



Australian Government

Fair Work OMBUDSMAN

ENFORCEABLE UNDERTAKING

Between

The Commonwealth of Australia

(as represented by the Office of the Fair Work Ombudsman)

and

Cherries Farm Employment Agency Pty Ltd
trading as Cherries Farm Employment Agency
ABN: 45607978343
ACN: 607978343

and

Ms. Hsin-Jung Hsieh

ENFORCEABLE UNDERTAKING

PARTIES

1. This Enforceable Undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by:
 - a. Cherries Farm Employment Agency Pty Ltd (**Cherries Farm**)
ABN: 45607978343, ACN: 607978343
19 Woodside Avenue, Burwood NSW 2134; and
 - b. Ms Hsin-Jung Hsieh.
2. Ms Hsin-Jung Hsieh admits and agrees that:
 - a. She has been the Director of Cherries Farm (**Director**) since 1 September 2015; Because of her office as Director, she was ultimately responsible for the overall direction, management and supervision of the operations at the Cherries Farm in relation to engaging staff, setting and adjusting pay rates and determining wages and conditions of employment;
 - b. By reason of the matters set out in subparagraph (a), was responsible in a practical sense for ensuring Cherries Farm complied with its legal obligations.

BACKGROUND

3. Cherries Farm is operating a labour hire business within the food, beverage and tobacco manufacturing industry;
4. Cherries Farm is a labour hire company providing unskilled labour to several clients and can engage up to 40 employees at any one time across up to four or so contracts;
5. Cherries Farm has a contract with S.A. & R.T. Investments Pty Ltd trading as Sydney Fresh Peeled Produce (**Sydney Fresh**) to provide up to 12 workers to sort and prepare vegetables for sale at the Sydney Markets. Sydney Fresh operates a warehouse where vegetables are prepared and packed for wholesale/retail;
6. On 17 April 2018, a Chinese National on a temporary student visa (subclass 500) (**Employee**, details found in Attachment E), lodged a request for assistance with the FWO in relation to work performed between 25 July 2017 and 10 April 2018 (**Employment Period**) on behalf of Cherries Farm for Sydney Fresh. The Employee alleged underpayment of wages and the non-provision of penalty rates, pay slips, and leave entitlements;
7. As a result of its investigation, the FWO determined that:
 - a. the terms and conditions of the Employees' employment with Cherries Farm were governed by the Food, Beverage and Tobacco Manufacturing Award 2010 [MA000073] (**Award**).
 - b. the Employee's classification under the Award was Level 1 Employee for the first 152 hours of employment, and a Level 2 employee thereafter;
 - c. the Employee performed vegetable sorting and packing duties;
 - d. the Employee was engaged on a casual basis;
8. The FWO has determined, and Cherries Farm admit, that Cherries Farm contravened:
 - a. the FW Act, specifically sections:
45 contravening the term of a modern award;

- 535(1) employer obligation in relation to employee records and the failure to make and keep said records for 7 years, in a form prescribed by the *Fair Work Regulations (2009) (FW Regulations)*;
- 535(2) employer obligation in relation to employee records, pursuant to regulation 3.44(6) of the FW Regulations: making use of a false or misleading records;
- 536(1) employer obligation in relation to pay slips and the failure to provide employees with a pay slip within one working day of payment;
- 536(3) employer obligation in relation to pay slips which the employer knows to be false or misleading; and
- b. the Award, specifically clauses;
 - 20.1(a) underpayment of adult employee minimum wages;
 - 13.1 underpayment of casual loading;
 - 13.2 failure to adhere to casual employee minimum engagement;
 - 30.2(d) underpayment of overtime rates (outside the spread of hours);
 - 30.2(e) underpayment of overtime rates (Saturday);
 - 30.2(f) underpayment of public holiday rates;
 - 33.1(a) underpayment of overtime rates (over 152 hours);
 - 32.5 non-payment of working through a meal break penalty; and
 - 29.2 employer superannuation contributions.
 (collectively, the **Contraventions**);

