DETERMINATION

Fair Work Act 2009
s.156—4 yearly review of modern awards

4 yearly review of modern awards—National Training Wage
(AM2016/15)

FOOD, BEVERAGE AND TOBACCO MANUFACTURING AWARD 2010
[MA000073]

Food, beverages and tobacco manufacturing industry

JUSTICE ROSS, PRESIDENT
VICE PRESIDENT HATCHER
COMMISSIONER HUNT

MELBOURNE, 16 OCTOBER 2019

4 yearly review of modern awards – National Training Wage Schedule.

A. Further to the Full Bench decision [[2019] FWCFB 6595] issued by the Fair Work Commission on 25 September 2019,[1] the above award is varied as follows:

1. By deleting Schedule D—National Training Wage and inserting the following:

Schedule D—National Training Wage

D.1 Definitions

D.1.1 In this schedule:

adult trainee means a trainee who would qualify for the highest minimum wage in wage level A, B or C if covered by that wage level.

approved training, in relation to a trainee, means the training specified in the training contract of the trainee.

Australian Qualifications Framework (AQF) means the national framework for qualifications in post-compulsory education and training.

[1] See also [2019] FWCFB 7091 and [2019] FWCFB 5409.

relevant State or Territory training authority means a body in the relevant State or Territory that has power to approve traineeships, and to register training contracts, under the relevant State or Territory vocational education and training legislation.

relevant State or Territory vocational education and training legislation means the following or any successor legislation:

Apprenticeship and Traineeship Act 2001 (NSW);

Education and Training Reform Act 2006 (Vic);

Training and Skills Development Act 2008 (SA);

Training and Skills Development Act 2016 (NT);

Training and Tertiary Education Act 2003 (ACT);

Training and Workforce Development Act 2013 (Tas);

Vocational Education and Training Act 1996 (WA);

Further Education and Training Act 2014 (Qld).

trainee means an employee undertaking a traineeship under a training contract.

traineeship means a system of training that:

(a) has been approved by the relevant State or Territory training authority; and

(b) meets the requirements of a training package developed by the relevant Skills Service Organisation and endorsed by the Australian Industry and Skills Committee; and

(c) leads to an AQF certificate level qualification.

training contract means an agreement for a traineeship made between an employer and an employee that is registered by the relevant State or Territory training authority.

training package means the competency standards and associated assessment guidelines for an AQF certificate level qualification that have been endorsed for an industry or enterprise by the Australian Industry and Skills Committee.

wage level A, B or C see clause D.4.

Year 10 includes any year before Year 10.

D.1.2 A reference in this schedule to **out of school** refers only to periods out of school beyond Year 10 as at 1 January in each year and is taken to:

(a) include any period of schooling beyond Year 10 that was not part of, or did not contribute to, a completed year of schooling; and

(b) include any period during which a trainee repeats, in whole or part, a year of schooling beyond Year 10; and

(c) not include any period during a calendar year after the completion during that year of a year of schooling.

D.2 Coverage

D.2.1 Subject to clauses D.2.2 to D.2.5, this schedule applies to an employee covered by this award who is undertaking a traineeship and whose training package and AQF certificate level are allocated to a wage level by clause D.6 or by clause D.4.4.

D.2.2 This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause D.6.

D.2.3 This schedule does not apply to:

(a) the apprenticeship system; or

(b) qualifications not identified in training packages; or

(c) qualifications in training packages that are not identified as appropriate for a traineeship.

D.2.4 If this schedule is inconsistent with other provisions of this award relating to traineeships, the other provisions prevail.

D.2.5 This schedule ceases to apply to an employee at the end of the traineeship.

D.3 Types of traineeship

The following types of traineeship are available:

D.3.1 A full-time traineeship based on 38 ordinary hours per week, with 20% of those hours being approved training;

D.3.2 A part-time traineeship based on fewer than 38 ordinary hours per week, with 20% of those hours being approved training provided:

(a) wholly on the job; or

(b) partly on the job and partly off the job; or

(c) wholly off the job.

D.4 Minimum rates

D.4.1 Minimum weekly rates for full-time traineeships

(a) Wage level A

The minimum rate for a full-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level A by clause D.6.1 is the weekly rate specified in column 2 of **Table 1—Wage level A minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in column 1.

Table 1—Wage level A minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship

Column 1	Column 2		
Experience level of trainee	**Highest year of schooling completed**		
	Year 10	**Year 11**	**Year 12**
	per week	**per week**	**per week**
School leaver	$332.80	$366.50	$436.60
Plus 1 year out of school	$366.50	$436.60	$508.10
Plus 2 years out of school	$436.60	$508.10	$591.30
Plus 3 years out of school	$508.10	$591.30	$677.00
Plus 4 years out of school	$591.30	$677.00	
Plus 5 or more years out of school	$677.00		

NOTE: See clause D.4.3 for other minimum wage provisions that affect this paragraph.

