DECISION

Fair Work Act 2009
s.285—Annual wage review

Annual Wage Review 2012–13
(C2013/1)

JUSTICE ROSS, PRESIDENT
SENIOR DEPUTY PRESIDENT WATSON
COMMISSIONER SPENCER
COMMISSIONER HAMPTON
MR VINES
PROFESSOR RICHARDSON
MR DWYER

MELBOURNE, 3 JUNE 2013

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## Abbreviations

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<td>2009–10 Review decision</td>
<td><em>Annual Wage Review 2009–10 decision</em></td>
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<td>2010–11 Review decision</td>
<td><em>Annual Wage Review 2010–11 decision</em></td>
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<td>2011–12 Review decision</td>
<td><em>Annual Wage Review 2011–12 decision</em></td>
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<td>2012 Amendment Act</td>
<td><em>Superannuation Guarantee (Administration) Amendment Act 2012</em></td>
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<td>AAA</td>
<td>Accommodation Association of Australia</td>
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<td>AAWI</td>
<td>Average annualised wage increases</td>
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<td>ABI</td>
<td>Australian Business Industrial</td>
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<td>ABS</td>
<td>Australian Bureau of Statistics</td>
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<td>ACCER</td>
<td>Australian Catholic Council for Employment Relations</td>
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<td>ACCI</td>
<td>Australian Chamber of Commerce and Industry</td>
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<td>ACOSS</td>
<td>Australian Council of Social Service</td>
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<td>Act</td>
<td><em>Fair Work Act 2009</em></td>
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<td>ACTU</td>
<td>Australian Council of Trade Unions</td>
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<td>AFEI</td>
<td>Australian Federation of Employers and Industries</td>
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<td>AHA</td>
<td>Australian Hotels Association</td>
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<td>Ai Group</td>
<td>Australian Industry Group</td>
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<td>AIRC</td>
<td>Australian Industrial Relations Commission</td>
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<td>ANRA</td>
<td>Australian National Retailers Association</td>
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<td>ANZSIC</td>
<td>Australian and New Zealand Standard Industrial Classification</td>
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<td>APCSs</td>
<td>Australian Pay and Classification Scales</td>
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<td>ARA</td>
<td>Australian Retailers Association</td>
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<td>ARTIO</td>
<td>Australian Road Transport Industrial Organisation</td>
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<td>AWE</td>
<td>Average weekly earnings</td>
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<td>AWOTE</td>
<td>Average weekly ordinary time earnings</td>
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<td>AWR</td>
<td>Annual wage review</td>
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<td>C10</td>
<td>Engineering Tradesperson Level I</td>
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<td>C14</td>
<td>Engineering/Production Employee Level 1</td>
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<td>CCIQ</td>
<td>Chamber of Commerce and Industry Queensland</td>
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<td>Commission</td>
<td>Fair Work Commission</td>
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<td>CPI</td>
<td>Consumer Price Index</td>
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<td>Abbreviation</td>
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<tr>
<td>DEEWR</td>
<td>Department of Education, Employment and Workplace Relations</td>
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<td>EEH</td>
<td>Employee Earnings and Hours</td>
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<td>GDP</td>
<td>gross domestic product</td>
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<td>HES</td>
<td>Household Expenditure Survey</td>
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<td>HIA</td>
<td>Housing Industry Association</td>
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<td>HILDA</td>
<td>Household Income and Labour Dynamics in Australia</td>
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<td>Manufacturing Award</td>
<td><em>Manufacturing and Associated Industries and Occupations Award 2010</em></td>
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<td>LCI</td>
<td>Living Cost Index</td>
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<td>MGA</td>
<td>Master Grocers Australia</td>
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<td>MPMSAA</td>
<td>Master Plumbers and Mechanical Services Association of Australia</td>
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<td>NAPSA</td>
<td>Notional Agreement Preserving State Awards</td>
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<td>NFF</td>
<td>National Farmers’ Federation</td>
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<td>NMW</td>
<td>national minimum wage</td>
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<td>NRA</td>
<td>National Retail Association</td>
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<td>NTWS</td>
<td>National Training Wage Schedule</td>
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<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>OTE</td>
<td>Ordinary Time Earnings</td>
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<td>Panel</td>
<td>Minimum Wage Panel</td>
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<tr>
<td>R&amp;CA</td>
<td>Restaurant and Catering Australia</td>
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<td>RBA</td>
<td>Reserve Bank of Australia</td>
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<td>Review</td>
<td><em>Annual Wage Review 2012–13</em></td>
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<td>RNNDI</td>
<td>Real net national disposable income</td>
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<td>SG rate</td>
<td>Superannuation guarantee rate</td>
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<td>SWSS</td>
<td>Supported Wage System Schedule</td>
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<td>Transitional Act</td>
<td><em>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</em></td>
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<tr>
<td>VACC</td>
<td>Victorian Automobile Chamber of Commerce</td>
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<tr>
<td>VECCI</td>
<td>Victorian Employers’ Chamber of Commerce and Industry</td>
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<td>WPI</td>
<td>Wage Price Index</td>
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Chapter 1—The Decision

[1] The Fair Work Act 2009 (the Act) requires the Minimum Wage Panel (the Panel) of the Fair Work Commission (the Commission) to conduct and complete a review of minimum wages in modern awards and the national minimum wage (NMW) in each financial year. The Panel may set, vary or revoke modern award minimum wages and must make a national minimum wage order. This decision deals with the 2012–13 annual wage review (the Review) and directly affects over 1.5 million employees in Australia who are award reliant.1

[2] The Act sets out some important procedural fairness requirements for the Review. The Panel must ensure that all persons and bodies (referred to collectively as parties) are given a reasonable opportunity to make and reply to written submissions. In this Review, a number of parties took up this opportunity by lodging one or more written submissions, participating in consultations on 21 and 22 May 2013, or both. The Minimum Wage Research team of the Commission also conducted a number of research projects for the purpose of the Review. The timetable for the Review and all of the submissions, transcript, research reports, and some additional economic data were published on the Commission’s website to ensure that all parties had a reasonable opportunity to participate. The Panel considered all of the material received from parties and the published research in making its decision.

[3] This chapter summarises the matters we have considered, our reasoning and the increase we have decided upon, with a more detailed discussion provided in the subsequent chapters.

[4] The Act provides that in conducting the Review, the Panel must take into account the general objects in s.3, the modern awards objective in s.134(1) and the minimum wages objective in s.284. We have taken all of these matters into account. These provisions contain some common elements and to a large extent this decision has been structured around the statutory considerations we are required to take into account and we deal with them in Chapters 2–9. We do not repeat all of that material here but the views expressed in this Chapter should be seen in the context of our decision as a whole. We turn first to the nature of the Panel’s task.

[5] A number of submissions contended that the increase in award rates of pay in the 2011–12 annual wage review overcompensated workers for a projected increase in inflation which did not eventuate2 and that the Panel should factor in the extent of this overcompensation in its determination on the basis that actual inflation was lower than expected.3 A number of parties also contended that we should simply deduct the 1 July 2013 increase in the superannuation guarantee contribution rate (the SG rate) of 0.25 percentage points from any wage adjustment we otherwise determine. Finally, a number of parties proposed an award-by-award approach to the fixation of modern award minimum wages.
We deal with the substance of these submissions later, but note here that each of these proposals appears to assume a particular approach to the task of this Panel.

In assessing the various economic considerations the Panel takes into account both actual economic indicators and those that are forecast at the time of each decision. Of these, the actual indicators tend to be the primary consideration, because they are by definition more reliable than forecasts. However, it is also appropriate to have regard to future projections that cast some light on the economic circumstances that are expected to apply during the period when any adjustment will operate.

To the extent that the forecast economic indicators do not ultimately reflect the actual performance of the economy, this forms part of our broad assessment and our consideration of the actual indicators in subsequent reviews. Importantly, when considering both actual and forecast indicators, the Panel pays particular attention to trends, because of the volatility in some of the economic indicators.

It is also important to recognise that the range of matters the Act requires us to take into account is not limited to economic considerations. In particular we are also required to take into account relative living standards and the needs of the low paid. The submissions of the parties tended to focus, naturally enough, on those statutory considerations which support the outcome for which they contend. But the Act requires the Panel to take into account all of the relevant statutory considerations.

There is often a degree of tension between the economic and social considerations which we must take into account. A substantial wage increase may better address the needs of the low paid and improve the living standards of award-reliant employees relative to those employees who are not award reliant; but it may (depending upon the prevailing economic circumstances) reduce the capacity to employ the marginalised and hence reduce social inclusion. It is this complexity which leads us to reject a mechanistic approach to wage fixation—such as the adoption of real wage maintenance as a decision rule or reducing the increase we would otherwise determine by the quantum of any increase in the SG rate. The real wages of award-reliant employees and increases in the SG rate are relevant to our task, but are not determinative. While we have taken the 0.25 per cent increase in the SG rate into account in determining the level of increase in minimum wages in the Review, we have not applied a direct, quantifiable, discount to the minimum wage increase, as proposed by some parties. The range of considerations we are required to take into account calls for the exercise of broad judgment, rather than a mechanistic approach to minimum wage fixation.

As to the proposed award-by-award approach, it is important to appreciate that the framework for workplace relations established by the Act is predicated on a guaranteed safety net which underpins enterprise level collective bargaining. The safety net of fair, relevant and enforceable minimum wages and conditions is provided through modern awards, national minimum wage orders and the National Employment Standards. Collective bargaining at the enterprise level is underpinned by that safety
net. This is evident from the fact that enterprise agreements must pass the “better off overall test” in s.193 of the Act and the terms of an enterprise agreement may supplement, but cannot exclude, any provision of the National Employment Standards (ss. 55 and 186(2)(c)).

[12] In Chapter 2 we deal with the statutory framework in more detail and confirm a number of general observations made by the Panel in the Annual Wage Review 2011–12 decision (2011–12 Review decision). In particular we endorse the following observations:

  “the legislative framework reveals a preference for consistent variation determinations across all modern awards…[t]he notion of a fair safety net of minimum wages embodies the concepts of uniformity and consistency of treatment.”

[13] The award-by-award approach to minimum wage fixation, based on sectoral considerations, advocated by some parties in these proceedings is inimicable to the safety net nature of modern award minimum wages. Enterprise level collective bargaining is the primary means by which the statutory framework envisages differential treatment based on the circumstances in particular enterprises, which would be influenced by relevant sectoral considerations. That the system does function in this way is evidenced by the sectoral variation in actual wage outcomes.

[14] We now turn to the considerations which we must take into account. The matters of direct relevance to the Review can be grouped into three broad categories: economic; social; and collective bargaining.

Economic considerations

[15] Economic conditions over the past year have remained reasonably strong, particularly in the context of conditions in other Organisation for Economic Co-operation and Development (OECD) countries. Real gross domestic product (GDP) grew by 3.1 per cent over the year to the December quarter 2012 and labour market conditions softened but remained sound, with continuing low levels of unemployment. Employment grew by 1.4 per cent over the year to April 2013, but more slowly than the labour force, resulting in a slight increase in the unemployment rate. Some softness in the labour market is reflected in the fact that the growth in total hours worked (0.8 per cent) was less than the growth in employment; in continuing high levels of youth unemployment; and in the decline in the full-time employment of adult males.

[16] Following earlier volatility, annual inflation has been subdued over the past year, at around 2.5 per cent on all Consumer Price Index (CPI) based measures over the year to the March quarter 2013 and lower still using the Living Cost Index (LCI) measure. Inflation remains comfortably within the Reserve Bank of Australia (RBA) target range of 2–3 per cent. Wages growth, reflected in the Wage Price Index (WPI) and bargaining outcomes, has moderated, growing at their lowest rate for a decade (excluding the global financial crisis impact in 2008). Profits in the non-mining part of
the economy have risen as have real unit labour costs, but the rise in real unit labour costs is a result of a fall in the price index rather than higher rates of compensation of employees.

[17] On all measures, labour productivity increased over the year to the December quarter 2012. Labour productivity, as measured by GDP per hour worked in trend terms, was 2.9 per cent higher; gross value added in the market sector per hour worked increased by 2.4 per cent; and GDP per capita increased by 1.2 per cent.8

[18] This economic performance has occurred against the background of continuing structural change within the Australian economy, evident in the strong growth in the resources and related sectors and more modest outcomes in other sectors of the economy. We have had regard to the aggregate economic data and to available sectoral information, with specific consideration of the circumstances of the most award-reliant industries and small business.

[19] There is continuing evidence that, while creating difficulties for some employers, the economy has responded relatively well to the significant structural change evident in recent years, with a continuing low aggregate unemployment rate; the absence of increased variation in the unemployment rates across the country; the accommodation of variation in labour demand through labour mobility and changes in relative wages; and the absence of inflationary or wages pressures in the non-resources sectors of the economy.

[20] The most award-reliant sectors of the economy continued to have a mixed experience over the past year. Most have had a fall in hours worked and in employment, although rises in profitability and output have been stronger. The Retail trade industry in particular has improved both sales and profitability, while wages growth and employment in this sector has been below the average for all industries. The diversity in outcomes in respect of output, profits, employment, and wages between and within the award-reliant industries suggests that factors other than recent minimum wage increases have driven outcomes within those industries.

[21] The outlook for the Australian economy remains favourable and global conditions are expected to gradually improve as growth in emerging market economies picks up and the United States continues to recover, although continuing risks from the euro zone remain.

[22] GDP growth is expected to be slightly below trend, at 2¾ per cent in 2013–14, reflecting the approaching peak in mining investment, ongoing fiscal consolidation and the high value of the Australian dollar. The terms of trade are expected to rise in the June quarter 2013 before resuming its recent decline. Mining investment is expected to remain elevated, while business investment outside the resources sector is expected to be modest.
Employment is forecast to increase as growth in the non-resources sector picks up and the participation rate is expected to remain around 65 per cent. But the unemployment rate is forecast to increase slightly due to the high Australian dollar and the transition to a less labour intensive production phase in the resources sector. Wages growth is expected to be subdued and slightly below trend and inflation is forecast to be in the bottom half of the RBA’s target band of 2–3 per cent.

Employer groups submitted that businesses will be facing higher costs due to the next phasing and transitioning to modern awards, beginning 1 July 2013, and the impact of the carbon price and rising energy costs were noted in many submissions.

The award modernisation process was governed by Part 10A of the Workplace Relations Act 1996. In making the modern awards the Australian Industrial Relations Commission (AIRC) could not, save in limited circumstances, differentiate between states and had the task of balancing the interests of employees and employers throughout Australia after examining both federal awards and Notional Agreements Preserving State Awards (NAPSAs). By the end of 2009, the AIRC had reviewed more than 1500 federal awards and NAPSAs and created 122 industry and occupation based modern awards. In relation to penalty rates and other conditions, the AIRC adopted a “swings and roundabouts” approach where the most common provisions were often adopted.

We accept that some employers, most directly affected by minimum wage increases, continue to face increases in labour costs arising from the transition to modern awards. Others will experience falls in minimum rates, especially penalty rates and casual loadings, as these are harmonised across the states. Further, the increased costs resulting from award modernisation were taken into account by the AIRC in deciding upon the transitional provisions and operative dates in modern awards. The impact will vary between awards and between states and specific provisions within a particular award. There is no clear evidence before us as to a pattern and the extent to which the transition to modern awards is imposing additional costs on some employers. We have had regard to the fact that the transition to modern awards will impose additional costs on some employers, but in fixing minimum wages at an aggregate level it is appropriate to take a broader view of the circumstances facing employers.

The Panel considered the impact on the CPI of the introduction of a price on carbon and assistance to employees to compensate those price effects in its decision in the 2011–12 Review, deciding:

“We agree with the proposition that this Review should not provide any additional assistance to compensate for the anticipated price effects associated with the introduction of a price on carbon. Compensation has already been provided through tax cuts and transfer payments and further compensation by minimum wage adjustments would amount to double dipping. It follows that we will, in effect, abstract the projected 0.7 per cent increase in the CPI from our deliberations.”
We have not been persuaded to change the position taken by the Panel in the 2011–12 Review decision. We have had regard to the effect of the carbon price on the CPI in 2012 in arriving at our decision in this Review.

In summary, the economic outlook remains favourable, notwithstanding some easing of growth and an increase in unemployment forecast in 2013–14. However, the outlook for growth remains uneven, with continuing pressures on the businesses in the trade-exposed sectors of the economy outside of the resources sector. With some exceptions, the most award-reliant industries are generally not in the trade-exposed sectors.

Social considerations

The minimum wages objective and the modern awards objective both require us to take into account two particular matters, relative living standards and the needs of the low paid. These are different, but related, concepts. The former, relative living standards, requires a comparison of the living standards of award-reliant workers with those of other groups that are deemed to be relevant. The latter, the needs of the low paid, requires an examination of the extent to which low-paid workers are able to purchase the essentials for a “decent standard of living” and to engage in community life. The assessment of what constitutes a decent standard of living is in turn influenced by contemporary norms. We turn first to relative living standards.

Over the past decade, all award rates of pay have fallen relative to all measures of median and average earnings. The NMW as a proportion of the median full-time wage has fallen from 57.5 per cent in 2002 to 52.7 per cent in 2012. It fell by 0.9 percentage points in the past year. Award rates have grown more slowly over the past decade than the WPI, average weekly ordinary time earnings (AWOTE), average weekly earnings (AWE) and bargained rates, although growth in the C14 classification rate of the Manufacturing and Associated Industries and Occupations Award 2010 (Manufacturing Award) and the NMW have remained close to that of the WPI.

All of the evidence before the Panel indicates that the earnings of award-reliant workers have been falling behind the earnings of the rest of the workforce. The NMW and award wages are rates of pay for the job. We are conscious that there is a broad shift in the economy toward higher-skilled jobs and that this is affecting measures of average and even median earnings. Even the WPI will be affected if the pay rates of the higher skilled are rising more rapidly as a result of the increased relative demand. For this reason, we would not expect award rates, especially for the lower-skilled jobs, to rise as fast as the average. Nonetheless, the average or “typical” wage influences typical living standards and norms about how the households of employees live. In this way it is relevant to our task of considering relative living standards. It remains one of a number of considerations that we must take into account.

An assessment of the needs of the low paid is more challenging. There is no single contemporary measure available to assess either the needs of the low paid or the...
extent to which those needs are being met. We accept the point that if the low paid are forced to live in poverty then their needs are not being met. We also accept that our consideration of the needs of the low paid is not limited to those in poverty, as conventionally measured. Those in full-time employment can reasonably expect a standard of living that exceeds poverty levels. In assessing the needs of the low paid we rely on a range of measures including comparisons of hypothetical low-wage families with customary measures of poverty, both before and after taking account of the impact of the tax-transfer system, and survey evidence of financial stress and material deprivation among low-paid households.

[34] As to the definition of the “low paid”, there is a level of support for the proposition that the low paid are those employees who earn less than two-thirds of median full-time wages. The Panel has addressed this issue previously in considering the needs of the low paid, and has paid particular regard to those receiving less than two-thirds of median adult ordinary-time earnings and to those paid at the C10 and C14 (NMW) rates in the Manufacturing Award. Nothing put in these proceedings has persuaded us to depart from this approach. We do not include the owners of small businesses in our assessment of the circumstances of the low paid for the reasons given at paragraphs [269]–[275], but have separately considered the circumstances of small businesses at paragraphs [260]–[266].

[35] We acknowledge that both the relative living standards and the needs of those on lower award rates are assisted substantially by the tax-transfer system, but despite this assistance there is evidence of poverty and a rise in levels of financial stress among some low-paid families.

[36] While the needs of the low paid are not identical to the extent of poverty among low-paid families, they are sufficiently close to provide a useful indicator of changes in the needs of the low paid. A commonly used “poverty line” is 60 per cent of median household disposable income. The data shows that the disposable income of most award-reliant households exceeded this 60 per cent benchmark.

[37] The Australian Council of Social Service (ACOSS) submitted that while the risk of poverty is low for full-time minimum wage earners in Australia, a high proportion of income-poor families include at least one wage earner. The submission referred to a report ACOSS recently commissioned from the Social Policy Research Centre at the University of New South Wales which examined the most recent ABS Income and Expenditure Survey (2009–10) (Poverty in Australia 2012). Poverty in Australia 2012 analyses the risk and profile of poverty amongst a range of household types using the international standard benchmarks of 50 per cent and 60 per cent of median income, although it differs from the OECD methodology by taking into account people’s housing costs as well as their incomes. The report found that in 2010:

- When a poverty line of 50 per cent of median disposable income was used (a relatively low poverty benchmark used by the OECD), 29 per cent of all
people with incomes below this benchmark lived in households for which wages were the principle source of income.

- 5.2 per cent of households whose main source of income was wages were below the poverty benchmark of 50 per cent of median income. The figure was 8.8 per cent when measured against 60 per cent of median income.

[38] There is imperfect information about the levels of financial stress and deprivation of low-paid employee households (and none about award-reliant households). Despite this, the information that is available shows that such households experience higher levels of difficulty in meeting their needs than the average employee household. Further, there has been some increase in levels of financial stress among low-paid households between the years 2009 and 2011 (the latest years for which data are available).

[39] For the purpose of conducting an annual wage review, s.284(1)(b) provides that the Panel must take into account promoting social inclusion through increased workforce participation. We accept that our consideration of social inclusion in the context of s.284(1)(b) is limited to increased workforce participation. On that basis it is obtaining employment which is the focus of s.284(1)(b). This involves a consideration of the increased incentives that higher minimum wages can provide to those not in employment to seek paid work, balanced against potential impacts on the demand for low-paid workers and hence the supply of low-paid jobs, from large increases in minimum wages. However, we also accept that the impact of minimum wages upon an employee’s capacity to engage in community life and the extent of their social participation can appropriately be considered in the context of the legislative requirements to “maintain a safety net of fair minimum wages” and to take into account “the needs of the low paid”.

[40] The research presented by parties to this Review has not convinced the Panel to alter its position from previous reviews that a modest increase in minimum wages has a very small, or even zero, effect on employment.

**Bargaining**

[41] In the period 2000–12, the proportion of award-reliant employees has trended downwards (from 23.2 per cent to 16.1 per cent), while the proportion of employees on collective agreements has increased (from 36.8 per cent to 42.0 per cent). Despite this overall trend, the data also show that between 2010 and 2012, the proportion of employees on awards has marginally increased (from 15.2 per cent to 16.1 per cent), while the proportion of employees on collective agreements marginally declined (from 43.4 per cent to 42.0 per cent).

[42] Recent data from the Employee Earnings and Hours (EEH) survey highlights the continuing gap between average wages for employees covered by collective agreements and for award-reliant employees. In May 2012, average weekly total cash
earnings for full-time award-reliant employees were $933.40, compared with $1518.50 for full-time employees covered by collective agreements.\textsuperscript{17} In May 2010, the average weekly total cash earnings for full-time award-reliant employees were $753.80, compared with $1386.20 for full-time employees covered by a collective agreement.\textsuperscript{18}

\textbf{[43]} The current evidence indicates that the level of increases in minimum award wages which have occurred over the last decade are compatible with the continuing encouragement of enterprise bargaining.

\textbf{The decision}

\textbf{[44]} We have decided that the range of considerations we are required to take into account favours the award of an increase which will result in a small improvement in the real value of modern award minimum wages in 2013–14. As to the form of the increase, the flat dollar increases in award minimum rates over the last 20 years have compressed award relativities and reduced the gains from skill acquisition. The position of the higher award classifications has reduced relative to market rates and to average earnings and has fallen in terms of real purchasing power. In the \textit{Annual Wage Review 2010–11} decision (2010–11 Review decision)\textsuperscript{19} these considerations led the Panel to determine a uniform percentage increase and we have reached the same conclusion in this Review, for the same reasons. The increase in modern award minimum wages we have decided on is 2.6 per cent. Weekly wages will be rounded to the nearest 10 cents.

\textbf{[45]} The national minimum wage is currently set at the minimum wage for the C14 classification.\textsuperscript{20} We have not been persuaded to depart from that relationship. The national minimum wage will be $622.20 per week or $16.37 per hour. The hourly rate has been calculated on the basis of a 38 hour week for a full-time employee. This constitutes an increase of $15.80 per week or 41 cents per hour.

\textbf{[46]} The determinations and order giving effect to our decision will come into operation on 1 July 2013.

\textbf{[47]} A number of considerations have led us to award a lower increase than that determined in last year’s review. While the economic outlook remains favourable, GDP growth is expected to ease to slightly below trend in 2013–14 and the unemployment rate is expected to increase slightly. Inflation is expected to remain comfortably within the RBA target range of 2–3 per cent. In addition to these considerations, the SG rate increase to apply from 1 July 2013 has also been a moderating factor in our assessment of the adjustment that should be made to minimum wages. As a result, although it would not be appropriate to quantify its effect, the increase in modern award minimum wages and the NMW we have determined in this Review is lower than it otherwise would have been in the absence of the SG rate increase. We have also had regard to the effect of the carbon price on the published CPI figures and the lower than forecast recent inflation outcome (when
abstracting the estimated 0.7 per cent carbon price effect) in considering past inflation for the purpose of the current review.

[48] A number of parties sought differential treatment in respect of any variation determination arising from this Review being applied to certain modern awards.

[49] For the reasons given in Chapter 10, those advocating differential treatment have not persuaded us that their proposals have sufficient merit. The diversity of experience within these sectors tells strongly against the grant of a general exemption. The evidence does not support a conclusion that, as a whole, these industries are suffering economic circumstances which would warrant the differential treatment sought. The general matters relied upon relate to the economy as a whole and do not support differential treatment for the modern awards that have been raised with the Panel. We have, however, taken these matters into account in our consideration of the economy and in the decision more generally.

[50] In relation to incapacity arguments more generally, in Chapter 2 we have again drawn attention to the practical difficulties which arise from the interaction of ss.157(2), 285(1) and 286 of the Act. In particular, there is no mechanism in the Act for revisiting a determination varying modern award minimum wages after an annual wage review has been completed. As a result of this legislative inflexibility, a small or large business; a sector; or a region facing circumstances warranting the deferral of, or exemption from, an annual wage review increase can only make such an application in the context of an annual wage review. So if the adverse circumstances arose in, for example, July, the businesses affected would have to wait until the following year (i.e. the next annual wage review) before they could seek relief.

[51] The Panel drew attention to these issues in the 2011–12 Review decision and noted that the review of the Act provided an opportunity to address them. No legislative amendments have been made and as a consequence the practical difficulty created by the legislative framework remains.

[52] There is a final matter we wish to raise.

[53] As we have mentioned, relative living standards and the needs of the low paid are among the matters we are required to take into account in the fixation of minimum wages. While some modern award minimum wages (namely at and below the C10 level), have increased in real terms over the past decade, they have not kept pace with the level of wage increases generally. Relative to all measures of median and average earnings, modern award minimum wages have fallen over the past decade. The NMW has fallen as a proportion of full-time adult median earnings from 57.5 per cent in 2002, to 52.7 percent in 2012. The decline in the relative living standards of award-reliant employees is also relevant to our assessment of the needs of the low paid—needs being a relative concept.
[54] It is apparent that while real earnings have generally increased over the past decade, earnings inequality is increasing. Changes in the overall levels of earnings inequality show that real weekly earnings of full-time workers have become progressively less equal in the past decade: for each decile, the lower the earnings, the lower the rate of growth in earnings.

[55] If not addressed, these trends may have broader implications both for our economy and for the maintenance of social cohesion in Australia.

[56] As noted in the Annual Wage Review 2009–10 decision (2009–10 Review decision), both minimum wages and the tax-transfer system are relevant to the maintenance of an effective safety net for the low paid—each has its part to play. Minimum wages play a particularly important role in the disposable income of households that do not receive income support payments. We agree with the following observation from the 2009–10 Review decision:

“[244] Our view is that the low paid need the highest level of wages that is consistent with all other objectives including low unemployment, low inflation and the viability of business enterprises. At the least, this level of wages should enable a full-time wage earner to attain a standard of living that exceeds contemporary indices of poverty. We are open to evidence that there are particular economic developments that are placing unusual and severe strain on the budgets of the low paid.”

[57] But we acknowledge that increases in minimum wages are a blunt instrument for addressing the needs of the low paid. A significant proportion of low-paid adult employees live in middle to high income households. An analysis of 2011 Household Income and Labour Dynamics in Australia (HILDA) Survey data showed that about 30 per cent of low-paid adult employees live in households in the top four income deciles. The tax-transfer system can provide more targeted assistance to low-income households and is a more efficient means of addressing poverty.