9. The underpayments to the Employee arising as a result of these contraventions totals **\$12,933.08 (gross)**;

COMMENCEMENT OF ENFORCEABLE UNDERTAKING

10. This Undertaking comes into effect when:
- a. the Undertaking is executed by Cherries Farm and the Director; and
 - b. the FWO accepts the Undertaking so executed;

ENFORCEABLE UNDERTAKING

11. Upon the execution of this Undertaking and for the purposes of section 715 of the FW Act, Cherries Farm and the Director undertake the following:

Rectify underpayments

12. Within 90 days of the execution of this Undertaking, rectify all contraventions as identified in paragraph 8 by paying the Employee the entire amount listed in paragraph 9 and, by the same date provide evidence to the FWO that the payment was made. Cherries Farm must ensure that all superannuation (**Super**) and taxation (**Tax**) entitlements are remitted to the Australian Taxation Office (**ATO**) in accordance with the relevant tax legislation, and provide evidence to the FWO at the time of remittance;
13. The underpayment referred to in clause 9 and payments identified in clause 12 will be made in at least three equal instalments of \$4,311.03 (gross) over a period of 90 days. Payments are to be made no later than:
- a. 1 July 2019;
 - b. 1 August 2019; and
 - c. 1 September 2019;

14. Use reasonable efforts to locate the Employee for the purpose of complying with the Undertaking in paragraph 12, including but not limited to:
 - a. taking steps to ascertain the current residential address, email address, mobile telephone number and/or social media profile of the Employee; and
 - b. contacting the Employee, using any current or last-known contact details, to advise them they are owed money and explain the process for payment of the money owed to them;
15. If the Employee cannot be contacted, make application to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act to pay money into the Commonwealth Revenue Fund before the first instalment payment date outlined in paragraph 13. Cherries Farm will complete the required documents supplied by the FWO;

FWO My account registration

16. Within 21 days of the execution of this Undertaking, the Director is to:
 - a. register with the FWO My account portal at www.fairwork.gov.au/register and fully complete the My account profile, including information about the business and award/agreement coverage, through this portal;
 - b. using the FWO Pay Calculator, calculate relevant minimum pay rates (and penalty rates where necessary) and save these calculations to your My account;
 - c. provide to the FWO the 'My account' Customer Registration Number (CRN);
17. Within 21 days of the execution of the Undertaking, subscribe to the FWO's 'Subscribe to email updates' function available at <http://www.fairwork.gov.au/website-information/staying-up-to-date/subscribe-to-email-updates> and provide evidence to the FWO of the subscription;

Future workplace relations compliance, systems and processes

18. Ensure that Cherries Farm complies at all times and in all respects with the FW Act, the FW Regulations and the Award, and all relevant industrial instruments that apply to the company to which Cherries Farm is supplying labour. The Director is encouraged to visit the Awards & Agreements section of the FWO's website to identify the industrial instrument most appropriate to each business and industry <https://www.fairwork.gov.au/awards-and-agreements>;
19. Provide the FWO, within 90 days of the date of execution of this Undertaking, details of systems and processes already in place or to be implemented to comply with paragraph 18 above. Without limitation, such systems and processes relating to:
 - a. Ensuring employees receive the correct minimum rates of pay and entitlements, such as penalty rates and overtime rates;
 - b. Ensuring that all employees are paid via electronic funds transfer (EFT);
 - c. Issuing accurate pay slips to employees within 1 working day of payment;
 - d. Keeping accurate and complete records to ensure employees receive their correct wages and entitlements;
 - e. Ensuring that the employment status of each employee (i.e. whether they are full-time, part-time or casual) is adequately communicated in writing to each employee at the commencement of employment;
 - f. Ensuring that super and tax entitlements are remitted to the ATO in accordance with the relevant tax legislation;
 - g. Demonstrating that Cherries Farm is meeting its ATO Single Touch Payroll

obligations;

Employee engagement

20. Prior to engaging workers to perform work on its behalf, Cherries Farm will:
- a. Obtain visa details for each employee including work rights to ensure visa holders are working within their visa requirements. Specifically;
 - i. students are not to be working more than 40 hours per fortnight during study periods; and
 - ii. Cherries Farm is to obtain appropriate documentation that determines when the visa holder is in a non-study period.
 - b. Ensure 'In Language' Fair Work Information Statements and 'Starting a New' Job fact sheets accompany all employee contracts. Factsheets can be located on the FWO website at <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets> or In Language at <https://www.fairwork.gov.au/language-help>;

