

Summary of Decision

16 April 2025



Gender-based undervaluation – priority awards review

(AM2024/19, AM2024/20, AM2024/21, AM2024/22, AM2024/23)

Social, Community, Home Care and Disability Services Industry Award 2010 — application for variation by Australian Municipal, Administrative, Clerical and Services Union, The Australian Workers’ Union, Health Services Union and United Workers’ Union

(AM2024/25)

Social, Community, Home Care and Disability Services Industry Award 2010 — application for variation by Australian Municipal, Administrative, Clerical and Services Union

(AM2024/27)

[2025] FWCFB 74

Justice Hatcher, President
Vice President Asbury
Deputy President O’Neill
Deputy President Slevin
Deputy President Grayson

[1] In the *Annual Wage Review 2023–24* decision, this Commission determined to undertake a review (Review) on its own initiative pursuant to s 157(3)(a) of the *Fair Work Act 2009* (Cth) (FW Act) of identified classifications in five modern awards. The purpose of the Review is to consider whether the classifications have been the subject of gender-based undervaluation requiring remedy by way of variations under s 157(2) of the FW Act on work value grounds. The decision to conduct the Review arose principally as a result of amendments made to the FW Act by the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) which required the Commission to take into account the need to achieve gender equality, including by ensuring equal remuneration for work of equal or comparable value and eliminating gender-based undervaluation of work, in setting modern award minimum rates of pay.

[2] The Review was formally initiated on 7 June 2024 by way of the constitution of an Expert Panel for pay equity in the care and community sector pursuant to s 620(1D) to conduct the Review and the publication of a statement setting out the subject matter and, provisionally, the issues and timetable for the Review. The classifications in the five awards the subject of the Review are:

- (1) *Pharmacy Industry Award 2020* (Pharmacy Award) — All pharmacist classifications in clause 16.1 (including pharmacy interns).
- (2) *Health Professionals and Support Services Award 2020* (HPSS Award) — All ‘Health Professional’ classifications (which are contained in clause 17 and defined in clause A.2 and Schedule B), and medical technician (including pathology collector) and dental assistant roles in the following Support Services employee classifications (as contained in clause 16 and defined in clause A.1).
- (3) *Social, Community, Home Care and Disability Services Industry Award 2010* (SCHADS Award) — classifications applying to the occupation of Disabled Carer and other classifications applying to social and community services, home care and family day care workers generally as set out in clauses 15–17 and defined in Schedules B, C, D and E.
- (4) *Aboriginal and Torres Strait Islander Health Workers and Practitioners and Aboriginal Community Controlled Health Services Award 2020* (ATSIHW Award) — Dental Assistant and Dental/Oral Therapist classifications set out in clause 16.1(c).
- (5) *Children’s Services Award 2010* (CS Award) — classifications applying to the occupation of Child Carer, namely Children’s Services Employee (CSE) classifications set out in clause 14.1 and defined in clause B.1.

[3] The Commission heard two applications to vary the SCHADS Award together with the Review. The first was an application made by the Australian Services Union (ASU), the Australian Workers’ Union (AWU), the Health Services Union (HSU) and the United Workers’ Union (UWU) to vary the definition of ‘home care sector’ in clause 3 of the SCHADS Award to exclude the care of persons with disability. Its purpose was to ensure that employees who provide services funded by the National Disability Insurance Scheme will be entitled to the minimum rates of pay prescribed by clause 15 for Social and community services (SACS) employee classifications as defined in Schedule B of the award (to which an equal remuneration order (ERO) providing for an additional pay increment of 23 per cent applies) rather than the minimum rates of pay in clause 17.1 for Home care employees engaged in disability care as defined in Schedule E (to which the ERO does not apply). The second application, which was made by the ASU, sought in the first instance to incorporate the ERO rates into Schedules B and C to the SCHADS Award (and to revoke the ERO), and to vary the classification definitions in Schedules B and C to incorporate indicative job titles at each level. These were intended as interim variations pending a more comprehensive work value case to be advanced at a later time.

