



Please note – This is a previous WA award summary and does not contain the current rates of pay

WA Award Summary

Fruit Growing and Fruit Packing Industry Award

1 July 2019

About this Award Summary

This WA Award Summary is a summary of the state Fruit Growing and Fruit Packing Industry Award and does not include all obligations required by the award. It is important that you also refer to the full Fruit Growing and Fruit Packing Industry Award is available on the WA Industrial Relations Commission website www.wairc.wa.gov.au

Provisions of other employment legislation also apply to employees and have been included in this WA Award Summary where appropriate. You may need to refer to the *Minimum Conditions of Employment Act 1993*, the *Long Service Leave Act 1958*, and the *Industrial Relations Act 1979* for full details.

This document is formatted for viewing on the Wageline website and contains web links to other relevant information. If you are using a printed copy in which links are not visible, all additional information can be found at www.dmirs.wa.gov.au/wageline or by contacting Wageline on 1300 655 266.

This WA Award Summary was updated in April 2020 to include information on the provisions of the COVID-19 General Order issued by the Western Australian Industrial Relations Commission (WAIRC) on 14 April 2020. The COVID-19 General Order applies until 31 July 2020 unless extended. The WA Award Summary was further updated in May 2020 to include information on the provisions of the COVID-19 JobKeeper General Order issued by the WAIRC on 15 May 2020. The COVID-19 JobKeeper General Order applies until 28 September unless extended.

How can we help?

- Pay rates
- Leave entitlements
- Long service leave
- Employment arrangements
- Record keeping obligations



Three Step Check: to make sure this WA Award Summary is relevant to you

<p>Step 1 Is the business in the state system?</p>	<p>This WA Award Summary applies to businesses in the state industrial relations system. It covers businesses which operate as:</p> <ul style="list-style-type: none"> ✓ sole traders (eg Jane Smith trading as Jane’s Fruit Orchard) ✓ unincorporated partnerships (eg Jane and Bob Smith trading as Jane’s Fruit Orchard) ✓ unincorporated trust arrangements. (eg Jane and Bob Smith as trustees for Jane’s Fruit Orchard) <p>This summary does not apply to businesses in the national industrial relations system which operate as:</p> <ul style="list-style-type: none"> ✗ Pty Ltd businesses (eg Smith Pty Ltd trading as Jane’s Fruit Orchard) ✗ incorporated partnerships or incorporated trusts ✗ incorporated associations and other non-profit bodies (that are trading or financial corporations) <p>For more information visit the Guide to who is in the WA state system page. If the business or organisation is in the national system visit the Fair Work Ombudsman website www.fairwork.gov.au</p>
<p>Step 2 Is the business covered by the Fruit Growing and Fruit Packing Industry Award?</p>	<p>The Fruit Growing and Fruit Packing Industry Award applies to businesses in the state industrial relations system which are in the fruit growing and fruit packing industry, including the preparation of land, cultivation, planting, care, picking, handling, treating, packing and dispatching of all fresh fruits including tomatoes on or from gardens, farms, orchards and in packing sheds. Employees engaged by labour hire companies in the state industrial relations system to work in the fruit growing and fruit packing industry are also covered by this WA Award.</p>
<p>Step 3 Is the employee’s job covered by the Fruit Growing and Fruit Packing Industry Award?</p>	<p>The Fruit Growing and Fruit Packing Industry Award sets pay rates, working hours and other employment arrangements for full time, part time and casual employees working as:</p> <ul style="list-style-type: none"> ✓ Packers and sorters ✓ Shed hands ✓ Orchard hands



Employers covered by this WA Award are legally required to keep employment records. Employers can be fined up to \$5,000 for not keeping employment records, for keeping inadequate or fraudulent records, or for not providing records to Industrial Inspectors when required to do so. Page 5 details record keeping requirements.

The Fruit Growing and Fruit Packing Industry Award is a legal document that outlines the minimum wages and conditions of employment that must be provided to employees who are covered by the award. Employers and employees cannot agree to lesser conditions.

Industrial Inspectors at the Department of Mines, Industry Regulation and Safety have statutory powers to investigate employee complaints about underpayment of wages or leave entitlements under this WA Award and state employment laws. The Department can prosecute employers in the Industrial Magistrates Court for not paying the rates of pay, including overtime, penalty rates and allowances required by this WA Award.

