry operation requires 3 employees every day for egg packing and 2 employees working with the birds, seven days of the week. Most of the egg packing work is done by machine, the employees are mainly involved in sorting, palletising or packing into cartons and recording, maintaining and cleaning machinery. Employees working in with the poultry are involved in cleaning, manure removal, bird husbandry (welfare checks). While we would like to employ more staff, recruiting suitable workers who are willing to work has been challenging.
5. The cropping and broadacre livestock operation of the business employs 6 employees, both permanent and casual.
6. Shortages of workers across the economy is also affecting our business. It has been challenging for our business to attract and retain staff in the poultry operation. We try

- to give everyone a chance, including those with low skill base and low education. We have employed those who have been unemployed long term through employment support agencies. The literacy and numeracy skills of job applicants are generally low.
7. The people we have employed in the past have been typically those who have been unemployed for extended periods and occasionally working holiday visa holders. Initially part of the training is to develop a work ethic, i.e. to turn up to work when rostered, if unable to come to notify employer, ensure that they bring food and water for lunch.
 8. The main tasks involved in egg packing operation are sorting eggs, identification of 2nd quality eggs, candling, palletising and packing into cartons, while keeping the packing machine going, identifying problems (when they occur) with the packing machine and/or equipment and problem solving, safely using pallet jacks, and accurately recording information from the days pack. During this period the new employees need supervision all the time. When an employee achieves these competencies without constant supervision then they move up to a level 2, for some employees they have not achieved these within the first 12 months, it is for this reason that they cannot work without supervision.
 9. Ideally, we would prefer for employees employed in the poultry operation to have the skills to be transferrable between egg packing work and working with the birds. Employees who show potential receive training to undertake tasks relating to the birds, however some employees are just incapable of grasping the skills despite months of training. We currently have an employee who has just passed the 12 months service with the business. While we have elevated his pay to level 2 in accordance with the Award, his work performance is still limited to straight forward egg packing tasks with little or no discretion required. Another employee who has not progressed to palletising, although he has been there for 15 months, his limit is candling, packing boxes and some cleaning, and needs constant supervision.
 10. We provide both in-house training and external training, including bird husbandry, Egg Start, forklift license. Certain employees find formal training intimidating, especially when they are literacy and/or numeracy challenged. We have had experienced employees resigning when we've started to put them through training (usually due to low literacy levels).
 11. Although the award does not have weekend penalty rates we pay an increased wage for working on weekends to incentivise and motivate our workers.
 12. There will be costs imposed on our business should there be changes to the *Pastoral*

Award that require an automatic step up of pay after a period of experience that is shorter than 12 months.

13. It should be highlighted that in poultry egg production, we've experienced significant cost increases, from feed inputs, repairs, maintenance, fuel, electricity. Drier conditions may lead to the business having to purchase grain externally. These increases have certainly exceeded inflation, and producers like us are not in the position to pass on the full costs increases.
14. In recent times we have been adversely affected by 2 years of drought, Covid (where we lost one third of our market overnight when lockdowns occurred) and a mouse plague all of which have brought about significant losses of which we have not been able to recoup during this period.
15. Changes to the award will be another impost on our resources and may stop us from employing those with low skills, as we are not getting adequate value for the higher rate, especially considering the added time and cost of training required for these workers during their first year of employment.



Signature
Narelle Burke

Date: 30.11.2023

IN THE FAIR WORK COMMISSION

Matter No: B2019/5259

Matter Name: Review of certain C14 rates in modern awards (C14 Review)

STATEMENT OF RACHAEL FINCH

I, Rachael Finch of [REDACTED] Victoria make the following statement:

1. I am a retired dairy farmer, with 25 years dairy farming experience, and 8 years as a dairy human resource management consultant, located in the Gippsland region of Victoria.
2. I currently assist dairy farmers with end-to-end recruitment of employees with differing levels of experience. The current labour market frequently necessitates recruiting staff with no dairy farming experience.
3. When dairy farming, I milked 950 cows across 2 dairy farms of 855 hectares in total.
4. I employed 11 employees of various Pastoral Award 2020 classifications including a manager.

