



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/14

AWARD MODERNISATION

AFEI
Australian Federation of
Employers & Industries

**BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS
COMMISSION**

AWARD MODERNISATION

MATTER NO. AM2008/14 – AGRICULTURE INDUSTRY

DRAFT EXPOSURE DOCUMENTS

PASTORAL INDUSTRY AWARD 2010

1. AFEI has earlier provided submissions to the Commission concerning the Agriculture Industry and participated in the Commission's consultations.
2. There are aspects of the Commission's exposure draft Pastoral industry Award 2010 which are a concern to AFEI, as indicated below.

Hours of work

3. Consultation with AFEI members indicates that one of the most significant concerns is the proposed changes to ordinary hours currently provided in the Pastoral Industry Award 1998, as shown in Clauses 29.2 and 29.3, and also Clauses 40.3 and 40.4. In addition to other sectors of the agricultural industry, the Pastoral Industry Award also currently has common rule application to Poultry Farming in Victoria. The application of an overtime penalty for work prior to 5am or after 7pm, the limitation of 5 days in a week, and the introduction of weekend penalty rates for Poultry Farming in Victoria, potentially will have a significant impact on operating costs.

4. AFEI submits that historically the Commission has recognised the specific requirements of the pastoral industry, as reflected in the Pastoral Industry Award.
5. AFEI submits that hours of work in the modern award should retain the ability for averaging over 28 days, that is. 152 hours, without the proposed restrictions on ordinary hours or weekend penalties.

Travelling Allowance

6. Clause 16.3 (e) (i) appears to omit the words 'after arrival at the designated workplace' from after '...from one place to another,' as appears in the Commission's Exposure Draft Nursery Industry Award 2010, and propose that the clause be amended accordingly.
7. Clause 21.5 of the Exposure Draft provides for the payment of superannuation contributions at any employee's normal rate while the employee is absent from work and receiving workers compensation. AFEI submits that it is not an industry standard.
8. AFEI submits that the introduction of the obligation proposed in 21.5 to employers who are not currently subject to this obligation, is not consistent with the Full Bench Decision of 19 December 2008 concerning the maintenance of a pre-existing safety net.

Annual Leave

9. Consistent with the Consolidated Ministerial Request, AFEI submits that the modern award provide for cashing out of annual leave, subject to the conditions outlined in the Request.

10. AFEI submits that the modern award should contain provision for employers to require employees to take annual leave as appears in the Exposure Draft Nursery Industry award 2010, as follows:

“Time of taking leave

- (i) Annual leave is to be taken within six months after the annual entitlement becomes due unless otherwise agreed, unless to do so would be unreasonable in the circumstances. The employer must give one month’s notice of any requirement for the employee to take accrued leave.
- (ii) The employer may require annual leave to be taken during periods of business close down or when the business cannot open due to restrictions on opening hours due to State or Federal legislation. The employer may also require leave to be taken at certain times of the year because of particular seasonal requirements.”

11. AFEI also submits that Clause 22.8 of the Exposure Draft be amended to delete the words *(including shift loading)* as it would introduce an additional cost obligation.