(b) Wage Level B

The minimum rate for a full-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level B by clause D.6.2 is the weekly rate specified in Column 2 of **Table 2—Wage level B minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

Table 2—Wage level B minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)

Column 1	Column 2		
Experience level of trainee	**Highest year of schooling completed**		
	Year 10	**Year 11**	**Year 12**
	per week	**per week**	**per week**
School leaver	$332.80	$366.50	$424.80
Plus 1 year out of school	$366.50	$424.80	$488.60
Plus 2 years out of school	$424.80	$488.60	$573.10
Plus 3 years out of school	$488.60	$573.10	$653.70
Plus 4 years out of school	$573.10	$653.70	
Plus 5 or more years out of school	$653.70		

NOTE: See clause D.4.3 for other minimum wage provisions that affect this paragraph.

(c) Wage Level C

The minimum rate for a full-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level C by clause D.6.3 is the weekly rate specified in Column 2 of **Table 3—Wage level C minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

Table 3—Wage level C minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)

Column 1	Column 2		
Experience level of trainee	**Highest year of schooling completed**		
	Year 10	**Year 11**	**Year 12**
	per week	**per week**	**per week**
School leaver	$332.80	$366.50	$424.80
Plus 1 year out of school	$366.50	$424.80	$478.20
Plus 2 years out of school	$424.80	$478.20	$534.30
Plus 3 years out of school	$478.20	$534.30	$595.20
Plus 4 years out of school	$534.30	$595.20	
Plus 5 or more years out of school	$595.20		

NOTE: See clause D.4.3 for other minimum wage provisions that affect this paragraph.

(d) AQF Certificate Level IV traineeships

(i) The minimum rate for a full-time trainee undertaking an AQF Certificate Level IV traineeship is the minimum rate for the relevant full-time AQF Certificate Level III traineeship increased by 3.8%.

(ii) The minimum rate for a full-time adult trainee undertaking an AQF Certificate Level IV traineeship is the weekly rate specified in column 2 or 3 of **Table 4—Minimum weekly rate for full-time adult trainees (AQF Certificate Level IV traineeship)** according to the year of the traineeship specified in those columns and the relevant wage level for the relevant AQF Certificate Level III traineeship specified in column 1:

Table 4—Wage level B minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)

Column 1	Column 2	Column 3
Wage level	**First year of traineeship**	**Second and subsequent years of traineeship**
	per week	**per week**
A	$703.20	$730.40
B	$678.40	$704.40
C	$617.40	$640.70

NOTE: See clause D.4.3 for other minimum wage provisions that affect this paragraph.

D.4.2 Minimum hourly rates for part-time traineeships

(a) Wage level A

The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level A by clause D.6.1 is the hourly rate specified in column 2 of **Table 5—Wage level A minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in column 1.

Table 5—Wage level A minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)

Column 1	Column 2		
Experience level of trainee	**Highest year of schooling completed**		
	Year 10	**Year 11**	**Year 12**
	per hour	**per hour**	**per hour**
School leaver	$10.95	$12.07	$14.37

Column 1	Column 2		
Experience level of trainee	**Highest year of schooling completed**		
	Year 10	**Year 11**	**Year 12**
	per hour	**per hour**	**per hour**
Plus 1 year out of school	$12.07	$14.37	$16.73
Plus 2 years out of school	$14.37	$16.73	$19.45
Plus 3 years out of school	$16.73	$19.45	$22.26
Plus 4 years out of school	$19.45	$22.26	
Plus 5 or more years out of school	$22.26		

NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph.

(b) Wage Level B

The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level B by clause D.6.2 is the hourly rate specified in Column 2 of **Table 6—Wage level B minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

Table 6—Wage level B minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)

Column 1	Column 2		
Experience level of trainee	**Highest year of schooling completed**		
	Year 10	**Year 11**	**Year 12**
	per hour	**per hour**	**per hour**
School leaver	$10.95	$12.07	$13.99
Plus 1 year out of school	$12.07	$13.99	$16.08
Plus 2 years out of school	$13.99	$16.08	$18.87
Plus 3 years out of school	$16.08	$18.87	$21.52
Plus 4 years out of school	$18.87	$21.52	
Plus 5 or more years out of school	$21.52		

NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph.

(c) Wage Level C

The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level C by clause D.6.2 is the hourly rate specified in Column 2 of **Table 7—Wage level C minimum hourly rate for part-time**

trainees (AQF Certificate Level I–III traineeship) according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

Table 7—Wage level C minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)

Column 1	Column 2		
Experience level of trainee	**Highest year of schooling completed**		
	Year 10	**Year 11**	**Year 12**
	per hour	**per hour**	**per hour**
School leaver	$10.95	$12.07	$13.99
Plus 1 year out of school	$12.07	$13.99	$15.73
Plus 2 years out of school	$13.99	$15.73	$17.57
Plus 3 years out of school	$15.73	$17.57	$19.58
Plus 4 years out of school	$17.57	$19.58	
Plus 5 or more years out of school	$19.58		

NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph.

