



Fair Work  
Commission

# Information note— Employees paid up to the C13 rate

---

20 May 2025

## Table of Contents

Summary.....	1
Introduction.....	2
Estimates from the ABS Characteristics of Employment survey, August 2024.....	3
Estimates from the ABS Survey of Employee Earnings and Hours, May 2023.....	4
Limitations and reasons for differences between the survey estimates.....	6

## Summary

- In its initial submission to the Annual Wage Review 2025, the ACTU estimated that 9.7 per cent of adult employees were paid up to the C13 rate in August 2024 based on the Australian Bureau of Statistics' (ABS) Characteristics of Employment survey.
- Analysis of the ABS Survey of Employee Earnings and Hours estimates that 1.7 per cent of employees paid an adult rate were paid up to the C13 rate. It was further estimated that almost two-thirds of these employees were paid modern award rates.
- The gap between the estimates may be due to the different types of surveys—one obtaining information from households and the other from businesses about their employees.

## Introduction

The Australian Government submission to the Annual Wage Review 2024 included an estimate that 96 400 employees paid an adult rate, or 0.8 per cent of all employees, were paid the National Minimum Wage (NMW) rate.<sup>1</sup> This estimate was derived using data from the Australian Bureau of Statistics' (ABS) Survey of Employee Earnings and Hours (EEH) for May 2023. At the time of the survey, the NMW rate was \$21.38 per hour and estimates were based on non-managerial employees with average hourly ordinary time earnings of up to \$21.50.

The EEH survey is designed to provide detailed statistics on the composition and distribution of employee earnings, hours paid for (rather than hours worked) and the methods used to set employees' pay. It is the only ABS survey that provides information on both earnings, method of setting pay (i.e., who is paid an award rate) and whether employees are paid an adult rate. Data are collected from businesses about their employees. Because the survey is undertaken every two years, the next estimate will only be available after the release of the May 2025 survey which will be in 2026.

In the Annual Wage Review 2024 decision, the Panel invited parties to this review "to present any evidence or other material which might advance our understanding of the practical scope of application of the NMW".<sup>2</sup>

In its initial submission to the Annual Wage Review 2025, the Australian Council of Trade Unions (ACTU) estimated that over 1 million employees, or 9.7 per cent of all employees aged 21 years and over, were paid at or below the NMW rate.<sup>3</sup> The estimate was derived using data from the ABS Characteristics of Employment (COE) survey, a supplement to the Labour Force Survey that was last conducted in August 2024. The estimate therefore considered a more recent period that was after the alignment of the NMW rate to the C13 rate and the two most recent increases following annual wage reviews. The Commission invited parties to comment on the ACTU's analysis in a question on notice.<sup>4</sup>

---

<sup>1</sup> Australian Government submission to the Annual Wage Review 2024 (28 March 2024) at [110]–[112]. Employees paid the NMW rate were considered to have been paid up to \$21.50 per hour in May 2023.

<sup>2</sup> [2024] FWCFB 3500 at [153]

<sup>3</sup> ACTU submission (4 April 2025) at [250]–[255]

<sup>4</sup> [Annual Wage Review 2025: Questions on notice](#), 8 May 2025, p. 5.

This information note compares the estimate from the COE survey with an estimate of the proportion of employees earning up to the C13 rate using microdata from the 2023 EEH survey.

## Estimates from the ABS Characteristics of Employment survey, August 2024

The NMW rate at the time of the 2024 COE survey was \$24.10. Estimates of employee earnings in ABS surveys do not represent base rates of pay. In the case of the COE survey, earnings refer to total earnings (inclusive of overtime).<sup>5</sup> Average hourly earnings are derived by dividing average total weekly earnings by average hours worked per week.

The ACTU acknowledged limitations of the data in the COE survey, including in comparison with the EEH survey, and sought to address these issues.