Background of FLH1 employees

5. Every season, I would employ 1 to 2 junior employees at the FLH1 classification.
6. These employees come from varying backgrounds. They may have been school leavers. They may have been older employees who want a career change in the dairy industry.
7. We would also engage casual and seasonal employees at this classification to assist us at very busy seasonal times. They would usually have no experience of working on a dairy farm and needed to be inducted into all of the basic requirements for working on a farm including farm safety, machinery and stock handling and the myriad of tasks which are part of life on a dairy farm.
8. There is an acute labour shortage of Australian workers across all classifications in the dairy industry which means that all dairy farmers are competing for the small pool of experienced dairy workers and need to engage more entry level employees than they would wish to.
9. As a result of the labour shortage backpackers fill an essential role in dairying businesses and most of them come with no prior dairying experience. These employees begin on the FLH1 classification and if they stay on, with extended visas, they will move to the FLH3 classification after 12 months learning about the farm, its systems, and what's required of its workers.

FLH1 duties generally

10. The dairy industry is a seasonal industry with tasks and duties which may vary from season to season over a year, each taking many months to master, and all of which require close supervision until competence is achieved.
11. A full 12 month period of intense supervision and training is essential to developing a basic understanding of all tasks to a level where the employee can work with a degree of self-reliance and safety without risk to their own and other employee's safety, risk to animal welfare and risk to productivity and farm income.
12. Part of the training which is undertaken in the first year is the gradual development of a basic understanding of how the various tasks and seasonal duties fit into the whole farm system and the role of the employee at the appropriate skill level. Once this is achieved the worker is ready to transition to the FLH3 classification and then from there to the higher classifications and hopefully managerial status.
13. The consequence of inexperience which is not supervised can be very costly for a dairy business so we need the full year to train up employees who are new to the industry.
14. The tasks the FLH1 will assist with performing under close supervision, will include: use and basic maintenance of plant and machinery (e.g application of milking cups, cleaning sheds and yards and learning to operate small and large farm machinery); animal care and welfare (e.g. bring cows to and from the paddock, and monitoring animal health and welfare); observing the process of mating and calving, assisting with drafting animals and care of calves which is a 12 month cycle.
15. All of this can be complex and technical so requires close supervision while developing exposure and 'learning the ropes', which takes at least a year through the production cycle.
16. Risks include health and safety of employees (especially when dealing with machinery, chemicals, and large, heavy and unpredictable animals), animal health and welfare (e.g. milk contamination, disease, etc), and consequential financial and business risk.
17. For instance, if a sick cow's milk is not kept separate from the main milking vat (because a treated cow is accidentally cupped on while milking the main herd by an unsupervised or insufficiently experienced worker) and this milk is collected by the milk company tanker with antibiotics detected in the tanker, I will be charged up to \$15,000.00 for that milk which has to be dumped.

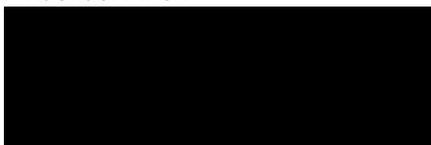
Transition from FLH1 to FLH3 and consequence of early transition

18. It is expected that by the time the FLH1 employee transitions to the FLH3 classification the employee will have developed over the first year a clear understanding of the seasonal feeding

regime including grass feeding, the making of quality hay and silage, and the use of supplement feeding with grain.

