

# Piecework: Fair Work Ombudsman Update

The Fair Work Ombudsman (FWO) has recently announced a series of updates to its “Horticulture Showcase”, a web-based hub which is designed to provide tools and resources to help you ensure that you are paying your workforce correctly.

## The updates are focused on Piecework Rates and include:

- clear information about when piecework rates should be set;
- base rate hourly information from the Horticulture award;
- comprehensive information about how to set piecework rates, including factors to consider in determining an ‘average competent employee’; and
- details about the type of records that should be kept.

The FWO have introduced a new visual template that explains very simply how piecework rates should be calculated and the information that has to be transparent to the worker in the application of the rates. Both parties – employer and worker – must sign the piecework agreement, and any subsequent changes to it must also be signed by both parties.

## Requirements under the Horticulture Award

### Piecework agreements must be in writing and made without coercion

- a piecework agreement must be made in writing and signed by the employer and the employee
- the employer and employee must have genuinely made the piecework agreement without coercion or duress
- the piecework rate agreed is to be paid for all work performed in accordance with the piecework agreement
- an employer must give the employee a copy of the piecework agreement and keep the piecework agreement as a time and wages record

## An example Piecework rate table — You will be paid on the following basis:

	Crop	Rate	Unit	Variables	<b>To get pay equivalent to at least 15% more than your minimum hourly rate in the Award you must pick or pack at least</b>
<b>Example 1</b>	Strawberries	\$ x	Kilograms (kg)	Rainy day	1 kg/hour
<b>Example 2</b>	Strawberries	\$ y	Kilograms (kg)	Sunny/ cloudy day	2kg/hour

## Piecework agreements must have an appropriate pay rate

- a piecework rate must 'enable the average competent employee to earn at least 15% more per hour than the minimum hourly rate' for their employment type and classification
- the current minimum hourly rate for an adult casual employee is \$24.80
- to work out a piecework rate, an employer needs to identify the average competent employee and their pick rate at the time the piecework agreement is entered into
- Piecework rates must be set before starting work under the piecework agreement. They also must be regularly reviewed
- There are many factors that affect what an 'average competent employee' is at each enterprise at a particular time. There is no standard across the horticulture industry or within particular industries or locations. It can be different between properties with the same crop type and location. It can even be different on the same property at different times
- There are a range of factors in each case to assess

## Payslips must be produced & given to all employees

- You must issue pay slips for all payments to employees
- Pay slips have to be given to an employee within 1 working day of pay day, even if they are on leave
- They can be in either electronic form or hard copy

## Records must be properly made & kept

Making and keeping proper employee records is not only good business practice – it's also the law. To comply with the law, employee records:

- must be written in English, and be clear and easy to access
- can only be changed to correct an error (you need to keep details of the change made)
- can't be false or misleading
- must include all the required information for each employee
- must be kept for 7 years.

Visit [www.fairwork.gov.au/horticulture-showcase](http://www.fairwork.gov.au/horticulture-showcase) for the useful tools and resources



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# Checklist for Employers

Use the checklist below to help ensure your new piecework agreement meets the requirements of the Horticulture Award and other workplace laws.

- Put it in writing**  
The piecework agreement (Agreement) must be in writing and signed by the employer and the employee.
- Check the piecework rates are okay**  
The Agreement must have an appropriate rate of pay.  
The piecework rate(s) paid must enable the 'average competent employee' to earn at least 15% more per hour than the minimum hourly rate in the Award for the employee's type of employment and classification level. For casual employees, this calculation must also include the casual loading.  
Keep a record of how the piecework rate(s) was calculated, including details of the average competent employee and their pick rate.
- Be clear about what work is covered by the Agreement**  
If the employee is performing extra work that is not covered by the Agreement, the employee must be paid in accordance with the applicable time-based rate under the Award.
- Get it signed**  
The employer and employee must both sign the Agreement. If the employee is under 18 years of age, it's considered best practice and may be required by state legislation for a parent or guardian to co-sign the agreement.
- Translate it (if required)**  
If an employee's understanding of written English is limited, you should take measures to ensure the employee understands this Agreement. This may include translation of this Agreement into an appropriate language.
- Keep a copy**  
You must keep the signed Agreement as a time and wages record.
- Give a copy**  
You must give a copy of this signed Agreement to the employee.
- Review your rates regularly**  
It's your responsibility as the employer to ensure the piecework rate paid is compliant at all times.  
Piecework rates should be reviewed regularly and increased in line with:
  - changes to the Award rates (which usually occur in July each year)
  - changes in the workforce, crop or business that effect the pick rate of the employee of average capacity.
- Make any changes in writing**  
Any changes to the employee's piecework rate(s) must be recorded in a new piecework agreement, signed by both parties.