[58] The tax-transfer system plays a significant role in alleviating the impact of earnings inequality and supporting the living standards of low-paid workers, and the evidence suggests that the tax-transfer system has been effective in increasing the real level of disposable incomes for lower paid award-reliant families.

[59] The way in which changes in the tax-transfer system are taken into account in minimum wage fixation remains a matter of contention and we would be assisted if this matter was given some consideration by the parties in the 2013–14 annual wage review. As the Panel did in the 2011–12 Review decision, we would also encourage the Australian Government to discuss such matters with the major parties in an effort to arrive at a consensus as to the specific effect any future tax-transfer changes may have on the variation of minimum wages in the 2013–14 review.

[60] We are aware however that the tax-transfer system has its own limitations, including its impact on incentives to work. It is for this reason, among others, that minimum wages must play their part in meeting the needs of the low paid.
Our productivity performance as a nation underpins our standard of living. In this context labour productivity is relevant. As we have noted, there has recently been an increase in labour productivity. Short-term variations in productivity should be interpreted with some caution and whether the recent increase is sustainable remains to be seen. It is for that reason that we have not given greater weight to recent productivity outcomes in deciding to only award a modest increase in minimum wages in this Review. If sustained, the recent improvement in labour productivity could provide the capacity to address the declining relative position of the low paid and for them to share in increasing community living standards.

The matters we have identified raise substantive issues which need to be addressed in the 2013–14 review, together with a consideration of the capacity to redress the decline in the relative living standards of award-reliant employees. We invite further submissions on widening dispersion in earnings and the declining relative position of employees reliant on award wages in the 2013–14 review.

2. The Statutory Framework

As we have noted, the Act requires the Panel to take into account a number of considerations in reviewing modern award minimum wages and the national minimum wage order. The minimum wages objective in s.284 applies to the exercise of functions and powers under the Parts of the Act concerning minimum wages (Part 2–6) and modern awards (Part 2–3). Section 284 is in these terms:

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284 The minimum wages objective

What is the minimum wages objective?

(1) The FWC must establish and maintain a safety net of fair minimum wages, taking into account:

(a) the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and

(b) promoting social inclusion through increased workforce participation; and

(c) relative living standards and the needs of the low paid; and

(d) the principle of equal remuneration for work of equal or comparable value; and
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(e) providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.”

[64] In setting, varying or revoking modern award minimum wages, we are also required to take into account the modern awards objective in s.134(1), but only insofar as the matters specified relate to the setting, varying or revoking of modern award minimum wages. Section 134(1) states:

“134 The modern awards objective

What is the modern awards objective?

(1) The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

(a) relative living standards and the needs of the low paid; and

(b) the need to encourage collective bargaining; and

(c) the need to promote social inclusion through increased workforce participation; and

(d) the need to promote flexible modern work practices and the efficient and productive performance of work; and

(e) the principle of equal remuneration for work of equal or comparable value; and

(f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and

(g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and

(h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.”

[65] A third set of considerations the Panel must take into account is found in the general objects of the Act.24 The minimum wages objective, modern awards objective and objects of the Act contain some common elements. As we indicated in the 2011–12 Review decision,25 the matters of direct relevance to the Review can also be understood by grouping them into three broad categories: economic;26 social;27 and collective bargaining.28
We have considered these matters in making our decision and specifically address them in Chapters 4–8 of this decision. Chapter 3 discusses the proposals of the parties to the Review.

Three particular aspects of the statutory framework have been the subject of submissions in this Review.

The first issue concerns the approach to be taken to annual wage reviews, in particular the scope for differential treatment as between modern awards.

In the 2011–12 Review decision, the Panel made a number of general observations about the legislative framework. Relevantly, for present purposes, the Panel said:

“the legislative framework reveals a preference for consistent variation determinations across all modern awards...[t]he notion of a fair safety net of minimum wages embodies the concepts of uniformity and consistency of treatment.”

In these proceedings the Australian Chamber of Commerce and Industry (ACCI) disagreed with the above observations. ACCI submitted that the minimum wage objective and the objects of the Act suggest that there must be cogent evidence to warrant an increase to minimum wage rates for “each modern award” and that there is no statutory presumption or requirement that the Panel flow on any increase to all classification levels and/or for all modern awards. ACCI relied on s.284(4) which states, relevantly:

“varying modern award minimum wages is varying the current rate of one or more modern award minimum wages.”

(emphasis added)

ACCI submitted that s.284(4) indicates that Parliament intended that the Panel retain a discretion to vary one or more modern award minimum wages and that, had Parliament intended that all wages in every modern award should be increased, it could have done so.

ACCI concluded its submission on this issue in these terms:

“73. Clearly, had Parliament intended that all wages in every modern award should be increased, it could have done so. On the contrary, Parliament has indicated that the Panel retains discretion to vary one or more modern award minimum wages.

74. As a result of the award modernisation process, there are now 122 modern awards which have replaced thousands of pre-reform federal awards and NAPSAs.
75. Given that these modern awards are predominantly structured along an industry or occupational basis, it is now possible to distinguish and target decisions on an industry by industry basis.

76. Therefore, it is open to the Panel, should it be satisfied, to only vary (or not vary) particular minimum wages in one or more modern awards, which may not have been practical in the past due to the number of disparate and overlapping award instruments.”30

[73] As the Panel stated in the 2011–12 Review decision, we accept ACCI’s contention that the Act does not compel the variation of modern award minimum wages in all modern awards. Section 285(2)(b) provides that in an annual wage review the Panel:

“may make one or more determinations varying modern awards to set, vary or revoke modern award minimum wages”

(emphasis added).

[74] Further, s.284(4) defines varying modern award minimum wages as “varying the current rate of one or more modern award minimum wages”.

[75] It follows that the Panel has a discretion to vary some or all modern award minimum wages in the context of an annual wage review. The real question is the basis upon which the Panel should exercise that discretion. In that regard we are not persuaded that ACCI’s submission warrants any reconsideration of the observations made by the Panel in the 2011–12 Review decision.

[76] At the outset it is important to appreciate that the Act was legislated against the background of a long-standing approach to minimum wage fixation. Parliament may be presumed to have known of the historical approach taken to such claims.31 The concepts of uniformity and consistency of treatment have underpinned the fixation of minimum wages in modern awards and date back to the establishment of consistent minimum rates within and across awards endorsed in the National Wage Case February 1989 Review32 and implemented in the National Wage Case August 1988 decision.33 The principle of consistent minimum rates across awards was maintained through the award simplification process;34 the Paid Rates Review;35 and award modernisation.36

[77] As to the current legislative framework, the minimum wages objective requires us to establish and maintain “a safety net of fair minimum wages” and the modern awards objective requires us to ensure that modern awards (together with the National Employment Standards) provide a fair and relevant minimum safety net of terms and conditions. The modern awards objective also speaks of the need to ensure a “stable and sustainable modern award system”. In our view, considerations of fairness and stability tell against an award-by-award approach to minimum wage fixation. If differential treatment was afforded to particular industries this would distort award relativities and lead to disparate wage outcomes for award-reliant employees with
similar or comparable levels of skill. In this regard, we note that in its submission, Australian Business Industrial (ABI) “fully accepts that there is a presumption of uniformity in the Fair Work Act and compelling reasons for the system of modern awards for awards to be treated equally in Division 3 Part 2-6 reviews”.37 Similarly, in its oral submission during the 22 May 2013 consultations, the Australian Industry Group (Ai Group) referred to the need for consistent relativities within and between modern awards. It is also relevant that in establishing and maintaining the minimum wages safety net, the Panel must take into account the principle of equal remuneration for work of equal or comparable value. Such a principle supports the determination of consistent minimum rates for work of equal or comparable value. The maintenance of consistent minimum wages in modern awards and the need to ensure a stable and sustainable modern award system would be undermined if the Panel too readily acceded to requests for differential treatment.

[78] At a broader, conceptual, level it is important to appreciate that the framework for workplace relations established by the Act is predicated on a guaranteed safety net which underpins enterprise level collective bargaining. The safety net of fair, relevant and enforceable minimum wages and conditions is provided through modern awards, national minimum wage orders and the National Employment Standards. Collective bargaining at the enterprise level is underpinned by that safety net. This is evident from the fact that enterprise agreements must pass the “better off overall test” in s.193 of the Act38 and the terms of an enterprise agreement may supplement, but cannot exclude, any provision of the National Employment Standards (ss. 55 and 186(2)(c)).

[79] The award-by-award approach to minimum wage fixation, based on sectoral considerations, advocated by some parties in these proceedings is inimicable to the safety net nature of modern award minimum wages. Enterprise level collective bargaining is the primary means by which the statutory framework envisages differential treatment based on the circumstances in particular enterprises, which would be influenced by relevant sectoral considerations. That the system functions in this way is evidenced by the sectoral variation in actual wage outcomes.

[80] Three other points support the observations of the Panel in the 2011–12 Review decision.

[81] First, in an annual wage review, the Act directs the Panel’s attention to a range of macroeconomic and general factors including: the performance and competitiveness of the national economy; inflation; employment growth; relative living standards; the promotion of social inclusion; and the needs of the low paid. The nature of these factors directs the Panel’s attention to matters which are relevant to the variation of all modern awards.

[82] The second point is the legislative preference for consistent operative dates for variation determinations made in an annual wage review. Sections 286 and 287 provide that all such determinations must come into operation on 1 July in the next financial year. A party seeking a later operative date must satisfy the Panel that there
are exceptional circumstances which justify a later date. It would be an odd outcome if a lower threshold applied in relation to claims for a different quantum to the threshold which applies to claims for a later operative date.

Finally, it is also relevant to observe that s.154 of the Act operates as a prohibition on awarding interstate wage differentials. This is a further indication of a legislative preference for consistent, national, minimum wage rates.

ACCI’s submission relies on one subsection within the Act. But the search for Parliament’s intention depends upon an analysis of the Act as a whole. Such an analysis supports the observations made by the Panel in the 2011–12 Review decision.

The second issue raised in this Review concerns the supplementary exemption process proposed by the Chamber of Commerce and Industry Queensland (CCIQ), The Australian Retailers Association (ARA) and Business SA, and supported by ACCI. CCIQ submitted that if the Panel decided to increase modern award minimum wages then:

“Particular industry specific employers should be exempt from any increase where they are determined to be facing significant challenges, or failing an exemption, the Panel should establish a supplementary hearing process to determine whether part or all of an increase should flow-on to those industry specific modern awards.

i. It is within the statutory discretion of the Panel to differentiate its decisions based on the 122 modern awards that now exist and to grant a differential increase (or no increase) for one or more modern awards, where it is warranted. This would allow the Panel to provide an exemption from any increase for modern awards in designated industry sectors which are in significant difficulty and would be most affected by an increase to minimum wage. These include: tourism, manufacturing, retail, hospitality and residential building and construction.”

The ARA submitted that the Panel “should consider an award-by-award basis and provide an interim decision or statement prior to handing down a final decision”.

Business SA submitted:

“[p]ursuant to s286 and s287 of the Fair work Act 2009, the FWA should ‘facilitate’ industry sectors such as Retail and Hospitality to apply for a lesser amount of any wage increase and/or a delay in the commencement date of any wage increases arising from the Review.”

In the 2011–12 Review decision the Panel rejected a similar proposition advanced by ACCI for the establishment of a brief “supplementary determination process”. The reasons given by the Panel were as follows:
“[281] The parties seeking an exemption have had an opportunity to make submissions in support of their position, both in writing and orally at the consultations. We are not persuaded that any further opportunity is either necessary or practical.

[282] As we have noted, the Act requires that this Review be completed by 30 June 2012 and, absent exceptional circumstances, any modern award minimum wage variation determined by the review must come into operation on 1 July 2012. A practical consequence of these legislative restrictions is that the Panel is obliged to hand down its decision in early June to provide a sufficient period for parties to comment on draft variation determinations to give effect to our decision. These temporal limitations also tell against the process proposed by ACCI.”

[89] In this year’s review we invited the parties to answer a number of questions. Relevantly, question 5.1 was in the following terms:

“Noting the observations of the Panel about the legislative context for the consideration of exceptional circumstances in the Annual Wage Review 2011-12 Decision, how would the supplementary exemption process proposed by the [CCIQ], ARA and others operate in practice given the terms of the Fair Work Act 2009 and the timeframes involved?”

[90] It is notable that none of the parties advocating the supplementary exemption process (i.e. CCIQ, ARA and Business SA) provided any response to the question posed nor did they attend the public consultation hearings to advance any oral submissions in support of their proposal. ACCI also did not submit a written response to the question, but during the public consultation on 21 May 2013, ACCI submitted that it believed that a supplementary hearing process “was practical”. However, the basis for that belief was unstated and ACCI did not advance any suggestions as to how such a process may operate in practice.

[91] The practical impediments to the adoption of a supplementary determination process are evident from the chronology below:

- 14 May 2013—Commonwealth Budget
- 17 May 2013—Post-Budget submissions filed
- 21–22 May 2013—Panel public consultations
- 3 June 2013—Decision
- 1 July 2013—Operative date of variations

[92] Two points may be made about this chronology. The first is that it is not feasible for the Panel to publish its decision (either in final or draft form) prior to early June. The time between the Budget and early June is the minimum period required in order to provide the parties with an opportunity to file supplementary submissions in relation to the Budget; hold consultations; and finalise the Panel’s decision.

[93] The second point is that there is a statutory requirement that variation determinations arising from annual wage reviews come into operation on 1 July in the
next financial year, absent exceptional circumstances (s.286). In order to meet the
1 July requirement, the Panel must, as a matter of practicality, issue its decision in
early June in order to provide sufficient time for draft variation determinations to be
prepared and commented upon, prior to final variation determinations being issued
prior to 1 July.

[94] The parties seeking an exemption have had an opportunity to make submissions
in support of their position, both in writing and orally at the consultations. We are not
persuaded that any further opportunity is either necessary or practical. None of those
parties took advantage of the public consultation process on 21 and 22 May 2013, to
advance any further submissions in support of their exemption applications. In this
regard, we note that in its written submission ABI stated that:

“It does seem reasonable that applicants for an exemption do avail themselves of the
Panel’s consultation process to assist the [Panel] to better understand the nature of
[the] impact which has given rise to the claim. It would seem useful for the [Panel] to
remake the point more strongly in its decision so there would be no doubt in future
years.”43

[95] We agree with ABI’s observation. Parties seeking an exemption or deferral
should utilise the public consultation process to update the Panel on the circumstances
pertaining to their application.

[96] The current legislative framework ensures that annual wage reviews are
conducted in a timely way and provides certainty for businesses and employees, by
nominated the operative date of any wage increases flowing from such reviews. But
the interaction of ss.157(2), 285(1) and 286 does give rise to a practical difficulty in
that there is no mechanism in the Act for revisiting a determination varying modern
award minimum wages after an annual wage review has been completed.

[97] Apart from the context of an annual wage review, or the system of 4 yearly
reviews of modern awards, the Commission may only vary modern award minimum
wages if it is satisfied, among other things, that the variation is justified on work value
grounds (s.157(2)). As a result of this legislative inflexibility, a small or large
business; a sector; or a region facing circumstances warranting the deferral of, or
exemption from, an annual wage review increase; can only make such an application
in the context of an annual wage review. So if the adverse circumstances arose in, for
example, July, the businesses affected would have to wait until the following year (i.e.
the next annual wage review) before they could seek relief.
The Panel drew attention to these issues in the 2011–12 Review decision and noted that the review of the Act provided an opportunity to address them. No legislative amendments have been made and as a consequence the practical difficulty created by the legislative framework remains.

We now turn to the third aspect of the statutory framework which was the subject of submissions in this Review, namely the proper construction of s.284(1)(b).

ACCI submitted that past decisions of the Panel have wrongly concluded that “social inclusion”, within the context of s.284(1)(b), encompasses both the obtaining of employment and the pay and conditions attaching to the job concerned. ACCI argued that the Panel’s conclusions in this regard ignore the conjunctive qualification in s.284(1)(b), that is, social inclusion is a concept to be promoted exclusively “through increased workforce participation”.

There is considerable force in ACCI’s submission. We accept that our consideration of “social inclusion” in the context of s.284(1)(b) is limited to increased workforce participation. On that basis it is obtaining employment which is the focus of s.284(1)(b). This involves a consideration of the increased incentives that higher minimum wages can provide to those not in employment to seek paid work, balanced against potential impacts on the demand for low-paid workers and hence the supply of low-paid jobs, from large increases in minimum wages.

However, we also accept that modern award rates of pay impact upon an employee’s capacity to engage in community life and the extent of their social participation. These are matters that can be appropriately taken into account in our consideration of the legislative requirement to “maintain a safety net of fair minimum wages” and to take into account “the needs of the low paid” (s.284(1)(c)). Further, the broader notion of promoting social inclusion is also relevant to the fixation of minimum wages, quite apart from the more limited construct reflected in s.284(1)(b). One of the objects of the Act is to promote “social inclusion for all Australians by” (among other things) “ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions through...modern awards and national minimum wage orders” (s.3(b)).

3. The Parties’ Proposals

The Panel received submissions from a wide range of parties, including the Australian and state governments, collective bodies representing employees and employers and other organisations. The submissions addressed both the quantum and form of any increases to modern award minimum wages and the NMW, as well as claims for exemptions from any increases determined by the Panel. Some submissions identified issues for consideration without proposing a particular outcome. Others submitted that there should be no increase to the NMW or to minimum wages in modern awards. A summary of the submissions made in relation to the proposed
minimum wages adjustments is provided at Appendix 1 and the claims for exemptions and differential outcomes are dealt with in Chapter 10. This chapter summarises the range of parties’ submissions in respect of the quantum and form of increase to be awarded in modern award wages and the NMW.

Proposals for a flat dollar increase

While the majority of submissions recommended flat dollar increases, the quantum of increase proposed varied widely. ACCI, supported by the Australian Federation of Employers and Industry (AFEI), Business SA, the Victorian Employers’ Chamber of Commerce and Industry (VECCI), the ARA, and the Master Plumbers and Mechanical Services Association of Australia (MPMSAA), proposed an increase of not more than $5.80 per week to the NMW and modern award wages. These parties contended that the increase in award rates of pay in the 2011–12 Review decision overcompensated workers for a projected increase in inflation which did not eventuate and that any increase awarded by the current review should be reduced to the extent of this overcompensation. It was argued that an increase of $5.80 would both take account of such overcompensation and maintain the real value of the minimum wage as at 1 July 2011, after expectations for inflation and the increase in the superannuation guarantee levy are taken into account.

ACCI submitted that:

“Fair Work Australia’s decision in the 2012 Annual Wage Review to award a +2.9 per cent increase in the minimum rates of pay on 1 July 2012 considerably exceeded that necessary to offset the rise in the cost of living over the preceding year. The consumer price index rose by only +2.0 per cent over the twelve months to the September quarter 2012. The effect of last year’s decision was to increase the real value of the minimum wage, at the expense in many instances of the livelihoods of small business operators. ACCI believes it is appropriate for the Fair Work Commission to factor in the extent of this overcompensation in the 2013 Annual Wage Review, especially in light of the marked divergence between actual inflation and expectations for inflation at the time of the decision.”

CCIQ submitted that the Panel should make no increase in this Review, but if the Panel decided to award an increase, then it should be no more than $5.80 per week.

The Australian National Retailers Association (ANRA) and the National Retail Association (NRA) argued that a flat dollar increase to award rates was consistent with past practice and both raised concerns about the impact of applying a percentage increase to modern awards. The NRA nominated an increase of not more than $4.75 per week, the lowest of the proposed flat dollar increases, while the ANRA proposed an increase of $9.10 per week.
Proposals for a percentage increase

[107] All proposals for a percentage increase came from employer groups. Ai Group proposed a 1.75 per cent increase for both the NMW and modern awards.53 This figure represents a notional wage increase of around 2.0 per cent, reduced by 0.25 per cent to take account of the increase in the superannuation guarantee levy.54

[108] The Accommodation Association of Australia (AAA) proposed an increase of not more than 1.5 per cent to both the NMW and modern awards, and ABI supported an increase of 1.2 per cent.55

[109] The Australian Hotels Association (AHA) recommended a 1.0 per cent increase be applied to the Hospitality Industry Award 201056 and made no proposal in respect of the NMW or in relation to minimum wages in other modern awards.

Proposals for a tiered approach

[110] Two submissions put forward a tiered approach.57 The Australian Council of Trade Unions (ACTU) recommended a flat dollar increase of $30.00 per week to the NMW and to modern award wages up to and including the C10 level,58 and a 4.2 per cent increase to all modern award minimum wages above that level. The ACTU submitted that a percentage increase at the higher classification levels would prevent further compression of award-based wage relativities and also improve the extent to which award wages operate as a fair and relevant safety net for employees “at the middle and upper levels”.59

[111] The flat dollar component is equivalent to an increase at the C10 level of approximately 4.2 per cent. An increase of $30.00 per week represents larger percentage increases over the classifications below the C10 level, ranging from around 4.5 per cent at the C11 level to 4.9 per cent at the NMW and C14 level.

[112] Drawing on unpublished data obtained from the Australian Bureau of Statistics (ABS) EEH Survey 2012, the ACTU estimated that, in May 2012, around 48.5 per cent of non-managerial award-reliant employees had hourly earnings equal to or less than the C10 rate.60 The analysis also estimated that 18.6 per cent of non-managerial award-reliant employees had hourly earnings greater than the C2(b) classification wage rate (the highest classification in the Manufacturing Award).61

[113] The ACTU argued that these findings supported the “hybrid structure” of its proposal and that an increase incorporating both a flat dollar and a percentage component would balance “the needs of the lowest paid with the need to maintain a relevant safety net for award-reliant workers on higher classifications.”62

[114] A tiered approach was also submitted by the Australian Catholic Council for Employment Relations (ACCER). The primary focus of its proposal was not pay
relativities between classifications in modern awards, but rather the value of safety net wages relative to community wage levels.63

[115] ACCER proposed that modern award minimum wages above the C10 level be increased by an amount equivalent to the CPI increase from the March quarter 2012 to the March quarter 2013, less 0.8 per cent for compensation provided in respect of the carbon price, plus another 1 per cent for productivity increases. For all modern award wage rates below the C10 level, ACCER proposed a flat dollar increase equal to the C10 increase as a dollar figure. It argued that a flat dollar increase for employees at these classifications would counter the “emerging gap at the lower end of the wage scale.”64

[116] In respect of the NMW, ACCER proposed an increase commensurate to the flat dollar increase for employees below the C10 level, plus a further $10.00 per week, to assist low-paid employees, and their families, who live in poverty.65 In its submission in reply, Ai Group opposed ACCER’s proposal for a further $10.00 increase to the NMW on the basis that it would interfere with the outcome of the structural efficiency principle which is reflected in the modern award classification structures, and may lead to disputes during bargaining negotiations.66

Other Proposals

[117] The submissions of the Australian Government and the various state governments were generally silent on the quantum of any change to the NMW or modern award minimum wages.

[118] The Australian Government supported “a fair and economically responsible increase” in modern award wage rates and the NMW and submitted that any increase should take account of changes in living costs and the economic environment since the last review, as well as the domestic and global economic outlook in the short to medium term.

[119] The New South Wales, Victorian and Queensland Governments all urged the Panel to take a “cautious approach” to the Review. The New South Wales and Victorian Governments submitted that any increase must have regard to prevailing economic conditions and ensure that incentives to employ entry level employees are not diminished. The Queensland Government took a similar position and submitted that there was “limited scope” for wage increases in light of: the deterioration of the economic outlook over the course of 2012–13; the likelihood of softening global demand; the continuation of a high Australian dollar; low inflation; and an underperforming labour market.

[120] The Western Australian Government supported a “reasonable and equitable adjustment” that balanced “economic and labour market considerations; the need for an employee safety net; and the capacity for employers to pay for wage adjustments”.

26 Chapter 3—The Parties’ Proposals
The South Australian Government submitted that the Panel should increase minimum wages taking into account the current economic context and the need to ensure that the real value of minimum wages is maintained over time.

The HR Nicholls Society Inc. submitted that there should be no increase in the NMW, because it was both ineffective and inefficient as a welfare measure to assist low-wage earners, and that the Panel should recommend to the Australian Government that the NMW be scrapped. In relation to the latter submission, our role is to give effect to Parliament’s intention as set out in the Act, and legislative changes of the type advocated by the HR Nicholls Society Inc. involve policy considerations which are a matter for Parliament, not the Panel.

4. The Economy

As part of the minimum wages objective, the Commission must establish and maintain a safety net of fair minimum wages and must take into account the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth.

The modern awards objective requires the Commission to take into account the need to promote flexible modern work practices and the efficient and productive performance of work; the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

In this Chapter, we consider:

- recent economic performance of the Australian economy:
  - economic growth, at an aggregate level and at an industry level;
  - productivity and real unit labour costs;
  - business competitiveness and viability;
  - inflation;
  - wages growth; and
  - labour market activity, at an aggregate level and at an industry level;

- small business;
- the award-reliant industries;
- the economic outlook; and
- structural change in the Australian economy

In paragraphs [153]–[159] we have set out a number of key statistical concepts and their relationships to each other, which are important in understanding the
measures of productivity and real unit labour costs and which are relevant to the concepts when considered in other parts of this Chapter.

**Recent economic performance**

**Economic growth**

[127] GDP grew at 3.1 per cent over the year to the December quarter 2012. This was a little less than the 4 per cent growth to the December quarter 2011. Real net national disposable income (RNNDI) experienced stronger growth relative to real GDP over the decade to the December quarter 2012, mainly due to growth in the terms of trade (Chart 4.1). However, a decline in the terms of trade since the September quarter 2011 has reduced the cumulative gap between real GDP and RNNDI. Since mid 2011, RNNDI has barely changed, while GDP has grown by 5 per cent.

**Chart 4.1: RNNDI, real GDP and the terms of trade**

[128] The Australian economy has outperformed the average of the OECD major seven countries in terms of quarterly GDP growth since the second quarter of 2011. This was particularly evident in the December quarter 2012, when GDP across the OECD major seven countries fell by 0.1 per cent, with output declining in Germany, France, Italy and the United Kingdom (Chart 4.2).
There was some debate about the extent to which aggregate growth was driven by the mining sector and the extent of growth in output in other sectors of the economy. Data for gross value added by industry, which provides information about the sectoral contribution to aggregate growth, reveals diversity over the past year. Chart 4.3 shows the average annual percentage change in gross value added by industry over the year and over the decade to the December quarter 2012. The industries with the highest growth over the year to the December quarter 2012 were Mining (10.2 per cent); Administrative and support services (7.8 per cent); Health care and social assistance (6.4 per cent); and Wholesale trade (6.4 per cent). In contrast, gross value added fell in Agriculture, forestry and fishing (–9.5 per cent); Manufacturing (–2.2 per cent); Information media and telecommunications (–2.1 per cent); and Arts and recreation services (–1.9 per cent). Over the year to the December quarter 2012 growth in gross value added across more award-reliant industries was mixed.

Note: Data for Japan measure real gross national product.
The differential growth in gross value added between industries evident over the past decade reflects structural change in the economy, driven particularly by the resources boom and a shift in community spending toward services such as those provided by the Health care and social assistance industry.

The impact of the resources boom is discussed in a paper by the Reserve Bank of Australia, *The Resources Boom and the Australian Economy: A Sectoral Analysis* (the RBA Bishop et al Paper). The RBA Bishop et al Paper noted the genesis of the resources boom in the rapid urbanisation and industrialisation of emerging economies in Asia (particularly China) which led to a dramatic increase in the global demand for commodities and, given short-term supply constraints, significant increases in commodity prices.

The rapid increase in commodity prices from 2003–04, which peaked in late 2011, is reflected in Chart 4.4.
The resources boom was characterised in the RBA Bishop et al Paper in three overlapping phases:

- Rising commodity prices, resulting in Australia’s terms of trade increasing significantly over a number of years, accompanied by a sizeable appreciation of the exchange rate. The terms of trade had risen by 82 per cent from 2003–04 to reach its highest level on record in September 2011. The nominal exchange rate has appreciated by around 25 per cent in trade-weighted terms since 2003–04. The phase of strongly rising commodity prices has passed, with the terms of trade having peaked in late 2011; although it still remains at a high level, as is evident from Chart 4.4.