In order to replicate the methodology behind the Australian Government estimates, the approach produced separate estimates for permanent (employees with paid leave entitlements) and casual employees (employees without paid leave entitlements) to take into account the loading of 25 per cent received by casual employees. This meant that the equivalent NMW rate for casual employees was \$30.13. In the Australian Government estimates using the EEH, the average hourly ordinary time earnings of casual employees can be reduced by the amount of the loading.<sup>6</sup>

The COE survey does not identify the method of setting pay of employees or whether they are paid an adult rate.<sup>7</sup> The approach in the ACTU submission therefore limited its analysis to employees aged 21 years and over to exclude employees paid a junior rate.<sup>8</sup>

Table 1 presents the results of the ACTU analysis. These results have been replicated by Commission staff. The right-hand column includes a further set of estimates, calculated by Commission staff, which exclude independent contractors. Excluding these employees does not alter the overall proportion to one decimal place.

---

<sup>5</sup> In the EEH survey, data on ordinary time earnings that remove overtime can be analysed.

<sup>6</sup> Casual employees are defined as employees without paid leave entitlements.

<sup>7</sup> Adult rates are considered because junior, apprentice, trainee and disability rates are generally taken as a proportion of an adult rate.

<sup>8</sup> It also excluded any employees under 21 years paid an adult rate.

**Table 1: Proportion of employees paid at or below the NMW rate, employees aged 21 years and over (2024 COE survey)**

Employee type	ACTU submission	Excluding independent contractors
	(%)	(%)
Permanent	5.1	5.1
Casual	32.5	31.9
<b>Total</b>	<b>9.7</b>	<b>9.7</b>

Note: Permanent employees are defined as employees with paid leave entitlements and casual employees are defined as employees without paid leave entitlements.

Source: ABS, TableBuilder: *Characteristics of Employment, Australia*, August 2024.

## Estimates from the ABS Survey of Employee Earnings and Hours, May 2023

Previous research by Commission staff has analysed the 2021 EEH survey for the proportion of employees paid at or below the NMW rate.<sup>9</sup> This analysis adopts that approach for the 2023 EEH survey for the C13 rate. At the time of the 2023 EEH survey, the C13 rate was \$21.97 per hour.

The EEH survey contains detailed data on earnings and relevant supporting information, including rate of pay (such as adult, junior, trainee/apprentice, disability), overtime earnings, and whether earnings include a casual loading.

Average hourly ordinary time earnings are obtained by dividing average weekly ordinary time earnings by average ordinary time hours paid for. As with the previous analysis, the NMW rate is rounded up to allow for some measurement error in earnings and hours paid for. The analysis therefore considers all employees paid an adult rate with average hourly ordinary time earnings of \$22.00 per hour.

Based on analysis of EEH microdata, it is estimated that **195 000 employees, or 1.7 per cent of employees paid an adult rate**, were paid up to the C13 rate at the time of the survey.

Table 2 presents data that disaggregates these employees by method of setting pay. Employers respond whether an employee's pay is set by an award, collective agreement or individual

---

<sup>9</sup> Tomlinson J (2024), *Characteristics of employees on the National Minimum Wage*, Fair Work Commission Research Report 1/2024, February.

arrangement. Employees are classified as paid by an award if they are paid at the rate of pay specified in the award and are not paid more than that rate of pay. This does not reflect coverage.

The table shows that almost two-thirds of employees on an adult rate earning up to the C13 rate are paid by a modern award, while over one quarter are paid by an individual arrangement.

**Table 2: Employees earning up to the C13 rate, by method of setting pay, (EEH May 2023)**

Method of setting pay	(%)
Collective agreements and other awards	7.1
Individual arrangement	26.9
Modern award	66.0
<b>Total</b>	<b>100.0</b>

Note: Includes employees on an adult rate with average hourly ordinary time earnings of up to \$22.00 per hour. The average hourly ordinary time earnings of casual employees has been reduced by the casual loading. Employees paid by award rates that are not modern awards (e.g., state/public sector awards) are combined with employees paid by a collective agreement in order to meet ABS requirements for the public release of microdata analysis.

Source: ABS, Microdata: [Employee Earnings and Hours, Australia](#), May 2023.

Table 3 shows the most common industries of employees earning up to the C13 rate for modern award-reliant employees and other employees. Accommodation and food services is the most common industry, comprising almost one quarter of all employees (22.7 per cent).

Other industries common among modern award-reliant employees are Administrative and support services (20.3 per cent) and Health care and social assistance (10.8). For non-modern award-reliant employees, Professional, scientific and technical services and Manufacturing (both 13.8 per cent) were the next most common industries for employees earning up to the C13 rate.

