# Annual Wage Review 2022–23 Draft Questions on notice

21 April 2023

All interested parties are invited to comment.

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## Economic and labour market considerations

### Question to the Australian Government

1. In Table 2.1 of the Australian Government submission, data on recent wage outcomes by various measures is provided, including wages growth by method of setting pay.[[1]](#footnote-2) As this data is unpublished, can the Australian Government provide the quarterly growth rates over the last 10 years?

### Question to the ACTU

1. The ACTU submission states that:

The Panel last year anticipated this challenge in its last Review Decision, observing that: “the increases we have determined will mean a real wage cut for some award reliant employees. This is an issue that can be addressed in subsequent reviews. The ACTU urges the Panel to address this in this Review by considering:

a. The cumulative impact on award reliant employees of real wage cuts due to higher than predicted levels of inflation over the previous two Review decisions, and

b. Adopting an approach to future projections of inflation that reduces, as far as possible, the risk of real wage cuts continuing for these employees.[[2]](#footnote-3)

Can the ACTU elaborate on how the Expert Panel should consider adopting an approach to future projections of inflation that reduces, as far as possible, the risk of real wage cuts continuing for these employees?

### Question to the Ai Group

1. The Ai Group state that ‘current levels of unemployment show there is still considerable underutilisation of the labour available at current wage rates’.[[3]](#footnote-4) Can the Ai Group identify the evidence which it considers supports this?

## Relative living standards and the needs of the low paid

### Question to the Australian Government

1. At paragraphs 97 and 104, the Australian Government refer to the definition of low paid used in the Household, Income and Labour Dynamics in Australia (HILDA) survey to provide characteristics of low-paid employees. Can the Australian Government provide the definition of low-paid used by HILDA?

### Question to the ACTU

1. Can the ACTU provide a more detailed breakdown of the demographics of the respondents to the *Attitudes, Sentiments and Knowledge* survey, in what industries they are employed, household income and whether respondents are award reliant? Additionally, given that around one-third of respondents are not currently working, is there data on whether these individuals are in the labour force?

### Question to the ACCI

1. The ACCI states that ‘the Panel must be forward looking and not backward looking, as economic conditions will deteriorate in the year ahead and inflation will moderate. The wage increase applies to the financial year 2023–24, so the Panel should base its decision on the expectations for the economy over this period’.[[4]](#footnote-5) Can the ACCI clarify whether this means that the Panel should not have regard to the rate of inflation during 2022 and early 2023?

### Question to all parties

1. The National Minimum Wage (NMW) has, since the first Review[[5]](#footnote-6) conducted under the *Fair Work Act 2009*, been aligned with the C14 rate in the (now) *Manufacturing and Associated Industries and Occupations Award 2022*. Given that the C14 rates exists in only 45 modern awards and, in all but 7 of these, operates only as an introductory rate for a specified time-limited or other transitional period:[[6]](#footnote-7)

(i) Is the C14 rate an appropriate benchmark to set the NMW?

(ii) Should the NMW be set by reference to the C13 rate or some other benchmark?

## Gender equity

### Questions to all parties

1. In the Annual Wage Review 2017–18 decision,[[7]](#footnote-8) the Commission said:

*We agree with the observations of a number of parties that Review decisions are of limited utility in addressing any systemic gender undervaluation of work. It seems to us that proceedings under Part 2-7 and applications to vary modern award minimum wages for ‘work value reasons’ pursuant to ss 156(3) and 157(2) provide more appropriate mechanisms for addressing such issues.*

Does the above proposition remain valid in light of the new s 284(1)(aa)? If not, what weight should be given in this Review to the new s 284 (1) (aa)?

1. In paragraph [293(7)] (p.85) of the *Aged Care Decision* issued on 4 November 2022,[[8]](#footnote-9) the Full Bench found that ‘expert evidence supports the proposition that the alignment of feminised work against masculinised benchmarks (such as in the C10 Metals Framework Alignment Approach) is a barrier to the proper assessment of work value in female-dominated industries and occupations’. A similar conclusion was expressed in paragraph [758(6)] (p.210), which also stated more broadly that ‘[t]he approach taken to the assessment of work value by Australian industrial tribunals and constraints in historical wage fixing principles have been barriers to the proper assessment of work value in female dominated industries and occupations.’ Given that the C10 Metals Framework Alignment Approach and previous wage fixing principles are historically foundational to the minimum wage rates prescribed in a significant number of modern awards:

(i) Do these findings imply that modern awards covering female-dominated industries and occupations[[9]](#footnote-10) may have been subject to systemic gender undervaluation?

(ii) Are these matters required to be taken into account in the Review by virtue of new ss 134(1)(ab) and 284(1)(aa)?

(iii) If so, how should they be taken into account in the Review and how, if at all, should they affect the outcome?

1. How and to what extent might the ‘gender pay gaps’ referred to in s 284(1)(aa) be addressed in the Review process?
2. For the gender pay gaps to be closed, which measure or measures are the most appropriate indicator of progress? For example, hourly wages or average weekly full-time wages?
3. For ongoing assessment, should different measures be used for different gender pay gap assessments?  For example, over award payments, bonuses?

1. Australian Government submission, 31 March 2023 at para. 45. [↑](#footnote-ref-2)
2. ACTU submission, 31 March 2023 at para. 164. [↑](#footnote-ref-3)
3. Ai Group submission, 31 March 2023 at p. 42. [↑](#footnote-ref-4)
4. ACCI submission, 31 March 2023 at para. 24. [↑](#footnote-ref-5)
5. *Annual Wage Review 2009-10* [2010] FWAFB 4000 at [339] [↑](#footnote-ref-6)
6. See [2020] FWC 6647 at [4] [↑](#footnote-ref-7)
7. [2018] FWCFB 3500 [↑](#footnote-ref-8)
8. [2022] FWCFB 200 [↑](#footnote-ref-9)
9. Including those modern awards identified in paragraph [13] of the former President’s Statement concerning occupational segregation and gender undervaluation published on 4 November 2022. [↑](#footnote-ref-10)