19. Once the first year had passed, we would transition the FLH1 employee to FLH 3 along with a pay rise and increased responsibilities.
20. It is critical to dairy farming businesses that the transitional period for the FLH1 employee remain at 12 months. A three month period would mean that the employee has learnt little about the operation of the dairy farm. A six month transitional period would not even enable the employee to work through a whole joining and pregnancy/calving cycle.
21. Due to labour shortages in the dairy industry, dairy farmers may at times pay above the award rate for our employees. They also work regular overtime mostly at the rate of time and a half so their take home pay is in reality greater than the minimum award rate.
22. The dairy industry has become accustomed to the classifications in the Pastoral Award 2020 since they were imposed in 2010. Any change to classifications should be done with widespread industry consultation to avoid unintended consequences and give the industry time to adapt to the changed classification and the increased cost given that many businesses engage more than one FLH1 employee.
23. I estimate that the cost to the industry of a transition from FLH1 to FLH3 after 3 months at the current award rates without including overtime payments would be \$5,585.00 per business per year for one FLH1 employee and \$33,510,000.00 annually to the dairy industry of approximately 6,000 dairy businesses. It is important to note that many businesses engage more than one FLH1 employee.
24. I estimate that the cost to the industry of a transition from FLH1 to FLH3 after 6 months at the current award rates, without including overtime payments, would be \$4,561.00 per business per year for one FLH1 employee and \$27,366,000.00 annually to the dairy industry of approximately 6000 dairy businesses. It is important to note that many businesses engage more than one FLH1 employee.
25. I know the facts above to be true unless it otherwise appears.

Rachael Finch



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Date

01/12/23

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IN THE FAIR WORK COMMISSION

Matter No.: C2019/5259

Review of certain C14 rates in modern awards

Statement of Renata Cumming

On 01 December 2023, I, Renata Cumming of [REDACTED] Victoria make the following statement:

1. I am a dairy farmer with my partner Matt Grant.
2. I have worked within the Dairy Industry both as a farmer or service provider since completing Agricultural studies at The University of Melbourne.
3. We milk 500 cows and employ 2-3 permanent employees and most of the year we employ backpackers for 3-6 month fixed term contracts.
4. My role as a service provider was in the capacity of Area Manager for milk processor Fonterra or as a private nutrition and business support consultant, where employment of staff was often discussed as part of farmers' wider businesses.

Background of FLH1 employees

5. In an average year we employ 3 backpackers to fill labour shortages and on average they stay with us for around three months
6. We have employed several high school students with no farming experience.
7. Both backpackers and school students come to us with no farming experience and need to be inducted and trained for all tasks we will employ them to complete including operating dairy plant, small and large machinery, working with cattle and all other tasks on a busy farming operation.
8. The labour shortage we are experiencing has forced us to employ people with limited experience whilst competing against other dairy farmers.
9. We believe it is fundamental for a FLH1 employee to experience an entire year on a dairy farm so they can understand the mechanics of a season which includes things like harvesting the excess feed during spring and then feeding it out during the height of summer and depth of winter when feed has stopped growing as well as the reproductive cycle of a cow with joining, pregnancy, dry off, lead feeding, calving and peak lactation. These cycles are fundamental to understanding our decision making processes and the impact it can have on the business.

FLH1 duties generally

10. The dairy industry is a seasonal industry with task that may vary at different times of the year, with many tasks requiring many months to master and requiring close supervision.
11. We believe it takes a minimum of twelve months for an employee with no farming experience to witness and learn all aspects of a full season of farming to become competent in at least the minimum skills to work on a dairy farm.

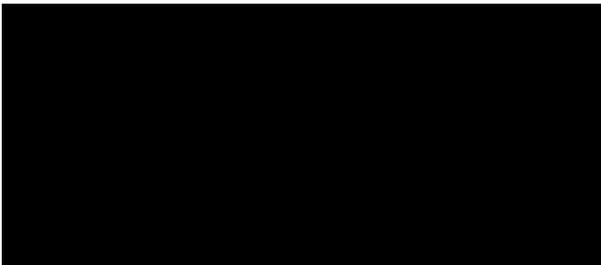
12. With many FLH1 employees having never seen a cow let alone operated farm machinery we must heavily supervise them to begin with to see what they will be capable of achieving and their aptitude for learning new skills.
13. Any new task starts with the assumption that they know nothing and that we will have to explain not only how to do something but why we do it and the impact on other tasks.
14. For example, they need to be aware of a specific sound they must listen for when they run the dairy wash for the milking plant that shows the wash is operational because if they do not hear that sound the wash is not working properly and can cause milk quality issues that our business can be financially penalised for. It is also not good food handling practice.
15. Training up an employee with no experience is costly for our business because of the level of supervision and training required. We do not take on this role lightly and will only advance an individual's training when we deem them competent and capable enough to advance as if we advance them too quickly it can have costly consequences.
16. Safety of the individual and all others within our business is of paramount importance and we must ensure at all times during a training period that an individual is not taking any risks and is not completing a task they are not capable of achieving. This must be done through observation because some individuals believe they are more capable than they in fact are and are not aware of the risk they may be taking or consequences of those risks.
17. Throughout the year the tasks required of a FLH1 employee include but are not limited to operating small and large farm machinery, bringing the cows to the dairy from the paddock, setting up the dairy, applying the cups whilst keeping an eye on the movements of the animals around them, monitoring for health issues in the animals, cleaning the dairy, yards and other machinery, setting up calf pens, training calves to drink milk, feeding calves, setting up gates and paddocks for animals to move around the farm, reporting issues with fences, troughs, machinery, feeding cows using heavy machinery, etc.

