

# Ethical Sourcing

## Wages and Benefits Remediation Requirements

*Coles is committed to the responsible manufacture and provision of goods and services. The Coles Ethical Sourcing Policy is based primarily on Ethical Trade Initiative (ETI) Base Code and International Labour Organisation (ILO) Convention. Under the Ethical Sourcing Policy, Coles considers Wages and Benefits as a major supplier issue.*

*This Supplier Requirement outlines Coles' expectations regarding remediation of non-conformances relating to workers' wages and benefits. Suppliers must comply with this Requirement.*

### Definitions

#### Wages and Benefits

- 1.1. Wages and benefits paid for a standard working week must, as a minimum meet national or industry standards, whichever is the higher. In any event, wages should always be enough to meet basic needs and to provide some discretionary income for workers and their families and/or dependents.
- 1.2. All workers must be provided with written, accessible and understandable information about their employment conditions in respect to wages, before they enter employment, and about the particulars of their wages for the pay period concerned each time that they are paid.
- 1.3. Deductions from wages may only occur with the express written permission of the worker concerned and where permitted by law.
- 1.4. Deductions from wages for disciplinary measures are not permitted.
- 1.5. Accurate and complete records of wages and benefits paid to each worker must be maintained.

### Supplier Requirements

Suppliers must fully comply with the legal requirements of the countries in which they operate in addition to all elements of Coles' Ethical Sourcing Policy. All Australian suppliers must fully comply with all Australian laws and regulations regarding labour, wages and benefits, health, safety and the environment.

#### 1. Record-keeping

In Australia, under the Fair Work Act (2009) and the Fair Work Regulations (2009), an employer must keep employee records. Employers must keep records of pay, overtime, leave, and superannuation.

Employers must also keep a record (for example, a letter of offer or contract of employment) for each employee that includes: the name of the employer and the employee, whether the employment is full-time or part-time, whether the employment is casual, temporary or permanent, the date at which the employee's employment began, and the employer's ABN (if any).

All records must:

- 1.1. Be in a form that is readily accessible to an independent auditor.
- 1.2. Be in a legible form and in English.
- 1.3. Be kept for seven years.
- 1.4. Not be altered unless for the purposes of correcting an error (and the nature of the error and the correction must be noted on the altered record).
- 1.5. Not be false or misleading to the employer's knowledge.

#### 2. Pay slips

- 2.1. Pay slips must be issued to each employee within one working day of pay day, even if an employee is on leave.



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- 2.2. Pay slips must be issued to each employee in electronic form or hard copy.
- 2.3. A pay slip must include all of the following: the employer's name, the employer's ABN (if any), the employee's name, the date of payment, the pay period, the gross and net amount of payment. It must also include details of any loadings, monetary allowances, bonuses, incentive-based payments, penalty rates, deductions, superannuation contributions and name of fund, and any other separately identifiable entitlement paid.
- 2.4. If the employee is a casual or irregular part-time employee who is guaranteed a pay rate set by reference to time worked, a record of the hours worked by that employee must be kept.

In addition, records that must be kept relating to hours worked by employees include the following:

- 2.5. If a penalty rate or loading must be paid for overtime hours worked, a record of the number of overtime hours worked each day, or a record of when the employee started and finished working overtime hours.
- 2.6. If the employer and employee have agreed to the employee taking time off instead of being paid for overtime worked, a copy of the written agreement.
- 2.7. If the employer and employee have agreed to an averaging of the employee's work hours, a copy of the written agreement.

### 3. Piece Rates

Under the Fair Work Act (2009), employees paid piece rates are paid by results instead of getting an hourly or weekly pay rate. An employee can be hired to work a mix of piece rates and hourly rate shifts. The purpose of piece rates is to improve productivity in the workplace, as opposed to undercutting minimum entitlements.

- 3.1. An employee can be paid piece rates when:
  - a) an award or registered agreement allows for piece rate payments and the employee is paid in accordance with that award or agreement; or
  - b) the employee is not covered by an award or registered agreement and they get a pay rate based on how much work they do. However, the employee must still receive at least the national minimum wage.
- 3.2. There must be a piecework agreement between the employer and employee.
- 3.3. The piecework agreement must be written and signed by the employer and the employee, and must set out the pay rate per piece and how it is measured. An employer must keep the agreement as part of their records and give a copy to the employee.
- 3.4. If there is no signed piecework agreement, the employee is not considered a pieceworker and must get the minimum hourly or weekly rate for the type of work they do.
- 3.5. If the piecework agreement is varied, it must also be in writing and meet the requirements in section 3.3.
- 3.6. The piecework agreement must be genuine and made without coercion or duress.

The Horticulture Award (2010) is one award that has extra requirements employers must comply with for pieceworkers.

- 3.7. Under the Award, the piecework rate must allow the 'average competent employee' to earn at least 15% more per hour than the relevant minimum hourly rate in the Award. For casual employees, this calculation must include the casual loading prescribed by the Award.
- 3.8. Suppliers should keep a record of how they have calculated the piecework rate/s (cost per unit), including determining the pick rate of an average competent employee.
- 3.9. The piecework rate/s should be reviewed in light of any changes in the Award rate.
- 3.10. The piecework rate for an 'average competent employee' may change from day-to-day depending upon variables like weather conditions; ripening process; type of bin; type of picking (e.g. selective or stripping), pruning or packing; size of trees/plants; density of trees/plants. The piecework agreement can include a

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number of piecework rates for these variable situations, or the supplier can agree to vary the piecework agreement or make a new agreement for each change.

