



STATEMENT

Fair Work Act 2009
s.285—Annual wage review

Annual Wage Review 2015–16 (C2016/1)

JUSTICE ROSS, PRESIDENT
SENIOR DEPUTY PRESIDENT WATSON
DEPUTY PRESIDENT ASBURY
COMMISSIONER HAMPTON
MR COLE
PROFESSOR RICHARDSON
MR GIBBS

MELBOURNE, 26 JULY 2016

[1] On 31 May 2016, the Expert Panel (the Panel) delivered the [Annual Wage Review 2015–16 decision](#) (the Decision).

[2] [Correspondence](#) dated 24 June 2016 was received from the Australian Catholic Council for Employment Relations (ACCER) which sought to draw to the attention of the Panel an error in Table 5.7 at paragraph [436] of the Decision. That error was the use of incorrect figures for poverty lines for December 2010. ACCER’s letter asserts that a significant factor in the Decision was based on this erroneous data. That significant factor was said to be:

‘the Panel’s “overall assessment ... that the relative living standards of NMW and award-reliant employees have improved a little over recent years, although the relative position of low-paid workers has deteriorated over the past decade. Many have low levels of income” (paragraphs 67, 98 and 436 refer).’

[3] ACCER’s letter requests that the figures in Table 5.7 and associated paragraphs are corrected by the Panel issuing an amended or supplementary decision.

[4] ACCER’s letter was published on the Commission’s website on 28 June 2016 and interested parties were invited to make comment on this matter by 6 July 2016. No comments were received.

[5] A separate letter from ACCER in relation to the error in Table 5.7, also dated 24 June 2016, was published on the Commission’s website on 8 July 2016 and interested parties were invited to comment by 13 July 2016. On 10 July 2016, ACCER sent a further letter to the Commission dated 8 July 2016 recalling the letter published on 8 July 2016 on the basis that it

had been sent in error. The recalled letter was subsequently removed from the Commission’s website. The Australian Chamber of Commerce and Industry (ACCI) was the only party to comment on the recalled letter. Amongst other comments, ACCI expressed the view that there is no power in the *Fair Work Act 2009* (Cth) (the Act) to reopen the matter in the manner sought.

[6] It is desirable to correct the public record and we express our appreciation to ACCER for drawing the matter to our attention. The Panel is informed by Commission staff that there was an error in the calculation of the figures for the December 2010 poverty lines in Table 5.7 of the Decision. As a result, the December 2010 ratios to disposable income in Table 5.7 are also incorrect, as is the description in paragraph [436] of the change in disposable income from December 2010 to December 2015 as shown by Table 5.7. Commission staff have advised that the December 2010 poverty lines were calculated with a median equivalised disposable household income figure from the ABS Household Income and Wealth catalogue for 2009–10 that was inflated to 2013–14 dollars by the Consumer Price Index. The error was that the inflation of this figure was not taken into account when the poverty lines were calculated.

[7] In order to correct the public record, the **Attachment** to this Statement contains a corrected Table and description of the change in disposable income as shown by the corrected Table.

[8] While in some circumstances it might be open to an Expert Panel to correct an obvious error in relation to an Annual Wage Review decision pursuant to s.602 of the Act, it is not otherwise open to vary such a decision (see s.603(3)(d) of the Act). The Explanatory Memorandum to the Fair Work Bill 2008 states at paragraph 2316 that s.602 “is intended to be a statutory analogue of the ‘slip rule’ used by superior courts”.

[9] The Panel does not share ACCER’s view as to the significance of the error in Table 5.7. The Panel observes that it had regard to a range of factors¹ in reaching its “overall assessment ... that the relative living standards of NMW and award-reliant employees have improved a little over recent years, although the relative position of low-paid workers has deteriorated over the past decade.”^[1] Further, for reasons outlined above, it would not be appropriate to correct the error in the published Table under the slip rule. Nor would it be open to the Panel to issue any amended or supplementary decision even if the Panel had been minded to do so.

PRESIDENT

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¹ For example, see [2016] FWCFB 3500 at paras [57]-[66]

^[1] [2016] FWCFB 3500 at para. 67. See also the full range of data and considerations in Chapter 5 Relative Living Standards and the Needs of the Low Pay.