FWO Online Training

21. Within 60 days of execution of this Undertaking, the Director will ensure that she and all other persons responsible for management, payroll and human resources complete all education courses designed for employers available on the FWO online learning centre via <http://www.fairwork.gov.au/how-we-will-help/online-training> as set out in Attachment C;
22. For each person required to complete the education activities, enter all of the required information in Attachment C and provide copies of the completed attachment along with all certificates of completion to the FWO within three months of the execution of this Undertaking;
23. For a period of one year from the execution of this Undertaking, ensure that the educational activities are completed by any new or existing employees or contractors who, after the commencement of this Undertaking, acquire managerial, payroll and human resources functions responsibilities;
24. For any persons taking on any of these functions, complete Attachment C and submit to the FWO within 60 days of taking responsibility for these functions;

Apology

25. Within 14 days of execution of this Undertaking, Cherries Farm will send a letter of apology (**Apology Letter**) to the Employee in the form of Attachment B to this Undertaking and provide a copy to the FWO, along with evidence the Apology Letter has been sent to the Employee;

Audit Activity

26. Cherries Farm will cause to have performed by an accounting professional (for example a Certified Practising Accountant) or an employment law specialist, at Cherries Farm's expense, audits of Cherries Farm's compliance with all Commonwealth workplace laws and instruments (**Audits**), including but not limited to the clauses and sections of the Award and FW Act outlined in paragraph 8(a) and (b);

27. The Audits will include the pay and conditions of 25% of all employees across all businesses to which Cherries Farm supply labour. The Audits must include:
- two full pay periods;
 - a range of classifications and employments types (full time, part time and casual employees);
 - evidence any student visa holder is in a non-study period (if the hours worked exceed their work rights); and
 - employees from a range of sites;
28. The Audits will assess Cherries Farm's compliance with the following obligations according to each employee's classification of work, category of employment, visa status, and hours worked during the Audit period:
- Wages or work-related entitlements under the applicable industrial instrument/s and the National Employment Standards;
 - Record keeping and pay slip obligation listed within Division 3 of Part 3-6 of the FW Act and within the FW Regulations; and
 - Work limitations as per visa classification;
29. The Audits will ensure that 21 days prior to the Audit due date/s, as specified below, Cherries Farm will provide for the FWO's approval, details of the methodology to be used to conduct the Audit;
- The first audit is to be finalised and a report on the outcome of the audit is to be provided to the FWO by 30 January 2020 consisting pay periods between 1 October 2019 and 1 November 2019;
 - The second audit is to be finalised and a report on the outcome of the audit is to be provided to the FWO by 30 June 2020 consisting pay periods between 1 April 2020 and 1 May 2020;
30. In the event an Audit discloses contraventions of any applicable Commonwealth workplace law and/or instruments, Cherries Farm will rectify all such contraventions within 30 days of each of the finalisation dates specified in subclause 29(a) and 29(b) above, including rectification of any and all underpayments to employees, and provide evidence of rectification to the FWO within 7 days of said payments;
31. If requested, Cherries Farm will provide the FWO with all records and documents used to conduct the audit, including any working documents, within 7 days of such a request;
32. If any employee(s) identified as having underpayments owing to them cannot be located, within 30 days of each of the finalisation dates outlined in subclauses 29(a) and 29(b) above, make application to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act to pay money into the Commonwealth Revenue Fund. Cherries Farm will complete the required documents supplied by the FWO;

Matters notified to the FWO

33. Where the FWO receives a request for assistance from a Cherries Farm employee or former employee regarding non-compliance with the relevant award or legislative requirement, the FWO will, at its discretion and subject to the below clause regarding serious non-compliance, notify Cherries Farm and its officers and provide relevant details;

