

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Application No. CICS 18 OF 2022

**COMMISSION'S OWN MOTION PURSUANT TO SECTION 37D TO VARY THE
*FARM EMPLOYEES' AWARD***

NOTICE is given by the Commission's Own Motion pursuant to section 37D of the *Industrial Relations Act 1979* (WA) of the Commission's intention to vary the scope of the *Farm Employees' Award*.

The proposed variations are published in the annexed table.

A copy of the application and proposed variations may be inspected at my office by appointment at 111 St Georges Terrace, Perth.

A hearing for the purpose of affording interested persons an opportunity to be heard in relation to the proposed variations will be held at the Commission, Level 18, 111 St Georges Terrace Perth on Tuesday, the 7th day of November 2023 at 10.30 am.

Any person who wishes to be heard in relation to the proposed variations should contact Chief Commissioner Kenner's Chambers by email at Chambers-Kenner@wairc.wa.gov.au.

S. BASTIAN
REGISTRAR

5 SEPTEMBER 2023

FARM EMPLOYEES' AWARD

Current Award	Proposed Variations
<u>3. – AREA AND SCOPE</u>	<u>3. – AREA AND SCOPE</u>
<p>This award shall apply throughout the State of Western Australia to employees employed:-</p> <p>(a) On farms in connection with the sowing, raising, harvesting and/or treatment of grain, fodder or other farm produce.</p> <p>(b) On farms or properties in connection with the breeding, rearing or grazing of horses, cattle, sheep, pigs or deer; or</p> <p>(c) In clearing, fencing, well sinking, dam sinking or trenching on such farms or properties except employees who are bound by the award of the Australian Conciliation and Arbitration Commission and known as the "Pastoral Industry Award, 1965" as varied or replaced from time to time and the award of the Western Australian Industrial Commission, known as the "State Research Stations, Agricultural Schools and College Workers" Award No 23 of 1971 as varied, and as varied or replaced from time to time. Provided that this award shall not apply to the land and premises occupied by:-</p> <p>(1) Any institutions declared by proclamation under the "Aboriginal Affairs Planning Authority, Act, 1972"</p> <p style="text-align: center;">Or</p> <p>(2) Any of the following institutions:-</p> <p style="padding-left: 40px;">Parkerville Children's Home Incorporated; Tom Allan Memorial Home for Boys, Weeribee; St Joseph's Farm and Trades School, Bindoon; Christian Brothers' Agricultural School, Tardun.</p>	<p>3.1 (a) This award has effect throughout Western Australia.</p> <p>(b) This award also has effect with respect to employers who are connected to the State of Western Australia and their employees while performing work covered by this award.</p> <p>Note: For a non-exhaustive list of indicators of when an employer may be connected to the State of Western Australia, see section 3(2) of the <i>Industrial Relations Act 1979</i>. Indicators include, but are not limited to, whether the employer is:</p> <ul style="list-style-type: none"> • Domiciled or resident in, or has an office or a place of business in, the State; or • Registered, incorporated or established under a law of the State; or • The holder of a licence, lease, tenement, permit, or other authority, granted under a law of the State or by a public authority. <p>3.2 This award extends to and binds:</p> <p>(a) employers in the farming industry; and</p> <p>(b) their employees employed in the classifications set out in this award; and</p> <p>(c) the Australian Workers' Union, West Australian Branch, Industrial Union of Workers.</p> <p>3.3 This award also applies to:</p> <p>(a) employers that supply labour on an on-hire basis to host employers in the farming industry in respect of on-hire employees in classifications mentioned in this award, and those on-hire</p>

	<p>employees, while engaged in the performance of work covered by this Award; and</p> <p>(b) employers that provide group training services for apprentices and/or trainees engaged in the farming industry in respect of apprentices and/or trainees employed in one or more of the classifications mentioned in this Award, and those apprentices and/or trainees, while engaged by a host employer in the performance of work covered by this award.</p> <p>3.4 This award does not cover employees covered by:</p> <p>(a) the State Research Stations, Agricultural Schools and College Workers Award 23 of 1971;</p> <p>(b) the Fruit Growing and Fruit Packing Industry Award R 17 of 1979;</p> <p>(c) the Egg Processing Award 1978;</p> <p>(d) the Dried Vine Fruits Industry Award;</p> <p>(e) the Poultry Breeding Farm & Hatchery Workers' Award 1976;</p> <p>(f) the Shearing Contractors' Award of Western Australia;</p> <p>(g) the Wine Industry (WA) Award 2005; and</p> <p>(h) the Dairy Factory Workers' Award 1982.</p> <p>3.5 This award does not apply to employers and employees who are subject to the national industrial relations system.</p> <p>3.6 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.</p>
<p><u>4. – DEFINITIONS</u></p>	<p><u>4. – DEFINITIONS</u></p>