Corrected Table and description of change in disposable income

The Table below shows a medium-term perspective, between December 2010 and December 2015, of the ratio of the disposable income of selected households earning various wage rates to a 60 per cent median income poverty line. It shows that over the five years to December 2015, the disposable income of households earning the C14 or C10 award rate has declined by up to 3 percentage points as a portion of the 60 per cent median income poverty line, other than for single-earner households without children where the decrease has been between 3 to 7 percentage points. The ratio of households earning AWOTE to the 60 per cent median income poverty line has also decreased by up to 7 percentage points.

Table: Ratio of disposable income of selected households earning various wage rates to a 60 per cent median income poverty line, December 2010 and December 2015

Household type	December 2010				December 2015			
	60% median income PL (\$ pw)	Disposable income as a ratio of 60% median income PL			60% median income PL (\$ pw)	Disposable income as a ratio of 60% median income PL		
		C14	C10	AWOTE		C14	C10	AWOTE
Single adult	455.57	1.15	1.31	2.19	523.64	1.13	1.28	2.19
Single parent, one child	592.24	1.27	1.40	1.93	680.74	1.26	1.38	1.91
Single parent, two children	728.91	1.17	1.28	1.70	837.83	1.16	1.25	1.68
Single-earner couple, no children	683.36	1.04	1.08	1.53	785.47	1.01	1.02	1.46
Single-earner couple, no children (no NSA)	683.36	0.83	0.94	1.53	785.47	0.78	0.87	1.46
Single-earner couple, one child	820.03	1.05	1.07	1.39	942.56	1.04	1.06	1.38
Single-earner couple, one child (no NSA)	820.03	0.92	1.01	1.39	942.56	0.91	0.99	1.38
Single-earner couple, two children	956.70	1.01	1.03	1.30	1099.65	1.00	1.01	1.28
Single-earner couple, two children (no NSA)	956.70	0.89	0.97	1.30	1099.65	0.88	0.96	1.28
Dual-earner couple,* no children	683.36	1.21	1.35	2.30	785.47	1.21	1.34	2.30
Dual-earner couple,* one child	820.03	1.21	1.31	1.94	942.56	1.20	1.29	1.92
Dual-earner couple,* two children	956.70	1.14	1.23	1.74	1099.65	1.13	1.21	1.67

Note: * One partner earns 100 per cent of the specified wage rate, the other earns 50 per cent of this rate. The C14 and C10 are minimum award rates set under the Manufacturing Award. AWOTE data are expressed in original terms. Poverty lines are based on estimates of median equivalised household disposable income for 2009–10 for December 2010 and 2013–14 for December 2015, and updated for movements in household disposable income per head as calculated by the Melbourne Institute of Applied Economic and Social Research, and adjusted for household composition using the modified OECD equivalence scale. These poverty lines are expressed in December 2010 and December 2015 dollars.

Assumptions: Wage rates for 2010: C14 = \$569.90 pw, C10= \$663.60 pw and AWOTE of full-time employees = \$1275.20 pw. Wage rates for 2015: C14 = \$656.90 pw, C10= \$764.90 pw and AWOTE of full-time employees = \$1500.50 pw. Tax-transfer parameters as at December 2010 and December 2015. Children aged 8–12. Disposable income includes all available income transfers unless otherwise specified. In 2010 the maximum claim is assumed for the Education Tax Refund. Households paying sufficient rent to receive maximum Rent Assistance, where applicable. Single-earner couples are modelled in two scenarios: the non-earning partner is in the labour force and receiving proportional rates of NSA where eligible and the non-earning partner is not in the labour force and therefore not in receipt of NSA. Single-parent households are assumed to be working full time and therefore not in receipt of a partial NSA payment.

Source: ABS, *Average Weekly Earnings, Australia, Nov 2015*, Catalogue No. 6302.0; ABS, *Household Income and Wealth, Australia, 2009–10*, Catalogue No. 6523.0; ABS, *Household Income and Wealth, Australia, 2013–14*, Catalogue No. 6523.0; Fair Work Commission modelling; Manufacturing Award; Melbourne Institute of Applied Economic and Social Research (2016), *Poverty Lines: Australia*, December quarter 2015.