(d) School-based traineeships

The minimum hourly rate for a part-time trainee who works ordinary hours and is undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage levels A, B or C by clause D.6 is the hourly rate in column 1 or 2 of **Table 8—Minimum hourly rate for part-time trainees (school-based AQF Certificate Level I–III traineeship)** according to the year of schooling of the trainee.

Table 8—Minimum hourly rate for part-time trainees (school-based AQF Certificate Level I–III traineeship)

Column 1	Column 2
Year 11 or lower	**Year 12**
per hour	**per hour**
$10.95	$12.07

NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph.

(e) AQF Certificate Level IV traineeships

(i) The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level IV traineeship is the minimum hourly rate for the relevant part-time AQF Certificate Level III traineeship increased by 3.8%.

(ii) The minimum hourly rate for a part-time adult trainee undertaking an AQF Certificate Level IV traineeship is the hourly rate in column 2 or 3 of **Table 9—Minimum hourly rate for part-time adult trainees (AQF Certificate Level IV traineeship)**, according to the year of the traineeship specified in those columns and the relevant wage level for the relevant AQF Certificate Level III traineeship specified in column 1:

Table 9—Minimum hourly rate for part-time adult trainees (AQF Certificate Level IV traineeship)

Column 1	Column 2	Column 3
Wage level	**First year of traineeship**	**Second and subsequent years of traineeship**
	per hour	**per hour**
A	$23.12	$24.03
B	$22.29	$23.15
C	$20.31	$21.08

NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph.

(f) Calculating the actual minimum wage

(i) If fewer than 38 (or an average of 38) ordinary hours of work per week is considered full-time at the workplace by the employer, the appropriate minimum hourly rate for a part-time trainee is obtained by multiplying the relevant minimum hourly rate in clauses D.4.2(a) to (e) by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.

(ii) If the approved training for a part-time traineeship is provided wholly off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum hourly rate in clauses D.4.2(a) to (e) applies to each ordinary hour worked by the trainee.

(iii) If the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum hourly rate in clauses D.4.2(a) to (e) minus 20% applies to each ordinary hour worked by the trainee.

D.4.3 Other minimum wage provisions

(a) Clause D.4.3 applies despite anything to the contrary in clause D.4.2.

(b) An employee who was employed by an employer immediately before becoming a trainee with that employer must not suffer a reduction in their minimum rate of pay because of becoming a trainee.

(c) For the purpose of determining whether a trainee has suffered a reduction as mentioned in paragraph (b), casual loadings are to be disregarded.

(d) If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, if a higher minimum wage is provided for the new AQF certificate level.

D.4.4 Default wage rate

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause D.6 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to wage level B.

D.5 Employment conditions

D.5.1 A trainee undertaking a school-based traineeship may agree to be paid an additional loading of 25% on all ordinary hours worked instead of being paid annual leave, paid personal/carer's leave, paid compassionate leave and paid absence on public holidays. However, if the trainee works on a public holiday, the public holiday provisions of this award apply.

D.5.2 A trainee is entitled to be released from work without loss of pay and without loss of continuity of employment to attend any training and assessment specified in, or associated with, the training contract.

D.5.3 Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the trainee's wages and determining the trainee's employment conditions.

D.5.4 The time to be included for the purpose of calculating the wages for part-time trainees whose approved training is wholly off-the-job is determined by clauses D.4.2(e)(ii) and (iii) and not by clause D.5.3.

D.5.5 Subject to clause D.2.4, this award applies to a trainee in the same way that it applies to an employee who is not a trainee except as otherwise expressly provided by this schedule.

D.6 Allocation of traineeships to wage levels

The wage levels applying to training packages and their AQF certificate levels are:

D.6.1 Wage level A

Training package	AQF certificate level
Business Services	I, II, III
Food Processing Industry	III
Information and Communications Technology	II, III
Laboratory Operations	II, III
Manufacturing	II, III
Metal and Engineering (Technical)	III
Plastics, Rubber and Cablemaking	III
Retail Services	III
Training and Assessment	III
Transport and Logistics	III

D.6.2 Wage level B

Training package	AQF certificate level
Food Processing Industry	I, II
Retail Services	I, II

D.6.3 Wage level C

Training package	AQF certificate level
Agriculture, Horticulture and Conservation and Land Management	I, II, III

4. By deleting Appendix D1: Allocation of Traineeships to Wage Levels.

4. By updating cross-references accordingly.

B. This determination comes into operation from 23 October 2019. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after 23 October 2019.

PRESIDENT

Printed by authority of the Commonwealth Government Printer