34. Where a matter is notified to Cherries Farm they will undertake to fully co-operate with the FWO to ensure compliance. This includes:
- a. Determining an appropriate outcome for the matter within 60 days of notification; and
 - b. Advising the FWO of their determination and actions in relation to the matter including:
 - i. the reasons for the determination and any compliance issues identified;
 - ii. the details of any underpayments and amounts rectified;
 - iii. steps taken to address compliance issues identified, including for any similarly affected employees; and
 - iv. if any matter remains unresolved, the steps taken by Cherries Farm to facilitate the resolution of any such matter;
35. The FWO reserves the right to investigate any allegations;
36. The FWO may advise Cherries Farm of any active investigations the FWO is undertaking. If this is the case, Cherries Farm undertakes to:
- a. Provide all requested employment records and other documentation to the FWO relevant to the investigation;
 - b. Participate fully in any subsequent requests for information relevant to the investigation, including participation in any formal records of interview; and
 - c. Fully co-operate in FWO's investigative processes;

Workplace Notice

37. By 1 July 2019, but no later than 15 July 2019, display in common areas within all workplaces to which Cherries Farm supplies labour, a notice in the form of Attachment A to this Undertaking (**Workplace Notice**) and provide photographic evidence of its display and the location/s of the notice in the workplace/s;

The Workplace Notice must:

- a. Illustrate the correct and current rates of pay for all levels of employees within the award relevant to the business the employees are performing work;
- b. Illustrate all penalties and overtime rates including but not limited to weekends and public holidays.

The Workplace Notice must be:

- a. Printed in at least A3 size and is clearly displayed;
- b. In a location to which all employees engaged by Cherries Farm have access;
- c. In a manner which is reasonably capable of drawing attention of all employees to the Workplace Notice, for example, by placement on a staff noticeboard;
- d. For a period of 28 continuous days;

38. At the end of the period of 28 days, provide confirmation to the FWO that the Workplace Notice has been continuously displayed for the required period;

Social Media Notice

39. Cherries Farm will, within 28 days of, but not prior to the FWO publishing a Media Release on its website in respect of this Undertaking, place a post on its Facebook Page (where available), We-Chat profile, and the pages of all other social media accounts administered by Cherries Farm and the Director which will:
- a. be posted and pinned to the top of the homepage in public view;

- b. remain on the social media page for a continuous period of at least 28 days; and
- c. be in the form of the Public Notice set out at Attachment A;

40. Within 7 days of posting the notice(s), provide to the FWO evidence of the posting in the form of a link to the social media page(s);

Record Keeping

41. Within 28 days of the execution of this Undertaking, provide to the FWO a copy of time and wage records and pay slips for the first full pay period following the execution of this Undertaking for two employees from each business to which Cherries Farm supply labour. Such records are to comply with Commonwealth workplace laws;

Contribution Payment

42. By 2 January 2020 at the latest, Cherries Farm will finalise a contribution payment of \$5,000 into the Commonwealth's Consolidated Revenue Fund and provide evidence of the payment to FWO within 7 days of said payment being made;

43. The contribution payment referred to in clause 42 above can be paid in at least four equal instalments of \$1,250, and are to be made no later than:

- 1. 1 October 2019;
- 2. 1 November 2019;
- 3. 1 December 2019; and
- 4. 2 January 2020;

Reporting

44. Cherries Farm and the Director will notify the FWO of any changes of circumstances that could potentially impact on Cherries Farm's ability to comply with any of the undertakings contained in this Enforceable Undertaking, as soon as it becomes aware of such circumstances. Such circumstances shall include but not be limited to:

- a. Sale or potential sale of the business, or part of the business;
- b. Change of or change in details of company directors, or other officeholder positions;
- c. Change in engagement of workers, for example engaging contractors, labour hire or family members in lieu of employees;
- d. Cherries Farm or its Directors opening any new establishments or businesses, or acquiring any existing businesses establishments, whether alone or in partnership with another entity;
- e. Ceasing or an expectation of ceasing to trade; and
- f. Business going in to administration or liquidation;

45. If any events or circumstances described in paragraph 44 that Cherries Farm are required to be report to the FWO, Cherries Farm and the Director will provide any documentation or other evidence requested by the FWO to confirm the event/s that have transpired;