Transition from FLH1 to FLH3 and consequence of early transition

18. It is expected that by the time the FLH1 employee transitions to the FLH3 classification the employee will have developed over the first year a clear understanding of the seasonal feeding regime including grass feeding, the making of quality hay and silage, and the use of supplement feeding with grain.
19. An FLH3 employee would be expected to be competent enough to erect fences and gates and set up a temporary strip grazing fence, while an FLH1 would only be expected to set up gates and roll up temporary strip fences whilst learning how to make small repairs and understand how to set up temporary strip fences.
20. Once an FLH1 transitions to a FLH3 there is an expected base knowledge they will have and they will be rewarded with a pay increase.
21. It is important that an employee does not prematurely advance particularly if they apply for a new job on a different farm believing they are an FLH3 when in fact they are still

an FLH1 which may mean their new employer believes they are employing someone more competent so they are not only paying above what is reasonable but there is a significant safety risk because they will expect this individual to be more capable and competent than they in fact are.

22. As employers we are quite happy to provide a pay increase to individuals who are showing exceptional promise ahead of a planned pay increase, but this does not mean they have necessarily moved from a FLH1 to FLH3, simply that we believe in them and want to financially reward their skill, work ethic and attitude.
23. Due to labour shortages in the dairy industry I and other dairy farmers may at times pay above the award rate for our employees. They also work regular overtime at the rate of time and a half so their take home pay is in reality greater than the minimum award rate.
24. The dairy industry has become accustomed to the classifications in the Pastoral Award 2020 since they were imposed in 2010. Any change to classifications should be done with widespread industry consultation to avoid unintended consequences and give the industry time to adapt to the changed classification and the increased cost given that many businesses engage more than one FLH1 employee.
25. We estimate that the cost to the industry of a transition from FLH1 to FLH3 after 3 months at the current award rates without including overtime payments would be \$5,585.00 per business per year for one FLH1 employee and \$33,510,000.00 annually to the dairy industry of approximately 6,000 dairy businesses.
26. I estimate that the cost to the industry of a transition from FLH1 to FLH3 after 6 months at the current award rates, without including overtime payments, would be \$4,561.00 per business per year for one FLH1 employee and \$27,366,000.00 annually to the dairy industry of approximately 6000 dairy businesses.
27. It is important to note that many businesses engage more than one FLH1 employee, so the cost is likely to be greater for many businesses.
28. The increase in pay may not seem significant but in some years where cashflow is extremely tight we may simply not be able to pay a FLH1 employee at the FLH3 rate. This may then affect retention rates.
29. I know the facts above to be true unless it otherwise appears.



Renata Cumming

IN THE FAIR WORK COMMISSION

Matter No: B2019/5259

Matter Name: Review of certain C14 rates in modern awards (C14 Review)

STATEMENT OF STEPHEN TULLY

I, Stephen Tully of [REDACTED] Queensland make the following statement.

