



IMPORTANT NOTICE TO MEMBERS

Earlier this week, the **Fair Work Commission** published its [decision](#) relating to overtime payments for casuals under the **Horticulture Award**. In short, if you employ casual staff under the Horticulture Award, then these employees may now be entitled to 'over' payments under the revised Award, depending on their hours worked.

Peak industry bodies have lobbied consistently on behalf of all growers to negotiate a better outcome in the Horticulture Award in the 4 yearly review of modern awards – Part-time and Casual Employment carried out by Fair Work Commission. While this is far from an ideal outcome, it is a better than some of the possible alternatives (such as entitlements mirroring those of permanent employees).

The Commission has determined to adopt the 'conciliated proposal' which is summarised as:

- Employees will be paid at a rate of 175% of their minimum hourly wage for each hour worked in excess of 12 hours per engagement, 12 hours in a single day, or 304 ordinary hours over an eight-week period (inclusive of the casual loading).
- Employees will be paid at a rate of 225% of their minimum hourly wage for all hours (both ordinary hours and any over) worked on a public holiday (inclusive of the casual loading).
- The new arrangements **will not apply** to piece rate workers.
- The new arrangements **will not allow** "double dipping" of "night" and overtime penalties.

The Commission has decided that the new requirement should take effect **from the first full pay period on or after 15 April 2019** because *"the industry has been on notice of the intention to introduce over payments for employees covered by the Horticulture Award since mid-2017. This was first stated in our principal decision which was issued on 5 July 2017, was reiterated in our August 2018 decision, and was reflected in the draft determination issued on 30 August 2018. For this reason, we consider that a transitional period is unnecessary."*

Here's what you need to do if your business is affected:

- Visit the website of the Fair Work Ombudsman - www.fairwork.gov.au - and create a free account if you do not already have one for your business.
- On or after 15 April 2019, use the online Pay Calculator to calculate the correct pay for workers under the revised Hort Award where they are a 'casual' employee and are now entitled to additional penalty payments based on their hours worked.
- Ensure that you implement these changes from the first full pay period on or after 15 April 2019. If you pay weekly, for example, that means the first pay week which includes 15 April 2019.
- You will also need to check regarding which days over Easter are Public Holidays as they vary across states. You can use this link <https://publicholidays.com.au/2019-dates/>

If you have any questions about how to apply the Award changes, contact the FWO direct either through the website using their online chat service (8.30am - 5pm AEST, Monday to Friday) or by lodging an online enquiry through your FWO account.

We will of course keep you posted as more information becomes available.

Jan Davis
Executive Officer