- The surge in investment in the resources sector which has been in progress for some years and still has some way to run, with resource investment expected to peak as a share of GDP sometime over the course of this year, but remain quite high for a time.

- Increased production and export of resources has also commenced but has much further to run, especially in the case of liquefied natural gas, for which investment takes place over a number of years before production comes on stream.
The RBA Bishop et al Paper examined the impact of the resources boom on the Australian economy in terms of three broadly defined sectors:

- the resources sector (resource extraction sector and “resource-related” activity);
- the “other tradeable” sector (significantly exposed to international trade but not directly related to the resources sector—agriculture, manufacturing, transport, wholesale trade and accommodation and food services); and
- the “non-tradeable” sector (which does not have a significant exposure to international trade, and in which production is not directly linked to the resources sector).

The other tradeable sector includes only one of the five industries with the highest proportion of award-reliant employees—Accommodation and food services. The Administrative and support services; Retail trade; Other services; and Rental, hiring and real estate services industries are within the non-tradeable sector.

The RBA Bishop et al Paper concluded that the overall process of macroeconomic adjustment to the rise in the terms of trade since 2003–04 has occurred relatively smoothly, with inflation remaining consistently within the RBA target band, unemployment remaining relatively low and output growing at close to trend rates. However, it identifies differential outcomes between the three broad sectors identified, noting that those parts of the tradeable sector not directly exposed to the terms of trade boom have experienced a reduction in competitiveness due to the exchange rate appreciation, and all industries have faced increased domestic cost pressures due to competition for domestic factors of production.78

The differential impact, in respect of growth in real gross value added between the resources, other tradeable and non-tradeable sectors, is reproduced from the RBA Bishop et al Paper in Chart 4.5.
Productivity and real unit labour costs

[138] GDP per capita, labour productivity, the wage/profit share and unit labour costs are aspects of the Australian economy that are routinely considered by the Panel in annual wage review proceedings. Many parties also provided data and discussion on these measures. The recent data related to these measures are included in the Commission’s *Statistical Report—Annual Wage Review 2012–13* (Statistical Report).

[139] We make two general observations about productivity and related measures.

[140] First, the term productivity, as used in the Act, is directed to the economic concept of the quantity of output relative to the quantity of inputs. Considerations of the price of inputs, including the cost of labour, raise separate statutory considerations relating to the performance and competitiveness of the national economy and other economic considerations, such as inflation.

[141] Second, the various productivity, factor share and unit labour cost series mostly have a settled relationship with each other and with other measures of economic prosperity and real wage growth. But the large rise (and volatility) in the terms of trade associated with the resources boom has disturbed many of these relationships, adding further complexity to issues concerning productivity. This requires us to examine more closely how and why the measures are diverging and what the preferred measures are in terms of setting minimum wages.

[142] Productivity and related measures require consideration in minimum wage fixation for several reasons.
First, the modern awards objective requires the Panel to take into account the likely impact of its decision on business, including on productivity, and the minimum wages objective requires the Panel to take into account the performance and competitiveness of the national economy, including productivity. These statutory requirements have a different focus. In the first instance the focus is on the effect of the review outcome on business and in the second instance, the focus is on consideration of the performance of the national economy.

Second, in the medium to long term, growth in real income, including real wages, depends largely on productivity growth. Whilst the historically high terms of trade in recent years has supported increased real national incomes, over time real wages growth is underpinned by productivity growth. To the extent that productivity growth is reflected in average real wages growth, it will be a relevant consideration for minimum wage fixation because of the requirement in both the modern awards and minimum wages objectives to take into account the relative living standards and needs of the low paid.81

Third, productivity has been the subject of submissions made in the current review. The ACTU and ACCER in particular have contended that those paid modern award minimum rates have not shared in productivity growth over the past decade and they have proposed increases, in part, directed to ensuring that award-reliant workers benefit from Australia’s productivity growth.82 Further, the ACTU submitted that:

- the labour share of national income was roughly steady in the 1990s, and has fallen since 2000;83
- the fall in labour’s share means real hourly labour income has not kept pace with labour productivity over the period—wages and productivity have “decoupled”84 and this is ongoing;85 and
- the increase in minimum and award wages it supports will ensure that low-paid workers receive some benefit from productivity growth and will help to maintain their relative living standards.86

ABI submitted that inadequate attention has been given in the past to the role of capital deepening in causing changes in productivity, factor incomes and unit labour costs.87 Capital deepening (or capital intensity) entails an increased stock of capital per worker.

Before considering the arguments of the parties, it is useful to begin with an account of what these key concepts measure, and how they are related. We have done so because they are relevant for our purpose, they are used by the parties, and they are not always clearly understood.
[148] GDP measures the volume of goods and services produced. It is a real measure. That is, the gross value added of each component of the economy is deflated by a price index constructed for that component. These price indices capture the prices paid and received by producers, including exporters. They are “producer prices”.

[149] A weighted value of the price indices is used to construct the “GDP deflator”, which therefore is also a measure of producer prices.

[150] RNNDI measures the purchasing power of the income generated by domestic production. It is the best measure of the incomes available to Australians arising from their productive efforts in the year in question. It adjusts GDP to include the increased purchasing power arising from improvements in the terms of trade (or declines arising from falls in the terms of trade). It also deducts depreciation of the capital stock and net income flowing overseas. In recent times, most of the divergence between GDP and RNNDI has arisen from changes in the terms of trade, although there has been some increase in amounts of depreciation.

[151] Chart 4.6 provides a comparison of quarterly movements in trend GDP and RNNDI. During the December 2012 quarter, seasonally adjusted RNNDI decreased –0.1 per cent. Growth over the past four quarters was 0.3 per cent, compared with 3.1 per cent for GDP. The chart shows that RNNDI is considerably more volatile than GDP.

**Chart 4.6: GDP and RNNDI—Quarterly percentage changes**

Note: Trend measures are presented.
Chart 4.7 shows the cumulative growth in GDP and RNNDI, both expressed in per capita terms. RNNDI has increased by 9.4 percentage points more than GDP over the past decade, which is the equivalent of almost three years of average growth in GDP.

**Chart 4.7: RNNDI per capita and GDP per capita, index**

Note: RNNDI takes into account the impact of changes in prices of exports relative to imports, the real impact of income flows between Australia and the rest of the world, and the consumption of fixed capital. Income flows between Australia and the rest of the world are fairly smooth over time and changes tend to have little impact on short-term movements in RNNDI. The consumption of fixed capital tends to stall growth in RNNDI, but for the most part, the impact on short-term movement is small.


[153] Gross value added measures the difference between the value of the output of enterprises and the costs of the inputs of goods and services that they use to produce this output. Gross value added is paid out as wages to the labour and returns to the capital employed in the enterprise. GDP is the sum of gross value added across the economy, and is a real, or volume, measure. That is, it is calculated after taking account of any changes in prices. For the purposes of measuring the performance of the economy, the sum of gross value added for enterprises operating in the market sector is often used.

[154] Productivity is the quantity of GDP produced per unit of labour and/or capital used. Productivity is a real, or volume, measure.

[155] Labour productivity is total GDP divided by total hours worked (by employees and the self-employed and employers).
[156] Multi-factor productivity is a measure of the market sector and uses gross value added rather than GDP as the denominator. It is total GVA divided by a weighted measure of hours worked plus capital used.

[157] Unit labour costs is a measure of the total compensation paid to employed persons divided by GDP and includes costs such as employer contributions to superannuation, bonuses and occasional payments, in addition to wages and salaries. It includes all employees (managerial and non-managerial). It also includes a value imputed to the hours worked by the self-employed, which is imputed as the average wage for the industry they are in. Unit labour costs will remain constant if the average cost of labour (in current dollars) rises at the same rate as productivity. If unit labour costs is rising then the costs of employing labour are rising faster than productivity, and there is pressure on employers to raise their prices.

[158] Real unit labour costs is the total compensation paid to the employed, divided by the nominal value of GDP (i.e. GDP multiplied by the implicit GDP deflator). If real unit labour costs remains constant, then the labour share of output will remain constant and the real cost of a unit of labour is rising at the same rate as labour productivity.

[159] Real wages (measured as WPI, AWE, or AWOTE) are calculated by adjusting nominal wages (derived from surveys) by the CPI. This differs from the price index used in calculating productivity and unit labour costs (i.e. the implicit GDP price deflator and its components).

[160] In understanding changes in productivity, labour’s share of income and the costs of employing labour, we need to keep in mind that:

  - RNNDI has been moving differently than GDP for at least the past decade, as the terms of trade first rose then, in the last 18 months, fell; and
  - the prices facing producers (on which measures of GDP, labour productivity and real unit labour costs are based) have been moving differently than the prices facing consumers (on which real wage measures are based). In particular, producers of mineral resources have seen large rises in the prices that they receive while consumers (and producers) have seen falls, or low rates of increase, in the prices they pay for imported goods. In summary, until mid 2011, real incomes in Australia have been rising faster than real output, and producer prices have risen faster than consumer prices. Both of these differences arose from the rise in the price of exports compared with imports—the terms of trade.

[161] It is against this background that we assess the ACTU submission that the labour share of national income has fallen since 2000, with the decoupling of wages
and productivity, which in part supports its claim that low-paid workers should receive some benefit from productivity growth.

[162] In our view, it is not sufficient to identify a decoupling of wages and productivity, particularly in the context of the extraordinary increase in Australia’s terms of trade. It is necessary to ascertain the relevant implications for minimum wage fixation.

[163] In assessing the ACTU contention it is important to recognise that the recent relationship between wages and productivity is a complex story, given:

- the divergence between producer prices and consumer prices associated with the significant recent escalation in Australia’s terms of trade;

- the implications of capital deepening and changes in the ratio of capital and labour inputs (where profitability rather than profit shares may provide better guidance as to the returns to capital);

- the widespread incidence of declining labour shares of the national incomes in developed economies and the implications of capital widening and deepening over the recent decades; and

- productivity, factor share and unit labour costs series, both in aggregate or by sector, are measured across the workforce as a whole rather than simply for award-reliant employees.

[164] The Panel posed a number of questions in the consultations in relation to these productivity issues, including seeking comments on an article by Mr Dean Parham. In the article, Mr Parham set out some of the complications in assessing real wage growth over the past decade, arising from the strong rise (and recent fall) in the prices of resources exports. He noted that real wage growth has not kept pace with growth in labour productivity, and that “it matters for both equity and Australia’s economic performance that labour shares proportionately in the gains from growth in productivity and prosperity”. However, he also contended that, while the labour share of income has fallen, the real purchasing power of wages has risen. The key to this apparently contradictory combination is that the prices faced by wage earners for the goods and services they purchase (consumer prices) have risen more slowly than the prices received by producers (especially by minerals exporters). He argues that expected future falls in the international prices of minerals will cause the “real (product) wage-productivity gap [to] narrow”.

[165] The ACTU, in response to those questions, conceded that part of the gap is explained by divergence between price indices but argued that labour had not been fully compensated for the growth gap when measured by its preferred consumer price measure (the Living Cost Index) and that when the 1990s are included the size of the gap is the same whether consumer or producer prices are used. Further, whilst the
ACTU agreed that at least some of the fall in the labour share in the past decade came about due to the mining boom, it submitted that it is explained predominantly by falls of the labour share within particular industries.95

[166] A number of other responses, those of Ai Group and ABI in particular, highlighted the complexity of the relationship between productivity and factor shares and cautioned against drawing firm conclusions as to that relationship and the implications for minimum wage fixation on the basis of the information before us.

[167] We appreciate that a gap exists between increases in modern award wages and productivity growth over the past decade which is a relevant consideration in fixing minimum wage rates. However, we are not confident that the forces behind that phenomenon, or the effect on factor shares in the event of a reversal of the divergence between consumer and producer prices in the future, have been adequately explored nor have the implications for minimum wage fixation been clearly identified. However, we have considered recent movements in productivity and the relative living standards of the low-paid in adjusting minimum wages in the current review. We do not propose, on the information currently before us, to draw conclusions about that gap for the purpose of our current determination. In the 2013–14 annual wage review, we will invite further submissions on the implications of the fall in the labour share of national income over the last decade for minimum wage fixation within the statutory parameters applying to the review.

[168] Ai Group urged the Panel to pay greater attention to the recent rise in real unit labour costs, submitting that “[r]eal unit labour costs is the measure that needs to improve [i.e. fall], if we are to see a lift in the relative value of output per worker and therefore a lift in Australia’s international competitive position.”96 We are not persuaded that it is logical to imply that economic progress in Australia depends upon a continuing fall in the labour share of income (as their submission appears to do)—the end result of this would be that nearly all of GDP goes to capital. Further, Ai Group provided no evidence that real unit labour costs (and labour’s share of income) are too high. The productivity of both labour and capital can rise without a change in the share of income between wages and profits. Rising productivity is only one of a number of factors—the most prominent being the exchange rate—that can influence “Australia’s international competitive position”.

[169] Chart 4.8 presents the annual changes in productivity from the December quarter 2002 to the December quarter 2012 in trend terms. Productivity is defined as GDP per hour worked for “all sectors” and gross value added per hour worked for the “market sector”. GDP per capita is also included in the chart. Short-term measures of productivity should be interpreted with some caution as productivity is best measured over a business cycle.

[170] Over the year to the December quarter 2012, labour productivity increased by 2.9 per cent, as measured by GDP per hour worked in trend terms (1.4 per cent over the year to the December 2011 quarter). As measured by gross value added in the
market sector per hour worked, labour productivity rose by 2.4 per cent over the year to the December 2012 quarter (2.2 per cent over the year to the December quarter 2011). As measured by GDP per capita, labour productivity rose 1.2 per cent over the year to the December 2012 quarter (1.4 per cent over the year to the December 2011 quarter). Annual growth in each measure fell in the December 2012 quarter, although added caution is required in considering quarterly movements.

Chart 4.8: Measures of productivity—Annual growth rates

![Chart showing annual growth rates of GDP per capita, GDP per hour worked, and gross value added per hour worked—market sector.]

Note: Data are in trend terms. Gross value added measures the value of output at basic prices minus the value of intermediate consumption at purchasers’ prices. The series “Gross value added per hour worked—market sector” has been introduced by the ABS from the September quarter 2011, and replaces the “GDP per hour worked—market sector” series. The market sector includes all industries except for Public administration and safety, Education and training and Health care and social assistance.

[171] We are required by s.134(1)(f) of the Act to have regard to the likely impact of our decision on business, including on productivity. Limited submissions and evidence were put to us in relation to this specific consideration.

[172] A report to the United Kingdom’s Low Pay Commission examined the longitudinal impact of the United Kingdom national minimum wage on firm productivity. The report found that the introduction of the national minimum wage in the United Kingdom resulted, overall, in an improvement in total factor productivity in low-paying sectors, with substantial heterogeneity across and within sectors, including firm-size groups, with stronger effects in larger firms.

[173] OECD research across OECD countries concluded that a higher minimum wage is likely to encourage greater investment in labour-saving innovations and firm-sponsored training in the long run, although the impact is small.
The evidence before us is limited and is not directed to the impact of minimum wage increases arising in the context of the annual wage review in Australia. The United Kingdom research, for example, assesses the impact of the introduction and adjustment of the national minimum wage in the United Kingdom, rather than incremental increases in long established minimum wages through (currently) the annual wage review in Australia.

There is no evidence that minimum wage increases arising out of the annual wage review will have an adverse impact upon productivity, at an aggregate level or at the firm level. The limited evidence before us suggests that minimum wages increases are more likely to stimulate productivity measures by some employers directly affected by minimum wage increases.

**Business competitiveness and viability**

The profits and wages shares of national income represent the returns to capital and labour, respectively, in the process of production. Over the decade to the December quarter 2012, the profits share decreased by 0.8 percentage points while the wages share increased by 0.5 percentage points (Chart 4.9). The profits share fell by 2.3 percentage points over the year to December 2012, to be 26.3 per cent. The wages share increased by 2.2 percentage points over the year, to be 54.8 per cent.

**Chart 4.9: Profits and wages shares of total factor income**

![Profits and wages shares of total factor income](image)

Note: Total factor income represents the value added by labour and capital in the process of producing GDP.
Gross mixed income, which is the return to unincorporated enterprises, is the third element in total factor income (in addition to the wages and profit share shown in Chart 4.9). As defined by the ABS, gross mixed income “includes elements of both compensation of employees (returns on labour inputs) and operating surplus (returns on capital).” The share of gross mixed income will vary if there are changes in the level of incorporation of enterprises and this in turn will affect the wage and profit shares. The ACTU and ACCI have disagreed in their submissions about how shifts in the share of gross mixed income will affect the wage/profit share. The ABS definition supports the ACTU proposition that a distribution of the returns to labour and capital within gross mixed income is necessary in assessing changes in the distribution of national income between labour and capital, in the context of changing levels of incorporation of business. A simple way to resolve this debate is to concentrate on real unit labour costs. These are calculated by the ABS as total compensation of employees divided by nominal GDP. The ABS includes an imputed wage to proprietors of unincorporated enterprises in the measure of compensation of employees. Changes in real unit labour costs are virtually the same as changes in the wage/profit share in the case where all of factor income is allocated to either wages or profits.

Chart 4.14 (at paragraph [226]) shows the changes in nominal and real unit labour costs over the 10 years to December 2012. Real unit labour costs fell for much of the period, reaching a low in mid 2011 of around 94 per cent of its value at the start of the decade. Since then they have risen by 3 per cent. We note that part of the rise in 2012 was caused not by an increase in wage costs, but by a decline in the GDP deflater, of –1.5 per cent, that is used to produce nominal GDP. A lower value of the GDP price index leads to nominal GDP falling relative to real GDP and a fall in the nominal GDP value that is the denominator in the real unit labour cost calculation. It does not reflect rises in the cost of employing labour, but rather a reduction in the nominal value of the output they produce.

For the non-mining industries, company gross operating profits rose by 2.4 per cent over the year, although they increased by only 0.1 per cent in the December quarter. For all industries, including Mining, quarterly growth in company gross operating profits was negative across all quarters of 2012 to be 7.6 per cent lower over the year (Chart 4.8). Company gross operating profits in Mining fell by 3.7 per cent in the December quarter 2012 to be 26 per cent lower over the year.
Ai Group noted that manufacturing corporate profits fell 6.3 per cent in the December quarter 2012, to be 13.3 per cent lower than a year earlier, even though output volumes were relatively steady, with manufacturing profits falling since June 2010. The ACTU attributed the decline in profitability in the Manufacturing industry to pressure for structural change arising from the elevated exchange rate. Further, it submitted that the Manufacturing industry is not representative of the more award-reliant industries and that profits as a proportion of sales for the Retail trade and Accommodation and food services industries were higher in 2012 than in the mid 2000s and have been more or less stable for several years.

Business bankruptcy rates are defined as the number of business-related bankruptcies divided by the number of self-employed and employers in the economy. Over the first half of the decade to 2011–12 these rates fluctuated between 0.3 and 0.4 per cent, before increasing to a peak of 0.44 per cent in 2011–12.
The limited evidence before us in relation to business closures and bankruptcies does not suggest deterioration in economic conditions. The information relied on by the VACC as to the number of business closures in the automotive industry, drawn from the 2013 Automotive Environmental Scan Survey, does not suggest changed levels of business closures in the sector. Nor does it relate closures to economic conditions, with the rate of business closures expected to escalate over the coming years as a result of the ageing profile and retirement intentions of many business operators. The VACC submission in relation to insolvencies in the broader economy did not provide evidence of the trend in the level of insolvencies over time. Whilst economic conditions are cited as the main reason for business-related personal insolvency (in 40 per cent of cases), there are a range of reasons given, including personal reasons such as ill health and lack of business ability.

ABS business survival data show that while the number of businesses declined in 2008–09, the number of businesses grew by 3.6 per cent in 2009–10 and 0.4 per cent in both 2010–11 and 2011–12. Survival rates for businesses operating in the Accommodation and food services industry remains the lowest of all private sector types, but this reflects the “churn” of business within the industry evident in relatively high entry and exit rates rather than evidence of more difficult economic conditions for the industry. The entry rate exceeded the exit rate in the Accommodation and food services industry in each of the past three years. The exit rate in the Accommodation and food services industry of 15.8 per cent in 2011–12 is the lowest level recorded in any of the past four years.

Submissions by employer organisations raised a range of cost pressures for businesses to which we were urged to have regard in determining increases in the NMW and minimum award rates. Many submissions from employer organisations listed a range of competitive circumstances which they contended warrant no or a limited increase in modern award minimum wages. For example, Master Grocers Australia Limited (MGA) recommended that the Panel make no increase to minimum wage rates for award-reliant employees on the basis that it is not economically feasible for the independent supermarkets and liquor stores to sustain a further increase to minimum wage rates on the basis of a range of factors impacting upon the commercial environment in which smaller independent retailers operate.

Such issues were raised at two levels: as a relevant consideration in determining general outcomes; and as one consideration in the context of submissions advocating an award-by-award approach to the adjustment of minimum wages in modern awards. We have dealt with the latter aspect in Chapters 2 and 10.

Before addressing some of the specific matters raised, we make some general observations about the identification of particular matters affecting the competitiveness and viability of employers in particular sectors of the economy.
[188] First, specific factors will impact differently on different sectors of the economy and on different employers within them. As an example, whilst the structural change associated with the resources boom has impacted adversely on the trade-exposed non-resources sectors, it has brought benefits to some non trade-exposed sectors which benefit from the favourable impact of increasing national income.

[189] Second, the focus upon the negative impact of specific circumstances on particular sectors provides only a partial perspective. For example, whilst ARA submitted that personal savings are at record levels and the ANRA submitted that the household savings rate remains at historically high levels, having a prolonged negative impact on retailers, no reference was made to the favourable impact of the relatively high terms of trade on national income and its beneficial effect on consumption. The increase in household saving, from around zero since the mid 2000s to around 10 per cent over recent years, occurred at a time when the terms of trade was driving significant increases in national incomes so that, despite higher levels of saving out of income, consumer spending remained at similar levels.

[190] It should also be noted that the proposition that personal savings are at record levels and remain at historically high levels is not accurate, as is clear from Chart 4.9.

**Chart 4.11: Household saving ratio—March quarter 1970–December quarter 2012**

Note: Data are seasonally adjusted. As defined by the ABS, household saving ratio is the ratio of household net saving to household net disposable income. Household net saving is calculated as household net disposable income less household final consumption expenditure. Household net disposable income is calculated as household gross disposable income less household consumption of fixed capital.
As noted by RBA Governor Glenn Stevens, and cited in the 2011–12 Review decision, to the extent that there is an historical norm in respect of the household saving ratio, it is much more likely to be 10 per cent or more rather than the zero level it reached in 2004, and spending is growing in line with income. Indeed, the exceptionally low household saving ratio of the mid 2000s was abnormal. Reinforcing our point about the selective focus upon the negative impact of specific circumstances in some submissions, we are unable to identify any submissions from retail organisations to the Safety Net Reviews or Wage & Allowances Reviews of the mid 2000s which drew attention to the abnormally low level of saving of that time and its favourable effect on retail demand, despite growth in real gross value added in the Retail trade industry exceeding growth in real GDP in the early-to-mid 2000s. In this context, we note that the latest retail data show that turnover rose 3.2 per cent in the year to March 2013—faster than the rate of inflation.

In our view, for the purpose of determining general minimum wage outcomes, the economic impact of industry specific factors will best be reflected in the aggregate economic indicators—such as economic growth, labour market outcomes, and profitability—both at an aggregate and industry level. The broader economic data reflect the effects of the many relevant factors on economic conditions. Better guidance as to recent retail demand is found from the growth in gross value added of 3.2 per cent over the year to the December quarter 2012 for Retail trade and the information showing variation in growth in output between sectors in the industry.

ABS retail sales data recorded growth in retail turnover of 3.2 per cent over the year to the month of March 2013, and 3.7 per cent between the March quarters of 2012 and 2013. Growth in turnover varied between sectors within the retail sector, from 1.1 per cent for other retailing through to 5.2 per cent for food retailing on the quarterly data. Retail turnover reflects both price and volume changes. Quarterly volume estimates showed growth of retail turnover of 3.6 per cent between the March quarters of 2012 and 2013, using seasonally adjusted data, ranging from 1.8 per cent in the cafes, restaurants and takeaway food services sector, to 5.6 per cent in the household goods sector.

Employer groups noted that businesses will be facing higher costs due to the next phasing and transitioning to modern awards, beginning on 1 July 2013. The Australian Government also submitted that the current review of modern awards may affect wage rates in awards. ACCI noted that the transition to modern awards has the greatest effect for award-reliant businesses in services industry sectors.

At the aggregate level, we accept that some employers, most directly affected by minimum wage increases, continue to face increases in labour costs arising from the transition to modern awards. However, the increased costs resulting from award modernisation have been taken into account by the AIRC in deciding upon the transitional provisions and operative dates in modern awards. Further, the impact will vary between awards and between states and specific award provisions within a particular award, with minimum award conditions in respect to some states and some
particular provisions reduced through the transitional provisions. There is no clear evidence before us as to a pattern or the extent to which the transition to modern awards is imposing additional costs on some employers. Whilst we are cognisant of, and will have regard to, the fact that the transition to modern awards is incomplete and will impose additional costs on some employers most directly affected by any outcome from the current modern awards review, in fixing minimum wages at an aggregate level we are required to take a broader view of the circumstances facing employers.

[196] A number of employer organisations referred to the Modern Awards Review 2012—Apprentices, Trainees and Juniors proceedings. The Housing Industry Association (HIA), for example, submitted that the combined effect of a minimum wage increase with any increase in the percentage of the tradesperson rate payable to an apprentice will have an impact on the financial viability of engaging new apprentices and retaining existing apprentices. The applications concerning apprentices, trainees and juniors are presently before a Full Bench of the Commission and no presumption can be made as to the outcome for the purposes of this Review. As Ai Group noted:

“The applications are being appropriately dealt with by a Full Bench of the FWC and there is nothing that the Minimum Wage Panel needs to do in this year’s Annual Wage Review regarding these applications.”

[197] The impact of the carbon price and rising energy costs were noted by many submissions. The Victorian Government submitted that the carbon price had a greater than expected negative impact on profitability and production costs for some sectors. For example, the AHA, R&CA and MGA noted that, as a result of the carbon price, businesses incurred increased energy costs. R&CA submitted that some businesses faced much higher cost increases (up to 75 per cent) due to the carbon price’s effect on energy costs, refrigerant maintenance and sundry supplier costs. The AHA argued that the carbon price had a significantly greater impact on costs and profitability in the hotel industry than estimated by Treasury.

[198] We accept that the carbon price introduced as part of the Clean Energy Future package has increased energy costs for employers. We deal with the increase in prices associated with the carbon price at paragraphs [211]–[219]. The carbon price was intended to alter relative prices in order to drive a structural change towards low emission-intensive products and production processes, and away from more emission-intensive sectors. In reporting the results of its modelling of the impact of the Clean Energy Future package, Treasury noted that “[w]hile impacts vary widely across industries, the broad sectoral effects are small compared to the normal variation over time driven by productivity, the terms of trade or changing tastes.” Treasury’s estimation of the impact of the carbon price on CPI (a 0.7 per cent increase) also assumed that most of the increase in costs to businesses would be passed on in higher prices. In this context, the proposition that minimum wage outcomes should be moderated to offset increased energy costs of employers is flawed. An attempt to offset intended price effects on employers through lesser wage outcomes would be
inconsistent with the intended structural change. In any case, the impact of increased energy costs will vary from industry to industry and from employer to employer. In our view, the aggregate economic impact of measures such as the Clean Energy Future package are better considered in terms of the broader economic information to which we have regard, which reflects the effects of a variety of factors acting on economic conditions, of which the “price on carbon” is one.

[199] Some employer groups highlighted the trend towards online shopping, which exposes businesses to increased competition and adversely affects the competitiveness and viability of businesses unable to cater for online shopping. Whilst the NRA focussed on the greater exposure to global competition, the MGA focussed on the inability of many independent supermarkets to provide for online shopping facilities when larger competitors, such as Coles and Woolworths, have implemented these facilities.

[200] Increased exposure to international competition arising from online shopping affects different retailers differently. Employers in sectors such as household goods retailing; clothing, footwear and personal accessories; department stores; and other retailing are more likely to face competition from overseas online retailers. Others, such as grocery and liquor retailing, are unlikely to face competition from retailers overseas. Further, online retailing will benefit those Australian employers able to sell their products overseas online.