Employees who believe that they have been underpaid should visit the [Making a complaint about underpayment of wages or entitlements](#) page for more information.



Rates of pay

All rates of pay are gross rates (before tax). Current rates applied from the first pay period on or after **1 July 2019**.



Adult rates of pay

Classification	Weekly (40 hour week)	Hourly	Casual (includes 20% loading)
Fruit packing and sorting			
Trainee packer and trainee sorter; competent packers and sorters; shed hand	\$786.20	\$19.66	\$23.59
Fruit growing and picking			
Orchard hand (general & machine operator)	\$786.20	\$19.66	\$23.59
<i>Work in excess of 40 hours but not more than 52 hours per week</i>		\$29.48	\$35.38
<i>Work in excess of 52 hours per week</i>		\$39.31	\$47.17

- A "Competent Packer" is defined as an employee who packs 500 bushels of apples per week of 40 hours.



Junior rates of pay

Age	% of Adult	Weekly (40 hour week)	Hourly	Casual (includes 20% casual loading)
15 years	40%	\$314.50	\$7.86	\$9.44
16 years	50%	\$393.10	\$9.83	\$11.79
17 years	60%	\$471.70	\$11.79	\$14.15
18 years	70%	\$550.30	\$13.76	\$16.51
19 years	80%	\$629.00	\$15.73	\$18.87
20 years	90%	\$707.60	\$17.69	\$21.23

- It is illegal to employ children under the age of 15 in this industry, except if the child is working as part of a school program or in a family business. See page 5 for details.

Piecework

- Piecework agreements may be entered into between the employer and employee subject to the piecework rate being fixed and reviewed as necessary from time to time so as to enable the 'average competent employee' to earn during ordinary working hours not less than 15 per cent above the hourly rate of the class of work performed (the target earnings). Such an hourly rate is to be ascertained by dividing the appropriate weekly rate by 40.
- Where the minimum amount received by a pieceworker falls below the target earnings for more than three consecutive ordinary working days the piecework agreement may be terminated by either party. If neither party elects to terminate the piecework agreement it continues to operate as normal.
- Although pieceworkers are not guaranteed to earn the target earnings based on their output, they cannot be paid less than the minimum award wage for the hours they work. Employers may need to 'top up' the wages paid to pieceworkers to ensure they do not receive less than the minimum award wage.



Minimum and target earnings for adult pieceworkers* (15% above Award rate)

Employee type	Minimum hourly award wage	Target hourly rate (15% above award wage)
Full time / part time	\$19.66	\$22.61
Casual	\$23.59	\$27.13

- * For junior employees, the minimum award wage and target earnings are the relevant percentage of the adult rate, based on the age of the employee (refer to the table above for junior percentages).



To receive email updates when WA award pay rates change, subscribe to [Wageline News](#).



Meal breaks (fruit packing and sorting)

- Each fruit packing or sorting employee is entitled to a meal break of not less than half an hour and not more than one hour after five hours of work.
- An employee who is required to postpone their meal break for more than one hour must be paid at overtime rates until released for a meal.



Ordinary working hours, penalty rates and overtime

Fruit packing and sorting:

- Ordinary hours of work are 40 per week or 8 in each working day (Monday to Friday) and except for meal breaks, must be worked continuously between 7:00am and 5:00pm.
- The spread of hours may be varied by agreement between the employer and employee concerned.
- All time worked in excess of ordinary hours on any day Monday to Friday must be paid for at the rate of time and one half for the first two hours and double time after that.
- All time worked in excess of ordinary hours on a Saturday before 12.00 noon must be paid for at the rate of time and one half for the first two hours and double time after that. All such time worked on a Saturday after 12.00 noon or on a Sunday must be paid for at the rate of double time.
- All time worked on a public holiday or substituted public holiday must be paid for at the rate of double time and a half.

Fruit growing and picking:

- There are no fixed hours of duty for workers employed in this area.
- Employees who work for more than 40 hours per week must be paid the appropriate hourly rates as specified in the wages table on page 3.

