



22 January 2021

Loaded Wage Rates in Enterprise Agreements

The information below is intended to accompany data provided to the Fair Work Commission by the Attorney-General's Department

The data provided in the attachment examines “*the extent of agreements in the relevant sectors that have loaded rates and how many employees are covered by them*” as noted in Paragraph 20 of the [statement](#) by Justice Ross published on 21 December 2020 regarding Award Flexibility

The [attached spreadsheet](#) shows there are a total of 159 agreements, covering 25,342 employees (at lodgement) that contain loaded wage rates, and whose only parent award is one (or more) of the four Modern Awards listed below:

- General Retail Industry Award 2020
- Hospitality Industry (General) Award 2020
- Restaurant Industry Award 2020
- Registered and Licenced Clubs Award 2010

The breakdown of the 159 agreements by the relevant parent award is as follows:

- 22 agreements - General Retail Industry Award 2020
- 69 agreements - Hospitality Industry (General) Award 2020
- 53 agreements - Restaurant Industry Award 2020
- 12 agreements - Registered and Licenced Clubs Award 2010
- 3 agreements - Restaurant Industry Award 2020 and Hospitality Industry (General) Award 2020

All agreements are either current (not expired or terminated) as at 30 September 2020 (the latest available data), or have expired since March 2019 and have not been replaced (potentially still operational). The Department has no information as to whether such expired agreements continue to have any practical application. The data was derived from the Workplace Agreements Database (WAD), a census database of federal enterprise agreements maintained by the Attorney General's Department.

For comparison, there were 150 agreements for the same period, covering 303,947 employees that **did not have loaded rates**, and whose only parent award is one (or more) of the above four Modern Awards

HOW TO READ – using “Restaurant Award” tab, row 11 as an example

- *Zarrafas Coffee Ormeau Enterprise Bargaining Agreement 2016-2020 (AE422828)* is an agreement that contains loaded rates and whose parent award is the Restaurants Industry Award.
- It covered 13 employees at the time of lodgement.
- The agreement contains non-quantifiable wage increases which means an Average Annualised Wage Increase (AAWI) cannot be calculated. It was approved with an undertaking that pertained to remuneration.
- The loaded wage rates incorporate payment for public holiday work and weekend penalties.
- The ordinary days of work for employees are Monday to Sunday.
- Hours of work are not averaged over more than four weeks under this agreement, and the agreement does not contain a clause that entitles employees to shift allowances.

CAVEATS

- Employee figures reflect coverage at the time the agreement was lodged with the Fair Work Commission.
- Parent award(s) as coded in the WAD are nominated by the employer, and recorded in the WAD from F17 declaration forms submitted by the employer as well as the agreement documents themselves.
- All agreements in the spreadsheet exclusively mention one or more of the four Modern Awards. If an agreement also mentioned a Modern Award other than those above, that agreement will not be in the spreadsheet. There were 91 of the latter type of agreements current as at 30 September 2020, and a further 177 that have expired since 31 March 2019 and have not been replaced. Some agreements do mention state-based and/or pre-reform awards as well as the target awards, and these were included in the spreadsheet.
- The WAD incorporates changes to provisions in the agreement made through an undertaking. The data, therefore, represents the most up to date information available.
- The data in the spreadsheet reflects the Department’s interpretation of the analysed agreements. The Department has not verified its interpretation of the provisions of any agreement with employers.
- While this data is derived from readily accessible information in the WAD, there may be other relevant information that is not captured in the WAD including the way in which ordinary hours are worked over a week (e.g. the ratio of weekdays to weekend hours), and how each of the components are considered when determining the loaded rate. Similarly, it may be that some of the provisions only apply to a specific group or employee classification covered by the agreement.

DEFINITIONS

Average Annualised Wage Increase (AAWI)

Estimates of average wage increases are calculated for those federal enterprise agreements that provide quantifiable wage increases over the life of the agreement. Enterprise agreements for which average percentage wage increases could not be quantified (e.g. those with inconsistent increases) are excluded from these estimates.

For agreements with quantifiable wage increases, the average annualised wage increase (AAWI) per agreement is calculated using the following formula:

$$100 \times \left\{ \left[\prod_{i=1}^N (1 + r_i) \right]^{\frac{1}{d}} - 1 \right\}$$

r_i = % increases of the i^{th} time*

N = the number of increases over the life of the agreement

d = the effective duration of the agreement in years

Note that not all agreements contain quantifiable wage increases. An agreement may be deemed non-quantifiable if its wage increases fall into one of the following categories:

- **Inconsistent Increase:** where wage increases differ between groups of employees
- **Performance Linked:** where wage increases are linked to individual or business performances
- **Linked to CPI:** where wage increases are linked to the Consumer Price Index or other economic measures
- **Linked to Minimum Wages:** where wage increases are linked to movements in the Federal Minimum Wage or award wages
- **Other Reason:** where wage increases are not quantifiable for another reason, such as an employer conducting periodic wage reviews without a commitment to increase wages, or no wage increases, or more than one of the above reasons

Undertakings

Details of any undertaking provided in order to get the agreement approved. Undertakings are recorded as one (or more) of the following:

- **Dispute resolution – scope/representation:** undertaking refers to the scope of disputes or matters of representation in disputes
- **Dispute resolution – arbitration:** undertaking relates to arbitration for disputes
- **NES compliance:** an undertaking is needed to comply with the terms in the National Employment Standards
- **Remuneration:** undertaking relates to employees' rate of pay
- **Conditions:** undertaking refers to specific entitlements/conditions of employment
- **Other/Unclear:** the undertaking is unclear or refers to a matter not covered above, such as administrative matters that don't materially affect the provisions of the agreement

These categories are not mutually exclusive. The WAD incorporates changes to provisions in the agreement made through an undertaking.

Loaded wage rates

- **No weekend penalty rates:** There is no restriction on the days which ordinary hours can be worked, and no weekend penalty rates are payable.

- **Some or all public holidays absorbed:** The agreement provides for some or all public holidays to be absorbed into an annualised salary or loaded hourly rate of pay. It is possible that some, and not all, public holidays may be absorbed.
- **Some or all overtime absorbed:** The agreement partially or completely absorbs overtime payments and incorporates them into a loaded salary (sometimes called an annualised salary).
- **Salary allowances absorbed:** The agreement provides that monetary allowances are absorbed into the normal rates of pay. It is possible that some, and not all, salary allowances may be absorbed.
- **Shift loadings absorbed:** Shift work is paid at ordinary time rates and no extra pay is received for working irregular hours.
- **Annual leave loading absorbed:** Annual leave loading is absorbed into the normal rate of pay.

Ordinary Days of Work

Coded when the agreement mentions the days of the week on which ordinary hours can be worked.

- **Ordinary hours are Mon-Fri:** The agreement states that the ordinary hours of work are Monday-Friday.
- **Ordinary hours are Mon-Sat:** The agreement states that the ordinary hours of work are Monday-Saturday.
- **Ordinary hours are Mon-Sun:** The agreement states that the ordinary hours of work are Monday-Sunday.

These categories are not mutually exclusive, as different subsets of employees can be on different rosters.

Other provisions

- **Hours of work averaged over more than four weeks:** The agreement provides for average weekly hours to be averaged over a period of more than four weeks.
- **Shift loadings apply:** Shift work is paid with an additional payment, identified as a Loading or a Penalty for working irregular hours.