[201] In respect of online grocery sales, the MGA acknowledged that online purchases represent an extremely small portion of overall grocery sales. The MGA concern is about the effect of online shopping as between their members (smaller independent grocers) and other domestic competitors who are benefitting from their entry into online sales. Again, online retailing impacts differently on different retailers. In addition, online retailing provides an enhanced and cheaper means for domestic producers (e.g. wineries) to sell directly to their customers.

[202] Online shopping is no doubt one element of the commercial environment in which the retail industry (and other industries) operate which affects their competitiveness. The growth in online retailing, as one element of the broader commercial environment, does not warrant particular consideration, in itself, in determining minimum wage outcomes, particularly given its varying effect upon different employers. The impact of online transactions, together with many other matters, will be reflected in various economic indicators to which we have regard in reaching our decision.
Inflation

[203] There are several measures which can be used to identify the nature of consumer price movements. The CPI measures changes over time in the prices of a “basket” of consumer goods and services, weighted to the expenditure patterns of the average household. Underlying inflation, measured as the average of the trimmed mean and weighted median, eliminates volatile items. Both measures assist with understanding the general trend in inflation.

[204] The ABS also produces a set of LCIs to estimate the average impact of price changes on the “out-of-pocket” living expenses experienced by particular household types. Chart 4.12 includes the LCI for employee households, for whom the principal source of income is wages and salaries.

[205] Growth in the LCI tended to slightly exceed CPI growth between 2002 and 2008 before the two series diverged, reflecting greater volatility in the LCI. The ABS attributes much of the difference between the measures to the fall in interest charges on mortgage debt and consumer credit—expenses which are not captured in the CPI for conceptual reasons. Employee households have a relatively higher proportion of expenditure on financial and insurance services than the average household, making the LCI more sensitive than the CPI to price changes in these items. In the decade to 2012, the LCI rose by 3.7 per cent more than the CPI.

[206] The CPI and the LCI each provides relevant information about changes in the purchasing power of wages. The LCI is specifically designed to measure changes in living costs of specific groups in the community including those for whom the principal source of income is wages and salaries, while the CPI is designed to measure inflation for the household sector as a whole. The LCI more directly focuses on the impact of price rises on wage earner households and is a broader measure of the costs facing wage earners since it includes the impact of mortgage interest and consumer credit payments. However, it is a more volatile measure. We think it is appropriate to have regard to each measure of inflation, noting the conceptual differences.

[207] The CPI increased by 0.4 per cent in the March quarter 2013 to be 2.5 per cent higher over the year. Some of the more significant contributors to CPI growth over the year to the March quarter 2013 were price increases in electricity (17.1 per cent); medical and hospital services (9.3 per cent); and rents (3.5 per cent). Annual changes in underlying inflation have remained within the RBA’s medium-term target band of 2–3 per cent since the June quarter 2010.

[208] The LCI for employee households increased by 0.2 per cent in the March quarter 2013 and by 1.7 per cent over the year, after increasing by 0.1 per cent in the December quarter 2012.
Inflation was subdued over the year to the December quarter 2012, falling within the lower half of the RBA’s medium-term target band of 2–3 per cent. This is most clearly seen in the measures of underlying inflation in Chart 4.12.

**Chart 4.12: Measures of inflation**

![Chart](image)

Note: Underlying inflation is the average of the trimmed mean and weighted median.

The quarterly and annual movements in the CPI based measures in Table 4.1 show volatility on a quarterly basis in the headline CPI measure, evident in the very low quarterly movements in late 2011 and early 2012, with the passing of the impact of adverse weather conditions in early 2011 on fruit and vegetable prices and in the jump in the September 2012 quarter increase, reflecting the impact of the Clean Energy Future package. That volatility is not evident in the weighted median and trimmed mean measures which remove the impact of the outlying price changes.
Table 4.1: Consumer Price Index and other consumer price measures

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Consumer Price Index</th>
<th>Underlying inflation measures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All groups</td>
<td>Excluding volatile items</td>
</tr>
<tr>
<td><strong>Quarterly Percentage Change</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sep-11</td>
<td>0.6</td>
<td>0.7</td>
</tr>
<tr>
<td>Dec-11</td>
<td>0.0</td>
<td>0.3</td>
</tr>
<tr>
<td>Mar-12</td>
<td>0.1</td>
<td>0.4</td>
</tr>
<tr>
<td>June-12</td>
<td>0.5</td>
<td>0.4</td>
</tr>
<tr>
<td>Sep-12</td>
<td>1.4</td>
<td>1.3</td>
</tr>
<tr>
<td>Dec-12</td>
<td>0.2</td>
<td>0.3</td>
</tr>
<tr>
<td>Mar-13</td>
<td>0.4</td>
<td>0.4</td>
</tr>
<tr>
<td><strong>Year Ended Percentage Change</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sep-11</td>
<td>3.4</td>
<td>2.3</td>
</tr>
<tr>
<td>Dec-11</td>
<td>3.0</td>
<td>2.6</td>
</tr>
<tr>
<td>Mar-12</td>
<td>1.6</td>
<td>2.0</td>
</tr>
<tr>
<td>June-12</td>
<td>1.2</td>
<td>1.8</td>
</tr>
<tr>
<td>Sept-12</td>
<td>2.0</td>
<td>2.4</td>
</tr>
<tr>
<td>Dec-12</td>
<td>2.2</td>
<td>2.4</td>
</tr>
<tr>
<td>Mar-13</td>
<td>2.5</td>
<td>2.4</td>
</tr>
</tbody>
</table>

[211] ACCI and Business SA noted that the introduction of the carbon price in July 2012 resulted in a significant increase in consumer prices in the September quarter 2012.\textsuperscript{151} The Australian Government submitted that:

“The September and December quarter CPI outcomes provide evidence that there has been no significant broad-based increase in consumer prices following the introduction of the carbon price on 1 July 2012. The results are consistent with Treasury modelling, which forecasts the CPI to increase by 0.7 per cent over 2012–13 due to the introduction of the carbon price, with much of the impact occurring in the September quarter 2012.”\textsuperscript{152}

[212] A number of submissions contended that the increase in award rates of pay in the 2011–12 Review decision overcompensated workers for a projected increase in inflation which did not eventuate. ACCI, AFEI and ABI submitted that households were overcompensated for the projected increase in inflation caused by the carbon price and that the Panel should factor in the extent of this overcompensation, arguing that actual inflation was below that expected.\textsuperscript{153} The ACTU argued that inflation would have been lower in the absence of the carbon price, but added that it is not possible to calculate the precise difference that the carbon price has made to the rate of inflation.\textsuperscript{154} The Australian Government submitted that minimum wages should not be
used as an avenue to provide assistance for the carbon price in 2013 due to the specific compensation provided through the Household Assistance Package.\textsuperscript{155}

[213] The Panel considered the impact on the CPI of the introduction of a price on carbon and assistance to employees to compensate for those price effects in the 2011–12 Review decision.\textsuperscript{156} The Panel decided not to provide additional assistance to compensate for the anticipated price effects associated with the introduction of a price on carbon in light of the compensation provided through tax cuts and transfer payments, abstracting the projected 0.7 per cent increase in the CPI from its deliberations. Nothing has been put to us in the current proceedings which causes us to alter our view. We have abstracted the carbon price effect from the published figures in considering past inflation for the purpose of the current review.

[214] It was contended that the increase in award rates of pay in the 2011–12 Review decision overcompensated workers for a projected increase in inflation which did not eventuate.\textsuperscript{157} It was argued that any increase awarded by the current annual wage review should be reduced to the extent of this overcompensation. Such a reduction was factored into the $5.80 increase advocated by ACCI and several other employer organisations.

[215] In this respect ACCI submitted that:

“Fair Work Australia’s decision in the 2012 Annual Wage Review to award a +2.9 per cent increase in the minimum rates of pay on 1 July 2012 considerably exceeded that necessary to offset the rise in the cost of living over the preceding year. The consumer price index rose by only +2.0 per cent over the twelve months to the September quarter 2012. The effect of last year’s decision was to increase the real value of the minimum wage, at the expense in many instances of the livelihoods of small business operators. ACCI believes it is appropriate for the Fair Work Commission to factor in the extent of this overcompensation in the 2013 Annual Wage Review, especially in light of the marked divergence between actual inflation and expectations for inflation at the time of the decision.”\textsuperscript{158}

[216] Business SA supported this proposition, adding that the approach advocated was consistent with what it described as the 2009–10 Review decision\textsuperscript{159} “granting an increase to ‘catch up’ with the zero increase from the 2009 Wage-Setting Review and to maintain real wages”, effectively providing “for overcompensation having regard to March 2010 CPI data on the basis of maintaining real wages”.\textsuperscript{160}

[217] We, and past Panels, have taken into account both actual economic indicators and those that are forecast at the time of each decision. Of these, the actual indicators as reported tend to be the primary consideration because they are more reliable for the purpose of our statutory charter. However, it is also prudent and necessary to have regard to future projections that cast some light on the circumstances that are expected to apply during the period when any adjustment will operate, and beyond.
[218] We observe that, to the extent that the projections do not ultimately reflect the actual outcome, this forms part of the broad assessment and will be part of any consideration of the actual indicators at subsequent reviews. Importantly, when considering both actual and forecast indicators, the Panel pays particular attention to trends, rather than simply the reported rates at the time.

[219] Further, there is no basis for the underlying proposition that the Review should simply adjust minimum wages on the basis of maintaining real wages. Such an approach would not properly give effect to the Act. Putting aside the other statutory matters for a moment, the approach which underlies the submission of ACCI and others, ignores the fact that in the context of productivity growth and increasing community living standards, the maintenance of the real value of award wages alone would not adequately maintain relative living standards.¹⁶¹

Wages

[220] Various measures of wages growth are available:

- Wages Price Index (WPI): The methodology used to construct the WPI is similar to that used for other price indexes such as the CPI. The WPI is compiled using information collected from a representative sample of employee jobs, unaffected by changes in the quality or quantity of work performed, within a sample of employing organisations. As such, the WPI does not reflect composition change as employees move between jobs.¹⁶²

- Average weekly ordinary time earnings (AWOTE): AWOTE statistics represent average gross (before tax) earnings of employees and do not relate to average award rates or to the earnings of the “average person”. AWOTE measures earnings of full-time adult employees, attributable to award, standard or agreed hours of work (hence ordinary time earnings). Changes in the averages may be affected not only by changes in the level of earnings of employees but also by changes in the overall composition of the wage and salary earner segment of the labour force.¹⁶³

- Average annualised wage increases (AAWI) in collective agreements from the Trends in Federal Enterprise Bargaining report is based on data drawn from the Workplace Agreements Database, which is maintained by the Department of Education, Employment and Workplace Relations (DEEWR). The data cover federal enterprise agreements that provide quantifiable wage increases over the life of the agreement, calculated by summing the percentage wage increases to give a total percentage wage increase for each agreement and annualising the total percentage wage increase by dividing it by the effective duration. AAWI per employee is calculated by weighting AAWI per agreement by the number of employees covered by that agreement.¹⁶⁴
Each of the measures of wages growth is considered in Chart 4.13. The different basis of each measure should be borne in mind, with each measure showing different perspectives of wages growth. For example, the WPI shows wages growth for a given set of jobs and does not reflect changes in average wages resulting from compositional change. AWOTE incorporates changes in wages, on average, resulting from compositional change, for example, a greater incidence of higher paying jobs as well as increases in wages paid for a given job.

The seasonally adjusted WPI increased by 0.7 per cent in the March quarter 2013 to be 3.2 per cent higher over the year. For the award-reliant industries, over the year to the March quarter 2013 the WPI increased by 3.3 per cent in Administrative and support services, 2.7 per cent in Retail trade and 2.4 per cent in both Accommodation and food services and Rental, hiring and real estate services.

Annual growth in AWOTE, in original terms, ranged from 2.9 per cent to 6.1 per cent over the decade to the November quarter 2012. AWOTE increased by 3.5 per cent in the six months ending November 2012 and by 5.0 per cent over the year. Given the changes occurring in the Australian labour market, with a general shift to higher paying occupations, AWOTE (which reflects these shifts) usually rises faster than the WPI. This is apparent in Chart 4.13.

Chart 4.13: Measures of nominal wages growth, quarterly and cumulative percentage change

Note: The WPI is an index for total hourly rates of pay excluding bonuses in both private and public sectors. AWOTE estimates refer to full-time adult employees. AWOTE data are published biannually for the May and November months and a quarterly series is derived through linear interpolation. AWOTE data are expressed in original terms. AAWI measures the average percentage increase in the base rates of pay across registered agreements for the year. It does not take into account payments such as allowances, bonuses and increases linked to productivity.
The AAWI under new collective agreements lodged in the September quarter 2012 was 3.6 per cent and in the December quarter 2012 was 3.4 per cent. These outcomes were below the average of 4.1 per cent over the 10 years to the December quarter 2012. For the private sector, the AAWI for new collective agreements was 3.9 per cent in the September quarter and 3.4 per cent in the December quarter. For the public sector, the AAWI was 2.8 per cent in the September quarter and 3.3 per cent in the December quarter.\(^{167}\)

For the award-reliant industries, the AAWI for new collective agreements in the December quarter 2012 was 3.8 per cent in Administrative and support services, 3.4 per cent in Accommodation and food services, 3.0 per cent in Retail trade and 2.5 per cent in Rental, hiring and real estate services.

Nominal unit labour costs increased by 3.1 per cent annually, on average, between the December quarter 2002 and the December quarter 2012. More recently, nominal unit labour costs fell by 1.0 per cent in the September quarter 2012 before increasing by 0.9 per cent in the December quarter 2012 to be 0.8 per cent higher over the year (Chart 4.14). Between the December quarter 2002 and December quarter 2012, real unit labour costs fell by 2.9 per cent. Real unit labour costs increased by 0.9 per cent in the December quarter 2012 to be 1.9 per cent higher over the year.

Chart 4.14: Nominal and real unit labour costs, index\(^{168}\)
Labour market

[227] Employment increased by 1.4 per cent and aggregate monthly hours worked increased by 0.8 per cent over the year to April 2013 (Chart 4.15). Annual growth in employment peaked at 3.0 per cent over the year to November 2010 and has remained relatively subdued since late 2011. 169

Chart 4.15: Employment levels170

[228] Some parties argued that growth in aggregate employment over 2012 and early 2013 overstated the strength of labour demand, with employment growth over the year to February 2013 concentrated in part-time employment rather than full-time employment. 171 This is reflected in the faster growth of employment compared with hours worked that is apparent in Chart 4.15, and directly illustrated in Chart 4.16.

[229] Full-time employment increased by 1.2 per cent (96 200 people) and part-time employment increased by 2.0 per cent (68 000 people) over the year to April 2013 (Chart 4.16).
Chart 4.16: Full-time and part-time employment levels

[230] Average annual employment growth across all industries was 2.1 per cent over the decade to February 2013 (Chart 4.17). Some of the industries that experienced relatively high average annual employment growth between February 2003 and February 2013 were Mining (10.8 per cent); Health care and social assistance (4.3 per cent); Professional, scientific and technical services (4.2 per cent) and Electricity, gas, water and waste services (4.0 per cent). Average annual growth in employment declined over the decade to February 2013 in Manufacturing (–1.4 per cent); Agriculture, forestry and fishing (–0.7 per cent); and Information, media and telecommunications (–0.7 per cent).
The average annual growth in the number of employed persons by industry over the decade to February 2013 was highest in Health care and social assistance (47 600 people); Professional, scientific and technical services (31 000 people); Construction (26 500 people); and Education and training (22 300 people) (Chart 4.18). Of the award-reliant industries, average annual growth in the number of employed persons over the decade was highest in the Accommodation and food services (16 500 people) and Retail trade (8 900 people) industries. We note that while mining stands out as the industry with the fastest growth in employment, it ranks only fifth in terms of the number of additional persons employed over the decade (and sixth over the past year).

Over the year to February 2013, employment growth was highest in Wholesale trade (65 500 people); Accommodation and food services (58 700 people); and Education and training (58 000 people). Over the same period, employment fell in 10 of the 19 industry classifications, with the highest falls in Manufacturing (–28 900 people); Rental, hiring and real estate services (–25 500 people); and Other services (–23 700 people).
The RBA Bishop et al Paper, to which we refer at paragraph [131], shows shares of total employment between the resources, the other tradeables and the non-tradeables sectors (Chart 4.19). Whilst the rapid growth in the share of employment in the resources sector and the flattening of the share in the non-tradeables sector over the last decade coincide, it can be seen that the declining share of employment in the other tradeables sector, whilst affected by the resources boom, predates the rapid rise in commodity prices in 2003–04. It should be noted that the shares shown are shares of increasing total employment over the period shown.
Annual growth in aggregate hours worked was positive across most months over the decade to March 2013. Annual changes in hours worked fell during 2009 and in the second half of 2012. Monthly hours worked increased by 0.7 per cent in April 2013 and by 0.8 per cent over the year (Chart 4.20).
Table 4.2 shows that employment growth over the year to February 2013 was highest in Wholesale trade (16.5 per cent) and Transport, postal and warehousing (10.1 per cent). Hours worked over the year was also highest in these industries (14.3 per cent and 9.1 per cent, respectively). Relatively large falls in employment occurred in Electricity, gas, water and waste services (−11.6 per cent) and Rental, hiring and real estate services (−11.4 per cent). Hours worked also fell markedly in Electricity, gas, water and waste services (−16.2 per cent). Of the award-reliant industries, Accommodation and food services recorded the highest growth in employment (7.9 per cent) and hours worked (4.8 per cent) over the year.

Table 4.2:  Change in employment and hours worked by industry—February 2012–February 2013 (Percentage)

<table>
<thead>
<tr>
<th>Industry</th>
<th>Employment (%)</th>
<th>Hours worked (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesale trade</td>
<td>16.5</td>
<td>14.3</td>
</tr>
<tr>
<td>Transport, postal and warehousing</td>
<td>10.1</td>
<td>9.1</td>
</tr>
<tr>
<td>Accommodation and food services</td>
<td>7.9</td>
<td>4.8</td>
</tr>
<tr>
<td>Education and training</td>
<td>6.7</td>
<td>8.4</td>
</tr>
<tr>
<td>Mining</td>
<td>6.0</td>
<td>4.9</td>
</tr>
<tr>
<td>Professional, scientific and technical services</td>
<td>3.6</td>
<td>5.2</td>
</tr>
<tr>
<td>Health care and social assistance</td>
<td>3.4</td>
<td>1.8</td>
</tr>
<tr>
<td>Construction</td>
<td>1.4</td>
<td>2.5</td>
</tr>
<tr>
<td>Retail trade</td>
<td>0.9</td>
<td>−0.7</td>
</tr>
<tr>
<td>Arts and recreation services</td>
<td>−0.6</td>
<td>1.6</td>
</tr>
<tr>
<td>Administrative and support services</td>
<td>−2.0</td>
<td>−1.4</td>
</tr>
<tr>
<td>Public administration and safety</td>
<td>−2.6</td>
<td>−2.7</td>
</tr>
<tr>
<td>Information media and telecommunications</td>
<td>−2.7</td>
<td>−2.1</td>
</tr>
<tr>
<td>Financial and insurance services</td>
<td>−2.8</td>
<td>−5.5</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>−3.0</td>
<td>−1.4</td>
</tr>
<tr>
<td>Agriculture, forestry and fishing</td>
<td>−4.6</td>
<td>−2.7</td>
</tr>
<tr>
<td>Other services</td>
<td>−5.0</td>
<td>−6.5</td>
</tr>
<tr>
<td>Rental, hiring and real estate services</td>
<td>−11.4</td>
<td>−6.9</td>
</tr>
<tr>
<td>Electricity, gas, water and waste services</td>
<td>−11.6</td>
<td>−16.2</td>
</tr>
</tbody>
</table>

Note: Employment data are seasonally adjusted and hours worked data are in original terms. Industries are ranked by employment growth rate.
The unemployment rate was 5.5 per cent in April 2013, falling 0.1 percentage points from March 2013. The participation rate for persons aged 15+ has dropped from its peak of 65.9 per cent in November 2010 to be 65.3 per cent in April 2013 (Chart 4.21).

Chart 4.21: Unemployment and participation rates

![Chart 4.21: Unemployment and participation rates](chart)

Note: The unemployment rate and participation rate for ages 15+ are in seasonally adjusted terms. The participation rate for ages 20–64 years is in original terms.

Young people and lone parents are relatively more likely to be low paid. Chart 4.22 shows the unemployment rates for young people aged 15–24 and lone parents, and shows that they have been higher than the aggregate unemployment rate over the 10 years to April 2013. The unemployment rate for both groups declined until 2009. The unemployment rate for 15–24 year olds increased as a result of the global financial crisis and has remained around that higher level. In April 2013, the unemployment rate for 15–24 year olds was 11.7 per cent—higher than in April 2012. The unemployment rate for lone parents was affected to a lesser extent by the global financial crisis. The unemployment rate for lone parents was 10.5 per cent in April 2013, after peaking at 11.0 per cent in February 2013.
The Australian Government cited ABS data which show that 18.0 per cent of unemployed persons had been unemployed for 12 months or more in February 2013, up 2200 (or 1.9 per cent) over the year, whilst the number of very long-term unemployed (those unemployed for 104 weeks or more) declined over the year to February 2013, by 8100 (or 12.9 per cent), to stand at 54 200. It submitted that the long-term unemployed, on average, face greater difficulty finding subsequent work due to skill depreciation, the “discouraged worker effect” and marginalisation from the labour market. ACOSS submitted that evidence of entrenched labour market disadvantage among many of the long-term unemployed suggests that lowering real minimum wages is unlikely to greatly improve their job prospects.

According to the Australian Government, there were various reasons for the fall in the participation rate:
“The decline in the participation rate over the last two years reflects a number of factors, including the impact of population ageing, with a growing proportion of the population reaching retirement age.”

The ACTU submitted that a small part of the slight decline in the participation rate over the past two years reflects a softening in labour market conditions, with most of the decline in the participation rate resulting from changes to the demographic structure, particularly the increase in older people as a share of the population (the ageing population). To support this proposition, the ACTU decomposed the fall in the participation rate into the two components, finding that 0.46 points of the 0.56 percentage point decline in the participation rate between February 2011 and February 2013 was due to the ageing population.

In its reply submission, the ACTU provided a graph illustrating the effect of the ageing population on the participation rate. The Australian Government provided a similar “age-adjusted” chart of the participation rate for the period March 2008–March 2013, which showed a similar impact of ageing on overall participation rates and no fall in the age adjusted participation rate (shown as the “counterfactual”) from its recent highs. It is reproduced at Chart 4.23.

**Chart 4.23: Effect of the ageing population on the participation rate**

In an October 2012 speech, RBA Deputy Governor Philip Lowe supported the role played by an ageing population in the recent decline in the participation rate:

“On the supply side, demographic changes are potentially an important factor. As with many other countries, the Australian population is ageing. This tends to reduce labour
force participation, as older people are less likely to have a job, or be looking for a job, than are younger people. Our estimate is that this ageing effect, by itself, has reduced the participation rate by around 1 percentage point since the mid 2000s.”^{194}

[244] We think that the proposition that the recent decline in the participation rate, when measured by reference to those aged 15 or over, is largely explained by the ageing population is correct. The effect of softer labour market conditions, particularly for males seeking full-time employment has been offset by the trend rise in female participation. In the context of an ageing population, with the baby boomer generation increasingly moving out of the labour force, the participation rate of those aged 20–64 is a better measure for the purposes of assessing labour market conditions. This group excludes the older group who are less likely to have or be seeking work, and the school-aged group, with its high and rising levels of enrolment in education. Participation rates are published in this form in the *Statistical Report—Annual Wage Review 2012–13* and are shown at Table 4.3, with the addition of data for all employees. The restriction of the participation rate measure to the age group where most people seek work (i.e. aged 20–64) is a simple method by which to take account of the impact of ageing. A full “age-adjusted” calculation of the participation rate, as done by the ACTU and the Australian Government, is a more complete, but more complex, way to come to a similar measure.

### Table 4.3: Participation rates—By gender, rates and percentage change
(persons aged 20–64 years)^{195}

<table>
<thead>
<tr>
<th>Month</th>
<th>Male (ppts)</th>
<th>Female (ppts)</th>
<th>Change over year (ppts)</th>
<th>Female (ppts)</th>
<th>Change over year (ppts)</th>
<th>Total (ppts)</th>
<th>Change over year (ppts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec-02</td>
<td>85.5</td>
<td>68.0</td>
<td></td>
<td></td>
<td></td>
<td>76.7</td>
<td></td>
</tr>
<tr>
<td>Dec-03</td>
<td>85.3</td>
<td>67.5</td>
<td>–0.2</td>
<td>67.5</td>
<td>–0.5</td>
<td>76.4</td>
<td>–0.3</td>
</tr>
<tr>
<td>Dec-04</td>
<td>85.2</td>
<td>68.3</td>
<td>–0.1</td>
<td>68.3</td>
<td>0.8</td>
<td>76.7</td>
<td>0.3</td>
</tr>
<tr>
<td>Dec-05</td>
<td>86.0</td>
<td>69.6</td>
<td>0.8</td>
<td>69.6</td>
<td>1.3</td>
<td>77.8</td>
<td>1.1</td>
</tr>
<tr>
<td>Dec-06</td>
<td>86.2</td>
<td>70.8</td>
<td>0.2</td>
<td>70.8</td>
<td>1.2</td>
<td>78.5</td>
<td>0.7</td>
</tr>
<tr>
<td>Dec-07</td>
<td>86.5</td>
<td>71.3</td>
<td>0.3</td>
<td>71.3</td>
<td>0.5</td>
<td>78.9</td>
<td>0.4</td>
</tr>
<tr>
<td>Dec-08</td>
<td>86.3</td>
<td>71.6</td>
<td>–0.2</td>
<td>71.6</td>
<td>0.3</td>
<td>78.9</td>
<td>0.0</td>
</tr>
<tr>
<td>Dec-09</td>
<td>86.1</td>
<td>71.5</td>
<td>–0.2</td>
<td>71.5</td>
<td>–0.1</td>
<td>78.8</td>
<td>–0.1</td>
</tr>
<tr>
<td>Dec-10</td>
<td>87.0</td>
<td>72.1</td>
<td>0.9</td>
<td>72.1</td>
<td>0.6</td>
<td>79.5</td>
<td>0.7</td>
</tr>
<tr>
<td>Dec-11</td>
<td>85.9</td>
<td>72.0</td>
<td>–1.1</td>
<td>72.0</td>
<td>–0.1</td>
<td>78.9</td>
<td>–0.6</td>
</tr>
<tr>
<td>Dec-12</td>
<td>86.4</td>
<td>72.0</td>
<td>0.5</td>
<td>72.0</td>
<td>0.0</td>
<td>79.2</td>
<td>0.3</td>
</tr>
<tr>
<td>Apr-13</td>
<td>85.8</td>
<td>72.3</td>
<td>0.2</td>
<td>72.3</td>
<td>0.6</td>
<td>79.1</td>
<td>0.4</td>
</tr>
</tbody>
</table>

Note: The participation rate is the number of persons in the labour force expressed as a percentage of the civilian population. The percentage point change (ppt) change calculates the ppt from the corresponding month in the previous year. All data are in original terms.
The data in Table 4.3, for those aged 20–64 years, shows continuing high participation rates. For all employees, the participation rate is at its highest level over the past decade, save for the December 2010 level. The aggregate participation rate remains close to that historical high and has increased slightly since December 2011, rising by 0.3 percentage points over the year to December 2012. The participation rate for females aged 20–64 has increased consistently over the past decade and has been stable over the past 12 months. The participation rate for males aged 20–64 remains historically high, although slightly below its highest point of 2010. It has remained stable over the year to March 2013.

A different perspective on the state of the labour market is given by the employment to population ratio. This shows the proportion of all people in the relevant age group that is employed. It reflects changes in the extent to which people are encouraged (or discouraged) to look for work, as well as changes in unemployment and employment. Table 4.4 shows the employment to population ratios for people aged 20–64 and the disaggregation for males and females. Between December 2002 and December 2012, the employment to population ratio for males has risen by 1.6 percentage points, while for females the ratio has increased by 4.1 percentage points. There has been no real change in this ratio, either for gender or in total, in the year to December 2012.

