



Summary of Decision

Annual Wage Review 2021–22

C2022/1

[2022] FWCFB 3501

Introduction

[1] The *Fair Work Act 2009* (Cth) (Act) requires the Fair Work Commission (Commission), constituted by an Expert Panel for annual wage reviews (Panel), to conduct and complete a review of the national minimum wage (NMW) and modern award minimum wages in each financial year (the Review). The Panel must make a NMW order and may set, vary or revoke modern award minimum wages. The NMW order applies to award/agreement free employees¹ and modern award minimum wages are the minimum wages contained in modern awards.²

[2] The Panel received submissions from the Australian Government, most state governments, parties that represent the interests of employers and employees, and other bodies.

[3] The Australian Council of Trade Unions (ACTU) proposed a 5.5 per cent increase to the NMW and modern award minimum wages.³ Other parties also proposed increases, of varying amounts. Some argued that the Panel should not increase minimum wages at all.⁴

[4] The Australian Chamber of Commerce and Industry, Australian Industry Group and a number of other employer bodies proposed an increase to minimum wages of between 2.5 and 3 per cent.⁵

[5] The Australian Government submitted that the Panel should ensure that the real wages of low-paid workers do not go backwards.⁶

[6] A key contextual consideration in relation to the present proceedings is the statutory constraints regarding the conduct of Reviews. In particular, s.285(1) provides that the Panel ‘must conduct **and complete** an annual wage review **in each financial year**’ (emphasis added).

¹ The NMW order sets both the NMW and special NMWs for employees who are juniors, to whom training arrangements apply, or who have disabilities; and applies to award/agreement free employees. The NMW order additionally sets the casual loading for award/agreement free employees. An award/agreement free employee cannot be paid less than the rate of pay specified in the NMW order (see ss 294–299 of the Act). Further, if an enterprise agreement applies to an employee and the employee is not covered by a modern award, then the employee’s base rate of pay under the enterprise agreement must not be less than the rate specified in the NMW order (s.206(3) of the Act).

² Including classification rates; wage rates for junior employees, employees to whom training arrangements apply and employees with a disability; casual loadings and piece rates.

³ ACTU submission in reply, 8 May 2022 at para. 2

⁴ R&CA submission, 29 March 2022, at para. 22; MGA submission, 29 March 2022, at para. 4.

⁵ ACCI submission in reply, 10 May 2022 at para. 11; Ai Group submission in reply, 10 May 2022 at p. 2; ABI submission, 1 April 2022, at p. 3; NRA submission regarding the National Accounts March quarter 2022, 3 June 2022, at para. 4.2.

⁶ Australian Government submission, 3 June 2022, at para. 5.

It follows that 30 June 2022 provides the outer limit for the completion of the *Annual Wage Review 2021–22* (2021–22 Review).

[7] As a practical matter the Review decision had to be published mid-June 2022 in order to allow sufficient time for draft variation determinations to be published and for interested parties to submit corrections or other amendments to the draft determinations. Given these constraints, the Panel’s decision has not sought to canvass all of the issues raised in the submissions. The Panel focussed on the issues which the Act requires that it takes into account.

The Decision

[8] The Panel must conduct the Review within the legislative framework set by the Act. We assess the changes in the data from year to year and determine how they inform our task. Put another way, if there were no change in the relevant considerations from one year to the next then, all other things being equal, a similar outcome would result.

[9] The Panel also seeks to explain our view of the circumstances (including forecasts or projections) prevailing in each Review in comparison with previous years.

[10] The Panel accepts that its decision-making process should be as transparent as possible. Accordingly, the Panel discloses the factors which are most relevant in a particular year, and has done so in this decision.

[11] The key differences in economic indicators between last year and this year are set out in Table 4 in our decision.

Table 4: Key differences in economic indicators between 2020–21 Review and 2021–22 Review

Indicator	2020–21 Review	2021–22 Review
CPI growth	1.1 per cent over year to March quarter 2021	5.1 per cent over year to March quarter 2022
Trimmed mean inflation	1.1 per cent over year to March quarter 2021	3.7 per cent over year to March quarter 2022
Unemployment rate	5.5 per cent in April 2021	3.9 per cent in April 2022
Persons employed	13 040 400 in April 2021	13 401 700 in April 2022
Non-mining business investment growth	–3.0 per cent over year to March quarter 2021	5.3 per cent over year to March quarter 2022
WPI growth	1.5 per cent over year to March quarter 2021	2.4 per cent over year to March quarter 2022

Source: Statistical report (version 9), 8 June 2022; *Statistical report—Annual Wage Review 2020–21* (version 12), 15 June 2021; ABS, *Australian National Accounts: National Income, Expenditure and Product*, March 2022.

