

Circular No. 2/2022

17 March 2022

Horticulture Award 2020: Major changes to piecework – ‘Wage floor’ commences 28 April 2022

Members will be aware from AFEI’s Circular 172/2021 (3 November 2021) that the Fair Work Commission (FWC) decided to make major changes to piecework in the *Horticulture Award 2020 (the Award)*. The changes include a minimum **wage floor** to apply to piecework with consequential time recording obligations on employers.

On 1 February 2022, the FWC issued a Determination confirming the Award changes and that the changes will take effect from the first full pay period on or after 28 April 2022.

New method for fixing the piece rate

The Determination includes a new method for calculating the minimum piece rate.

Currently it is set at a rate that enables the “average competent employee” to earn at least 15% more per hour than the minimum hourly rate. Following the changes to the Award the piecework rate is to be set at a level which enables a pieceworker working at “the average productivity” of a “pieceworker competent at the piecework task” to earn at least 15% more per hour than the hourly rate for the pieceworker, that is, the relevant Award minimum wage rates.

The definition for a “pieceworker competent at the piecework task” is a pieceworker who has at least 76 hours’ experience performing the task (for example, picking apples, picking strawberries or pruning grape vines).

The “average productivity” over a period is calculated by dividing the total output of the pieceworkers competent at a piecework task by the total of the hours worked on the piecework task by the (competent) pieceworkers over that period (where the output is measured in the same unit used to specify the piece rate, e.g. a punnet, bucket or kilogram). See below calculation:

<p>Average Productivity of a pieceworker competent at a piecework task</p>	=	<p>Total output of the piecework competent at a piecework task over that period ----- Total hours worked on the piecework task by the pieceworkers competent at the piecework task over that period</p>
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Additional Changes

The following changes will also take effect from the first full pay period on or after 28 April 2022:

- The hourly rate for pieceworkers is the minimum hourly rate for the pieceworker’s classification level plus for a casual piecework, the 25% casual loading;
- Ordinary hours and rostering arrangements, meal allowance and overtime clauses in the Award do not apply to a pieceworker;
- If a pieceworker performs any additional work to the task for which they are paid a piece rate, the additional work must be paid at the hourly rate for the pieceworker;
- A pieceworker must be paid **no less than the amount they would have received if paid for each hour worked at their hourly rate** under the Award (including the 25% casual loading for a casual pieceworker); and
- A note, stating that a pieceworker is paid 200% of the piece rate for work on a public holiday.

Pieceworker Record

Before a pieceworker begins a pieceworker task, the employer must give the pieceworker a written record signed by the employer which governs the piecework arrangement including the pieceworker’s hourly rate under the Award. As well as stating the pieceworker’s hourly rate, the record must also include:

- the date and time the piecework commences;
- the task performed by the pieceworker;
- the amount of the piece rate; and
- the following statement, “Under the Horticulture Award 2020 a pieceworker must be paid for each day on which they work no less than their hourly rate under the award (including the 25% casual loading for a casual pieceworker) multiplied by the number of hours worked on that day.

A new ‘Schedule I – Piecework Record’ will be included in the Award, which is an example of a piecework record.

A pieceworker record is to be kept by the employer as an employee record. An employer must also keep a record of all hours worked by the pieceworker and the applicable piece rate at the time those hours were worked. If a pieceworker (or former pieceworker) requests a copy of the record, it must be provided.

When will the changes take effect?

The variation will take effect from the first full pay period on or after 28 April 2022.

If you need further information or assistance

If you have any questions, please contact AFEI on 02 9264 2000 and one of our advisors can assist you.