COVID-19 JobKeeper General Order

The COVID-19 JobKeeper General Order issued by the Western Australian Industrial Relations Commission on 15 May 2020 has introduced temporary provisions for employers and employees who are participating in the Commonwealth JobKeeper scheme.

The state system JobKeeper provisions allow employers to give certain directions to employees and make certain requests of them, including provisions that allow employers to:

- issue a 'JobKeeper enabling direction' to temporarily alter or reduce an employee's working hours (which may be reduced to nil), change an employee's duties and change their location of work; and
- request that an employee change their days/times of work.

There are a range of specific rules and requirements about the state system JobKeeper provisions. The [State system COVID-19 JobKeeper provisions](#) page of the Wageline website has detailed information.

These new provisions apply from 15 May 2020 until 28 September 2020, unless extended.



Allowances

Allowance	When allowance is paid	Rate
Meal Money (Fruit packing and sorting only)	If required to work two or more hours overtime without previous day notification and not provided with a meal.	\$9.15 for a meal, and \$6.10 for a second or subsequent meal.
District Allowance	The Award provides weekly district allowances for working in certain areas of Western Australia.	See Clause 18 of the Award for details.



Public holidays

- Full time employees are entitled to public holidays (or days substituted for public holidays) without deduction of pay. Part time employees are entitled to public holidays (or days substituted for public holidays) without deduction of pay if they would ordinarily be required to work on that day.
- If a public holiday falls on a Saturday or Sunday, the following Monday will be considered to be the public holiday. If Boxing Day falls on a Sunday or Monday, the following Tuesday will be considered to be the public holiday. When a public holiday is substituted with another day, the public holiday itself is no longer considered a public holiday for the purposes of the Fruit Growing and Fruit Packing Award.
- If a fruit packing or sorting employee works on a public holiday or substituted public holiday, they must be paid at the rate of double time and a half.
- Visit the [Public Holidays in Western Australia](#) page to view the public holiday dates.



Employment records

- Employers are legally required to keep employment records which demonstrate that employees have been paid all entitlements under the Fruit Growing and Fruit Packing Industry Award and relevant legislation.
- Employers must keep all employment records for at least seven years after they are made for both current and past employees. Records relating to long service leave must be kept for seven years from the date employment ends.
- Employers can be fined up to \$5,000 by the Industrial Magistrates Court for not keeping employment records or for keeping inadequate or fraudulent records. A common requirement that employers fail to observe is a lack of detail in keeping employment records.
- Employers must keep records that detail:
 - Employee's name
 - Date of birth if under 21 years of age
 - Date employee commenced with the employer
 - Total number of hours worked each week
 - The gross and net amounts paid to the employee
 - All information required to calculate long service leave entitlements and payment
 - All pay deductions and reasons for them
 - Name of WA award that applies
 - Daily start and finish time and meal breaks taken
 - Employment status (full time, part time, casual)
 - Employee's classification under the award
 - All leave taken, whether paid, partly paid or unpaid
 - Any other information necessary to prove that the wages received by an employee comply with the requirements of the Fruit Growing and Fruit Packing Industry Award, such as overtime hours worked and allowances paid. Contact [Wageline](#) or view the full Fruit Growing and Fruit Packing Industry Award on the WA Industrial Relations Commission website www.wairc.wa.gov.au for details.
- Employment records can be written or electronic as long as they are in a form that can be printed. Time and wage books can be used to keep employment records, however, it is the employer's responsibility to ensure the time and wage book includes all of the required information.
- The records must be in English.
- Wageline's [Employment record obligations for WA award employers](#) publication helps state system employers keep correct employment records. The publication features helpful step by step guides to record keeping and Wageline's new look [record keeping templates](#).



Deductions from pay

An employer may only deduct from an employee's pay an amount which

- the employer is authorised, in writing, by the employee to deduct and pay on behalf of the employee
- the employer is authorised to deduct and pay on behalf of the employee under the relevant WA award
- the employer is authorised or required to deduct by law or a court order.