[12] The most significant changes since last year’s Review decision have been the sharp rise in the cost of living and the strengthening of the labour market.

[13] At the aggregate level, labour market performance has been particularly strong. The unemployment rate has fallen to 3.9 per cent, compared to 5.5 per cent in April 2021 at the time of the last Review. Measures of underemployment have also fallen. The improvement in the labour market is also forecast to continue in the period ahead.

[14] There has also been a sharp rise in the cost of living since last year’s Review. At the time of last year’s decision, the CPI and the trimmed mean measure of inflation both stood at 1.1 per cent. The comparable figures now stand at 5.1 per cent (for the CPI) and 3.7 per cent (for the trimmed mean). There is also a marked difference in the inflation forecasts. As the Reserve Bank of Australia noted in its May 2022 *Statement on Monetary Policy*:

‘The outlook for inflation is also materially higher than envisaged three months ago. Headline inflation is now expected to peak at around 6 per cent in the second half of this year, partly driven by higher petrol prices and sharp increases in the cost of new dwellings. Trimmed mean inflation is expected to peak at around 4¾ per cent.’⁷

[15] The sharp rise in inflation impacts business and workers. The cost of business inputs increases which, depending on the capacity to pass on those costs, adversely impacts profitability. Inflation erodes the real value of workers’ wages and reduces their living standards. The low paid are particularly vulnerable in the context of rising inflation.

[16] The non-discretionary components of the CPI increased by 6.6 per cent over the year to the March quarter 2022. The increased cost of non-discretionary items such as basic food staples will particularly impact low-income households and many low-paid workers.

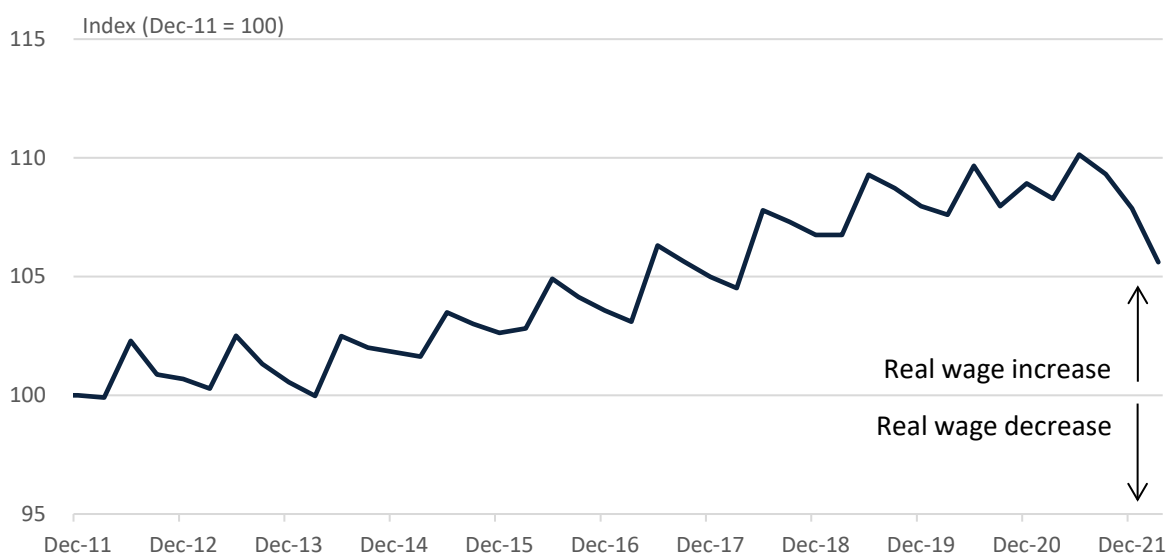
[17] The Panel concluded that the changes in the economic context weigh in favour of an increase in the NMW and modern award minimum wages.

[18] The level of minimum wage increases proposed by various employer bodies would result in real wage reductions for award-reliant workers, many of whom are low paid. If the Panel was to accept the submissions of some of the employer bodies, and award no increase, then the real wage reduction would be even more severe.