**Table 3: Industry of employer, employees earning up to the C13 rate, EEH, May 2023**

Industry	Modern award reliant	Not modern award reliant	All employees
	(%)	(%)	(%)
Mining	0	np	np
Manufacturing	6.7*	13.8*	9.1
Electricity, gas, water and waste services	np	np	np
Construction	np	np	np
Wholesale trade	4.4*	np	4.0*
Retail trade	7.2*	9.5*	8.0*
Accommodation and food services	26.3	15.7*	22.7
Transport, postal and warehousing	2.2**	np	1.9*
Information media and telecommunications	np	2.0*	0.7*
Finance and insurance services	np	np	1.4*
Rental, hiring and real estate services	2.1*	3.9*	2.7*
Professional, scientific and technical services	5.9*	13.8*	8.6*
Administrative and support services	20.3*	4.6*	15.0*
Public administration and safety	0.2**	4.0	1.5
Education and training	1.3*	3.6**	2.1*
Health care and social assistance	10.8*	4.8*	8.8*
Arts and recreation services	5.6*	4.0*	5.0
Other services	6.1*	4.4*	5.5*
<b>All industries</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Note: Adult rate of pay employees only. Excludes owner managers of incorporated enterprises. Ordinary time hourly earnings, adjusted to remove casual loading for employees indicated to be receiving a casual loading. Ordinary time earnings excludes overtime earnings. np = not published due to data clearance requirements. \* Estimate has a RSE of between 25 per cent and 50 per cent and should be interpreted with caution. \*\* Estimate has a RSE of greater than 50 per cent and is considered too unreliable for general use.

Source: ABS, Microdata: *Employee Earnings and Hours, Australia, May 2023*.

## Limitations and reasons for differences between the survey estimates

Both surveys cannot identify the base rate of pay of employees in that earnings, even ordinary time earnings, include penalty rates and other payments such as allowances that are paid in addition to a base rate of pay. Average hourly earnings, which are calculated by dividing average weekly earnings by average weekly hours paid for/worked, may then be overestimated for some employees.

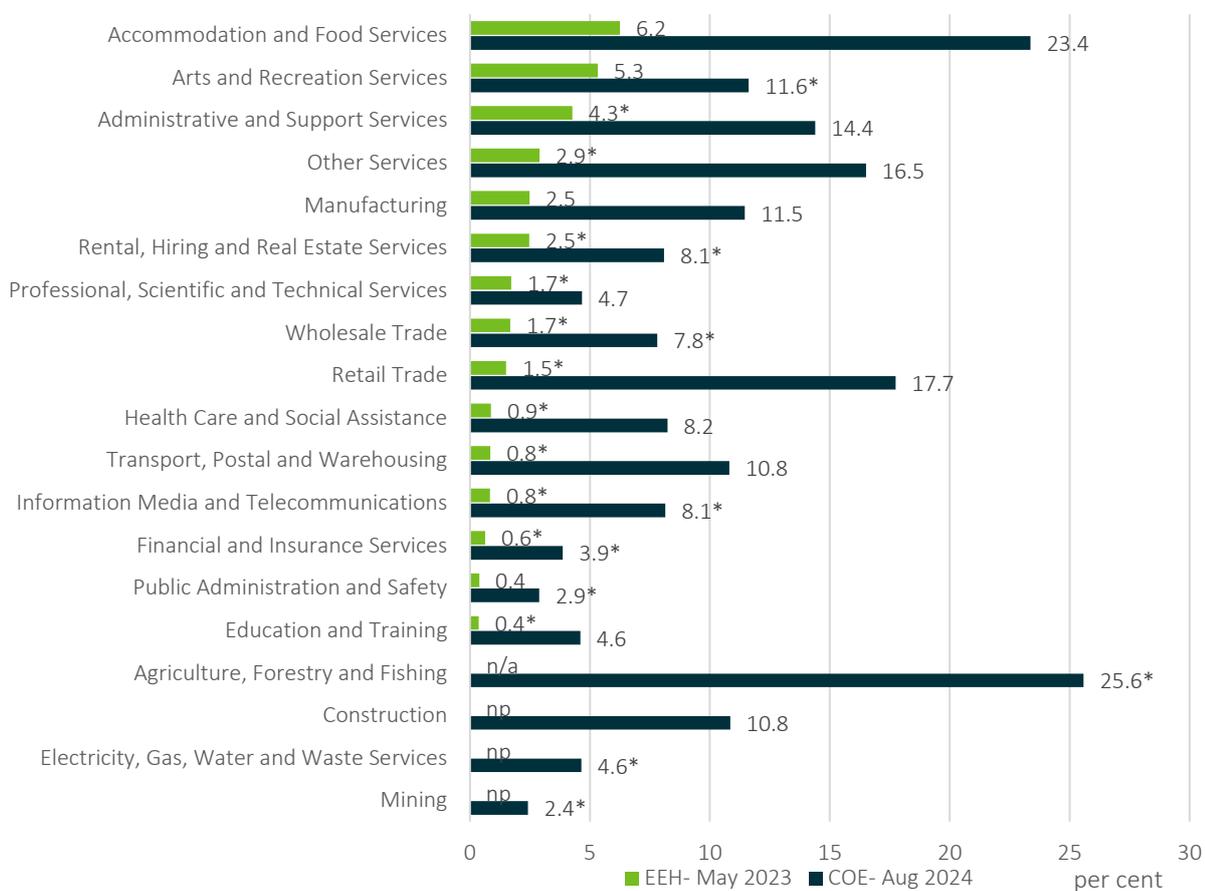
While the two estimates are derived from separate time periods, which may account for some of the variance, there are several other reasons for the different estimates. These include:

- The different survey methods used to collect data. The COE surveys households directly, while the EEH collects data from employers, who are instructed to provide information about a random sample of their employees. This may affect the accuracy of the data.
  - Employees responding to the COE household survey questionnaire may suffer from recall error or provide rounded figures instead of referring to a payslip. Employers responding to the EEH survey questionnaire have access to payroll systems. Additionally, some survey responses in the COE may be from respondents reporting on behalf of others in the household. Business sources are therefore considered to provide more accurate data on earnings.<sup>10</sup>
- The use of additional information to understand how pay is set. The COE data do not contain supporting information about whether an employee is on a junior, apprentice, trainee or disability rate of pay which is captured in the EEH. The ACTU approach makes some compensation by only including employees aged 21 years and over. However, this approach does not remove adult apprentices or trainees or those paid a disability rate from the analysis.
  - As the EEH survey contains information on age *and* rate of pay, an estimate of the proportion of employees aged 21 years and over on an apprentice, trainee or disability rate can be derived. Analysis finds that 18.6 per cent of employees aged 21 years and over and earning up to the C13 rate were paid by an apprentice, trainee, or disability rate of pay.
  - In the EEH survey, 9.2 per cent of all employees paid an adult rate and earning up to the C13 rate were under 21 years. These are included in the EEH estimate. However, the COE estimate excludes employees aged under 21 years that are paid an adult rate.
- A final point is that the EEH does not include employees in the Agriculture, forestry and fishing industry. As shown in Chart 1, around one quarter of employees in this industry are estimated to be paid up to the C13 rate. However, this represents only 3.0 per cent of all employees estimated to be paid up to the C13 rate.
- Chart 1 also shows that estimates of the proportion of employees earnings up to the C13 rate are lower across all industries in the EEH estimates than in the COE estimates.

---

<sup>10</sup> ABS (2023), [Labour Statistics: Concepts, Sources and Methods—Earnings](#), released 24 November 2023.

**Chart 1: Proportion of employees in industry earning up to the C13 rate, adult employees**



Note: EEH: employees on adult rates of pay. COE: employees in main job aged 21 years and over. The Agriculture, forestry and fishing industry is not in scope of the EEH survey. \*As the estimate for the number of employees earnings up to the C13 rate in this industry has an RSE of 25 per cent and over, this proportion should be interpreted with caution. np = not published due to data clearance requirements.

Source: ABS, TableBuilder: *Characteristics of Employment, Australia, August 2024*. ABS, *Microdata and TableBuilder: Employee Earnings and Hours, Australia, May 2023*.