Leave entitlements

Quick reference guide

Leave entitlement	Full time	Part time	Casual
Annual leave	✓	✓	✗
Sick and carer's leave	✓	✓	✗
Unpaid carer's leave	✓	✓	✓
Bereavement leave	✓	✓	✓
Unpaid parental leave	✓	✓	✓
Long service leave	✓	✓	✓
Unpaid pandemic leave	✓	✓	✓

This WA Award summary covers the basic leave entitlements for employees covered by the Fruit Growing and Fruit Packing Industry Award but does **not** include all details on leave obligations and entitlements. Full details of conditions are contained in the Fruit Growing and Fruit Packing Industry Award on the WA Industrial Relations Commission website www.wairc.wa.gov.au, the *Minimum Conditions of Employment Act 1993* and the *Long Service Leave Act 1958*.



Annual leave

- Full time employees are entitled to a minimum of four weeks of paid annual leave for each year of completed service. Part time employees are entitled to a minimum of four weeks of paid annual leave per year paid on a pro rata basis according to the number of hours they are required ordinarily to work in a four week period. Casual employees are not entitled to annual leave.
- Annual leave is a minimum entitlement in the *Minimum Conditions of Employment Act 1993* and the Fruit Growing and Fruit Packing Award sets out additional requirements regarding annual leave and annual leave loading.
- During a period of annual leave an employee must be paid annual leave loading of 17.5%. On termination, annual leave loading of 17.5% is paid out on fully accrued annual leave entitlements for completed years of employment. Annual leave loading is not paid on proportionate leave (leave accrued in an incomplete year of employment) on termination.
- Annual leave accrues on a weekly basis:
 - A full time employee accrues 3.077 hours of annual leave for each completed week of work.
 - A part time employee accrues the relevant proportion of 3.077 hours annual leave for each completed week of work.
- Wageline's [Annual leave calculation guide](#) can assist with calculating annual leave entitlements.
- Wageline's [Employment record obligations for WA award employers](#) publication includes a leave record template.
- The COVID-19 General Order has implemented new annual leave flexibility provisions enabling employers and employees to agree to an employee taking twice as much annual leave at half pay or to agree for the employee to take annual leave in advance.
- These provisions apply to all full time and part time employees covered by this WA award effective from 14 April 2020 until 31 July 2020, unless extended.

- The annual leave at half pay provisions in the COVID-19 General Order are:
 - Instead of an employee taking paid annual leave at full pay, the employee and their employer may agree to the employee taking twice as much leave at half pay.
Example: Instead of an employee taking one week's annual leave at full pay, the employee and their employer may agree to the employee taking two weeks' annual leave at half pay. In this example:
 - the employee's pay for the two weeks' leave is the same as the pay the employee would have been entitled to for one week's leave at full pay; and
 - one week of leave is deducted from the employee's annual leave accrual.
 - Any agreement to take twice as much annual leave at half pay must be recorded in writing and signed by the employee (and a parent/guardian if the employee is under 18).
 - The employer must keep the written agreement as part of the employee's employment record.
 - The agreed period of leave must start before 31 July 2020, but may end after that date.
- The granting annual leave in advance provisions in the COVID-19 General Order are:
 - An employee and employer may agree to an employee taking a period of annual leave in advance of the entitlement being accrued if all of the following conditions are met:
 - any agreement to annual leave in advance must be recorded in writing and signed by the employee (and a parent/guardian if the employee is under 18); and
 - the written agreement must state the amount of leave to be taken in advance and the date on which the leave will commence; and
 - the employer must keep the written agreement as part of the employee's employment record.
 - If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of the period of paid annual leave taken in advance, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued. This provision will continue to apply notwithstanding the expiration of the General Order.
 - Where an agreement has been reached under this clause and the leave commenced before the expiration of the General Order, then the arrangement may continue to operate for the period agreed between the parties.