- 3.11. If the piecework rate/s is varied, it must be agreed between the employer and employee, put in writing and signed by both and meet the requirements in section 3.3.

### 4. Obligations to Labour Hire Workers

Where suppliers engage a third-party labour hire organisation (Labour Hire Provider), the workers employed or engaged by the Labour Hire Provider to work for the supplier (Labour Hire Workers) will be covered by the relevant modern award and the National Employment Standards (NES) regardless of the employment arrangements that have been put in place by the supplier (Host) or the Labour Hire Provider.

- 4.1. The Labour Hire Provider is the employer responsible for meeting all of the employment entitlements of the Labour Hire Worker.
- 4.2. Both the Labour Hire Provider and the Host have obligations in relation to workplace health and safety. Workplace health and safety is regulated by state and territory workplace health and safety authorities.
- 4.3. As Hosts, suppliers have obligations under State and Commonwealth equal opportunity legislation to ensure that Labour Hire Workers are not subjected to discrimination or sexual harassment in the workplace. Suppliers also have obligations under the Fair Work Act (2009) in relation to general workplace protections, including unlawful workplace discrimination.
- 4.4. Suppliers should be aware that they may be liable for breaches of the Fair Work Act (2009) (such as Labour Hire workers being underpaid or not receiving their entitlements under the National Employment Standards (NES) or a modern award). Involvement in a breach can include if suppliers knew, or ought to have known, about the breaches and did not take reasonable steps to prevent them.

### 5. Remediation Steps

Underpayment or failure to pay wages and benefits refers to the situation when a supplier fails to pay the minimum monetary amounts including allowances, prescribed under an award or agreement. Underpayment or failure to pay wages and benefits of workers is unlawful and considered a major breach of Coles' Ethical Sourcing Policy and Coles' Trading Agreement.

- 5.1. The supplier must agree that it is unlawful and unethical to withhold workers' payment or underpay workers. It is in serious breach of Coles' Ethical Sourcing Policy and a contravention of the Fair Work Act (2009).
- 5.2. Within the period provided in the supply agreement between the supplier and Coles or within 30 days of notification of the breach, whichever is shorter, the employer should engage (at their expense) an independent third-party (such as an accountant or HR specialist) to determine how long the underpayment has occurred, the total amount owed to workers, and identify all affected workers.
- 5.3. The employer should communicate to the workers that the underpayment has taken place and workers will receive appropriate back-payment. This communication should be documented and made available for auditor review.
- 5.4. The employer should pay the owed amount to the affected workers within a reasonable time period, to be agreed with Coles. This payment should be documented via payslips and financial statements and made available for auditor review.
- 5.5. The employer should keep accurate time and wage records to ensure that the workers continue to receive their legal entitlements, and to avoid underpayment in the future.
- 5.6. Any Labour Hire Provider to the supplier should provide a written procedure outlining their process to ensure the appropriate payment of workers' legal entitlements, including piece rates. This document should be made available for auditor review.
- 5.7. If in Coles' view the supplier does not take the appropriate steps to remedy the underpayment of wages

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and benefits within a reasonable time, supply to Coles will be immediately suspended, and Coles may terminate the supply agreement and notify the Fair Work Ombudsman.

### 6. Remediation Follow-up Audit

- 6.1. The supplier must provide Coles with independent evidence to support that all identified issues have been rectified. This needs to be in the form of a re-audit (at the supplier's expense) from a recognised certification body.
- 6.2. The re-audit must include worker interviews (selected by the auditor) to verify that all steps in the remediation process have been explained correctly to the workers and that the workers are satisfied that the process has been explained correctly.

### 7. Queries and Feedback

For any queries and to provide feedback regarding Wages and Benefits Remediation Requirements, please contact the Coles Ethical Sourcing Team at [EthicalSourcing@coles.com.au](mailto:EthicalSourcing@coles.com.au).

### 8. Further Information

Refer to the table below for useful links to additional information. This is not legal advice or an exhaustive list of legal obligations. Suppliers should use the following resources or seek independent advice as appropriate.

Organisation	Document/ Resource	Website Link
Fair Work Ombudsman	Minimum workplace entitlements	<a href="https://www.fairwork.gov.au/tools-and-resources/fact-sheets/minimum-workplace-entitlements">https://www.fairwork.gov.au/tools-and-resources/fact-sheets/minimum-workplace-entitlements</a>
Fair Work Ombudsman	Rights & obligations	<a href="https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations">https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations</a>
Fair Work Ombudsman	On-hire employee services - workplace obligations	<a href="https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/on-hire-employee-services-workplace-obligations">https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/on-hire-employee-services-workplace-obligations</a>
Fair Work Ombudsman	Record-keeping & pay slips	<a href="https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/record-keeping-pay-slips">https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/record-keeping-pay-slips</a>
Fair Work Ombudsman	Piece rates & commission payments	<a href="https://www.fairwork.gov.au/pay/minimum-wages/piece-rates-and-commission-payments">https://www.fairwork.gov.au/pay/minimum-wages/piece-rates-and-commission-payments</a>
Fair Work Ombudsman	Pay and Conditions Tool – calculating pay rates	<a href="https://calculate.fairwork.gov.au/FindYourAward">https://calculate.fairwork.gov.au/FindYourAward</a>