[19] The Panel accepted the need for moderation in order to constrain the inflationary pressures arising from our decision. The 0.5 per cent increase in the Superannuation Guarantee rate, removal of the \$450/month superannuation threshold, and the 2022–23 Budget measures are also moderating factors. That said, the Panel noted that it was conscious that the low paid are particularly vulnerable in the context of rising inflation. Further, given the sharp rise in the cost of living since last year’s Review, the increases awarded last year have resulted in a fall in the real value of the NMW and modern award minimum wages. As shown in Chart 10 in the decision.

⁷ RBA (2022), *Statement on Monetary Policy*, May, p. 1.

Chart 10: Real value of the NMW, index



Source: Statistical report (version 9), 8 June 2020, Chart 9.1; ABS, *Consumer Price Index, Australia*, March 2022; Fair Work Australia/FWC decisions.

Note: Only percentage increases have been awarded since the Annual Wage Review 2010–11, hence, the real increase across all modern award minimum wage rates has been the same across the period. For the purpose of analysis, only the NMW is presented.

[20] Taking all the relevant considerations into account led the Panel to award an increase of \$40 to the NMW, which amounts to an increase of 5.2 per cent. The NMW will be \$812.60 per week or \$21.38 per hour. The Panel observed that this level of increase will protect the real value of the wages of the lowest-paid workers.

[21] The proposed NMW and the Panel’s assessment of all the relevant considerations also led the Panel to increase modern award minimum wages.

[22] The Panel decided to provide a proportionately higher increase to low-paid employees noting that the present circumstances warranted an approach which affords a greater level of support to the low paid while seeking to constrain inflationary pressures.

[23] The Panel decided to increase modern award minimum wages by 4.6 per cent subject to a minimum increase for adult award classifications of \$40 per week. The \$40 per week increase is based on a 38-hour week for a full-time employee. In effect, modern award minimum wage rates above \$869.60 per week will receive a 4.6 per cent adjustment, wage rates below \$869.60 per week will be adjusted by \$40 per week.

[24] In most modern awards the effect of the Panel’s decision will be that the 4.6 per cent adjustment will cut in around the C10, or trade level, and the flat \$40 increase will apply to the lower classifications.

[25] The Panel accepted that the approach adopted will result in some, albeit minor, compression in relativities, but decided that that consideration is to be balanced against the need to provide greater relief to low-paid workers in the context of rising cost of living pressures. The Panel concluded that given the current strength of the labour market the increases it had decided to make will not have a significant adverse effect on ‘the performance and competitiveness of the national economy’.

[26] In the Panel’s view awarding an increase in all modern award minimum wages of the magnitude proposed by Australian Catholic Council for Employment Relations (6.5 per cent)⁸ and the ACTU (5.5 per cent), in the present economic circumstances, would pose a real risk of significant adverse effects to the national economy.

[27] The Panel acknowledged that the increases determined will mean a real wage cut for some award-reliant employees but noted that this is an issue that can be addressed in subsequent Reviews.

[28] In respect of the timing of these increases, the Act provides that, absent exceptional circumstances, variations to a NMW order and modern award minimum wages arising from a Review are to operate from 1 July in the financial year following the Review.

[29] The Panel was satisfied that exceptional circumstances exist such as to warrant a delayed operative date for modern awards in the aviation, tourism and hospitality sectors. The variation determinations in respect of the following awards will operate from 1 October 2022:

- *Aircraft Cabin Crew Award 2020*
- *Airline Operations – Ground Staff Award 2020*
- *Air Pilots Award 2020*
- *Airport Employees Award 2020*
- *Airservices Australia Enterprise Award 2016*
- *Alpine Resorts Award 2020*
- *Hospitality Industry (General) Award 2020*
- *Marine Tourism and Charter Vessels Award 2020*
- *Registered and Licensed Clubs Award 2020*
- *Restaurant Industry Award 2020.*

[30] In respect of the remaining modern awards the Panel was not persuaded that there are exceptional circumstances such as to warrant a delayed operative date in the variation determinations arising from this Review. Increases in these awards will operate from 1 July 2022.

[31] The Panel acknowledged that an operative date of 1 July 2022 will mean that some businesses covered by these modern awards will face 2 minimum wage increases within a 12-month period; but noted that those businesses have also had the benefit of the delayed operative date arising from last year’s decision.

[32] Draft variation determinations will be published next week. Interested parties will be required to submit any corrections or amendments by no later than 5pm on Friday 24 June 2022 to amod@fwc.gov.au.

⁸ ACCER submission at para. 9.

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This statement is not a substitute for the reasons of the Fair Work Commission nor is it to be used in any later consideration of the Commission's reasons.

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