Sick and carer's leave

- Sick and carer's leave entitles a full time or part time employee to paid time off work due to either illness or injury to themselves (sick leave), or because they have to care for an ill or injured family or household member (carer's leave).
- Full time and part time employees are entitled to paid sick and carer's leave equal to the number of hours they would ordinarily work in a two week period, up to 76 hours per year. Sick and carer's leave is a cumulative entitlement, and any leave not taken in one year can be carried over to the next year.
- Sick and carer's leave accrues on a weekly basis for full and part time employees.
- In the first year of employment, a full time or part time employee can use any paid sick and carer's leave that they have accrued to date for caring purposes.
- In the second and subsequent years of employment, a full time employee can only use a maximum of 76 hours of their accrued sick leave entitlement for caring purposes, or a part time employee the relevant proportion of 76 hours based on their ordinary hours of work.
- An employee is entitled to up to two days of unpaid carer's leave per occasion if an employee does not have sufficient paid leave accrued or has exceeded the maximum amount of carer's leave that can be taken in any 12 month period.
- Casual employees are not entitled to paid sick leave or paid carer's leave. Casual employees can access up to two day's unpaid carer's leave per occasion.
- Sick and carer's leave is a minimum entitlement from the *Minimum Conditions of Employment Act 1993*.
- Wageline's [Sick leave calculation guide](#) can assist with calculating sick and carer's leave entitlements.
- Wageline's [Employment record obligations for WA award employers](#) publication includes a leave record template.



Long service leave

- Long service leave is a paid leave entitlement for employees who have continuous employment with 'one and the same employer' for a specified period. Full time, part time and casual employees are entitled to long service leave under the *Long Service Leave Act 1958*.
- To be entitled to long service leave an employee's employment with their employer must be continuous. The amount of their long service leave is determined by the employee's period of continuous employment.
- There are a range of paid and unpaid absences or interruptions to an employee's employment that count towards the employee's period of employment for the purposes of accruing long service leave. Some other types of absences do not break an employee's continuous employment, but do not count towards an employee's period of employment for the purposes of accruing long service leave. See the [Long service leave – What is continuous employment](#) page for more information.
- 'The one and the same employer' also includes employers who previously owned a business, where there has been a transmission of business. This means an employer who buys or otherwise acquires a business or part of a business will take on the long service leave obligations for existing employees if there has been a transmission of business. This applies regardless of anything written in a sale of business contract.

Taking long service leave

The long service leave entitlement for full time, part time and casual employees is:

- after 10 years of continuous employment with the one and the same employer – $8^{2/3}$ (8.667) weeks of leave on ordinary pay;
- for every 5 years of continuous employment with the one and the same employer after the initial 10 years – $4^{1/3}$ (4.333) weeks of leave on ordinary pay.

When employment ceases

Employee with between 7 and 10 years of continuous employment

When an employee with at least 7 but less than 10 years of continuous employment resigns or is terminated, they are entitled to pro rata long service leave on the basis of $8^{2/3}$ (8.667) weeks for 10 years of continuous employment. This entitlement:

- is calculated on the employee's entire period of employment; that is, years, months, weeks and days
- applies to employees who resign, are made redundant, die or whose employer has terminated them for any reason other than serious misconduct
- does not apply to an employee whose employer has terminated them for serious misconduct.

Employee with 10 or more years of continuous employment

Full entitlement – 10 years or more of continuous employment

An employee who resigns or whose employment is terminated for any reason is entitled to:

- $8^{2/3}$ (8.667) weeks of leave if they have completed 10 years of continuous employment
- an additional $4^{1/3}$ (4.333) weeks of leave for each subsequent 5 years after the initial 10 years of continuous employment.

Pro-rata entitlement – more than 10 years of continuous employment

When an employee with more than 10 years but less than 15 years of continuous employment resigns or is terminated, they are entitled to pro rata leave. This entitlement:

- is calculated on the basis of $8^{2/3}$ weeks for 10 years of continuous employment for each year of employment since they completed 10 years of continuous employment
- is calculated on completed years of employment only; that is, it does not include months, weeks or days
- does not apply to an employee whose employer has terminated them for serious misconduct.

This pro rata entitlement (calculated on the on the basis of $8^{2/3}$ weeks for 10 years of continuous employment) will also apply to each year of employment since an employee completed 15, 20 25, 30, 35 years etc. of employment.

- The [Long service leave](#) pages of the Wageline website contain extensive information on:
 - What counts as continuous employment, including details on the impact of various types of paid and unpaid absences or interruptions on continuous employment
 - What happens when business ownership changes
- The [WA long service leave calculator](#) can provide an estimate of an employee's long service leave entitlement when employment ends as a result of resignation, dismissal, death or redundancy. The WA long service leave calculator is available at www.dmirs.wa.gov.au/lslcalculator.



