



LSA Member Update May 2024

Pending Changes to the Definition of Casual Employment

On 26th August 2024, the Fair Work Act 2009 will provide a new definition 'casual employee'. An employee will be deemed to be casual when:

1. On commencement of employment there isn't a firm advance commitment to continuing and indefinite work, and the true nature of the employment relationship (e.g. engaged for peak period or a particular task that won't go all year round).
2. they are eligible for a casual loading or specific casual pay rate.

Employees engaged on commencement of employment on a true casual basis, will continue to be engaged on a casual basis unless their category of employment changes because of:

1. accepting an alternative employment on a part time or fulltime basis or,
2. employees engaged as casuals prior to 26th August 2024 will remain as casuals unless/until they convert or transition to part time or full-time employment.
3. a conversion process or Fair Work Commission order.

If a casual employee converts to part time or fulltime, they will cease to be eligible for the 25% casual loading. They will then become eligible in accordance with the national Employment Standards for payment of annual leave and leave loading, personal/carer's leave, notice of termination, redundancy benefits (subject to eligibility) and the other attributes of full-time or part-time employment.

It is critical that when engaging or changing the category of employment you provide a letter to that effect, or you may wish to also show on the payslips to minimise the risk of misunderstanding and underpayment of wages claims.

Fair Work Ombudsman Prosecutions

A Victorian horticultural grower was penalised almost \$160,000 for underpaying vulnerable workers.

The employer admitted it failed to meet the employees' minimum rates of pay, casual loading, overtime and public holiday penalty rates as set out in the Horticulture Industry Award 2010. In doing so, one worker was underpaid \$22,364 and the other \$6,167 for periods of work between June 2017 and September 2020. The employer conceded he was involved in the underpayments.

The employer also provided false or misleading pay slips to the FWO; did not provide payslips to the workers; made unlawful deductions from one worker's pay and failed to make and keep records as required.

The Fair Work Ombudsman Office stated that ensuring compliance among agriculture sector employers is a [regulatory priority](#) for it.

Is your record keeping compliant? Visit (<https://www.fairwork.gov.au/pay-and-wages/paying-wages/record-keeping#what-records-have-to-be-kept-and-what-needs-to-be-in-them>)

And are your payslips compliant? Visit (<https://www.fairwork.gov.au/pay-and-wages/paying-wages/pay-slips>)

Since 1st July 2023 the pay rates have been

Fulltime					Casual		
BROADACRE							
		Full and Part Time			Casual		
		Per hour			Per hour		
	Per week	100%	150%	200%	125%	175%	225%
FLH Lv1	\$ 859.30	\$ 22.61	\$ 33.91	\$ 45.22	\$ 28.27	\$ 39.57	\$ 50.88
FLH Lv3	\$ 895.00	\$ 23.55	\$ 35.32	\$ 47.10	\$ 29.44	\$ 41.22	\$ 52.99
FLH Lv5	\$ 930.70	\$ 24.49	\$ 36.73	\$ 48.97	\$ 30.62	\$ 42.86	\$ 55.11

FEEDLOTS							
		Full and Part Time			Casual		
	Per week	Per Hour			Per hour		
		100%	150%	200%	125%	175%	225%
FLH Lv1	\$ 859.30	\$ 22.61	\$ 33.91	\$ 45.22	\$ 28.27	\$ 39.57	\$ 50.88
FLH Lv2	\$ 882.80	\$ 23.23	\$ 34.85	\$ 46.46	\$ 29.04	\$ 40.66	\$ 52.27
FLH Lv4	\$ 914.90	\$ 24.08	\$ 36.11	\$ 48.15	\$ 30.10	\$ 42.13	\$ 54.17
FLH Lv6	\$ 945.00	\$ 24.87	\$ 37.30	\$ 49.74	\$ 31.09	\$ 43.52	\$ 55.95
FLH Lv7	\$ 995.00	\$ 26.18	\$ 39.28	\$ 52.37	\$ 32.73	\$ 45.82	\$ 58.91

Superannuation Contributions are currently 11% of Ordinary Time Earnings (NOT payable on Overtime).

SGC 2022 to 2025	Rate
1 July 2021 – 30 June 2022	10.00%
1 July 2022 – 30 June 2023	10.50%
1 July 2023 – 30 June 2024	11.00%
1 July 2024 – 30 June 2025	11.50%
1 st July 2025	12.0%

WORK HEALTH AND SAFETY

Compensation for worker sacked after big night out.

An employer was found to have had insufficient evidence to terminating the employment of an Assistant Farm Manager who allegedly consumed up to 15 standard drinks the day and evening before his early morning start on the following day.

Faulkner Farming was ordered to pay the Assistant Farm Manager more than \$5,000 compensation.

The Commissioner found there was "insufficient evidence that the employee was 'under the influence of alcohol' when he started work on 4 January 2024. Such a conclusion constituted a breach the employer's drug and alcohol policy".

The Assistant Farm Manager denied later that he was under the influence. He presented with the same view at the hearing in the Commission".

It was found that the Employer had failed to establish that the employee had been under the influence of alcohol.

Having a drug and alcohol policy in place makes it clear that your workplace will not tolerate the use of drugs and alcohol. Education and information will also help everyone at the workplace understand how to deal with drug or alcohol affected workers or visitors.

A sample policy for drug and alcohol issues in the workplace is accessible at page 145 in the [Farmers' Guidebook to work health and safety \(safework.sa.gov.au\)](https://safework.sa.gov.au)

Quad Bike Accidents

Three men have died in quad bike crashes in South Australia over the past month.

In addition has have been eight seriously injured children, aged between two and 15 years old, over the summer holidays which is "alarming" and more reasons for parents to stop, or at least supervise their children using quad bikes.

There were zero injuries over the same period last year.

"Many people might regard these bikes as safe, (it) looks a lot safer than a motorbike — the actual truth is these can be very unstable devices," Health Minister Picton said.

SafeWork SA reports that nationally, there are 15 deaths every year because of quad bike accidents.

The Australian government introduced further safety standards for quad bikes following a review in 2019.

It required manufacturers to install several features such an operator protection device and label outlining the risk of rollover. For more information Pages 11, 14, 31 and 36 at [Farmers' Guidebook to work health and safety \(safework.sa.gov.au\)](https://safework.sa.gov.au)

Members' Industrial Relations Advice

LSA members are entitled to contact MERS for a free half hour consultation, per member per year. Our telephone number is 08 83312422) and email chas@mers.com.au

Recent Member Updates are included in the MERS website www.mers.com.au