Table 4.4: Employment to population ratio—Total and by gender (20–64 year olds)

<table>
<thead>
<tr>
<th>Month</th>
<th>Male (%)</th>
<th>Female (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec-02</td>
<td>81.1</td>
<td>64.6</td>
<td>72.8</td>
</tr>
<tr>
<td>Dec-03</td>
<td>81.5</td>
<td>64.2</td>
<td>72.9</td>
</tr>
<tr>
<td>Dec-04</td>
<td>81.8</td>
<td>65.6</td>
<td>73.7</td>
</tr>
<tr>
<td>Dec-05</td>
<td>82.5</td>
<td>66.8</td>
<td>74.7</td>
</tr>
<tr>
<td>Dec-06</td>
<td>83.4</td>
<td>68.1</td>
<td>75.7</td>
</tr>
<tr>
<td>Dec-07</td>
<td>83.8</td>
<td>68.8</td>
<td>76.3</td>
</tr>
<tr>
<td>Dec-08</td>
<td>83.1</td>
<td>68.9</td>
<td>76.0</td>
</tr>
<tr>
<td>Dec-09</td>
<td>82.4</td>
<td>68.4</td>
<td>75.3</td>
</tr>
<tr>
<td>Dec-10</td>
<td>83.9</td>
<td>69.1</td>
<td>76.5</td>
</tr>
<tr>
<td>Dec-11</td>
<td>82.7</td>
<td>68.8</td>
<td>75.7</td>
</tr>
<tr>
<td>Dec-12</td>
<td>82.7</td>
<td>68.7</td>
<td>75.7</td>
</tr>
<tr>
<td>Apr-13</td>
<td>81.6</td>
<td>68.6</td>
<td>75.1</td>
</tr>
</tbody>
</table>

Note: All data are in original terms.
Several submissions highlighted the rate of underemployment and underutilisation. Underutilised workers comprise both underemployed and unemployed workers.

Underemployment is measured by the ABS as:

- part-time workers who would prefer to work more hours and were available to start work with more hours, either in the reference week or in the four weeks subsequent to the survey; and

- full-time workers who worked part-time hours in the reference week for economic reasons (such as being stood down or insufficient work being available). It is assumed that these people would have preferred to work full-time in the reference week and would have been available to do so.

The underutilisation rate is the sum of the unemployed and the underemployed, expressed as a proportion of the labour force.

The number of underemployed workers and the underemployment rate peaked in the November quarter 2009, as did the number of underutilised persons and the underutilisation rate. The underemployment rate was 7.1 per cent and the underutilisation rate was 12.5 per cent in the February quarter 2013 (Table 4.5).

<table>
<thead>
<tr>
<th>Month</th>
<th>Unemployment rate (%)</th>
<th>Underemployment rate (%)</th>
<th>Underutilisation rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nov-02</td>
<td>6.2</td>
<td>6.8</td>
<td>13.0</td>
</tr>
<tr>
<td>Nov-03</td>
<td>5.7</td>
<td>7.3</td>
<td>13.0</td>
</tr>
<tr>
<td>Nov-04</td>
<td>5.2</td>
<td>6.9</td>
<td>12.1</td>
</tr>
<tr>
<td>Nov-05</td>
<td>5.0</td>
<td>6.8</td>
<td>11.8</td>
</tr>
<tr>
<td>Nov-06</td>
<td>4.6</td>
<td>6.3</td>
<td>10.9</td>
</tr>
<tr>
<td>Nov-07</td>
<td>4.5</td>
<td>6.2</td>
<td>10.6</td>
</tr>
<tr>
<td>Nov-08</td>
<td>4.5</td>
<td>6.5</td>
<td>11.0</td>
</tr>
<tr>
<td>Nov-09</td>
<td>5.6</td>
<td>7.8</td>
<td>13.4</td>
</tr>
<tr>
<td>Nov-10</td>
<td>5.1</td>
<td>7.1</td>
<td>12.3</td>
</tr>
<tr>
<td>Nov-11</td>
<td>5.2</td>
<td>7.3</td>
<td>12.5</td>
</tr>
<tr>
<td>Nov-12</td>
<td>5.3</td>
<td>7.2</td>
<td>12.5</td>
</tr>
<tr>
<td>Feb-13</td>
<td>5.4</td>
<td>7.1</td>
<td>12.5</td>
</tr>
</tbody>
</table>

Note: Data are seasonally adjusted. Underemployment and underutilisation are measured quarterly.
Chapter 4—The Economy

Table 4.5 shows a broadly consistent picture of the labour market between the unemployment rate, the underemployment rate and the underutilisation rate, with each declining from 2003 through to the global financial crisis, reflected in the November 2009 data, with a slight improvement immediately thereafter. In all cases the labour market position in 2013 is better than that shown in 2003. A softening in labour market conditions in the past two years has been more evident in the unemployment rate than in the underutilisation rate.

Underemployment is, by definition, mainly confined to people who work part-time (and want to work more hours). There has been a trend in Australia to part-time employment for a mixture of reasons. It is a preferred form of employment for many mothers of young children, full-time students and older people who are approaching retirement, but not for most adult men. The mixture of reasons why people work part-time, together with the fact that underemployment as a concept is mainly confined to those who work part-time, means that there is no straightforward link between changes in underemployment and overall strength or weakness of labour demand.

ABI and ACCI submissions noted that higher than average rates of underemployment are found within award-reliant industries. ACCI submitted that the higher than average rates of underemployment in the most award-reliant industries suggests that award rates have negatively impacted on the capacity of employees to obtain sufficient hours of work.

There is no basis advanced for the impact of award rates on underemployment suggested by ACCI, other than the fact of the high relative incidence of underemployment in the four industries identified by ACCI as being award reliant. It is more likely that the high relative underemployment in these industries is explained by the relatively high levels of part-time employment within these industries. Full-time employees make up only a very small portion of the underemployed (around 6 per cent) so underemployment is essentially a measure of part-time workers who would prefer more work.

Whilst ACCI submitted that “over 55 per cent of all underemployed persons are working in the four industries that employ the largest number of award dependent employees”, it is equally true that 53 per cent of part-time employees and 57 per cent of part-time casual employees are working in those industries. It is more probable that the high relative incidence of underemployment in the four industries identified by ACCI as being award reliant is explained by the relatively high incidence of part-time workers in those industries than by award rates.

Industries with a higher proportion of part-time employment are more likely to have higher rates of underemployment. Chart 4.24 shows a clear positive correlation between the underemployment rate and the proportion of part-time employment by industry for February 2013. The Accommodation and food services industry had the highest proportion of part-time employment and the highest underemployment rate for February 2013, followed by the Retail trade industry. Mining and Electricity, gas,
water and waste services employed the lowest proportion of part-time workers and also had the lowest underemployment rate.

**Chart 4.24: Underemployment rate and the proportion of part-time employment by industry—February 2013**

![Chart showing underemployment rate and proportion of part-time employment by industry.]

Note: All data are in original terms.

[257] Whilst the ABS underemployment rate provides an added piece of information in assessing labour market conditions, it does not provide direct evidence as to the impact of minimum wages on those conditions. Whilst reasons related to the availability of additional work such as no vacancies in a line of work, no vacancies at all and too many applicants for available jobs are cited most often by part-time employees as the main difficulty in finding work with more hours, they relate generally to the demand for labour. Furthermore, in most cases, the reasons cited relate either to perceptions about the employees themselves, such as their age, skills or education and work experience, or personal constraints on accepting additional work, such as family responsibilities or suitability of hours. Part of the difficulty for part-time employees in obtaining additional work reflects frictions in the labour market—a mismatch of labour demand and supply, illustrated by the co-existence of persons who prefer to work additional hours and persons who prefer to work fewer hours. Although dated, the following ABS information suggests that overemployment exceeds underemployment:

> “Between April and July 2007, the ABS surveyed Australian workers aged 15 years and older about their employment arrangements. At that time, around two-thirds (65%) felt they were working close to their preferred number of hours. While 1.4 million workers (14%) wanted to work more hours, about 2.2 million (21%) preferred to be working fewer hours.”
Small and medium-sized businesses

[258] Although there is no specific reference to small and medium-sized business in the minimum wages and modern awards objectives, the general object of the Act is directed to providing a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by, amongst other things, acknowledging the special circumstances of small and medium-sized businesses.209

[259] The submissions of many employer organisations urged us to have particular regard to the circumstances of small businesses. Aside from the general object of the Act, consideration of the circumstances of small business is necessary for two reasons.

[260] First, small businesses are a significant part of the Australian economy. A research paper by the RBA, Small Businesses: An Economic Overview (RBA research paper),210 which mainly defines small businesses as those employing fewer than 20 employees, reports that:

- around 95 per cent of the two million actively trading businesses in Australia in 2011 were small businesses;
- around two-thirds had no employees, one-quarter had up to four employees and one-tenth had between five and 19 employees; and
- small businesses accounted for almost half of employment in the private non-financial sector in 2009–10 and accounted for 35 per cent of production, with the difference indicating relatively high labour intensity.

[261] Second, award reliance is higher in those small businesses with employees than for businesses generally. In May 2012, 38.2 per cent of employees of businesses with less than 20 employees were paid by award only, compared with 16.1 per cent of all employees.211 A high proportion of small-business employees work in the award-reliant industries, although the largest numbers work in the low award-reliant industries of Construction and Professional, scientific and technical services.

[262] The RBA research paper noted some characteristics of small business:

- owners of small businesses use a range of different legal structures for their businesses—in order of prevalence: companies, sole proprietors, partnerships and trusts;
- small businesses are slightly more prevalent in regional areas, with 35 per cent of small businesses based outside of capital cities, compared to 33 per cent for medium to large businesses;
• there is significant turnover in the population of small businesses, with the rate of entry and exit steadily declining with business size;

• small businesses tend to have a higher risk/return profile than larger businesses, reflected in a wide variation in revenue and profitability; and

• small businesses are less likely to have debt than large businesses.

[263] The RBA research paper also noted that over recent years small businesses appear to have found economic conditions more challenging than large firms, partly reflecting differences in the industries in which they operate. It also suggested that an inability to take up opportunities associated with the mining investment boom due to inadequate scale and the lack of growth in business credit over recent years might partly explain the relatively weaker conditions for small business reported in business surveys over recent years.

[264] Very little direct evidence was put to us in relation to the economic circumstances confronting small business and the extent and manner in which they operate differently in respect to them. ACCI relied on evidence drawn from its 2013 Minimum Wage and Small Business Surveys and the RBA research paper. AFEI relied on National Australia Bank survey results. ACCI, ABI and R&CA also submitted ABS data in relation to the income of small business owners. However, there is no evidence to suggest that the economic conditions for small business are materially different for businesses generally within the industries in which they operate, as reflected in aggregate and sectoral economic data.

[265] As discussed at paragraph [438], given the methodology of the ACCI surveys, to the extent it is explained, we see the survey material as anecdotal information for those ACCI members who chose to respond to the survey, rather than of evidence representative of employers within the economy generally. In any case, the information provided by small business members is limited. The results are not disaggregated for award-reliant businesses.

[266] The ACCI small business survey results compared the reported observations (or expectations) in relation to a number of economic variables—such as economic conditions, employment, sales revenue and profit growth—for small-business respondents and medium and large-business respondents. Similar comparative information was contained in the AFEI submissions by reference to National Australia Bank surveys and a research paper by the RBA relied on by ACCI in respect to National Australia Bank and Sensis surveys. They show a slightly less positive response by small business respondents. Less positive responses by small-business respondents appears to be a consistent outcome of the survey since 2009 (and over a longer period in respect to some variables considered in the ACCI survey). This suggests that the less positive response reflects particular features of small business and differences in the industries in which they operate rather than differences in the
impact of the changed general economic conditions on small businesses over the past year.

[267] The RBA research paper also noted ABS data\textsuperscript{216} which show that turnover of businesses is significant within the population of small businesses, with the rate of entry and exit steadily declining with business size. The relatively high turnover of small businesses has occurred over many years and is not a sign of a recent deterioration of economic conditions. The ABS data show more businesses employing 1–4 employees at the start than the end of each of the past four years, and more businesses employing 5–19 employees at the start than the end of each of the past two years, with more entries than exits in these categories of small businesses.

[268] R&CA, ACCI and ABI argued that the Panel’s consideration of the needs of the low paid should include small business employers\textsuperscript{217} and “the impact of a pay increase on low-paid business owners and their family.”\textsuperscript{218} Small business employers were said to be receiving take-home pay significantly below wage and salary earners\textsuperscript{219} or to be subject to an income distribution that is not that different from the income distribution for employees.\textsuperscript{220}

[269] We do not accept that low-paid business owners are low paid for the purpose of assessing the relative living standards and needs of the low paid.\textsuperscript{221} It is clear from the statutory context that the requirement to take into account the relative living standards and the needs of the low paid is for the purpose of maintaining a safety net of fair minimum wages (s.284(1)) and providing a fair and relevant minimum safety net of terms and conditions (s.134(1)). In that context, the requirement to have regard to the relative living standards and the needs of the low paid is directed to employees subject to award minimum wages or the NMW. Small business employers are not, in that capacity, subject to the minimum award rates determined by the annual wage review and are not appropriately considered as amongst the low paid whose needs and relative living standards the Panel are required by the modern awards and minimum wages objectives to consider. However, we are required to have regard to the likely impact of our decisions on small-business employers, as businesses, under other elements of the modern awards and minimum wages objectives.

[270] We would indicate, in any case, that the information put to us in relation to the incomes of small business employers does not permit an accurate comparison with minimum wages.

[271] Various data sources were relied on by the R&CA, ABI and ACCI:

- R&CA relied on the ABS *Estimates of Personal Income for Small Areas*\textsuperscript{222} publication which disclosed average income from wages and salaries in excess of that from own unincorporated business.
The ABI submission used 2011 Census data to show that the income distribution for owner-managers is not that different from the income distribution for employees.\textsuperscript{223}

ACCI relied on the ABS \textit{Data from the Counts of Australian Business Operators}\textsuperscript{224} publication for 2006 and submitted that it shows that the individual incomes of roughly 40 per cent of small business operators are actually below or only just above the NMW.\textsuperscript{225}

ACCI also relied on the ABS \textit{Persons with Main Source of Income from Own Unincorporated Business} publication,\textsuperscript{226} and submitted that the average personal income derived from an individual’s own unincorporated business was only $38,259 in the 2005–06 financial year.


\textbf{[272]} The data relied upon by R&CA and the second source of data relied on by ACCI “excludes the income of working directors/owners of incorporated businesses who are classified as employees and consequently their income is included under wage and salary income.”\textsuperscript{227} The data drawn from census information (the ABI data and the first source of data relied on by ACCI) relates to persons aged 15 years or more who were asked if they had a full-time or part-time job at any time in the week leading up to the Census,\textsuperscript{228} and included both junior and part-time employees. In order to make the employee and the owner-manager income distributions comparable, it would be necessary to ensure that each includes only adult full-time workers.

\textbf{[273]} The ACCI submission, based on the \textit{Counts of Australian Business Operators} publication for 2006, proposed that the individual incomes of roughly 40 per cent of small business operators are actually below or only just above the NMW. However, the proposition is flawed because it involves a comparison of 2006 census data with the current minimum wage of $606.40, rather than with the minimum wage of $484.40 that prevailed at the time of the census.

\textbf{[274]} The various data have serious limitations as indicators of the relative and absolute income of small-business employers. They do not distinguish between those who have employees and owner-operators who do not (and hence would not be affected by changes to minimum wages). None of the information identifies the individual income of award-reliant wage and salary earners. Finally, it cannot be relied upon by itself to assess the income of small-business employers relative to that of award-reliant wage and salary earners.
Further, even if data was available that permitted valid comparisons of the relative living standards and needs of award-reliant employees and the self-employed, there remain questions about the equivalence of these two forms of employment for our purposes. People choose self-employment for a variety of reasons including: a desire for autonomy; the possibility of making substantial profit if successful; control over the total and timing of hours worked; and the scope for creativity and inventiveness. It is likely that quality of life considerations play a substantial role in the decision to become and to remain self-employed for a subset of this group. In this case, lower incomes are offset by other advantages. The self-employed also have a capacity to build up and draw on their business assets in order to offset fluctuations in current income. Some self-employed people (for example many farmers) also have substantial wealth even if their current income might be low. The self-employed have also chosen a form of employment that involves greater variability in income than does wage employment. At any moment in time, this implies that some will have relatively high incomes and others will have relatively low incomes. A proper comparison would require data for individual business owners that shows their income over a number of years.

The award-reliant industries

This section considers the circumstances of industries that employ a relatively high proportion of award-reliant workers based on the Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006. The specific consideration of these industries does not diminish the importance and influence of minimum wages on other industries.

Award reliance is a measure of the proportion of employees whose pay rate is set according to the relevant award rate specified for the classification of the employee and not set above that relevant award rate. Such information is obtained from the EEH publication, conducted in May every two years. It is a relevant measure in assessing the impact of annual wage review decisions because they will impact directly on the wages paid to award-reliant employees.

The proportion of employees earning the award rate of pay has fallen over time, with estimates showing this proportion decreasing steadily from 67 per cent in 1990 to around 16.5 per cent in 2008. Table 4.6 shows the proportion of award-reliant employees within each industry in 2008, 2010 and 2012. The proportion of award reliance has been fairly steady over this time and was 16.1 per cent in 2012 (Table 4.6).

The levelling out of the decline in the aggregate level of award reliance since 2008 most probably reflects the approaching or reaching of a residual level of award reliance, although it is a little too early to reach such a conclusion with conviction. The industry level information also suggests that it is too early to draw a firm conclusion. In those industries in which the highest proportion of employees are award reliant, such as Accommodation and food services, the proportion of award-reliant employees...
continued to fall in 2012, although at a lower rate (Table 4.6). In the Administrative and support services industry, the decline in award reliance has continued at the same rate over each of the last two year periods. In the Retail trade and Health care and social assistance industries, the level of award reliance increased over the two years to 2012, following a fall in the two years to 2010. In a further variant, in the Rental, hiring and real estate services and Manufacturing industries, award reliance rose in the two years to 2010, but declined in the two years to 2012.

Table 4.6: Award reliance by industry—2008, 2010 and 2012

<table>
<thead>
<tr>
<th>Industry</th>
<th>2008 (%)</th>
<th>2010 (%)</th>
<th>2012 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All industries</td>
<td>16.5</td>
<td>15.2</td>
<td>16.1</td>
</tr>
<tr>
<td>Mining</td>
<td>1.2</td>
<td>1.9</td>
<td>0.6</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>12.2</td>
<td>14.6</td>
<td>11.3</td>
</tr>
<tr>
<td>Electricity, gas, water and waste services</td>
<td>5.4</td>
<td>3.1</td>
<td>4.3</td>
</tr>
<tr>
<td>Construction</td>
<td>9.1</td>
<td>10.0</td>
<td>10.6</td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>9.0</td>
<td>10.9</td>
<td>8.1</td>
</tr>
<tr>
<td>Retail trade</td>
<td>28.9</td>
<td>22.3</td>
<td>25.6</td>
</tr>
<tr>
<td>Accommodation and food services</td>
<td>50.3</td>
<td>45.2</td>
<td>44.8</td>
</tr>
<tr>
<td>Transport, postal and warehousing</td>
<td>8.3</td>
<td>8.0</td>
<td>7.3</td>
</tr>
<tr>
<td>Information media and telecommunications</td>
<td>5.6</td>
<td>5.7</td>
<td>5.7</td>
</tr>
<tr>
<td>Financial and insurance services</td>
<td>2.2</td>
<td>2.1</td>
<td>4.7</td>
</tr>
<tr>
<td>Rental, hiring and real estate services</td>
<td>20.2</td>
<td>22.8</td>
<td>20.9</td>
</tr>
<tr>
<td>Professional, scientific and technical services</td>
<td>5.4</td>
<td>4.2</td>
<td>6.0</td>
</tr>
<tr>
<td>Administrative and support services</td>
<td>33.9</td>
<td>31.4</td>
<td>29.0</td>
</tr>
<tr>
<td>Public administration and safety</td>
<td>3.6</td>
<td>1.9</td>
<td>6.9</td>
</tr>
<tr>
<td>Education and training</td>
<td>8.4</td>
<td>5.1</td>
<td>6.8</td>
</tr>
<tr>
<td>Health care and social assistance</td>
<td>17.2</td>
<td>17.1</td>
<td>19.0</td>
</tr>
<tr>
<td>Arts and recreation services</td>
<td>14.2</td>
<td>15.1</td>
<td>19.7</td>
</tr>
<tr>
<td>Other services</td>
<td>25.4</td>
<td>27.2</td>
<td>24.6</td>
</tr>
</tbody>
</table>

Note: EEH data using ANZSIC 2006 begins from 2008. Award reliance is the proportion of employees in an industry that are paid the award rate.

[280] Unpublished ABS data provided by the ACTU also show:

- a disproportionately high number of community and personal services workers, sales workers and labourers occupations are award reliant;
• the occupational subgroups that account for the largest proportion of award-reliant workers are sales assistants and sales persons (15.2 per cent of the total), hospitality workers (10.3 per cent), cleaners and laundry workers (7 per cent) and carers and aides (5.7 per cent). Eight occupational subgroups account for 54.5 per cent of all award-reliant employees; and

• over 10 per cent of award-reliant workers work as professionals (8.8 per cent) or managers (1.8 per cent).

[281] The award-reliant industries are differently identified in the submissions before us, reflecting two broad approaches:

• Identification of those industries within which the highest number of award-reliant employees (and the highest proportion of all award-reliant employees) are found. This is the position taken by the ACTU and ACCI who identify the industries as the Accommodation and food services; Retail trade; Health care and social assistance; and Administrative and support services industries. These identify the Accommodation and food services; Administrative and support services; Retail trade; Other services; and Rental, hiring and real estate services industries. Although the Australian Government and AFEI identify a smaller number of industries (excluding the Rental, hiring and real estate services industries) as does ACCER (which also excludes the Other services industry).

[282] There is substantial overlap between the two approaches: the Accommodation and food services; Retail trade; and Administrative and support services industries are included within the award-reliant industries on either approach.

[283] Both approaches are valid, each providing a different perspective depending on the purpose of the enquiry. The industries within which the highest proportion of all award-reliant employees are found provides a focus for considering those industries in which the minimum wage outcomes will directly affect the largest numbers of employees. The industries in which the highest proportion of employees are award reliant provide a better focus for considering the impact of review decisions and minimum rate increases on employers in those industries, given that any impact would be expected to be more pronounced within industries where a greater proportion of employees are award reliant.

[284] Consistent with the approach taken by the Panel in its 2011–12 Review decision, we have identified the award-reliant industries for the purpose of Table 4.7 on the basis of the five industries within which the highest proportion of employees, within the industry, are reliant on award rates of pay—Accommodation and food services; Administrative and support services; Retail trade; Other services; and Rental,
hiring and real estate services. Data is shown in respect of output, profitability, wages growth and employment. We believe that if the industry specific information is to shed light on the impact of minimum wage increases, it is in these industries where the greatest practical effect on economic outcomes such as employment growth and profitability might be found.

Table 4.7: Economic indicators by award-reliant industries (data for 2011–12 in brackets)²³⁶

<table>
<thead>
<tr>
<th>行业内</th>
<th>Accommodation and food services</th>
<th>Administrative and support services</th>
<th>Other services</th>
<th>Retail trade</th>
<th>Rental, hiring and real estate services</th>
<th>All Industries</th>
</tr>
</thead>
<tbody>
<tr>
<td>百分比依赖于奖励工资的员工2012年</td>
<td>44.8</td>
<td>29.0</td>
<td>24.6</td>
<td>25.6</td>
<td>20.9</td>
<td>16.1</td>
</tr>
<tr>
<td></td>
<td>(45.2)</td>
<td>(31.4)</td>
<td>(27.2)</td>
<td>(22.3)</td>
<td>(22.8)</td>
<td>(15.2)</td>
</tr>
<tr>
<td>毛产值增加：年度增长率至12月季度2012年</td>
<td>0.0</td>
<td>3.7</td>
<td>-6.2</td>
<td>3.1</td>
<td>4.2</td>
<td>2.5</td>
</tr>
<tr>
<td></td>
<td>(2.8)</td>
<td>(-5.9)</td>
<td>(4.2)</td>
<td>(1.8)</td>
<td>(1.9)</td>
<td>(2.7)</td>
</tr>
<tr>
<td>公司毛营业利润：年度增长率至12月季度2012年</td>
<td>-0.8</td>
<td>-19.0</td>
<td>12.7</td>
<td>3.1</td>
<td>-0.3</td>
<td>-7.6</td>
</tr>
<tr>
<td></td>
<td>(12.8)</td>
<td>(-58.3)</td>
<td>(-44.3)</td>
<td>(7.3)</td>
<td>(16.1)</td>
<td>(2.2)</td>
</tr>
<tr>
<td>工资价格指数：年度增长率至13年3月季度</td>
<td>2.4</td>
<td>3.3</td>
<td>3.4</td>
<td>2.7</td>
<td>2.4</td>
<td>3.2</td>
</tr>
<tr>
<td></td>
<td>(3.4)</td>
<td>(3.4)</td>
<td>(3.9)</td>
<td>(3.0)</td>
<td>(4.2)</td>
<td>(3.6)</td>
</tr>
<tr>
<td>年度新集体协定工资增长</td>
<td>3.4</td>
<td>3.8</td>
<td>3.7</td>
<td>3.0</td>
<td>2.5</td>
<td>3.4</td>
</tr>
<tr>
<td></td>
<td>(3.3)</td>
<td>(4.4)</td>
<td>(4.4)</td>
<td>(3.6)</td>
<td>(4.0)</td>
<td>(3.7)</td>
</tr>
<tr>
<td>就业：年度增长率至13年2月季度</td>
<td>7.9</td>
<td>-2.0</td>
<td>-5.0</td>
<td>0.9</td>
<td>-11.4</td>
<td>1.7</td>
</tr>
<tr>
<td></td>
<td>(-7.4)</td>
<td>(-1.2)</td>
<td>(6.4)</td>
<td>(-2.8)</td>
<td>(11.5)</td>
<td>(0.2)</td>
</tr>
<tr>
<td>工作时间：年度增长率至13年2月季度</td>
<td>4.8</td>
<td>-1.4</td>
<td>-6.5</td>
<td>-0.7</td>
<td>-6.9</td>
<td>1.4</td>
</tr>
<tr>
<td></td>
<td>(-7.8)</td>
<td>(-2.2)</td>
<td>(7.6)</td>
<td>(-1.4)</td>
<td>(13.5)</td>
<td>(0.1)</td>
</tr>
</tbody>
</table>

²³⁶ An observation which arises from the table is that the outcomes between the industries for any one indicator and the outcomes for different indicators within an industry show considerable volatility from year to year, particularly for gross value
added, gross operating profits and employment and hours worked. No clear or consistent picture is evident. We have included in Table 4.7, in brackets, the figures for the equivalent table in the 2011–12 Review decision. They show that the volatility extends between years, with marked fluctuation between the two years in some indicators for a particular industry.

With respect to the most recent year, the table shows that over the most recent 12 months:

- three of the five industries had annual growth in gross value added above the all industries average of 2.5 per cent, namely Administrative and support services (3.7 per cent); Retail Trade (3.1 per cent); and Rental, hiring and real estate services industries (4.2 per cent);

- growth in all industry company gross operating profits was strongly influenced by a decline in mining industry profits. For non-mining industries, the average growth was 2.4 per cent. Both Other services and Retail trade industries had higher growth rates than this non-mining average, while the other industries had falls in their profits;

- growth in the WPI in the Other services and Administrative and support services industries was above the all industry average of 3.2 per cent, with lesser growth in each of the other three industries;

- growth in bargained wage outcomes was at or above that of the all industry average of 3.4 per cent in the Accommodation and food services; Administrative and support services; and Other services industries and below that rate in the Retail trade and Rental hiring and real estate services industries;

- employment growth, measured by persons employed or hours worked, was weaker than average for all industries except Accommodation and food services, where it has grown significantly in excess of that average level on both measures; and

- in the Accommodation and food services industry, output and gross operating profits have been weak, but employment outcomes were strong on either basis and bargained wage outcomes matched the economy-wide average. In contrast, in Retail trade output and gross operating profits growth were relatively strong, whilst wage growth was relatively low, and employment growth, on an hours worked basis, was weak.
The diversity in outcomes between the award-reliant industries, and within the Accommodation and food services, Retail trade and Other services industries, suggests that the most award-reliant industries do not face a uniformly difficult economic environment, although it is clearly challenging for some. It also suggests that factors other than recent minimum wage increases have driven outcomes within those industries. There is no pattern of outcomes which suggests that recent minimum wage increases have significantly impacted on the economic performance of the award-reliant industries.

