



Your strong and independent
voice for livestock producers

Livestock SA - IR Update

1 July 2020

LIVESTOCK SA...

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Minimum Wage Adjustment 2020 1 November 2020 and NOT 1 July 2020

The Fair Work Commission handed down this year's minimum wage adjustment but it's different to the traditional manner. This year's decision whilst coming into effect on 1 July 2020, the date of effect is staggered by different industry groups.

The Pastoral Award is categorised in Group 2 and the current rates and allowances will not be increased until the first pay period commencing on or after 1 November 2020. The new rates have not been released and it is expected will not be available until closer to the effective date. After release we will provide a Member Update.

Casual Employees and Paid Leave decision

A recent Full Federal Court decision found that Casual employees who work regularly and systematically are in addition to the 25% casual are entitled to paid annual and sick leave. The decision has been dubbed as double dipping. However, this claim has been referred to the High Court and the federal Government is keeping a close watch as to whether legislative changes are required.

Long term casual employees currently are eligible paid leave. However, given the action currently in the High Court which may reverse this decision, if you receive a claim for back payment of paid leave, such payments should not be made without seeking advice. If over payments are made, recovery of those payments may not be easy.

What to do now?

It is important to minimise your risks of underpayment of wages claims which can be back dated for six years. Review your arrangements particularly with casual employees, assess your current casual workforce and identify any potential claims.

Clause 10.1 requires that *"at the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, part-time or casual."*

Unfair Dismissal Claims

Unfair dismissal claims do NOT apply to small employer (fewer than 15 employees) during the first 12 months of employment, and six months for larger employers. If you do find the need to terminate employment during that time, please refer to the [Small Employer Fair Dismissal Code](#).

If you have any queries, please do not hesitate to contact our office.

If you have not, it is not too late to confirm in writing and include the category on payslips. You should also make available in a prominent place a copy of the [Fair Work Information Statement](#). The letter for a casual employee should state that the hourly rate is "1/38th of the weekly rate prescribed for the class of work performed, plus 25%" which is *"paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment."*

Consider transferring the status of your current employees from casual to full-time or part-time in accordance with Clause 10.5 of the Award.

Conversion from casual employment to part-time has some pitfalls to be careful with; Sub-clause 10.3(c) states *"At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day."*

Work outside of the agreement constitutes overtime payment. An employee engaged on a long-term basis as a casual, is dearer than a full time and part-time employee paid leave.