

Modern Agriculture Awards Fact Sheet

Modern awards have been developed to cover all employers of an industry if an employer is covered by the national workplace relations system.

Modern awards will commence from 1 January 2010.

The first important consideration for an employer is to determine which award applies to their business. This question will be answered by a review of the coverage clause of the modern award.

There are changes to the coverage clauses between agriculture awards that may for example move an agricultural producer from the current Pastoral Award to the modern Horticulture Award.

What modern Awards cover Agriculture?

Pastoral Award

The Pastoral Award covers all employers and employees involved in the:

- Management, breeding, rearing and grazing of livestock or poultry
- The shearing and crutching of sheep and classing and pressing of wool on farms
- Dairying
- Hatchery Work
- Sowing, raising or harvesting of *broadacre field crops** and other crops grown as part of a *broadacre mixed farming enterprise***
- The treatment of land for any of these purposes; or
- Clearing, fencing, well sinking, dam sinking or trenching on such farms.

*Broadacre field crop means canola, wheat, hay, barley, oats, rice, triticale, maize, millet, chickpeas, cotton, faba beans, lucerne, lupins, pigeon peas, sorghum, soybean, sunflower, and other crops grown as part of a broadacre mixed farming enterprise.

**Broadacre mixed farming enterprise

- means a farming enterprise consisting of the growing of broadacre field crops as defined;
- includes the rearing, management, and grazing of livestock;
- means a farming enterprise which combines both;
- means a farming enterprise which in addition to any of the above grows other crops, for the purposes of crop rotation or the rearing, management and grazing of livestock as part of a mixed farming enterprise.

The Pastoral Award does not cover:

- The wine industry
- Silviculture and afforestation except where carried on as part of a broadacre mixed farming enterprise;
- Sugar farming or sugar cane growing
- The horticulture industry as defined in the Horticulture Award; or
- Any work in or in connection with the production and processing of fish, aquaculture and marine products.

Horticulture Award

The Horticulture Award covers the horticulture industry which is defined as

- a. Agricultural holdings, flower or vegetable market gardens in connection with the sowing, planting, raising, cultivation, harvesting, picking, packing or treating of *horticultural crops**, including fruit and vegetables upon farms, orchards and/or plantations; or
- b. Clearing, fencing, trenching, draining or otherwise preparing or treating land for the sowing, planting, raising, cultivation, harvesting, picking, packing or treating of horticultural crops, including fruit and vegetables.

*Horticultural Crops is defined as all vegetables, fruits, grains, seeds, hops, nuts, fungi, olives, flowers or other specialised crops unless they are specifically named as a broadacre field crop in the Pastoral Award.

The Horticulture Award does not cover:

- The wine industry
- Silviculture and afforestation;
- Sugar farming
- Cotton farming
- Plant nurseries; or
- A broadacre mixed farming enterprise as defined in the Pastoral Award.

Other Agriculture Awards

Nursery Award

Cotton Ginning Award

Silviculture Award

Wool Storage, Sampling and Testing Award

Further at the time of writing two additional agricultural related awards were being considered by the Australian Industrial Relations Commission, the Wine Industry Award that will include the coverage of wine grape growers even if they do not produce wine and the Sugar Industry Award.

What changes can agriculture enterprises expect?

The changes in modern awards in comparison to the current award arrangements will be totally dependent upon what award (if at all) covers a particular business prior to 1 January 2010.

Examples include the following:

Keith & Son P/L is a vegetable grower in northern Tasmania. Prior to 1 January 2010 they are covered by the federal Pastoral Industry Award as they are members of the TFGA Industrial Association and the coverage clause of that award can include vegetable growers. As of 1 January 2010, Keith & Sons P/L will have to operate under the Horticulture Award 2010 as they are vegetable growers and cannot be defined as a broadacre mixed farming enterprise. As a consequence there will be significant changes for Keith & Sons P/L to implement in the business as the conditions of employment between the two awards are quite different.

Lynton Family Farms P/L is a grain growing enterprise and is located Queensland. Prior to 1 January 2010 there is no award coverage of the grain industry in Queensland. The only requirement has been to comply with legislated minimum entitlements. As of 1 January 2010, Lynton Family P/L will have to operate under the Pastoral Award 2010 as they fit under the definition of broadacre mixed farming enterprise.

Bowen Pastoral is a cattle enterprise located in the Northern Territory. Prior to 1 January 2010 they are covered by the NT Cattle Industry Award. As from 1 January 2010 the Cattle Industry Award will no longer exist and instead all cattle producers in the Northern Territory including Bowen Pastoral will be covered by the Pastoral Award 2010.

It is recommended that all agriculture producers determine which modern award covers their business and then consider the specific terms of the modern award.

In some instances modern awards may result in such a significant change that it will increase costs to a business or result in a reduction in pay for employees. Transitional Provisions will be contained in modern awards to minimise the impact on certain employers and employees.

Modern awards can be accessed through www.fwa.gov.au

Award Flexibility

All modern awards contain an award flexibility clause that enables an employer and an employee to agree to vary the application of certain provisions in the award to meet the genuine needs of the individual employee and employer.

An employer and individual employee can agree to vary the application of the following provisions:

- Arrangement for when work is performed;
- Overtime rates;
- Penalty rates;
- Allowances and
- Leave loading.

The agreement between the employer and the individual employee must be confined to a variation of one or more of the above terms and result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.

A specific process is outlined in the award flexibility clause as to how agreement can be reached and recorded.

This is an important clause that provides an opportunity to enable flexible arrangements that are required from time to time to be implemented on a formal basis.