

# CURRENT

## Horticulture Award 2020

### 15.1 Adult employee minimum rates

[15.1(a) varied by [PR729283](#) ppc 01Jul21]

(a) The classifications and minimum rates for an adult employee are set out in the following table:

Classification	Minimum weekly rate (full-time employee)	Minimum hourly rate <sup>1</sup>
	\$	\$
Level 1	772.60	20.33
Level 2	794.80	20.92
Level 3	817.60	21.52
Level 4	848.60	22.33
Level 5	899.50	23.67

<sup>1</sup> Consistent with the definition for **ordinary hourly rate** in clause [2](#)—[Definitions](#) all-purpose allowances need to be added to the rates in the table where they are applicable.

### 15.2 Pieceworker rates

(a) An employer and a full-time, part-time or casual employee may enter into an agreement for the employee to be paid a piecework rate. An employee on a piecework rate is a **pieceworker**.

(b) The piecework rate fixed by agreement between the employer and the employee must enable the average competent employee to earn at least **15%** more per hour than the minimum hourly rate prescribed in this award for the type of employment and the classification level of the employee. The piecework rate agreed is to be paid for all work performed in accordance with the piecework agreement.

(c) The calculation of piecework rates in clause [15.2\(b\)](#) for casual employees will include the casual loading prescribed in clause [11.2\(a\)](#).

**(d)** An agreed piecework rate is paid instead of the minimum rates specified in clause [15](#).

**(e)** The following clauses of this award do not apply to an employee on a piecework rate:

**(i)** Clause [13](#)—[Ordinary hours of work and rostering arrangements](#);

**(ii)** Clause [18.3\(c\)](#)—[Meal allowance](#); and

**(iii)** Clause [21](#)—[Overtime](#).

**(f)** The employer and the individual employee must have genuinely made the piecework agreement without coercion or duress.

**(g)** The piecework agreement between the employer and the individual employee must be in writing and signed by the employer and the employee.

**(h)** The employer must give the individual employee a copy of the piecework agreement and keep it as a time and wages record.

**(i)** Nothing in this award guarantees an employee on a piecework rate will earn at least the minimum ordinary time weekly rate or hourly rate in this award for the type of employment and the classification level of the employee, as the employee's earnings are contingent on their productivity.

**(j)** For the purposes of the [NES](#):

**(i)** The base rate of pay for a pieceworker is the base rate of pay as defined in the [NES](#).

**(ii)** The full rate of pay for a pieceworker is the full rate of pay as defined in the [NES](#).

### **15.3 Junior rates**

**(a)** The minimum rate payable to a junior employee will be the percentage of the adult rate prescribed for the classification upon which the employee is employed as set out in the following table:

<b>Age</b>	<b>Percentage of appropriate adult rate %</b>
Under 16 years of age	50
16 years of age	60
17 years of age	70
18 years of age	80
19 years of age	90
20 years of age	100

**(b)** The rate payable to a junior will, in the case of a weekly employee, be calculated to the nearest **\$0.10**, and in the case of an hourly employee, be calculated to the nearest cent.

### **16.1 Period of payment**

Wages must be paid weekly or fortnightly according to the actual hours worked each week or fortnight, or according to the applicable piecework payment.

# PROPOSED

## DRAFT DETERMINATION

1. By deleting clause 15.2 and inserting the following:

### 15.2 Pieceworker rates

(a) In clause 15.2:

(i) hourly rate for the pieceworker means the minimum hourly rate for the pieceworker's classification level plus the 25% casual loading under clause 11.3 for a casual pieceworker;

(ii) pieceworker means an employee being paid a piece rate; and

(iii) pieceworker competent at the piecework task means a pieceworker who has at least 2 weeks' experience performing the task (for example, picking apples, picking strawberries or pruning grape vines);

(b) The following clauses of this award do not apply to a pieceworker:

(i) Clause 13—Ordinary hours of work and rostering arrangements;

(ii) Clause 18.3(c)—Meal allowance; and

(iii) Clause 21—Overtime.

(c) An employer may pay a full-time, part-time or casual employee a piece rate for performing a task.

~~(b) The piecework rate fixed by agreement between the employer and the employee must enable the average competent employee to earn at least 15% more per hour than the minimum hourly rate prescribed in this award for the type of employment and the classification level of the employee.~~

(d) The employer must fix the piece rate at a level which enables a pieceworker competent at the piecework task to earn at least 15% more per hour than the hourly rate for the pieceworker.

NOTE: A pieceworker is paid 200% of the piece rate for work on a public holiday (see clause 27.3).

(e) If a pieceworker does any work in addition to the task for which they are being paid a piece rate, the pieceworker must be paid for that additional work at the hourly rate for the pieceworker.

~~(d) An agreed piecework rate is paid instead of the minimum rates specified in clause 15.~~

~~(i) Nothing in this award guarantees an employee on a piecework rate will earn at least the minimum ordinary time weekly rate or hourly rate in this award for the type of employment and the classification level of the employee, as the employee's earnings are contingent on their productivity.~~

(f) Despite any other provision of clause 15.2 a pieceworker must be paid no less than the amount they would have received if paid for each hour worked at the hourly rate for the pieceworker.

(g) Pieceworkers are paid allowances under clause 18 (other than meal allowance) in addition to the rates payable under clauses 15.2(d), (e) and (f).

(h) Before a pieceworker begins a piecework task for an employer, the employer must give the pieceworker a written record signed by the employer (a piecework record) that must:

(i) state the date and time the piecework is to commence;

(ii) describe the task for which the piece rate will be paid;

(iii) state the amount of the piece rate;

(iv) include the following statement: 'Under the Horticulture Award 2020 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

(v) state the hourly rate for the pieceworker.

NOTE: An example of the type of record required by clause 15.2(h) is at Schedule I—Piecework Record. There is no requirement to use the form of record set out in Schedule I—Piecework Record.

(i) If an employer proposes to change the piece rate or piecework task of a pieceworker the employer must first give the pieceworker a further piecework record including the new rate or task.

~~(f) The employer and the individual employee must have genuinely made the piecework agreement without coercion or duress.~~

(j) The employer must keep the following as employee records:

(i) a copy of each piecework record given to the pieceworker; and

(ii) a record of all hours worked by the pieceworker and the applicable piece rate at the time those hours were worked.

(k) For the purposes of the NES the base rate of pay and full rate of pay of a pieceworker are the same and are worked out as follows:

(i) By dividing the total amount earned by the pieceworker during the relevant period by the total hours worked by the pieceworker during the relevant period.

(ii) If the pieceworker was continuously employed by the employer for a period of 12 months or more immediately before the rate of pay is to be worked out—the relevant period is the 12 months before the rate is to be worked out. If the pieceworker was continuously employed by the employer for a period of less than 12 months immediately before the rate of pay is to be worked out—the relevant period is that period.

2. By replacing 'piecework rate' in clause 27.3 with 'piece rate'.

3. By inserting a new Schedule I—Piecework record as set out in the attachment to this determination

**ATTACHMENT E**

**SCHEDULE I—Piecework record**

Name of pieceworker: \_\_\_\_\_

Name of employer: \_\_\_\_\_

The piecework will commence on: \_\_\_/\_\_\_/20\_\_\_ at: \_\_\_\_\_ am/pm

The piecework task is: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The pieceworker will be paid for the piecework the amount of \$ \_\_\_\_\_ per \_\_\_\_\_

**Under the *Horticulture Award 2020* 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).**

The pieceworker's hourly rate under the Award is \$ \_\_\_\_\_ per hour.

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_