<p>(a) “Apprentice” means an apprentice under the <i>Vocational Education and Training Act 1996</i> (WA), or any successor legislation.</p> <p>(b) “Appropriate state legislation” means the <i>Vocational Education and Training Act 1996</i> (WA) or its replacement.</p> <p>(c) “Approved training” means training which is specified in the training plan which is part of the training agreement registered with the state training authority. It includes training undertaken both on and off the job, in a traineeship and will involve formal instruction both theoretical and practical, and supervised practice in accordance with a traineeship scheme approved and accredited by the state training authority.</p> <p>(d) “Board and lodging” means a reasonable supply and standard of food together with a reasonable standard of accommodation.</p> <p>(e) “Commission” means the Western Australian Industrial Relations Commission.</p> <p>(f) “Complying superannuation fund or scheme” means a superannuation fund or scheme:</p> <p>(a) that is a complying superannuation fund or scheme within the meaning of the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth), and</p> <p>(b) to which, under the governing rules of the fund or scheme, contributions may be made by or in respect of the employee permitted to nominate a fund or scheme.</p> <p>(g) “Tradesperson” shall mean a person who has satisfactorily completed the approved apprenticeship in a qualification relevant to agriculture or who has been issued with an approved trade certificate and provides proof satisfactory to the employer of such qualification or who has by other means achieved a standard of knowledge deemed by their employer as equivalent thereto and is appointed as such in writing by the employer.</p> <p>(h) “Trainee” means an employee who is undertaking a traineeship.</p>	<p>(a) “Apprentice” means an apprentice under the <i>Vocational Education and Training Act 1996</i> (WA), or any successor legislation.</p> <p>(b) “Appropriate state legislation” means the <i>Vocational Education and Training Act 1996</i> (WA) or its replacement.</p> <p>(c) “Approved training” means training which is specified in the training plan which is part of the training agreement registered with the state training authority. It includes training undertaken both on and off the job, in a traineeship and will involve formal instruction both theoretical and practical, and supervised practice in accordance with a traineeship scheme approved and accredited by the state training authority.</p> <p>(d) “Board and lodging” means a reasonable supply and standard of food together with a reasonable standard of accommodation.</p> <p>(e) “Broadcare farming enterprise”:</p> <ul style="list-style-type: none"> • means a farming enterprise consisting of the growing of broadacre field crops as defined. • includes the rearing, management, and grazing of livestock. • means a farming enterprise which combines both; or • means a farming enterprise in addition to any of the above which grows other crops, for the purpose of crop rotation or the rearing, management, and grazing of livestock as part of a mixed farming enterprise. <p>(f) “Broadacre field crops” means grains, seeds, grasses, silage, legumes, fibre, flowers and other crops grown as part of a broadacre mixed farming enterprise.</p> <p>(g) “Commission” means the Western Australian Industrial Relations Commission.</p> <p>(h) “Complying superannuation fund or scheme” means a superannuation fund or scheme:</p> <p>(a) that is a complying superannuation fund or scheme within the meaning of the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth), and</p>
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<p>(i) “Traineeship” means a structured employment-based training program approved by the state training authority that leads to the trainee gaining a nationally recognised qualification. Traineeships may be full time or part time (including school based arrangements).</p> <p>(j) “Training contract” means a legally binding agreement between an employer, an apprentice/trainee and their legal guardian, where required, to undertake a traineeship.</p> <p>(k) “Training plan” outlines the training delivery and assessment strategy to be undertaken throughout the training contract. It is developed by the nominated registered training organisation in negotiation with the employer and trainee.</p> <p>(l) “Union” means The Australian Workers’ Union, West Australian Branch, Industrial Union of Workers.</p>	<p>(b) to which, under the governing rules of the fund or scheme, contributions may be made by or in respect of the employee permitted to nominate a fund or scheme.</p> <p>(i) “Farming industry” means all employers and employees who are engaged in or in connection with:</p> <p>(a) the management, breeding, rearing or grazing of livestock or poultry;</p> <p>(b) the shearing and crutching of sheep and the classing and pressing of wool on farms;</p> <p>(c) dairying;</p> <p>(d) hatchery work;</p> <p>(e) the sowing, raising or harvesting of broadacre field crops and other crops grown as part of a broadacre mixed farming enterprise;</p> <p>(f) the treatment of land for any of these purposes; or</p> <p>(g) clearing, fencing, well sinking, dam sinking or trenching on such farms or properties.</p> <p>(j) “Livestock” means all animals used in primary production including fish, crustaceans and insects.</p> <p>(k) “Tradesperson” shall mean a person who has satisfactorily completed the approved apprenticeship in a qualification relevant to agriculture or who has been issued with an approved trade certificate and provides proof satisfactory to the employer of such qualification or who has by other means achieved a standard of knowledge deemed by their employer as equivalent thereto and is appointed as such in writing by the employer.</p> <p>(l) “Trainee” means an employee who is undertaking a traineeship.</p> <p>(m) “Traineeship” means a structured employment-based training program</p>
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	<p>approved by the state training authority that leads to the trainee gaining a nationally recognised qualification. Traineeships may be full time or part time (including school based arrangements).</p> <p>(n) “Training contract” means a legally binding agreement between an employer, an apprentice/trainee and their legal guardian, where required, to undertake a traineeship.</p> <p>(o) “Training plan” outlines the training delivery and assessment strategy to be undertaken throughout the training contract. It is developed by the nominated registered training organisation in negotiation with the employer and trainee.</p> <p>(p) “Union” means The Australian Workers’ Union, West Australian Branch, Industrial Union of Workers.</p>
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