Outlook

The 2013–14 Budget forecasts global conditions to gradually improve as growth in emerging market economies picks up and the United States continues to recover. Recent growth in China is expected to have continuing spillover effects to the rest of Asia, with ongoing growth in emerging economies leading to robust growth for Australia’s major trading partners. Forecasts are for global growth to continue to be below trend in 2013, before improving to around trend in 2014. A key risk to the international forecasts is for a re-escalation of the euro area crisis, with a recovery expected to be delayed and weaker than previously anticipated.

Table 4.8 shows that the economic growth rate of Australia’s major trading partners is expected to increase and outpace world GDP growth over the forecast period, reflecting growth in emerging Asian countries. In contrast, the International Monetary Fund is forecasting continuing subdued growth in the advanced economies. The growth in Australian GDP is expected initially to approximately match that for the world, and exceed that for the advanced economies, before dropping off slightly in later years.

Table 4.8: Budget forecasts—International GDP growth

<table>
<thead>
<tr>
<th></th>
<th>2012 (outcomes)</th>
<th>2013 (forecasts)</th>
<th>2014 (forecasts)</th>
<th>2015 (forecasts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>World</td>
<td>3.2</td>
<td>3¼</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Major trading partners</td>
<td>4.1</td>
<td>4½</td>
<td>4¼</td>
<td>4¾</td>
</tr>
</tbody>
</table>

Note: World growth rates are calculated using GDP weights based on purchasing power parity, while growth rates for major trading partners are calculated using export weights.

Australian GDP is forecast to increase by 3 per cent in 2012–13, 2¾ per cent in 2013–14 and 3 per cent in 2014–15, in excess of GDP growth for other advanced economies. The International Monetary Fund anticipates real GDP growth for advanced economies of 1.2 per cent in 2012 and 2013, increasing to 2.2 per cent in 2014.
The 2013–14 Budget forecasts the future solid Australian economic growth to be driven mainly by non-rural commodity exports and household consumption. The terms of trade are expected to decline in 2013–14 and 2014–15 as global supply increases, placing downward pressure on non-rural commodity prices. Investment in resources is expected to peak at a record high in 2013–14 and remain elevated. Although it is anticipated to detract from growth after it reaches its peak, this investment will support an expansion in production and exports.

Outside of the resources sector, an increase in growth is expected to be underpinned through growth in household consumption, a recovery in the housing sector and a modest recovery in business investment. Strong growth in Asia is also expected to create new export opportunities as a growing Asian middle-class increases its demand for goods and services. However, conditions are anticipated to remain uneven, reflecting the magnitude of the structural change task facing the Australian economy.

The 2013–14 Budget forecasts the profit share to decline due to falling commodity prices and competitive pressures from the high Australian dollar. The gross operating surplus is forecast to decline in 2012–13 before increasing in the following years, although remaining below its 20-year average growth rate of 7 per cent. Growth in the compensation of employees over 2013–14 and 2014–15 is expected to reflect the below-trend outlook for wage and employment growth.

Employment growth is expected to increase as growth in the non-resources sector picks up and the participation rate is expected to remain around 65 per cent. However, the unemployment rate is forecast to increase slightly due to the high Australian dollar and the transition to a less labour intensive production phase in the resources sector. As a result, wages growth is expected to be subdued and slightly below trend and inflation is forecast to be contained in the bottom half of the RBA’s target band of 2–3 per cent.

A key risk to the domestic economy is that the transition to the new drivers of growth will be less than seamless, with the high Australian dollar weighing on firms in the trade-exposed sectors of the economy. Domestic economic forecasts from the 2013–14 Budget are provided in Table 4.9.
### Table 4.9: Domestic economy forecasts—Growth rates (a) 241

<table>
<thead>
<tr>
<th>Demand and output (e)</th>
<th>2011–12 outcomes (b)</th>
<th>2012–13 forecast</th>
<th>2013–14 forecast</th>
<th>2014–15 forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Household consumption</td>
<td>3.2</td>
<td>2½</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Private investment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwellings</td>
<td>−3.6</td>
<td>½</td>
<td>5</td>
<td>5½</td>
</tr>
<tr>
<td>Total business investment (d)</td>
<td>20.8</td>
<td>10½</td>
<td>4½</td>
<td>1</td>
</tr>
<tr>
<td>Non-dwelling construction (d)</td>
<td>37.6</td>
<td>18½</td>
<td>5</td>
<td>−2½</td>
</tr>
<tr>
<td>Machinery and equipment (d)</td>
<td>10.1</td>
<td>1½</td>
<td>2½</td>
<td>5</td>
</tr>
<tr>
<td>Private final demand (d)</td>
<td>6.2</td>
<td>4</td>
<td>3½</td>
<td>2¼</td>
</tr>
<tr>
<td>Public final demand (d)</td>
<td>2.3</td>
<td>−½</td>
<td>0</td>
<td>½</td>
</tr>
<tr>
<td>Total final demand</td>
<td>5.3</td>
<td>3</td>
<td>2¼</td>
<td>2¼</td>
</tr>
<tr>
<td>Change in inventories (e)</td>
<td>−0.1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Gross national expenditure</td>
<td>5.2</td>
<td>3</td>
<td>2¼</td>
<td>2¼</td>
</tr>
<tr>
<td>Exports of goods and services</td>
<td>4.7</td>
<td>7</td>
<td>6½</td>
<td>7</td>
</tr>
<tr>
<td>Imports of goods and services</td>
<td>11.8</td>
<td>5</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Net exports (e)</td>
<td>−1.3</td>
<td>½</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td><strong>Real gross domestic product</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-farm product</td>
<td>3.3</td>
<td>3</td>
<td>2½</td>
<td>3½</td>
</tr>
<tr>
<td>Farm product</td>
<td>9.0</td>
<td>−8</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Nominal gross domestic product</td>
<td>5.0</td>
<td>3¼</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td><strong>Other selected economic measures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>External accounts</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Terms of trade</td>
<td>0.4</td>
<td>−7½</td>
<td>−¾</td>
<td>−1¼</td>
</tr>
<tr>
<td>Current account balance (per cent of GDP)</td>
<td>−2.7</td>
<td>−3½</td>
<td>−3¼</td>
<td>−3¼</td>
</tr>
<tr>
<td>Labour market</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment (f)</td>
<td>1.2</td>
<td>1¼</td>
<td>1¼</td>
<td>1½</td>
</tr>
<tr>
<td>Unemployment rate (per cent) (g)</td>
<td>5.1</td>
<td>5½</td>
<td>5¼</td>
<td>5¼</td>
</tr>
<tr>
<td>Participation rate (per cent) (g)</td>
<td>65.3</td>
<td>65</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>Prices and wages</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consumer Price Index (h)</td>
<td>1.2</td>
<td>2½</td>
<td>2½</td>
<td>2½</td>
</tr>
<tr>
<td>Gross non-farm product deflator</td>
<td>1.7</td>
<td>0</td>
<td>2</td>
<td>1½</td>
</tr>
<tr>
<td>Wage price index (f)</td>
<td>3.7</td>
<td>3½</td>
<td>3½</td>
<td>3½</td>
</tr>
</tbody>
</table>

Note: The forecasts are based on several technical assumptions. The exchange rate is assumed to remain around its recent average level—a trade-weighted index of around 78 and a United States dollar exchange rate of around 103 US cents. Interest rates are assumed to move broadly in line with market expectations. World oil prices (Malaysian Tapis) are assumed to remain around US$106 per barrel. The farm sector forecasts are based on an assumption of average seasonal conditions.

(a) Percentage change on preceding year unless otherwise indicated.
(b) Calculated using original data unless otherwise indicated.
(c) Chain volume measures except for nominal gross domestic product which is in current prices.
(d) Excluding second-hand asset sales between the public sector and the private sector.
(e) Percentage point contribution to growth in GDP.
(f) Seasonally adjusted, through-the-year growth rate to the June quarter.
(g) Seasonally adjusted rate for the June quarter.
(h) Through-the-year growth rate to the June quarter.
The RBA expects growth over 2013 to be below trend (Table 4.10) which reflects the approaching peak in mining investment, ongoing fiscal consolidation and the high Australian dollar. The terms of trade is expected to rise in the June quarter 2013 before resuming its decline. Mining investment is expected to remain elevated, while business investment outside the resources sector is expected to be modest. Economic growth in 2013 in Australia’s major trading partners is expected to be around the average of the last decade before picking up.

Table 4.10: RBA economy forecasts, per cent

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP growth</td>
<td>3.1</td>
<td>2½</td>
<td>2½</td>
<td>2–3</td>
<td>2½–3½</td>
<td>2½–4</td>
</tr>
<tr>
<td>Non-farm GDP growth</td>
<td>3.4</td>
<td>2¼</td>
<td>2½</td>
<td>2–3</td>
<td>2½–3½</td>
<td>2½–4</td>
</tr>
<tr>
<td>CPI inflation</td>
<td>2.2</td>
<td>2¼</td>
<td>2</td>
<td>2–3</td>
<td>2–3</td>
<td>2–3</td>
</tr>
<tr>
<td>Underlying inflation</td>
<td>2½</td>
<td>2¼</td>
<td>2¼</td>
<td>2–3</td>
<td>2–3</td>
<td>2–3</td>
</tr>
</tbody>
</table>

Note: Underlying inflation is calculated by taking the average of the RBA’s weighted median and trimmed mean measures of inflation. Percentage change for the year-ended shown. Technical assumptions include A$ at US$1.02, Trade Weighted Index at 77, Brent crude oil price at US$103 per barrel.

Employment and wages growth is expected to continue to moderate and the unemployment rate is forecast to increase until the middle of 2014. Consumption spending is forecast to grow at around its long-run average and broadly in line with real income growth. Inflation is forecast to be subdued in the near term, with headline inflation expected to be above underlying inflation due to the introduction of the carbon price, before falling below underlying inflation.

The RBA considers risks to the forecasts to be roughly balanced across most economies. Given the forecast for moderate employment and wages growth, growth in labour income and spending could be weaker than expected. Lower inflation could eventuate if wages turn out to be more responsive to a weaker labour market. Further falls in the participation rate and less spare capacity could lead to a build-up of wage and inflationary pressures later in the forecast period.

The DEEWR Monthly Leading Indicator of Employment is based on the weighted average of a select number of economic and employment indicators. The indicator was broadly unchanged in May 2013 after falling for three consecutive months to April 2013 (Chart 4.25). Cyclical employment fell in May 2013 after rising for three consecutive months.
The economic outcomes noted above have occurred against the background of continuing structural change within the Australian economy, evident in the strong growth in the resources and related sectors and more modest outcomes in other sectors of the economy.

In an October 2012 speech, RBA Deputy Governor Phillip Lowe identified some of the forces reshaping the Australian economy as:

- growth in Asia resulting in high prices for Australia’s commodity and food exports and a higher exchange rate;
- expansion in the resource sector;
- change in people’s propensity to borrow to buy assets, especially houses; and
- growth in demand for services as incomes grow and the population ages.

Most submissions addressed aspects of that structural change.

The ACTU noted large differences between turnover growth in various retail sub-sectors over the past five years, submitting that the structural change in the pattern of retail spending helps explain the relatively low rate of growth in overall turnover. The ACTU also submitted that the rise in the employment share of the Health care and social assistance industry, and the falling share of the Retail trade industry is caused by
structural change in the economy, and the timing of the change in these shares is uncorrelated to changes in minimum wage arrangements.246

[304] The Australian Government noted an ongoing structural shift toward a more highly skilled and service-based economy, with employment growth driven by more highly skilled occupations.247

[305] Ai Group submitted that the distribution of employment reflects recent demand trends more generally within the Australian economy, with manufacturing and retail coming under intense pressure from the high Australian dollar and changing spending preferences among Australian consumers; and that the industries that offer the largest number of low-paid and minimum wage opportunities are showing weak employment growth or contraction.248

[306] AFEI submitted that the disparity in economic performance and employment growth continued throughout the past year, with the average employment growth rate for industries with above 20 per cent award reliance growing by 1.5 per cent, compared with the all industries average of 2.5 per cent over the decade ending November 2012.249

[307] ACCI acknowledged the transitional difficulties that will be associated with managing structural change, with significant segments of industry bearing a disproportionate burden of the adjustment cost, in some cases to the extent of being forced to exit from operations that are no longer commercially viable. ACCI noted that it is futile and expensive to resist the pressures for structural change and contrary to the broader national interest. ACCI submitted that, whilst structural adjustment in the economy in response to higher export prices will lead to higher living standards and expanded opportunities for business in growing industries, at the same time, it is important to ensure that employment opportunities for the low paid are not limited by artificially elevated award rates of pay.250

[308] In its reply submission, the ACTU responded that there has never been a 12-month period in which some industries were not contracting in employment terms and the dispersion in employment growth across industries is around its typical level.251

[309] In his October 2012 speech, Deputy Governor Lowe discussed how structural change has been affecting the operation of the Australian labour market. He noted that:

- the aggregate unemployment rate remains low, with Australia’s unemployment rate being one of the lowest among the advanced economies and the current rate remaining relatively low, having been below its current 5½ per cent in only four of the past 30 years;
underneath this low and steady unemployment rate, there is a great deal of movement at the individual worker level, either voluntary or involuntary. In February 2012, around 2.3 million people—almost one-fifth of the total number of employed people—were newly employed, having been in their current job for less than a year. While a little under half of these were starting work for the first time or were not previously working, 1.2 million people moved from one job to another;

there is some evidence that the changes taking place have led to a higher rate of job turnover in recent times than has been the case for the past two decades;

for a number of years now, there has been a high dispersion in employment growth across industries, with especially strong percentage growth in the mining sector. Since 2007, around 300 000 net new jobs have been created in the healthcare sector, 200 000 jobs in professional and scientific services and around 130 000 jobs in each of the mining and education sectors, whilst the number of manufacturing jobs has declined by around 70 000, and the number of jobs in retailing is largely unchanged;

the significant variation in employment growth across industries has not led to greater variation in the unemployment rates across the country; and

the structural changes that have taken place across the economy have also altered the relative wages in different industries.252

The Deputy Governor concluded that:

“The overall impression from these various facts and figures is that the labour market has coped reasonably well with the significant changes taking place in the Australian economy. While there have been shortages of skilled workers in some areas, these have been fairly limited. Workers have moved in large numbers to the industries that are benefiting from growth in Asia and the increasing domestic demand for services. They have done this at a time of close to full employment and larger divergences in unemployment rates across the country have been avoided. The adjustment of relative wages has helped, and this adjustment has occurred without igniting the type of economy-wide wages blowout that contributed to the derailment of previous mining booms.”

A paper by Gruen, Li and Wong examined how the dispersion of unemployment across regions has changed over time, concluding that unemployment dispersion in Australia has narrowed as the aggregate level of unemployment has declined, as has occurred in the United Kingdom and the United States. They found that this relationship has held up in Australia over the past 20 years amid significant structural changes in the economy. They found that unemployment dispersion in Australia narrowed over the past decade and, while the dispersion picked up moderately during the global financial crisis, it remained low and has declined since.
In a March 2013 speech, Deputy Governor Lowe observed that the flexible exchange rate and high value of the Australian dollar, and the increase in household saving, whilst creating challenges for many businesses, have helped maintain domestic balance during the once-in-a-century investment boom. The Deputy Governor stated:

“So, somewhat ironically, two of the factors that have created difficult challenges for many businesses over recent years—the high exchange rate and increased household savings—are the very same factors that have been critical to Australia's good macroeconomic performance. Importantly, these factors have helped Australia to digest a huge investment boom without generating substantial imbalances in the economy. At the same time, these factors have prompted significant structural change which, while difficult, is critical to achieving higher overall productivity and higher living standards.”

He concluded that:

“the Australian economy has adjusted pretty well to some very large shocks in the global economy over recent years. We have been able to maintain a high degree of internal balance, while at the same time accommodating significant change in the structure of the economy. Businesses right across the spectrum, including in the manufacturing sector, are adjusting to the new realities. This adjustment is often difficult, but it does hold out the prospect of higher productivity and higher living standards.”

The RBA Bishop et al Paper, examines the impact of the resources boom on the Australian economy, finding that:

“The overall process of macroeconomic adjustment to the rise in the terms of trade has occurred relatively smoothly compared with previous episodes; inflation has been consistent with the target, unemployment has remained relatively low and output has grown at close to trend rates. One critical element to the adjustment this time around has been the appreciation of the nominal exchange rate as the terms of trade were rising. The adjustment has also been helped by the anchoring of inflation expectations and the operation of the labour market, whereby wage pressures in industries or regions experiencing strong conditions associated with the resources boom have not spilled over to parts of the economy experiencing weaker conditions.”

It remains necessary to have regard to structural change occurring with the Australian economy when viewing aggregate and sectoral economic performance in the recent past and into the future. In this context, it is appropriate to recognise that some sectors in the Australian economy face more difficult trading conditions than aggregate data suggest. Equally, it is necessary to note that the process of adjustment to structural change and, in particular, the rise in the terms of trade has occurred relatively smoothly, with the aggregate unemployment rate remaining at historically low levels and without unusual divergences in unemployment rates across the country or inflationary pressures. The view of the Deputy Governor of the Reserve Bank, as cited above, that changes in relative wages have assisted the process of adjustment to structural change is a relevant factor for the Panel to take into account.
[317] In giving effect to the various statutory considerations which we must take into account, we have had regard to the aggregate economic data and to available sectoral information, with specific consideration of the circumstances of the award-reliant industries. We have also taken into account the different circumstances between industries, and sectors within industries, and the differential impact upon them of structural change. But it is important to appreciate that the fixation of minimum wages cannot be based principally on the position of those sectors facing the most difficult economic circumstances, given the range of statutory considerations which we are required to take into account and the inevitable differential impact of structural change.

[318] Whilst care should be taken to avoid minimum wage increases at a level which might seriously exacerbate the difficult circumstances of those businesses adversely affected by structural change, it is not appropriate to fix minimum wages with a view to sheltering such businesses from the process of, and pressures for, structural change within the economy. Such an approach would be futile in any case. The modest impact of minimum wage increases at the levels arising from the annual wage review is not a major force in the process of structural change within the economy. Other forces are far more significant in that regard than modest changes in minimum wages.

[319] In the context of structural change within the economy, minimum wage fixation cannot focus primarily on those sectors whose economic performance is below aggregate outcomes. There are sound economic reasons to avoid such a focus, in addition to the preference for consistent minimum rates across all modern awards within the legislative framework. Consideration of differential increases or timing of minimum wage increases in relation to individual employers or specific industry sectors in exceptional circumstances should be directed to addressing temporary issues and temporary relief from minimum wage increases, rather than to seek to impede the ongoing process of structural change in the economy.

**Conclusion**

[320] Economic conditions over the past year have remained reasonably strong, particularly in the context of economic conditions in other OECD countries. The outlook remains favourable, with the Australian economy expected to continue outperforming most of the developed world, albeit with some moderation of growth forecast over the next year. The rapid growth and evolution of the resources sector and the continuing shift to demand for services will continue to cause strains for other parts of the economy.

[321] Real GDP grew by in excess of 3 per cent over the past year. Labour market conditions, although softer, remain sound, with continuing low levels of unemployment and continuing high levels of labour force participation. Employment grew by 1.4 per cent over the year to April 2013, but more slowly than the labour force, resulting in a slight increase in the unemployment rate. Some softness is
reflected in the lesser growth in total hours worked (0.8 per cent) than employment, continuing high levels of youth unemployment and a decline in the full-time employment of adult men.

[322] Following earlier volatility, annual inflation has been subdued over the past year, at around 2.5 per cent per annum on all CPI based measures over the year to the March quarter 2013 and lower still using the LCI measure. Inflation remains comfortably within the RBA target range. Wages growth, reflected in the WPI and bargaining outcomes, has moderated, growing at their lowest rate for a decade (excluding the global financial crisis impact in 2008). There was a substantial lift in labour productivity and profits in the non-mining economy have risen. Real unit labour costs have risen, as a result of a fall in the price index, rather than higher rates of compensation of employees.

[323] On all measures, labour productivity increased over the year to the December quarter 2012. Although short-term measures of productivity should be interpreted with some caution, the recent improvement in labour productivity, if sustained, could provide the capacity to address the declining relative position of the low paid and for them to share in increasing community living standards.

[324] Looking beyond the aggregate position, structural change continued to exert a major effect on economic outcomes, with considerable variation in economic indicators between industry sectors. That variation is reflected in differential output and employment growth, with particular pressures evident in relation to trade-exposed sectors not benefitting from strong growth in the resources sector. The diversity in outcomes in respect of output, profits, employment and wages between and within the award-reliant industries suggests that factors other than recent minimum wage increases have driven outcomes within those industries.

[325] There is continuing evidence that, whilst difficult for some employers, the economy has responded relatively well to the significant structural change evident in recent years. There has been a continuing low aggregate unemployment rate, an absence of increased variation in the unemployment rates across the country, the accommodation of variation in labour demand through labour mobility and changes in relative wages, and an absence of inflationary pressures or wages pressures in the non-resources sectors of the economy.

[326] The outlook for the Australian economy remains favourable, with solid growth, relatively low unemployment and continuing moderate inflation anticipated in the near future. Global conditions are expected to gradually improve as growth in emerging market economies picks up and the United States continues to recover, although continuing risks from the euro zone remain.

[327] GDP growth is expected to ease to slightly below trend growth of 2¼ per cent in 2013–14, before resuming at 3 per cent growth in 2014–15. Nominal GDP growth is expected to remain subdued, reflecting the falling terms of trade and the effect of the
persistently high Australian dollar on profits and prices in many sectors of the economy, particularly those that are trade-exposed.

[328] The impetus to growth from business investment, largely driven by the resources sector, although remaining strong and contributing to aggregate growth, is expected to ease over the coming two financial years, as the resources boom shifts from the investment phase into the production and export phase. Greater impetus for economic growth is expected from housing investment, household consumption and non-rural commodity exports.

[329] A risk to the domestic economy is that the transition to the new drivers of growth in the context of a transition away from the investment phase towards production and exports will be less than seamless, with continuing pressures on businesses in the trade-exposed sectors of the economy from the high Australian dollar and some mismatch between employee skills and the skills wanted by employers, leading to increased structural and/or frictional unemployment.

[330] The labour market is expected to remain sound with employment growing at recent levels of around 1¼ per cent in 2013–14 and unemployment remaining at historically low levels, although forecast to rise from the current level of 5½ per cent to 5¾ per cent in 2013–14. Inflation, which has been at the lower end of the RBA target range of 2–3 per cent over the past year, abstracting for the carbon price, is expected to remain subdued at 2¼–2½ per cent in the immediate future. Wages growth is expected to remain at current subdued levels.

[331] The most award-reliant sectors of the economy continue to have a mixed experience. Most have had a fall in hours worked and in employment, although rises in profitability and output have been stronger. The Retail trade industry in particular has improved in both sales and profitability, while wages growth and employment in this sector have been well below average.

[332] In summary, the economic outlook remains favourable, notwithstanding some easing of growth and increase in unemployment in 2013–14. However, the outlook for growth remains uneven, with continuing pressures on businesses in the trade-exposed sectors of the economy outside of the resources sector.
5. Superannuation

During the 2011–12 review a number of parties submitted that we should announce our intention to take the proposed increases in the Superannuation Guarantee Levy into account in subsequent reviews. We were not persuaded to adopt such a course at that time as the proposed increases had not been passed by the Parliament and, in any event, were not proposed to take effect until 1 July 2013. We indicated that these matters could be the subject of further consideration in this Review.

The superannuation legislation

The Superannuation Guarantee (Administration) Amendment Act 2012 (2012 Amendment Act) amends the Superannuation Guarantee (Administration) Act 1992 to increase the superannuation guarantee rate from 9 per cent to 12 per cent. The increase will be phased in, commencing with increases of 0.25 percentage points on 1 July 2013 and 1 July 2014, followed by annual increases of 0.5 percentage points on 1 July each year until the SG rate reaches 12 per cent on 1 July 2019. Table 5.1 below sets out how the increases will be implemented.

Table 5.1: Superannuation guarantee increase—July 2013–July 2019

<table>
<thead>
<tr>
<th>Year</th>
<th>Superannuation percentage</th>
<th>Percentage point increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year starting on 1 July 2013</td>
<td>9.25</td>
<td>0.25</td>
</tr>
<tr>
<td>Year starting on 1 July 2014</td>
<td>9.5</td>
<td>0.25</td>
</tr>
<tr>
<td>Year starting on 1 July 2015</td>
<td>10</td>
<td>0.5</td>
</tr>
<tr>
<td>Year starting on 1 July 2016</td>
<td>10.5</td>
<td>0.5</td>
</tr>
<tr>
<td>Year starting on 1 July 2017</td>
<td>11</td>
<td>0.5</td>
</tr>
<tr>
<td>Year starting on 1 July 2018</td>
<td>11.5</td>
<td>0.5</td>
</tr>
<tr>
<td>Year starting on or after 1 July 2019</td>
<td>12</td>
<td>0.5</td>
</tr>
</tbody>
</table>

The 2012 Amendment Act also amends the Superannuation Guarantee (Administration) Act 1992 to provide that, from 1 July 2013, the superannuation guarantee age limit of 70 will be removed and employers will be obliged to contribute to complying superannuation funds on behalf of eligible mature age employees 70 years and older.

The changes introduced by the 2012 Amendment Act will provide a benefit to around 8.4 million employees, enabling them to enjoy higher standards of living in retirement. The central issue for the Panel is the extent to which these changes are to be taken into account in our determination of the level of increase to minimum wages.
The 0.25 percentage point increment to take effect from 1 July 2013 is the first increase in the SG rate since the contribution rate reached 9 per cent on 1 July 2002. The superannuation guarantee scheme commenced in 1992 with the introduction of the Superannuation Guarantee Charge Act 1992 and the Superannuation Guarantee (Administration) Act 1992 (the SGC Acts). The SGC Acts introduced the superannuation guarantee at the initial rate of 3 per cent and, over a 10 year period, provided for incremental increases to 9 per cent. At that time, the then AIRC considered the relationship between mandatory superannuation contributions and wage setting in national wage case decisions. These decisions were made in the context of a specific legislative provision (s.90A of the Industrial Relations Act 1988, and later s.90A of the Workplace Relations Act 1996) that required the AIRC to take the SGC Acts into account in making a national wage case decision. We consider those decisions after we set out the views of the parties to these proceedings.

Views of the parties

Many of the submissions made to the Review proposed that the Panel take the SG rate increase into account in determining the level of increase in minimum award wages and in the national minimum wage order.265

The Australian Government submitted that “the Panel should have regard to the 0.25 percentage point increase in the SG rate on 1 July 2013 in its AWR decision”. In the context of the whole economy, the expectation of the Australian Government was that the SG rate will be “absorbed into future wages growth”.266 Its submission noted that at the time when the SG rate was increased from 3 per cent to 9 per cent over a 10 year period, commencing in 1992, wages did not increase significantly during the same period, implying that the cost of the SG rate increases was absorbed into the overall wage cost, and not borne by employers. In this context, the Australian Government referred to the average growth in AWE (3.2 per cent over the 10 year period from 1992; compared to 5.7 per cent in the five years prior to 1992) and to movements in the wage share of total factor income.267 In its reply submission, the ACTU noted a number of factors that affected the pace of wages growth during this period, such as the recession in 1992268 and that AWOTE for full-time adults rose by an average of 4.1 per cent per annum over the 10 year period that the SG rate increased from 3 per cent to 9 per cent.269 For our part we acknowledge that a range of factors impact on wages growth over time.

While Ai Group “welcomed” the view of the Australian Government that the Panel should “have regard to” the SG rate increases in its annual wage review decision, Ai Group submitted that “a more direct approach to offsetting the SGR increase is warranted”270 and proposed that the Panel reduce the “notional wage increase” it determines by 0.25 per cent to arrive at this year’s minimum wage increase.271 The National Farmers’ Federation (NFF) advanced a similar proposition. It proposed that a notional wage increase of $9 per week be discounted by $1.50 on account of the increase in the SG rate.272
The ACTU submitted that the Panel should not award a lower increase in minimum wages than it would have in the absence of the SG rate increase. The ACTU argued that reducing the minimum wage increase because of the SG rate increase would be unfair to low-paid workers. It pointed out that non-wage labour costs (in the private sector) have fallen as a share of total labour costs since 2002–03, with the largest fall being in worker’s compensation premiums (which fell from 2.3 per cent to 1.7 per cent of labour costs), as shown in Table 5.2 below.

