

NEWS ALERT

Issue: 4/14

Subject:

Amendments to the *Horticulture Award 2010*

Date: 14/1/14

The *Horticulture Award 2010* has been amended in accordance with a 4 December 2013 Decision of Senior Deputy President Watson of the Fair Work Commission. Details are set out below:-

1. The words "Fair Work Australia" wherever appearing have been replaced by "The Fair Work Commission"
2. The following sentence has been inserted at the end of clause 7.2 (Individual Flexibility Agreements):-

"An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer."

3. The words "at the time the agreement is made" have been inserted after "overall" in clause 7.3(b) which now reads:-

"7.3 The agreement between the employer and the individual employee must:

- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to."

4. The words "four weeks" in clause 7.8(a) have been replaced by "13 weeks".

The clause now reads:-

"7.8 The agreement may be terminated:

- (a) by the employer or the individual employee giving 13 weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee."

The following new paragraph has also been inserted after clause 7.8(b):-

"Note: If any of the requirements of s.144(4), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see s.145 of the *Fair Work Act 2009* (Cth))."

5. Clause 7.9 has been renumbered as clause 7.10 and a new clause 7.9 inserted as follows:

7.9 The notice provisions in clause 7.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 7.8(a), subject to four weeks' notice of termination."

6. The variations are effective from 4 December 2013.