



ACTU Response to Draft Determinations in Annual Wage Review 2021-22

ACTU Submission, 24 June, 2022
ACTU D. No 22/2022

INTRODUCTION AND OVERVIEW

1. On 15 June 2022, the Fair Work Commission handed down its decision in the Annual Wage Review 2021-22.¹
2. Following from this, the FWC has now published draft determinations giving effect to the Panel's decision and has invited feedback on those draft determinations.
3. The ACTU submits that those draft determinations should be amended as necessary to ensure that all adult rates in modern awards (including those applicable to apprentices and to trainees) increase by \$40 per week.
4. The Panel, in its decision, held that:²

The present circumstances warrant an approach which affords a greater level of support to the low paid while seeking to constrain inflationary pressures.

5. In so finding, the Panel found against the contention that award rates should increase by a uniform percentage.
6. The Panel's decision is underpinned by a consideration that the current economic climate – marked by the effects of rising inflation on low-paid workers – warrants a significant across-the-board increase in award wages and a proportionally higher increase for the lowest paid amongst those workers.³
7. Accordingly, the Panel increased the NMW by \$40 per week, and increased modern award wages 'by 4.6 per cent subject to a minimum increase to adult award classifications of \$40 per week'.⁴
8. The draft determinations, as they presently are, do not ensure that a minimum increase of \$40 per week is afforded to all adult rates.

APPRENTICE RATES

9. Adult apprentices whose wages are set as a percentage of other specified award rates are set to receive weekly increases of less than \$40.

¹ [2022] FWCFB 3500

² [2022] FWCFB 3500 at [191]

³ [2022] FWCFB 3500 at [178], [183]

⁴ [2022] FWCFB 3500 at [192]

10. An example of how this arises is found in *the Electrical, Electronic and Communications Contracting Award 2020* as it is proposed to be varied.⁵
11. That award sets the first year adult apprentice rate (for apprenticeships commenced after 2014) at 80% of the Electrical Worker Grade 5 rate.⁶
12. The proposed draft determination increases the Electrical Worker Grade 5 weekly rate from \$899.50 to \$940.90 but leaves untouched the mechanism by which the first year adult apprentice wage is set.⁷
13. The effect of this is that while all of the nominally set award wages in that award will rise by a minimum of \$40 per week, the first year adult apprentice wage will rise by a lesser amount – from \$719.60 to \$752.72 per week.⁸
14. Similar examples arise in respect of the draft determinations of a number of awards including (but not limited to) *the Airline Operations – Ground Staff Award*, *the Victorian Local Government Award 2015*, *the Black Coal Mining Industry Award 2020*, *the Children’s Services Award 2010*, *the Manufacturing and Associated Industries and Occupations Award 2020*, *the Miscellaneous Award 2020* and numerous others.
15. Where the adult apprentice rate in a modern award is tied (as a percentage thereof) to a specified classification in a modern award, the adult apprentice rate will rise by the same percentage increases applied to the underlying rate. However, the nominal increase will be lesser. The effect of this, in circumstances where a \$40 minimum increase is applied to rates other than adult apprentice rates, is that adult apprentice rates (and the national training wage rates discussed below) are the only rates which will not rise by a minimum of \$40.
16. The ACTU submits that this outcome is counterintuitive, and inconsistent with the Panel’s decision. Adult apprentices who receive award wages are paid wages which would see them counted amongst the low paid workers contemplated in the Panel’s decision at paras [51], [71], [130], [141], [179], [183] and elsewhere throughout.
17. For this reason, it is submitted, the Panel should determine to increase the nominal wages of adult apprentices by a minimum of \$40, to ensure that the rationale behind its decision is carried out fully.

⁵ See MA000025 PR740702

⁶ CI 16.4(b)(v)

⁷ MA000025 PR740702

⁸ This increase being 80% of the \$40.40 increase to weekly rate for Electrical Worker Grade 5.

18. This would ensure that the wages of adult apprentices – who receive less than the minimum wage and are ‘low paid’ within the meaning of ss 134(1)(a) and 284(1)(e) of the Act – would experience lesser reductions in their real wages in this currently inflationary environment.
19. In the ACTU’s submission, this would more greatly align with addressing the needs of the low paid than the course proposed by the current suite of draft determinations.
20. Such a course could be achieved in a number of ways, a simple and convenient method might be to reduce the relevant adult apprentice wage rates to nominal terms (as opposed to their current specification as a percentage of other wage rates) then increase that amount by \$40 in the relevant determinations.
21. Whilst this might slightly compress the relativity between the adult apprentice rates and the rates on which they are based, the ACTU submits that such a compression would be minimal and would be justified for the same reasons as those expressed by the Panel in coming to its view that there was a need to arrive at a fixed increase for the lowest wage earners.

NATIONAL TRAINING WAGE

22. For the same reasons as those advanced above, the ACTU makes a similar submission in relation to National Training Wage rates which are applicable to adults.
23. These are currently slated to increase by different amounts, owing to the manner in which each is set. The relevant draft determinations increase the highest rates in each category (A, B and C) by \$32 (being 80% of the \$40 amount by which the NMW increases). The draft determinations then provide for increases to the other rates in each category, based on their relationship to the highest rates of the category.
24. The ACTU submits that, for the reasons advanced above in relation to low-paid workers (which those workers receiving National Training Wages are), the relevant determinations should be amended so as to provide that each pay point of the National Training Wage Rates which is applicable to adults is increased by the flat rate of \$40.

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