1. I have been working in the Sheep and Wool Industry for 37 years, the last 25 years of which as as the owner and manager of a sheep, wool, goat and cattle operation in the Quilpie district of south-west Queensland.
2. We have 10 000 merino sheep for production of wool and meat, 10 000 rangeland goats for meat and a 300 head breeding beef cattle herd. Extensive grazing production is carried out on 78 000 ha with individual paddocks ranging in size from 2 000 ha to 12 000 ha.
3. We have installed and maintain an extensive pipe and trough system of 100 km for the purpose of watering livestock.
4. We install approximately 20 km of new fencing a year and maintain 250 km of fences.
5. We carry out all mechanical work and servicing of vehicles and plant.
6. I have employed nine employees for approximately three years each over the last 25 years and currently employ one full-time employee.
7. I generally employ young people with very limited skills and train them over 3 years before assisting them to gain further employment.
8. Most of these employees have come from large regional towns and straight out of school or one year in basic employment in various areas other than in the Pastoral Industry.
9. FLH1 entry level employees with no experience in the industry have to be directly supervised for the first 12 months of work.
10. A major factor to be taken into account is workplace health and safety. Every task on a farm is potentially dangerous. For example, in the first stage of employment employees have to be taught ride a motor bike and to be familiar with the property. [REDACTED] is 78,000 ha and paddocks range in size from 2000 ha to 12000 ha. Teaching them to ride safely, make sensible decisions, take note of their surroundings, having sufficient water and fuel etc., are all time consuming. Basic vehicle maintenance is also taught during this initial stage of employment.
11. The next stage is teaching them how to handle stock which involves safety aspects and best animal welfare and husbandry practices.
12. Stock work is about animal welfare and low stress. FLH1 employees are taught low stress stock handling.
13. Yard work involves drafting up to 10 000 thousand sheep and basic instruction includes how to work with dogs, where to walk/stand and why.
14. We have approximately 10 000 rangeland goats. These animals are very unforgiving and one mistake can set you back hours. We teach the why and how to do it better.

Cattle can be aggressive and dangerous. Employees at FLH1 level are taught how to keep cattle calm and what to do if they do become aggressive.

15. Lamb marking referred to at paragraph 18 is a range of sheep animal husbandry procedures including tail docking, castration of males, ear marking, ear tagging, and vaccination.
16. Tasks taught and carried out at a basic level by FLH1 employees include fencing construction and maintenance, checking and maintenance of water points for animals, livestock processing, yard work, low-level maintenance of vehicles and plant, chainsaw operation, working with tools and equipment etc. and safe use of chemicals.
17. All of the skills associated with these tasks are not taught in blocks but are accumulated over a period of 12 months before full proficiency is achieved.
18. This is because the farming cycle involves different operations being carried out over a 12 month period.
19. Major periods of work activities throughout the year include shearing, lamb marking, crutching, branding, weaning, and mustering livestock for sales and are usually scheduled as follows:-

• February	Crutching sheep	3 weeks
• February/March	Branding cattle	2 weeks
• March	Mustering sheep for shearing	3 weeks
• April	Shearing sheep	3 weeks
• May/June/July	Work associated with sheep and goat sales	8 weeks
• August	Weaning cattle	1 week
• October	Lamb marking	4 weeks

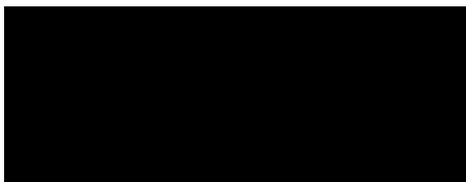
Goats are also mustered over the year which involves a total of approximately 4 weeks.

The timing of all these events are subject to change mainly due to climatic conditions.

20. An FLH1 employee with no experience cannot be exposed to the full range of work activities carried out and consequently gain required skills in a period of less than 12 months, and certainly not over a period of, for example, 6 months.
21. All employees regardless of experience, are provided free of charge with on-property air-conditioned accommodation and electricity (valued at \$150 per week), meals (valued at \$150 per week), fuel (valued at \$100 per week) with a total value of \$300 per week.

STEPHEN TULLY

1 DECEMBER 2023



STEPHEN TULLY