Employee Reporting

46. Within 90 days of the execution of this Undertaking, Cherries Farm will report to the FWO on all employees that worked for Cherries Farm during the previous three months. The report will include:
- a. A signed declaration that the Cherries Farm is remunerating its employees in accordance with its legal obligations including, but not limited to, the FW Act, the Award and superannuation legislation;
 - b. A list of visa holders engaged by Cherries Farm;
 - c. A copy of the relevant employees' visa details (and letter from education institute if applicable);
 - d. A copy of the employee contracts including the 'In Language' Fair Work Information Statements and 'Starting a New' Job fact sheets that accompanied them;
47. A copy of the declaration is located at Attachment D and is to be provided to the FWO every three months for a period of one year;
48. On the day of execution of this Undertaking, and every six months for the term of the Undertaking, report to the FWO whether the Director holds the role of director, sole trader or partner, in any other entity; and
49. In the event that an entity in which the Director holds the role of director, sole trader or partner engages any workers within one year of the commencement of this Undertaking:
- a. inform the FWO within 14 days of the first worker commencing duties;
 - b. ensure that it complies at all times and in all respects within the FW Act, FW Regulations and the relevant Modern Award;

Reporting contractual agreements

50. Within 90 days of the execution of this Undertaking, Cherries Farm will report to the FWO on all labour hire contracts between Cherries Farm and companies procuring labour from Cherries Farm during the previous three months, and provide a copy of the most recent contract;
51. Within 90 days of the execution of this Undertaking, Cherries Farm will review all contracts between Cherries Farm and companies procuring labour from Cherries Farm to ensure that Cherries Farm is able to comply with all workplace laws, specifically the industrial instruments relevant to the business to which Cherries Farm is supplying labour, and any updates to the modern awards which may affect said contracts;

No Inconsistent Statements

52. Cherries Farm and the Director:
- a. must not; and
 - b. must ensure that each of its officers, employees or agents, do not, make any statement, orally or in writing or otherwise imply anything that is inconsistent with admission or acknowledgements contained in this agreement;

ACKNOWLEDGEMENTS

55. Cherries Farm and the Director acknowledge that:
- a. The FWO may;
 - i. make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - ii. release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - iii. issue a media release in relation to this Undertaking;
 - iv. from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms; and
 - v. rely upon the admissions made by Cherries Farm set out in paragraphs 8 (a) and (b) above in respect of decision making concerning any future non-compliance with Cherries Farm's workplace relations obligations;
 - b. Consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
 - c. Consistent with section 715(3) of the FW Act, Cherries Farm and Ms. Hsin-Jung Hsieh may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
 - d. If Cherries Farm contravenes any of the terms of this Enforceable Undertaking:
 - i. The FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - ii. This Enforceable Undertaking may be provided to the Court as evidence of the admissions made by Cherries Farm and the Director in paragraphs 8(a) and (b) above, and also in respect of the question of costs.

Executed as an undertaking

EXECUTED by Cherries Farm Employment Agency Pty Ltd and Ms Hsin-Jung Hsieh in accordance with section 127(1) of the Corporations Act 2001:

Hsin Jung Hsieh
(Signature of director)

(Signature of director/company secretary)

HSIN JUNG HSIEH
(Name of director)

(Name of director/company secretary)

18/06/19
(Date)

(Date)

Hsin Jung Hsieh
(Signature of Ms Hsin-Jung Hsieh)

in the presence of:

Niloufar Jafari
(Signature of witness)

in the presence of:

(Signature of witness)

Niloufar Jafari
(Name of witness)

(Name of witness)

ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:

[Signature]
FAIR WORK OMBUDSMAN

27/6/19
(Date)

in the presence of:

[Signature]
(Signature of witness)

27/6/19 Darren Long
(Name of Witness)

Attachment A – FORM OF PUBLIC AND WORKPLACE NOTICES

Contravention of Fair Work Act by Cherries Farm Employment Agency Pty Ltd

We refer to the investigation conducted by the Office of the Fair Work Ombudsman (FWO) into allegations that Cherries Farm Employment Agency Pty Ltd (**Cherries Farm**) contravened the *Fair Work Act 2009* and the *Food, Beverage and Tobacco Manufacturing Award 2010 [MA000073]* (Award) by:

- a. Failing to provide accurate pay slips within 1 business day of payment of wages;
- b. Failing to make and keep accurate employee records as prescribed by the *Fair Work Regulations 2009*;
- c. Failing to pay the minimum, adult wages and all relevant loadings;
- d. Failing to pay penalty and overtime rates; and
- e. Failing to make superannuation contributions

Cherries Farm has formally admitted to FWO that these contraventions occurred and has entered into an Enforceable Undertaking with the FWO (available at www.fairwork.gov.au) committing to a number of measures to remedy the contraventions, including by rectifying the underpayment of \$12,933.08 (gross) to the employee affected by the contraventions and making a contrition payment of \$5,000 to fund education about workplace rights.

Cherries Farm expresses its sincere regret and apologises for the conduct which resulted in the contraventions. Furthermore, Cherries Farm gives a commitment that such conduct will not occur again and that it will comply with all requirements of the Commonwealth workplace relations laws in the future.

Cherries Farm is committed to ensuring that labour hire employees performing work at business to which Cherries Farm supply labour hire employees are paid at least the rates of pay as contained in the Award which covers their employment. From the first full pay period on or after 1 July 2019 rates of pay for employees covered by the Award are as follows:

Level	Rate	Rate	Rate
Level 1			
Level 2			
Level 3			
Level 4			

NB: This is an example only

If you worked for Cherries Farm and have queries or questions relating to your employment, please contact **<insert details of internal contact>**. Alternatively, anyone can contact the FWO via the website at www.fairwork.gov.au or the Infoline on 13 13 94.

Attachment B – FORM OF APOLOGY LETTER TO AFFECTED EMPLOYEES

<Date>

<Employee Name>

<Employee Address>

Dear <Employee Name>

I am writing to apologise on behalf of Cherries Farm Employment Agency Pty Ltd (**Company**) for non-compliance with Commonwealth Workplace relations laws. A recent investigation conducted by the Office of the Fair Work Ombudsman (**FWO**) determined that the Company had contravened the *Fair Work Act 2009* and the *Food, Beverage and Tobacco Manufacturing Award 2010 [MA000073]* (**Award**) by:

- a. Failing to provide accurate pay slips within 1 business day of payment of wages;
- b. Failing to make and keep accurate employee records as prescribed by the *Fair Work Regulations 2009*;
- c. Failing to pay the minimum, adult wages and all relevant loadings;
- d. Failing to pay penalty and overtime rates; and
- e. Failing to make superannuation contributions

Regrettably, the investigation determined that you were affected by the above contraventions.

Cherries Farm is taking steps to remedy the contraventions, including by rectifying **\$12,933.08 (gross)** that you have been underpaid, making a contrition payment of \$5,000 to fund education about workplace rights. You will/have receive/d this payment on **[insert date]** and will be provided with a payment advice regarding the payment.

Cherries Farm has formally admitted to the FWO that they did not comply with its obligations under Commonwealth workplace relations laws and have entered into an Enforceable Undertaking with the FWO, a copy of which is available from the FWO website at www.fairwork.gov.au. As part of the Enforceable Undertaking, we have committed to a number of measures to ensure future compliance with Commonwealth workplace relations laws.

Cherries Farm expresses its sincere regret and apologises to you for failing to comply with our lawful obligations.

Should you have any questions, please contact **[party to include contact details]**.

Yours sincerely

[Chief Executive Officer]

Attachment C

TRAINING RESOURCES UTILISED FROM THE FAIR WORK OMBUDSMAN WEBSITE

I, _____ (Enter name and position in the organisation)

have undertaken the following tools:

Completed online courses* including:

- Difficult conversations in the workplace – manager course date completed: _____
- Hiring employees date completed: _____

** Please provide printout of the Statement/Certificate of Attainment for each course completed*

Viewed Videos including:

- Welcome to fairwork.gov.au date completed: _____
- Finding information for your industry date completed: _____
- My account date completed: _____
- Introduction to the Pay and Conditions Tool date completed: _____
- PACT – Award classifications date completed: _____
- PACT – Pay summary date completed: _____
- PACT – Penalty rates date completed: _____
- PACT – Allowances date completed: _____
- PACT – Award Coverage date completed: _____

Read Factsheets including:

- Role of the Fair Work Ombudsman date completed: _____
- Contractors and employees – what's the difference? date completed: _____

Read information on the following:

• **Pay Overview**

- Minimum wages Page Ref No. _____ date completed: _____
- Penalty rates & allowances Page Ref No. _____ date completed: _____

• **Leave Overview**

- Annual leave Page Ref No. _____ date completed: _____
- Sick & carer's leave Page Ref No. _____ date completed: _____

- ***Ending Employment Overview***

- Notice & final pay Page Ref No. _____ date completed: _____
- Unfair dismissal Page Ref No. _____ date completed: _____

- ***Employee Entitlements Overview***

- Types of employees Page Ref No. _____ date completed: _____
- National Employment Standards Page Ref No. _____ date completed: _____

- ***Awards & Agreements Overview***

- Awards Page Ref No. _____ date completed: _____

- Date and signature: _____

Attachment D - Employee Reporting

During the period ____/____/____ to ____/____/____ the following employees were employed by Cherries Farm Employment Agency Pty Ltd:

Name of employee	Date commenced	Date ceased employment (if applicable)	Status of employment (Full time, Part time or Casual)	Award and Classification	Visa (if applicable)

I, _____ declare that all employees are receiving at least their minimum entitlements under the *Fair Work Act 2009*, and the relevant award, Superannuation payments have been made on behalf of all employees and PAYG tax withholding has been submitted to the Australian Taxation Office.

In providing this information, I confirm that the information is true and correct.

I am aware that providing false or misleading information is a contravention of section 718A of the *Fair Work Act 2009* and is a civil remedy with a maximum penalty of \$63,000 for a body corporate or \$12,600 for an individual.

Providing false or misleading information is also a criminal offense under section 137.1 and 137.2 of the *Criminal Code Act 1995*, which could result in imprisonment for 12 months.

Name and position of person providing the information: _____

Signature of person providing information: _____

Date: _____

Name of witness: _____

Signature of Witness: _____

Date: _____

Attachment E - Employee Details

On 17 April 2018, [REDACTED], (the **Employee**) a Chinese National on a temporary student visa (subclass 500), lodged a request for assistance with the Fair Work Ombudsman in relation to work performed between 25 July 2017 and 10 April 2018 (**Employment Period**).

The Employee was engaged by Cherries Farm Employment Agency Pty Ltd (**Cherries Farm**) to perform work for Sydney Fresh Peeled Produce (**Sydney Fresh**) as a Level 1 Employee for the first 152 hours of employment, and a Level 2 employee thereafter. The Employee performed vegetable sorting and packing duties. Based on the absence of an employment contract and a pattern of guaranteed working hours, it was determined the Employee was engaged on a casual basis.

Applicable rates of pay

In accordance with clauses 13.1, 20.1, 30.2(a), 30.2(e), 30.2(f), 32.5, and 33.1(a) of the *Food, Beverage and Tobacco Manufacturing Award 2010 [MA000073]*, the minimum entitlements for an adult, casual, Level 1 and Level 2 employee from the first full pay period on or after 1 July 2017 are detailed in Table 1, below:

Table 1		
	Level 1	Level 2
Entitlement	Total Rate Payable	Total Rate Payable
Base Rate of Pay	\$ 18.29	\$ 18.81
Base Rate with Casual Loading (25%)	\$ 22.86	\$ 23.51
Saturday (Overtime, 150%)	\$ 34.29	\$ 35.27
Outside of spread (Overtime, 150%)	\$ 34.29	\$ 35.27
Public Holiday (250%)	\$ 57.15	\$ 58.78
Over 152 hours (Overtime, first three hours, 150%)	\$ 34.29	\$ 35.27
Over 152 hours (Overtime, after three hours, 200%)	\$ 45.72	\$ 47.02
Working through a meal break (150%)	\$ 34.29	\$ 35.27