Table 5.2: Labour costs in 2002–03 and 2010–11

<table>
<thead>
<tr>
<th>Year</th>
<th>Earnings</th>
<th>Superannuation</th>
<th>Payroll tax</th>
<th>Workers’ compensation</th>
<th>Fringe benefits tax</th>
<th>Total non-wage labour costs</th>
<th>Total labour costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002–03</td>
<td>233,955.8</td>
<td>20,086.4</td>
<td>7,708.3</td>
<td>6,276.3</td>
<td>2,302.7</td>
<td>36,373.7</td>
<td>270,329.6</td>
</tr>
<tr>
<td></td>
<td>86.5%</td>
<td>7.4%</td>
<td>2.9%</td>
<td>2.3%</td>
<td>0.9%</td>
<td>13.5%</td>
<td>100.0%</td>
</tr>
<tr>
<td>2010–11</td>
<td>418,055.1</td>
<td>34,956.2</td>
<td>14,982.0</td>
<td>8,244.6</td>
<td>2,730.0</td>
<td>60,913.4</td>
<td>478,968.4</td>
</tr>
<tr>
<td></td>
<td>87.3%</td>
<td>7.3%</td>
<td>3.1%</td>
<td>1.7</td>
<td>0.6%</td>
<td>12.7%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Note: ACTU calculations based on data from ABS, Labour Costs, Australia 2010–11, Catalogue No. 6348.0.

On the basis of this material the ACTU submitted that:

“non-wage labour costs declined between 2002-03 and 2010-11…Award-reliant workers have received no additional wage increase as a result of the fall in workers’ compensation and other non-wage labour costs. Instead, employers of the low paid have enjoyed the benefits of this decline in costs…it is unfair to expect low-paid workers to receive no benefit when non-wage labour costs fall, and yet suffer a diminution in wage increases when non-wage labour costs rise.”

Similarly, ACCER argued that it would be:

“unfair and inconsistent with the legislation to discount safety net wage increases on account of the superannuation changes…this kind of discounting should not be considered unless it can be demonstrated at a future review that wage increases in the public sector and in collective bargains in the private sector have been based on the discounting of increases in superannuation.”

It is not clear to us how the proposition advanced by ACCER would operate in practice. As noted in Chapter 8, there has been a gradual decline in wage outcomes in federal agreements, falling to 3.4 per cent per annum in the December quarter of last year. But there may be many reasons for such a decline and we doubt it would be possible to establish a causative relationship of the type proposed by ACCER.
There was some divergence in the characterisation of the increase in the SG rate. Some submissions, particularly from employer groups, characterised superannuation as an employment cost, or “impost”, with ABI noting that the Australian Government has acknowledged that increases in compulsory superannuation contributions are equivalent to real wage increases. Ai Group however characterised superannuation as “part of the social safety net”, with the Australian Road Transport Industrial Organisation (ARTIO) also noting that the “underlying objective” of superannuation is to ensure all Australians contribute increasingly to fund their own retirement and in turn reduce the reliance on pensions. Both Ai Group and ABI cited a statement by the Minister for Employment and Workplace Relations in which the Minister characterised superannuation as a “deferred wage increase”:

“The truth is that superannuation is part of an employee’s total remuneration. So an increase in super means an increase in remuneration – or wages by another name. And so by taxing this portion of wages concessionally, an increase in the super guarantee from 9 to 12% really means that worker’s receive a deferred wage increase. And they are better off overall because they pay less tax on the increased portion of their income that is superannuation.”

For our part we broadly agree with Ai Group’s characterisation of superannuation as part of the social safety net. But superannuation has some unique characteristics that distinguish it from the general tax-transfer system. The SG contribution is a legislative requirement paid by employers for the benefit of employees. An increase in the SG rate is a labour cost to business that provides a deferred benefit to employees. It is a deferred benefit in the sense that “superannuation is directed to enhancing living standards in retirement rather than living standards during employment”. The SG Acts are also an important component of a broader retirement incomes policy.

We also note that the CCIQ submitted that the Act should be amended “to require that the phased annual instalment increases to the mandatory superannuation guarantee levy are offset in any future increase to the NMW”. We do not propose to comment on this proposal. The range of legislated considerations which the Panel is required to take into account are a matter for parliament.

Minimum wages and superannuation—AIRC decisions

As we have noted, the AIRC considered the relationship between wage fixation and compulsory superannuation contributions in the national wage cases that followed the introduction of the SG rate in 1992. At that time there was a specific legislative requirement that the AIRC have regard to the SGC Acts in making a national wage case decision. There is no similar requirement in the Act in relation to the annual wage review.
It is apparent from the AIRC decisions between 1993 and 2002 that the tribunal had regard to the labour cost increases resulting from increases in the SG rate in determining the level of increase in minimum wages. This was so even after the legislative amendments arising from the *Industrial Relations Reform Act 1993*, which consolidated the shift to a decentralised wages system. After these changes, minimum wage fixation took the form of “safety net adjustments”, rather than national wage cases. As the AIRC noted in its *Safety Net Adjustments and Review September 1994* decision:

“While this case is not a National Wage Case, in the sense that term has generally been understood in the past, it involves a claim for increases in the award safety net of wages. Accordingly we will treat s90A of the Act as applicable in this case.”

The AIRC took increases in the SG rate into account in the September 1994 decision and in subsequent safety net adjustment cases. In those years when an arbitrated safety net increase did not coincide with an increase in the SG rate, the AIRC made an observation to that effect.

In two of its decisions over this period, the AIRC quantified the increase in labour costs flowing from an increase in the SG rate. In the *Safety Net Review—Wages April 1998* decision the AIRC said:

“Section 90A requires us to have regard to the operation of the [SGC Acts]. Any increase in average earnings arising from a safety net increase now will occur at around the same time that superannuation guarantee contributions will increase by one percentage point (to 7 percent). The Joint Governments estimated that this increase will add about 0.4 percent to the national accounts measure of average earnings in 1998 - 1999…”

A similar observation is made in the *Safety Net Review—Wages May 2002* decision:

“We are conscious that the minimum employer superannuation contributions required by legislation is to rise from 8 percent to 9 percent on 1 July 2002. The impact on growth in aggregate wages costs is substantially less than 1 percent given that some employees already enjoy superannuation contributions of this level and the application of the change to OTE. The increase in superannuation is a factor we have taken into account in deciding the present applications.”

While the labour cost impact of a SG rate increase was occasionally quantified, it is important to observe that at no time did the AIRC specify a direct, quantifiable, discount in the increase in minimum wages awarded on account of an increase in the SG rate. The AIRC decisions in the period following the introduction of the SGC Acts provide no support for the proposition advanced by Ai Group and the NFF that there should be a direct, quantifiable, trade-off between the level of minimum wage increase and the increase in the SG rate.
In its reply submission, the ACTU acknowledged that the legislative framework at the time required the AIRC to take into account superannuation guarantee contributions, but argued that it “did not prevent the then-AIRC from awarding increases in minimum wages that did not result in a large erosion in the relative earnings of low-paid workers”.291

Ai Group and the NFF submitted that, while currently there is no specific legislative requirement to take into account the increase in the SG rate, this should not prevent the Panel from making it a consideration in its deliberations.292 Ai Group also argued that the objects of the Act, the modern awards objective and the minimum wages objective, 293 support the view that such increases must be taken into account.

We agree with Ai Group’s submission. Consistent with the objects of the Act, the modern awards objective and the minimum wages objective, we have had regard to the SG rate increase which takes effect from 1 July 2013 in our determination of the level of increase in minimum wages.

While the effect of superannuation legislation on employers and employees is not specifically identified in the Act as a matter the Panel must consider, we have had regard to the increase in the SG rate to take effect from 1 July in coming to our decision in this Review. In our view, such an approach is consistent with the objects of the Act, the modern awards objective and the minimum wages objective and, in particular, the legislative requirements that we take into account:

- the special circumstances of small and medium-sized businesses (s.3(g));
- the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden (s.134(1)(f)); and
- the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth (s.284(1)(a)).

In addition to the public benefit achieved by supporting retirement incomes through the superannuation system, SG contributions also constitute a deferred benefit to employees and a cost to employers. As we have mentioned, our characterisation of SG contributions distinguishes them from other non-wage labour costs. It follows that we do not accept the premise of the ACTU submission. Not every movement in non-wage labour costs will have a consequential effect on the level of minimum wage increase determined in a review.
While we have taken the 0.25 per cent increase in the SG rate into account in determining the level of increase in minimum wages in the Review, we have not applied a direct, quantifiable, discount to the minimum wage increase, as proposed by Ai Group and the NFF. As we have noted, the AIRC decisions following the introduction of the SGC Acts provide no support for such an approach. Nor does the current legislative framework support such an approach. In reviewing modern award minimum wages and the NMW the Act requires us to have regard to a range of considerations. As we note in Chapter 2, there is a degree of overlap between the matters specified in the modern awards objective, the minimum wages objective and the objects of the Act. To the extent that these matters are of direct relevance to the Review, they may be grouped into three broad categories: economic; social; and collective bargaining. The range of considerations we are required to take into account calls for the exercise of broad judgment, rather than a mechanistic approach to minimum wage fixation.

The SG rate increase to apply from 1 July 2013 is a moderating factor in considering the adjustment that should be made to minimum wages. As a result, though it would not be appropriate to quantify its effect, the increase in modern award minimum wages and the NMW we have awarded in this Review is lower than it otherwise would have been in the absence of the SG rate increase.

6. Relative Living Standards and the Needs of the Low Paid

The minimum wages objective and the modern awards objective both require us to take into account two particular matters, relative living standards and the needs of the low paid. These are different, but related, concepts. The former, relative living standards, requires a comparison of the living standards of award-reliant workers with those of other groups that are deemed to be relevant. The latter, the needs of the low paid, requires an examination of the extent to which low-paid workers are able to purchase the essentials for a “decent standard of living” and to engage in community life. The assessment of what constitutes a decent standard of living is in turn influenced by contemporary norms.

There is a level of support for the proposition that the low paid are those employees who earn less than two-thirds of median full-time wages. This group was the focus of many of the submissions. The Panel has addressed this issue previously in considering the needs of the low paid, and has paid particular regard to those receiving less than two-thirds of median adult ordinary-time earnings and to those paid at or below the C10 rate in the Manufacturing Award. Nothing put in these proceedings has persuaded us to depart from this approach.
[363] We note that measures of the low paid that rely on particular points in the earnings distribution, such as the median, require data on the full distribution of earnings to calculate. Such distribution is provided by the ABS on an annual basis in the Employee Earnings, Benefits and Trade Union Membership (EEBTUM) and every two years in the EEH surveys. These ABS data vary in their sources and definitions in ways that affect the absolute values of average and median wages (and hence of two-thirds of these values). Table 6.1 shows the relationship between them.

Table 6.1: Two-thirds of median weekly earnings

<table>
<thead>
<tr>
<th>Year</th>
<th>EEBTUM</th>
<th>EEH</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>$666.67</td>
<td>$705.33</td>
</tr>
<tr>
<td>2009</td>
<td>$666.67</td>
<td>n/a</td>
</tr>
<tr>
<td>2010</td>
<td>$700.00</td>
<td>$743.33</td>
</tr>
<tr>
<td>2011</td>
<td>$733.33</td>
<td>n/a</td>
</tr>
<tr>
<td>2012</td>
<td>$766.67</td>
<td>$808.00</td>
</tr>
</tbody>
</table>

Note: Weekly earnings from the EEBTUM survey are earnings in the main job for full-time employees. The figure is for August of each year. Weekly earnings from the EEH survey are weekly total cash earnings for full-time non-managerial employees. The figures for 2008 are for August and for 2010 and 2012 for May. n/a = not available.

[364] The data show that two-thirds of median full-time wages, on both measures, is above the C8 rate. We note that two-thirds of AWOTE equates to approximately the C3 rate.

[365] In assessing relative living standards, the comparison we focus on is other employed workers, especially non-managerial workers. There is no absolute relationship that the living standards of award-reliant workers should bear to all employees. In taking into account relative living standards, we pay particular attention to changes in the earnings of the award-reliant compared to changes in measures of average and median earnings more generally.

[366] The definition of the low paid set out above excludes a substantial proportion of workers who are paid at the higher levels of award rates. In taking into account relative living standards we are directed to consider the position of award-reliant employees across the full range of award rates.
An assessment of the needs of the low paid is more challenging. There is no single contemporary measure available to assess either the needs of the low paid or the extent to which those needs are being met. We accept the point that if the low paid are forced to live in poverty then their needs are not being met. We also accept that our consideration of the needs of the low paid is not limited to those in poverty, as conventionally measured. Those in full-time employment can reasonably expect a standard of living that exceeds poverty levels. In assessing the needs of the low paid we rely on a range of measures including comparisons of hypothetical low wage families with customary measures of poverty, both before and after taking account of the impact of the tax-transfer system, and survey evidence of financial stress and material deprivation among low-paid households.

We turn first to the characteristics of the award reliant before considering relative living standards.

**Characteristics of the award reliant**

The ACTU used unpublished data from the ABS Employee Earnings and Hours survey (EEH data) for May 2012 to provide further information about the characteristics of the award reliant. The EEH data show:

- in excess of 1.5 million employees, or 16.1 per cent of employees, are award reliant. One third of the award-reliant employees are full-time employees and two-thirds are part-time employees;
- while award-reliant employees are more likely than others to be employed by a small business or to be casual, almost half are employed in businesses with at least 50 employees and a majority are in permanent or fixed-term employment, and
- award-reliant employees in smaller businesses were more likely to be employed as casual employees.

The ACTU matched the EEH data to classifications and wage rates in the Manufacturing Award to provide a distribution of award-reliant employees, by classification level, as shown in Chart 6.1.
Chart 6.1: Non-managerial award-only workers by classification level, imputed using hourly earnings

Chart 6.1 shows that just under half of award-reliant workers are employed at or below the C10 level, with a clustering around the C10 to C12 level, and about half of award-reliant workers are employed on rates above the C10 level.

The ACTU analysis of award reliance by occupation shows that there were 163,800 managers and professionals employed at award rates in 2012 (10.6 per cent of all award-reliant employees) and of these, 40 per cent were health professionals. These health professionals are likely to account for a significant portion of those employed on award rates above the C2(b) rate.

Although caution is required in drawing conclusions as to the precise extent of award reliance at higher classification levels, the ACTU’s analysis suggests a significant incidence of award reliance higher up the classification scale. Given the context of this Review, in which we are reviewing modern award minimum rates of pay, it is appropriate that we take into account the relative living standards of all award-reliant employees.
Real and relative earnings

Real earnings

[374] The relative living standards of award-reliant employees are affected by the level of wages that they earn, the hours they work, tax-transfer payments and the circumstances of the households in which they live. We start with an examination of how the wages of award-reliant employees have changed relative to prices.

[375] Although subject to year-to-year variation, the NMW has increased in real terms over the past decade. The real value of the NMW increased by 1.5 per cent over the five years to December 2012, and by 6.9 per cent over the 10 years to December 2012.

Table 6.2: Real minimum wages and percentage changes—2002–2012

<table>
<thead>
<tr>
<th>Year</th>
<th>Real minimum wage ($)</th>
<th>Change (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>567.05</td>
<td>1.4</td>
</tr>
<tr>
<td>2003</td>
<td>575.31</td>
<td>1.5</td>
</tr>
<tr>
<td>2004</td>
<td>584.97</td>
<td>1.7</td>
</tr>
<tr>
<td>2005</td>
<td>589.60</td>
<td>0.8</td>
</tr>
<tr>
<td>2006</td>
<td>602.88</td>
<td>2.3</td>
</tr>
<tr>
<td>2007</td>
<td>597.71</td>
<td>–0.9</td>
</tr>
<tr>
<td>2008</td>
<td>600.28</td>
<td>0.4</td>
</tr>
<tr>
<td>2009</td>
<td>588.18</td>
<td>–2.0</td>
</tr>
<tr>
<td>2010</td>
<td>599.89</td>
<td>2.0</td>
</tr>
<tr>
<td>2011</td>
<td>602.29</td>
<td>0.4</td>
</tr>
<tr>
<td>2012</td>
<td>606.40</td>
<td>0.7</td>
</tr>
</tbody>
</table>

Note: Real minimum wage calculated from the national minimum wage/federal minimum wage and CPI (original data) from the December quarter of each year.

[376] ACCER examined outcomes for higher award rates of pay and submitted that it demonstrated that the “real wages of many safety net workers have fallen since 2000, with the greatest falls being at the higher end of the low-paid spectrum”. ACCER noted that real wages declined substantially in the period from the December quarter 2005 to the December quarter 2012 and that the minimum wage freeze of 2009 contributed significantly to this decline over the period.
Chart 6.2, taken from the Statistical Report, shows an index of the real value of
selected award classification rates since December 2002—the C14 (and NMW), C10, C4 and C1(b) classification rates in the Manufacturing Award, and the L4 classification rate in the Professional Employees Award 2010. The chart shows real increases in the level of the C14 (and NMW) and C10 rates and real reductions in the higher C4 and C1(b)/L4 classification rates. The real increases are more pronounced at the C14 level and the real reductions are more pronounced at the C1(b)/L4 level. This reflects the previous adjustment of award wages by “flat dollar” amounts. Since 2009, minimum modern award rates have been adjusted by percentage increases and real wages have increased at each classification level at the time of each review adjustment.

Relative earnings—an international perspective

Ai Group submitted that, corrected for differences in prices and nominal wages, Australia’s NMW was the third highest in the OECD. It submitted that this supported the proposition that low-paid employees in Australia had “a relatively high standard of living compared with those in other rich countries”.

Ai Group also provided a comparison of minimum wages relative to average wages (the minimum wage bite), across OECD countries which is shown at Chart 6.3.
Ai Group noted that the NMW is closer to the average wage in Australia than in all but three other OECD countries, and on this basis it submitted that Australia’s NMW provides “high relative standards of living in comparison with those of the broader domestic workforce.”

In addressing the OECD comparative data, the ACTU focussed on changes in the relative value of the minimum wage over time. The ACTU submitted that whereas in 2000, Australia had the second highest “bite” in the OECD, by 2011 this had fallen to seventh, with the fall in the minimum wage bite in Australia being the second largest of the 24 OECD countries for which data is available. It submitted that the 6.9 per cent real rise in Australia’s NMW between 2000 and 2012 was the sixth smallest increase of the 25 OECD countries for which data is available.

In our view, data about the Australian minimum wage bite relative to the other OECD countries is of limited significance in evaluating the relative living standards...
supported by award wages. However, the minimum wage bite is relevant in relation to the competitiveness of businesses that pay award rates and compete in global markets.

**Relative earnings in Australia**

[383] In the context of fixing minimum wages, the requirement to take into account “relative living standards” requires a focus on the living standards of the award reliant relative to others in the Australian workforce. The Australian Government noted that while the NMW has been increasing in real terms (that is above the CPI), the average earnings of full-time employees has grown at a faster pace. 318

[384] Any evaluation of changes in the real and relative level of minimum classification rates in modern awards must be informed by the fact that prior to the 2010–11 annual wage review, adjustments to award rates of pay had generally been flat dollar increases or tiered increases. The form of the adjustments awarded has resulted in a lower percentage rate of growth in higher award rates of pay relative to lower award rates. This has meant that the higher the rate of pay the more likely it is to have fallen in real terms and wage relativities in awards have become more compressed. Generally, the awarding of flat dollar increases has reflected a greater benefit for the lowest paid arising from a choice between a percentage increase benefiting the higher levels and a dollar amount benefiting the lower levels, 319 most often in circumstances where no party sought a percentage increase.

[385] Parties were invited to comment on data put forward by the ACTU which showed that between the June quarter 2005 and the December quarter 2012:

- the purchasing power of the NMW/C14 rate fell by 0.3 per cent;
- the purchasing power of the C10 rate fell by 2.74 per cent;
- the purchasing power of AWOTE rose by 11.7 per cent; and
- labour productivity rose by 9.9 per cent.

Note: Purchasing power was measured against the LCI.

[386] No party disputed the above data but several questioned the inferences to be drawn from it. Ai Group, for example, reiterated its view that capital deepening was a substantial cause of the rise in labour productivity and there should be no assumption that wages rise commensurate. They also submitted that the large rise in AWOTE was due mainly to sharp increases in the wages in selected high-skill areas, and in mining, and as such this is not relevant to the appropriate level of award wages.
Over the past decade, all award rates of pay have fallen relative to measures of median and average earnings, with much of that decline occurring in 2006 and 2008, and the ratio being volatile from year to year. The annual movements in the C14 rate relative to median weekly earnings of full-time employees is shown in Table 6.3, which shows a fall in the minimum wage bite from 57.5 per cent in 2002 to 52.7 per cent in 2012.

<table>
<thead>
<tr>
<th>Month and year</th>
<th>C14</th>
<th>Median earnings of full-time employees in main job (S)</th>
<th>Ratio of C14 to median earnings in main job (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aug-02</td>
<td>431.30</td>
<td>750.00</td>
<td>57.5</td>
</tr>
<tr>
<td>Aug-03</td>
<td>448.40</td>
<td>769.00</td>
<td>58.3</td>
</tr>
<tr>
<td>Aug-04</td>
<td>467.40</td>
<td>800.00</td>
<td>58.4</td>
</tr>
<tr>
<td>Aug-05</td>
<td>484.40</td>
<td>843.00</td>
<td>57.5</td>
</tr>
<tr>
<td>Aug-06</td>
<td>484.40</td>
<td>900.00</td>
<td>53.8</td>
</tr>
<tr>
<td>Aug-07</td>
<td>511.86</td>
<td>940.00</td>
<td>54.5</td>
</tr>
<tr>
<td>Aug-08</td>
<td>522.12</td>
<td>1000.00</td>
<td>52.2</td>
</tr>
<tr>
<td>Aug-09</td>
<td>543.78</td>
<td>1000.00</td>
<td>54.4</td>
</tr>
<tr>
<td>Aug-10</td>
<td>569.90</td>
<td>1050.00</td>
<td>54.3</td>
</tr>
<tr>
<td>Aug-11</td>
<td>589.30</td>
<td>1100.00</td>
<td>53.6</td>
</tr>
<tr>
<td>Aug-12</td>
<td>606.40</td>
<td>1150.00</td>
<td>52.7</td>
</tr>
</tbody>
</table>

Note: Following the amendments to the Workplace Relations Act 1996 taking effect in 2006, the federal minimum wage was set as $12.75 per hour, equivalent to $484.50 per week.

The Australian Government submitted that this “increasing earning inequality between employees on the minimum wage and those earning an average income is likely to lead to a divergence in living standards between these two groups” and that income inequality has increased over the last decade. The ACTU used the Panel’s statistical report modelling to demonstrate the “large gap between living standards of workers on average wages and those on minimum wages”.

Chart 6.4 shows the changes in the nominal value of the C14 and C10 award rates, compared with changes in AWOTE, AWE and the WPI, over the 10 years to December 2012. It shows that the award rates have grown more slowly over the decade than the measures of average pay, although growth in the C14 rate has remained close to that of the WPI. Given the flat rate nature of most past increases to award rates, all rates above C10 have fallen further behind average pay increases than is displayed for the C10 rate, this was the trend up until the uniform percentage increases in the 2010–11 and 2011–12 annual wage reviews.
While low-paid employees are not necessarily paid award rates, it is useful to note the broader changes in overall levels of earnings inequality. There can be little doubt that the overall levels of earnings inequality have increased over time. Chart 6.5 shows the growth in real weekly earnings by selected percentiles. It shows that real weekly earnings of full-time workers have become progressively less equal in the past decade—for each decile, the lower the earnings, the lower the rate of growth in earnings. The rising inequality over the past decade was concentrated in the period up to 2008 and is less pronounced over the past five years. The fanning out of the earnings distribution provides the context in which to assess movements in award wages. It should be noted that, while relatively small, there has been growth in the real earnings of even the lowest decile.
Chart 6.5: Real weekly total earnings (full-time adult non-managerial employees) by percentile—2002–2012

Note: Earnings figures are slightly inflated from May 2006 due to the inclusion of salary sacrificing. The EEH Survey was not conducted in 2003, 2005, 2007, 2009 and 2011. Results for these years have been obtained through linear interpolation.

In reflecting on the rise in inequality of earnings, the Australian Government drew attention to the fact that it can have a number of causes and particularly noted the “significant shift towards higher skilled occupations and rising skill levels in the workforce over recent decades, reflecting stronger demand for higher skilled workers.”

The NMW and modern award minimum rates are rates of pay for the job. In an economy with a changing structure of jobs, including towards the higher skilled, we would not expect minimum rates of pay to rise as fast as average earnings. Nonetheless, the evidence is clear that even the lowest award rates have barely kept pace with growth in rates of pay for the job more generally (as measured by the WPI). Higher award rates have fallen well behind growth in the WPI over the decade. While the lower award rates have had small increases in their real purchasing power, all award rates have fallen substantially relative to measures of average or median earnings. The changing structure of earnings has meant that earnings from jobs paid at the award rate are contributing less to the maintenance of relative living standards than they have in the past decade.
The tax-transfer system

[393] The tax-transfer system has a significant role to play in alleviating the impact of earnings inequality and supporting the living standards of low-paid workers. Wages do not entirely determine the living standards of the majority of individual wage earners who live in households with others. We agree with the view expressed in the past three review decisions that:

“minimum wages and the tax transfer system are both relevant to the maintenance of an effective safety net for the low paid: each has its part to play. Wages play a particularly important role in the maintenance of disposable incomes for households not receiving income support payments.”329

[394] The Australian Government calculated changes in real disposable income for a number of hypothetical household types with a NMW earner, covering the period between 1 January 2008 and 1 January 2013.330 They show increases for each family type modelled over that period—ranging from 2.8 per cent to 7.7 per cent. Both full-time singles and full-time two-income couples earning the NMW recorded an increase of 4.1 per cent. That information is shown at Table 6.4 below.

Table 6.4: Changes in real disposable income by selected household types—1 January 2008–1 January 2013, selected household types

<table>
<thead>
<tr>
<th>Household type</th>
<th>Change (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single person (age 21–54) on NMW</td>
<td>4.1</td>
</tr>
<tr>
<td>Two income couple (both NMW)</td>
<td>4.1</td>
</tr>
<tr>
<td>Two income couple (both 50% of NMW). Income support is Newstart allowance</td>
<td>6.1</td>
</tr>
<tr>
<td>Single parent on NMW (age 21–54; child age 2). Income support is Parenting Payment Single</td>
<td>7.7</td>
</tr>
<tr>
<td>Single income couple on NMW (ages 21–54; child age 2). Income support is Parenting Payment Partnered</td>
<td>2.8</td>
</tr>
</tbody>
</table>
ACCER provided a longer term perspective over the period 2000 to 2012. It calculated the rise in disposable income for award-reliant families (with two children) relative to a family with a wage earner on AWOTE over that period (incorporating the Schoolkids bonus as announced in the 2012–13 budget). Table 6.5 summarises their key results and shows that tax-transfers have increased the real purchasing power of disposable incomes at the NMW/C14 and C10 levels, and reduced the difference compared to those with average earnings.

Table 6.5: Rise in components of income between safety net-dependent and AWOTE families (couple or sole parent with two children families)—2000–2012

<table>
<thead>
<tr>
<th>Rise in pre tax and transfer wages</th>
<th>NMW</th>
<th>C10</th>
<th>AWOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>% wage increase—pre tax and transfer</td>
<td>51.4</td>
<td>43.5</td>
<td>74.4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rise in components of disposable income</th>
<th>NMW</th>
<th>C10</th>
<th>AWOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>% wage increase—net of tax</td>
<td>60.6</td>
<td>56.2</td>
<td>75.4</td>
</tr>
<tr>
<td>% increase in transfers</td>
<td>84.3</td>
<td>84.3</td>
<td>203.6</td>
</tr>
<tr>
<td>% increase in disposable income</td>
<td>67.7</td>
<td>63.9</td>
<td>88.8</td>
</tr>
</tbody>
</table>

The effect of tax-transfers on disposable incomes of the low paid is relevant to the needs of the low paid and their relative living standards. This is so in relation to both specific changes in the tax-transfer system at the time of a particular annual wage review and assessing broader information in relation to measures of the income of the low paid expressed as a proportion of overall median or average (mean) incomes.