Parental leave

- Employees, including eligible casual employees, are entitled to the unpaid parental leave entitlements in the National Employment Standards of the *Fair Work Act 2009*, as well as a number of more beneficial conditions contained in the *Minimum Conditions of Employment Act 1993* (a return to work after parental leave on a modified basis and a reversion to pre-parental leave working conditions). Visit the [Parental leave](#) page for more details.



Bereavement leave

- All employees, including casual employees, are entitled to two days paid bereavement leave on the death of a spouse, de facto partner, parent, step-parent, grandparent, child, step-child, grandchild, sibling or any other member of the employee's household. The two days need not be consecutive.
- Bereavement leave is a minimum entitlement from the *Minimum Conditions of Employment Act 1993*.



Unpaid pandemic leave

- The COVID-19 General Order has implemented a new entitlement to unpaid pandemic leave for all employees working under this WA award. The new provision is effective from 14 April 2020 and applies until 31 July 2020 unless extended.
- The unpaid pandemic leave provisions in the COVID-19 General Order are:
 - (1) Subject to subclauses (2) and (3), an employee is entitled to take up to two weeks' unpaid leave if the employee is required, by government or medical authorities or acting on the advice of a medical practitioner, to self-isolate or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic. An employer and employee may agree that the employee may take more than two weeks' unpaid pandemic leave.
 - (2) The employee must give their employer notice of the taking of leave under subclause (1) and of the reason the employee requires the leave, as soon as practicable. This may be a time after the leave has started.
 - (3) The employee who has given their employer notice of taking leave under subclause (1) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in subclause (1).
 - (4) Leave taken under subclause (1) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements.
 - (5) Such leave:
 - (a) is available in full immediately rather than accruing progressively during any period of service;
 - (b) will be available until 31 July 2020 (unless extended by further variation depending on the duration of the COVID-19 pandemic);
 - (c) will be available to full time, part time and casual employees (it is not pro rata); and
 - (d) must start before 31 July 2020, but may end after that date.
 - (6) It is not necessary for employees to exhaust their paid leave entitlements before accessing unpaid pandemic leave.
 - (7) Such unpaid leave does not operate on a 'per occasion' basis and is available once for those employees compelled to self-isolate, even if they are required to self-isolate on more than one occasion.
 - (8) Those caring for others who are compelled to self-isolate are not entitled to unpaid pandemic leave.



Employment of children

- Under the *Children and Community Services Act 2004*, it is illegal to employ children under the age of 15 in this industry, except if the child is working as part of a school program or in a family business.
- School aged children must not be employed during school hours, unless participating in a school program.
- Visit the [When children can work in Western Australia](#) page for more information.



Resignation, termination and redundancy

Resignation by the employee

- Full time and part time employees are required to provide notice of resignation to the employer based on their years of service, as per the table below.
- A casual employee is required to provide one hour's notice of termination.

Termination

- An employer is required to give a casual employee one hour's notice of termination.
- Except in cases of serious misconduct, an employer is required to give full time and part time employees the following period of notice of termination (or payment in lieu):

Period of continuous service	Notice period
Not more than 1 year	1 week
More than 1 year but not more than 3 years*	2 weeks
More than 3 years but not more than 5 years*	3 weeks
More than 5 years*	4 weeks

*Employees over 45 years of age with two or more years of continuous service must receive an additional week's notice.

Redundancy

- An employee is redundant when their employer has made a definite decision that they no longer wish the job the employee has been doing to be done by anyone.
- An employer has a number of obligations in redundancy situations and may be required to pay severance pay. Visit the [Redundancy](#) page for redundancy obligations.

Dismissal requirements

- Under State laws, employees cannot be dismissed if to do so would be harsh, unfair or oppressive. There must be a valid and fair reason for dismissal, such as:
 - consistent unsatisfactory work performance (which has been raised with the employee and the employee given further training and an opportunity to improve their work performance)
 - inappropriate behaviour or actions or
 - serious misconduct.
- The [Dismissal information](#) page outlines obligations and requirements when an employee is terminated.

Disclaimer

The Department of Mines, Industry Regulation and Safety has prepared this WA award summary to provide information on pay rates and major award provisions. It is provided as a general guide only and is not designed to be comprehensive or to provide legal advice. The Department does not accept liability for any claim which may arise from any person acting on, or refraining from acting on, this information.