[4] The Review, and the applications to vary the SCHADS Award, were the subject of a hearing before the Expert Panel which occurred on 2–6, 9–13 and 16–20 December 2024.

[5] The Expert Panel has today issued its initial decision in the Review: [2025] FWCFB 74. The Expert Panel has found that:

- pharmacists covered by the Pharmacy Award;
- health professionals, pathology collectors and dental assistants covered by the HPSS Award;
- SACS employees, crisis accommodation employees and home care employees in disability care covered by the SCHADS Award;
- dental assistants and dental/oral therapists covered by the ATSIHW Award; and
- CSEs covered by the CS Award

have been the subject of gender-based undervaluation. The Expert Panel has further determined that these findings constitute work value reasons justifying the variation of the modern award minimum wage rates applying to each category of employees.

[6] In the case of the Pharmacy Award, the Expert Panel has determined the terms of an award variation to rectify the identified gender-based undervaluation. This will involve a total increase in minimum wage rates of 14.1 per cent, to be implemented in three phases from 30 June 2025, 30 June 2026 and 30 June 2027 respectively. In the case of each of the other awards, the Expert Panel has set out its *provisional* views on appropriate award variations to remedy the gender-based undervaluation we have found to have occurred which, in brief summary, are as follows:

- (1) For health professional employees covered by the HPSS Award, it is proposed to establish a new, simplified classification and minimum wage rate structure based on an alignment, for an AQF Level 7 qualified employee with 12 months' service, with the C1(a) benchmark rate identified in paragraph [204] of the *Stage 3 Aged Care decision*, as adjusted by the *AWR 2024 decision* (\$1525.90 per week) — see paragraphs [177]–[179] of the decision.
- (2) For pathology collectors covered by the HPSS Award, it is proposed to re-classify the placement of their indicative roles in the Support Services employees structure to Levels 5, 6 and 7 — see paragraphs [235]–[236] of the decision.
- (3) For dental assistants covered by the HPSS Award, it is proposed to re-classify the placement of their indicative roles in the Support Services employees structure to Levels 1, 5, 6 and 7 — see paragraphs [289]–[290] of the decision.
- (4) In respect of the SCHADS Award, it is proposed to abolish the current five separate classification structures and implement a single, simplified classification structure based on an alignment with the 'Caring Skills' benchmark rate identified in paragraphs [170] and [172] of the *Stage 3 Aged Care decision*, as adjusted by the *AWR 2024 decision* (\$1269.80 per week) for a Certificate III-qualified employee. It is also proposed to revoke the ERO as part

of the implementation of this new classification structure — see paragraphs [392]–[396] of the decision.

- (5) For dental assistants covered by the ATSIHW Award, it is proposed to abolish the current classification structure and place dental assistants within the existing Health Worker classification structure at Levels 2, 3 and 4. Dental/oral therapists under this award will have a new classification structure which mirrors that proposed for the HPSS Award for AQF Level 7-qualified employees — see paragraphs [447]–[451] of the decision.
- (6) For CSEs under the CS Award, a new and simplified classification structure is proposed based on an alignment with the Caring Skills benchmark rate (\$1269.80 per week) for a Certificate III-qualified employee. This is proposed to be phased in over a period of five years, with a first instalment consisting of a 5 per cent increase to be operative from 1 August 2025 — see paragraphs [557]–[561] of the decision.

[7] Interested parties will be given an opportunity to be heard in relation to the above *provisional* views, including as to operative date and phasing-in, before the Expert Panel varies any of the subject awards. The joint union application to vary the SCHADS Award in matter AM2024/25, and the further application for interim variations to the award as proposed by the ASU, are dismissed. Further conferences in relation to each award will be conducted after the parties have had a reasonable opportunity to properly consider the *provisional* views. They will not occur until after 3 May 2025.