Consideration of the effect of changes in the tax-transfer system on the absolute or relative circumstances of the low paid must be made in the particular circumstances that apply.

The Australian Government submitted that the NMW should not be used as an avenue to provide assistance for the carbon price in 2013 due to the specific compensation provided with the Household Assistance Package. ACOSS advanced a similar view. Some employer group submissions referred to “the overcompensation” this package provided low-income households.
The Panel considered the impact on the CPI of the introduction of a price on carbon and assistance to employees to compensate for those price effects in the 2011–12 Review decision in which it said:

“We agree with the proposition that this Review should not provide any additional assistance to compensate for the anticipated price effects associated with the introduction of a price on carbon. Compensation has already been provided through tax cuts and transfer payments and further compensation by minimum wage adjustments would amount to double dipping. It follows that we will, in effect, abstract the projected 0.7 per cent increase in the CPI from our deliberations.”

We adopt the same position in this Review.

**The needs of the low paid**

The needs of the low paid can be assessed by reference to the income of the low paid considered against an income-based measure of the needs of the low paid.

In the absence of robust contemporary poverty line or budget standards data, many submissions focussed on measures of the income of the low paid expressed as a proportion of overall median or average (mean) household disposable income, which provides, at best, a broad indicator of the extent to which needs of award-reliant employees are met. Such information is provided in the Statistical Report in the form of a comparison of disposable income of selected households earning various wage rates with a benchmark of 60 per cent of median income.

Several submissions noted the issue of income inequality in the context of relative living standards. The Australian Government submission, using the latest available ABS data for real household equivalised income, noted that income inequality has increased over the last decade (1999–00 to 2009–10), although it remained relatively constant between 2007–08 and 2009–10.

The ACTU, ACOSS and ACCER submitted that single-earner couple households fall below a relative poverty line, adopting the measure of 60 per cent of median household disposable income. The ACTU submitted that the data show that whilst minimum wage-reliant households consisting of a single adult or a two-income couple generally have net incomes that exceed this poverty line by somewhere between 13 and 27 per cent, single-earner minimum wage-reliant couple households, with or without children, have net incomes that are around this poverty line.
The statistical reporting for this year’s annual wage review included data comparing disposable income for selected household types earning award rates of pay and AWOTE with a (equivalised) poverty line based on 60 per cent median household disposable income. The ACTU submission used this data pertaining to the C14 worker households and presented it as a chart showing their net household incomes as a proportion of this poverty line. The ACTU pointed out that most households reliant on minimum wages have an income only slightly above this relative poverty line (or below it in the case of single-earner couples).

ACOSS submitted that while the risk of poverty is low for full-time minimum wage earners in Australia, a high proportion of income-poor families include at least one wage earner. The submission referred to a report ACOSS recently commissioned from the Social Policy Research Centre at the University of New South Wales which examined the most recent ABS Income and Expenditure Survey (2009–10) (Poverty in Australia 2012).

Poverty in Australia 2012 analyses the risk and profile of poverty amongst a range of household types using the international standard benchmarks of 50 per cent and 60 per cent of median income, although it differs from the OECD methodology by taking into account people’s housing costs as well as their incomes. Housing costs (rent, mortgage payments and rates) are deducted from income before calculating the median income on which the poverty lines are based (which reduces the poverty lines) and deducts each household’s housing costs from their income (which reduces household incomes). In this way, it compares different households’ ability to meet their basic living costs apart from housing. The report found that in 2010:

- When a poverty line of 50 per cent of median disposable income was used (a relatively low poverty benchmark used by the OECD), 29 per cent of all people with incomes below this benchmark lived in households for which wages were the principle source of income.

- 5.2 per cent of households whose main source of income was wages were below the poverty benchmark of 50 per cent of median income. The figure was 8.8 per cent when measured against 60 per cent of median income.

The data in Poverty in Australia 2012 show that of all people with disposable incomes below 60 per cent of the median, 20.5 per cent were employed full-time, 13.5 per cent were employed part-time and 5.9 per cent were unemployed—the remainder were not in the labour force. Low-paid employment appears to contribute more to the total numbers in poverty than does unemployment.
ACCER reiterated its concern that the modelling shows the “dire position” of low-income working families. Based on ACCER calculations using figures for disposable income of selected households earning at the C14 level from the Statistical Report, ACCER estimated that in December 2012, a family of four is very much below the widely recognised 60 per cent of median income relative poverty line, being only 53.2 per cent of that level. We did not receive any evidence as to how many people might actually be in that position.

We note that ACCER provided a range of information which was either restricted to a comparison of the position in 2000 and 2012 or, whilst providing data for each year from 2000 to 2012, focussed its submissions on a comparison of changes in the measures shown between 2000 and 2012. Whilst such a long-term perspective is one relevant consideration, a greater focus on and analysis of more recent information would better assist us in our task.

As noted earlier, many of the submissions addressed the relative poverty line based on the measure of 60 per cent of median household disposable income, using data presented in the Statistical Report for this year’s annual wage review in respect of a range of hypothetical households. Table 6.6 (taken from the Statistical Report) confirms that when measured against the 60 per cent of median income benchmark, in December 2012:

- The disposable income of most households exceeded the 60 per cent benchmark, at every award level.
- The exception was single-earner couples on the lower award rates, with and without children, who had disposable incomes near to or even below the threshold.
Table 6.6: Comparison of 60 per cent median income poverty lines with disposable income as a proportion of poverty lines, selected households earning various wage rates, December 2012

<table>
<thead>
<tr>
<th>Household type</th>
<th>60% median income poverty line ($pw)</th>
<th>Disposable income as proportion of poverty line (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>C14</td>
</tr>
<tr>
<td>Single adult</td>
<td>488.10</td>
<td>1.14</td>
</tr>
<tr>
<td>Single parent, one child</td>
<td>634.52</td>
<td>1.27</td>
</tr>
<tr>
<td>Single parent, two children</td>
<td>780.95</td>
<td>1.17</td>
</tr>
<tr>
<td>Single-earner couple, no children*</td>
<td>732.14</td>
<td>1.00</td>
</tr>
<tr>
<td>Single-earner couple, one child</td>
<td>878.57</td>
<td>1.04</td>
</tr>
<tr>
<td>Single-earner couple, two children</td>
<td>1025.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Single-earner couple, two children (no NSA)</td>
<td>1025.00</td>
<td>0.89</td>
</tr>
<tr>
<td>Dual-earner couple, no children**</td>
<td>732.14</td>
<td>1.20</td>
</tr>
<tr>
<td>Dual-earner couple, one child</td>
<td>878.57</td>
<td>1.20</td>
</tr>
<tr>
<td>Dual-earner couple, two children</td>
<td>1025.00</td>
<td>1.14</td>
</tr>
</tbody>
</table>

Note: * From 1 July 2011, taxpayers with a dependent spouse born on or after 1 July 1971 were no longer eligible for the dependent spouse tax offset (DSTO). This measure did not affect dependent spouses with children as they are eligible for Family Tax Benefit B. This household is assumed to not qualify for DSTO. ** One partner earns 100% of the specified wage rate, the other earns 50% of this rate. The C14, C13, C10 and C4 are minimum award rates set under the Manufacturing and Associated Industries and Occupations Award 2010. AWOTE data are expressed in original terms. Poverty lines (PLs) are based on estimates of median equivalised household disposable income for 2009–10, 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.

Assumptions: Tax-transfer parameters as at December 2012. C14 = $606.40 pw, C13 = $624.00, C10 = $706.10 and C4 = $848.20. AWOTE = $1396.00. Children aged 8–12. Disposable income includes all available income transfers (including, for example, clean energy payments and the Schoolkids Bonus) unless otherwise specified. Households paying sufficient rent to receive maximum Rent Assistance, where applicable. Single parent households are non-pensioners i.e. not in receipt of Parenting Payment (Single). Couples on C14, C13 and C10 are eligible to receive proportional rates of Newstart Allowance (NSA), unless otherwise specified.

[412] A longer term perspective on this information is shown for C14-reliant households in Table 6.7.
Table 6.7: Disposable income of selected C14-reliant households as a proportion of 60 per cent median income poverty lines—December 2008–2012

<table>
<thead>
<tr>
<th>Household type</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single adult</td>
<td>1.09</td>
<td>1.16</td>
<td>1.14</td>
<td>1.13</td>
<td>1.14</td>
</tr>
<tr>
<td>Single parent, one child</td>
<td>1.20</td>
<td>1.28</td>
<td>1.27</td>
<td>1.26</td>
<td>1.27</td>
</tr>
<tr>
<td>Single parent, two children</td>
<td>1.10</td>
<td>1.18</td>
<td>1.17</td>
<td>1.16</td>
<td>1.17</td>
</tr>
<tr>
<td>Single-earner couple, no children*</td>
<td>0.97</td>
<td>1.06</td>
<td>1.03</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Single-earner couple, one child</td>
<td>0.99</td>
<td>1.07</td>
<td>1.05</td>
<td>1.03</td>
<td>1.04</td>
</tr>
<tr>
<td>Single-earner couple, two children</td>
<td>0.94</td>
<td>1.02</td>
<td>1.00</td>
<td>0.99</td>
<td>1.00</td>
</tr>
<tr>
<td>Single-earner couple, two children (no NSA)</td>
<td>0.84</td>
<td>0.90</td>
<td>0.89</td>
<td>0.88</td>
<td>0.89</td>
</tr>
<tr>
<td>Dual-earner couple, no children</td>
<td>1.16</td>
<td>1.24</td>
<td>1.21</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>Dual-earner couple, one child</td>
<td>1.14</td>
<td>1.22</td>
<td>1.21</td>
<td>1.19</td>
<td>1.20</td>
</tr>
<tr>
<td>Dual-earner couple, two children</td>
<td>1.07</td>
<td>1.15</td>
<td>1.14</td>
<td>1.13</td>
<td>1.14</td>
</tr>
</tbody>
</table>

Financial stress and deprivation

[413] Financial stress and deprivation measures involve an element of subjectivity, and measure the degree to which needs are not being met, rather than directly measuring needs. However, a suite of deprivation and financial stress measures can inform the review process in combination with other measures of the needs of the low paid, subject to an understanding of what they measure. In this regard, we note that the authors of the HILDA Survey cautioned that they are not a good overall measure of living standards.

[414] The Australian Government submission presented financial stress data from Wave 11 (2011) of the HILDA Survey at the individual adult employee level. It found that at every level of income, both individuals and households experience financial stress and that the incidence of financial stress is higher for low-income individuals.
and households than for their high-income counterparts. However, the submission also pointed out that low income does not necessarily cause financial stress, and provided a table showing that around 64 per cent of low-paid adults reported not experiencing any financial stress based on a summary of the indicators. Further, the submission cited the ABS Household Expenditure Survey (HES) 2009–10 data as evidence that up to three-quarters of households in the bottom three deciles of household equivalised disposable income did not report experiencing financial stress.

ACOSS suggested that financial stress indicators are a source of data on living standards, but noted that respondents have different perceptions of the meaning of the questions used. Citing HILDA Survey data presented in the Statistical Report, ACOSS noted an increase in levels of stress for both low-paid and all employee households between 2007 and 2011, and that in 2011, 33 per cent of low-paid employees experienced financial stress compared with 17 per cent of all employees. Seventeen per cent of low-paid employees experienced moderate to high financial stress compared to 5 per cent of all employees. In both groups, and across most measures of financial stress, the levels of stress reported have increased between 2007 and 2011.

Information from the HILDA Survey, the ABS General Social Survey and the ABS HES are included in the Statistical Report. The data show that:

- across each survey, financial stress (as variously measured) is higher for low-income individuals and households than their high-income counterparts;
- the level of financial stress has risen both for all households and for low-paid households across most measures over the most recent four or five years, more so for low-income households than for households generally; and
- households with only low-paid adult employees showed substantially higher levels than all households of inability to afford normal family and social activities (chosen by the ABS as indicators of deprivation). These indicators of social deprivation increased between 2003–04 and 2009–10 for all households and for low-paid households.

**Expenditure**

The Statistical Report includes data on expenditure patterns of households with low-paid workers, using ABS HES data for 2009–10. The data show that there is very little difference in the pattern of spending between all households and those with only low-paid employees. And while the total income of the two groups differed substantially (by $745 per week), the total expenditure did not (the difference being $164). When the comparison is confined to households whose principal source of income is wages and salaries, the absolute differences in income and expenditure
between the average and the low-income households is higher, but the patterns of expenditure remain very similar.

Conclusion

[418] In excess of 1.5 million employees, or 16.1 per cent of employees, are award reliant. One-third of the award-reliant employees are full-time employees and two-thirds are part-time employees. Many other employees have their pay rates influenced by reference to award rates.

[419] In assessing the needs of the low paid, we have given particular attention to those paid at or below the C10 rate ($706 in 2012–13) and those receiving less than two-thirds of median earnings ($767 in mid 2012). We do not include the owners of small businesses in our assessment of the circumstances of the low paid, for the reasons set out at paragraphs [269]–[275] of this decision.

[420] Over the past decade, all award rates of pay have fallen relative to all measures of median and average earnings. The NMW as a proportion of the median full-time wage has fallen from 57.5 per cent in 2002 to 52.7 per cent in 2012. It fell by 0.9 percentage points in the past year. Award rates have grown more slowly over the past decade than have the WPI, AWOTE, AWE and bargained rates, although growth in the C14 rate has remained close to that of the WPI.

[421] Broader changes in the overall levels of earnings inequality show that real weekly earnings of full-time workers have become progressively less equal in the past decade: for each decile, the lower the earnings, the lower the rate of growth in earnings.

[422] Analysis from a different perspective, provided by ACOSS, found that in 2010 some 30 per cent of all people with incomes below either the 50 per cent or 60 per cent of median disposable income benchmark were in households for which wages were the main source of income. This figure exceeds the number of people who lived in unemployed households.

[423] All of the evidence at our disposal indicates that the earnings of award-reliant workers have been falling behind the earnings of the rest of the workforce.

[424] We are conscious that there is a broad shift in the economy toward higher-skilled jobs and that this is affecting measures of average and even median earnings. Even the WPI will be affected if the pay rates of the higher skilled are rising more rapidly as a result of the increased relative demand. For this reason, we would not expect award rates, especially for the lower-skilled jobs, to rise as fast as the average. Nonetheless, the average or “typical” wage influences typical living standards and norms about how the households of employees live. In this way it is relevant to our task of considering relative living standards. It remains one of a number of considerations that we must take into account.
If not addressed, increasing earnings inequality and the persistent decline of modern award minimum wages relative to wage increases generally may have broader implications, both for our economy and for the maintenance of social cohesion.

The tax-transfer system plays a significant role in alleviating the impact of earnings inequality and supporting the living standards of low-paid workers, and the evidence suggests that the tax-transfer system has been effective in increasing the real level of disposable incomes for lower paid award-reliant families.

The way in which changes in the tax-transfer system are taken into account in minimum wage fixation remains a matter of contention and we would be assisted if this matter was given some consideration by the parties in the 2013–14 Review.

If sustained, the recent improvement in labour productivity could provide the capacity to address the declining relative position of the low paid and for them to share in increasing community living standards.

7. Promoting Social Inclusion through Increased Workforce Participation

For the purpose of conducting an annual wage review, s.284(1)(b) of the Act provides that the Panel must take into account “promoting social inclusion through increased workforce participation”. As we state in Chapter 2, our consideration of social inclusion in this context is limited to increased workforce participation.

Minimum wages, employment and the demand for labour

The Australian Government submitted that “minimum wages can affect employment...through their impacts on labour supply and demand”, although it noted the Research Report 2/2010 finding that there is no consensus on either the magnitude or direction of the impact. It again submitted that national minimum wages should not be “set so high as to place undue financial burden on businesses, discouraging them from employing those low skilled marginal workers”. The Victorian Government submitted that, despite varying findings as to the magnitude of the impact, it is widely accepted that an increase in minimum wages has an adverse impact on employment levels. The NSW Government submitted that “any unnecessary increase to minimum wages that does not reflect productivity improvements may...have a deleterious impact on employment growth”.

A number of industry specific employer organisations alluded to minimum wage increases leading to a loss of employment in their industries. For example, the NRA claimed that there is “a natural and unavoidable trade off between higher minimum wage levels and the number of jobs in the national retail sector.”
Some submissions presented research into the employment effects of minimum wage increases. The ACTU referred to research either not available or not presented for consideration in previous reviews. That research mostly focussed on the experience of minimum wage increases in the United Kingdom and United States in sectors such as retail and hospitality. In some cases, estimates provided different results depending on the geographic area considered. For example, while some estimates reported a negative employment effect, when geographic trends were controlled for, there was little evidence of disemployment effects.

The ACTU noted the Panel’s concerns about the applicability of findings from overseas studies on the relationship between minimum wage increases and employment in Australia, however suggested that these studies are not irrelevant. The ACTU also referred to an Australian study by Lee and Suardi which analysed the teenage employment to population ratio using data from the Labour Force Survey. The model tests the 11 minimum wage increases from April 1997 to June 2007 in Victoria, the Northern Territory and the Australian Capital Territory.

The study found no significant negative employment effects for teenagers when testing for single and multiple structural breaks in a times series model between 1992 and 2008. However, Lee and Suardi noted that:

“It is worth keeping in mind that examining any effects of the introduction of the Australian federal minimum wage in 1997 is made relative to the system that was in place before that—one that comprised of a complex web of award wages for different occupational categories. The comparison is not relative to a labour market where there are no wage floors.”

Based on their review of the literature in their submission, the ACTU claimed that “[t]here have been no studies since the 2011-12 Review that should cause the Panel to modify its view that a modest rise in minimum wages has a very small or zero effect on employment”.

ACCI’s submission cited findings from Australian studies, however it did not present any new research published since the 2011–12 Review decision. Overall, ACCI concluded that:

“studies have shown that a minimum wage increase will cause disemployment effects, especially amongst low skilled workers, with the magnitude of disemployment depending on the wage increase and the wage elasticity of labour demand…”

A number of employer associations including ACCI, AHA, R&CA and MGA drew on the results of member surveys in their submissions, maintaining that any minimum wage increase may reduce labour demand in the form of lower employment or fewer hours worked. In the 2011–12 Review decision, the Panel discussed the validity of conclusions derived from these surveys and noted that:
“the surveys cannot be relied on for any conclusions about the aggregate effects either from an industry or an economy-wide perspective. The survey respondents are small in number, self-selected and not representative of employers generally.”

[439] Despite our previous comments, ACCI argued that these surveys provide useful insights into how the Panel’s decisions affect award-reliant employees and employers. However, the ACTU submitted in reply that ACCI’s survey was unscientific and self-selecting, and urged the Panel to disregard any findings from it.

[440] In this Review, the Panel has not been given cause to alter its position and remains cautious about using the findings from these surveys to form a view about the effect of minimum wage increases on employment.

[441] We appreciate the additional relevant material that some parties, ACCI in particular, seek to put to us, based on their own collection of data. This material can add detail and depth to our understanding. However, if we are to rely on such material, we need to be confident that it is a reliable representation of the issues at hand. There are well-understood rules about the conduct of surveys that need to be followed if the results of a survey of a sample of a particular population are to accurately represent the picture that you would get if you obtained the same information from that entire population. These rules include that the sample size or proportion sampled must be large enough. Most important, the sample for the survey must be selected on a random basis. If a membership list is used as the basis for a survey, then it is essential that those that respond are properly representative of the entire membership base (e.g. by firm size, form of ownership, industry sector, geographic location). Where this is not the case, then the responses become more like case studies or anecdotes—accounts of the situation of those who did respond, but not to be taken as representative of the survey population (e.g. the membership) as a whole. Even where the survey is representative of the membership, it needs additional evidence to show that it is representative of, for example, employers more broadly. A valuable step in assessing the representativeness of the respondents is to check the answers against other data that is known to be reliable, such as those from the ABS, where possible. It is good practice to include in such surveys one or more questions that match those in a relevant ABS or other reliable survey, so that this test may be applied. As an example, the collection of information about the industry of the employer and the numbers of persons employed would provide information allowing a comparison with ABS data for employment by industry.

[442] In evaluating the extent to which we can rely on survey evidence that is submitted to us, we would look for an account of the nature of the survey population, the method of collecting responses, the response rate and total number, evidence that the respondents are a true random sample (or close enough) of the survey population, and testing of findings against comparable aggregates produced by the ABS or other known reliable sources. It would also assist to provide a record of the questions asked.
Work incentives and labour supply

[443] Research Report 2/2013 (Labour supply responses to an increase in minimum wages: An overview of the literature) provided a literature review of studies that examined labour supply responses to an increase in minimum wages. This report concluded that very few studies have investigated labour supply responses to increases in minimum wages, both in Australia and overseas. The studies outlined in the report generally found that the overall effect of an increase in minimum wages was relatively small.\(^{380}\) Estimated labour supply responses varied for different sub-groups, with females (particularly partnered females) and single parents more likely to respond to wage changes.\(^{381}\)

[444] The research report also found that the literature identified many factors that can influence the labour supply decision. Wages and other financial benefits of work were only one aspect of the decision to seek employment, or seek additional hours of work.\(^{382}\) Other factors, including disincentives created by the tax-transfer system, non-financial benefits of work, costs of work and individual characteristics, were potential influences on an individual’s labour supply decision.

[445] The ACTU commented that the literature suggests that “the labour supply response to minimum wage increases is positive”.\(^{383}\) ACCI noted that, while minimum wages may have a positive impact on labour supply incentives, a number of studies examined in the report assumed increases in the minimum wage did not affect labour demand,\(^{384}\) or found that higher minimum wages reduce the probability of an individual finding employment due to the entry of new job seekers.\(^{385}\)

[446] ACOSS drew attention to the particular situation of the long-term unemployed. They argued that even a large decrease in the real value of the minimum wage would not increase their job prospects, as “many long-term unemployed people are a considerable distance from employment at the levels of productivity now expected by employers”.\(^{386}\)

[447] Several submissions highlighted the role of demographic changes in shifts in the composition of labour force participation in Australia.\(^{387}\) Ai Group noted that the ageing profile of the workforce highlighted the “weak and fragile nature” of the labour market from a supply perspective.\(^{388}\) ACOSS reiterated the view that Australia’s ageing population will require increasing reliance on income-support recipients and women outside the workforce as potential sources of labour.\(^{389}\)

[448] A discussion on participation rates is included in Chapter 4. It is explained that the participation rates for 20–64 year olds, which better reflects the working-age population by excluding the older and younger age groups who are less likely to search for work, are near record high levels. In recognition of the importance of employment as to social inclusion, the data indicates that there has been a 2.8 percentage point increase in workforce participation among the working age population over the past decade.\(^{390}\)
A number of submissions provided the results of model simulations to show the impact of employment in a minimum wage job on effective marginal tax rates and household disposable income. The Australian Government discussed modelling from DEEWR, which indicated that all households were in a better financial position from having a household member find a job at the current NMW after tax and transfer payments, although the proportional improvement in their financial position varied. Among single-earner households modelled, this ranged from a 122 per cent gain for single adults taking up a full-time NMW job than living on income support, to a 35 per cent gain for the non-employed couple households in which one member takes up a full-time NMW job. The gains are also positive when one non-employed member accepts a part-time NMW job, although as might be expected, the gains are smaller. However, the submission noted there remains “strong incentives”, for example a single adult who takes a 15-hour NMW job is almost 50 per cent better off. The two-couple households modelled, in which a second member of the household secures a full-time NMW job, are also financially better off (by 65 and 38 per cent) although when the job is part-time, the disposable income of the households modelled increased by 19 and 11 per cent.

Drawing on research from the Australian Government, ACOSS submitted that high effective marginal tax rates can create acute disincentives to undertake part-time employment, particularly for Newstart Allowance recipients and secondary earners (usually mothers) in low and middle-income households.

Labour market transitions

The Australian Government provided data on labour market transitions from the HILDA Survey, incorporating all waves of data currently available (2001–11). The submission suggested the data showed that “low paid employment serves as an important entry point into the workforce and is a stepping stone to higher paid work. However, low paid work can also be highly persistent.” Averaging results over ten years showed that those who enter employment disproportionately earn lower wages: 23.6 per cent of those previously unemployed and 22.5 per cent previously not in the labour force commenced work in a low-paid job, compared with 11 per cent of all employees who are low paid.

Close to half (49.3 per cent) of those in low-paid employment in a given year were in higher paid employment the next year (Table 7.1). Those in low-paid employment were more likely to be in employment and higher paid employment the following year, than someone who was unemployed. The Australian Government argued that the “stepping stone effect” suggests the level of the NMW should not inhibit job opportunities for potential low-paid workers seeking employment.
Table 7.1: Year-on-year transitions of employment/low pay status (row percentage)\textsuperscript{401}

<table>
<thead>
<tr>
<th>Employment status, year t+1 (%)</th>
<th>Not in labour force</th>
<th>Unemployed</th>
<th>Low paid</th>
<th>Higher paid</th>
<th>Total employed</th>
<th>Sample size (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment status, year t</td>
<td>90.6</td>
<td>3.4</td>
<td>1.4</td>
<td>4.7</td>
<td>6.0</td>
<td>37 250</td>
</tr>
<tr>
<td>Not in labour force</td>
<td>32.7</td>
<td>31.4</td>
<td>8.5</td>
<td>27.4</td>
<td>35.9</td>
<td>3 264</td>
</tr>
<tr>
<td>Unemployed</td>
<td>9.4</td>
<td>3.6</td>
<td>37.7</td>
<td>49.3</td>
<td>87.0</td>
<td>5 357</td>
</tr>
<tr>
<td>Low paid</td>
<td>4.8</td>
<td>1.5</td>
<td>5.1</td>
<td>88.6</td>
<td>93.7</td>
<td>45 081</td>
</tr>
<tr>
<td>Higher paid</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{401} The NSW Government and ACCI highlighted the potential benefits of low-paid work for new entrants into the labour market, particularly young people, noting that minimum wage jobs and apprenticeships can provide opportunities for these workers to gain skills and experience.\textsuperscript{402} While ACOSS commented on the difficulties in school-to-work transitions for many young people, it submitted that there was no “convincing evidence” linking current minimum wages levels to the likelihood of a young person being employed.\textsuperscript{403}

\textsuperscript{402} Limited submissions have been made to us in past reviews about the groups of people most likely to cycle between labour force states (not in the labour force, unemployment and employment). The 2010–11 Review decision cited research, relying on evidence given to previous wage reviews about earnings mobility, suggesting that women, older workers, workers with a low level of education and workers in small firms have poorer prospects of moving from low pay to higher rates of pay.\textsuperscript{404} The characteristics of those who transition between labour force states would be a useful area for further research.

\textsuperscript{405} The Panel invited comment on the United Kingdom’s Low Pay Commission Report 2013 and Mission Australia’s Youth Survey 2012. The Low Pay Commission Report 2013 provides evidence and background for the Commission’s recommendations for changes in the United Kingdom’s national minimum wage.\textsuperscript{405} Mission Australia’s Youth Survey 2012 of some 15 000 Australians aged 15–19 (conducted annually since 2002) explored attitudes, values and issues of concern to young people and also collected data about forms of participation.\textsuperscript{406}

\textsuperscript{406} The Australian Government noted that the minimum wages objective in the Act and the criteria of the Low Pay Commission are different,\textsuperscript{407} while the ACTU remarked that the view of the Low Pay Commission is that the creation of the national minimum wage and increases in its rate has not negatively affected employment.\textsuperscript{408} The Australian Government submitted that Mission Australia’s Youth Survey
reinforces its position “that young people can be disadvantaged in the labour market, and are especially vulnerable in periods of labour market softness.” The ACTU cautioned against drawing firm conclusions from the survey results due to the sample not being randomly selected or representative. It noted that Mission Australia’s results show a much smaller proportion of full-time workers than the ABS Labour Force survey and a higher proportion of unemployed 15–19 year olds.

For our part we generally agree with the observations of the ACTU on the Mission Australia survey and note that we have made a number of comments about such matters in paras [438] and [442] of this Chapter. In terms of the United Kingdom Low Pay Commission report, it deals with a different statutory context, although we note its findings that minimum wage increases in the United Kingdom have not negatively impacted upon employment.

Conclusion

As we have mentioned, promoting social inclusion through increased workforce participation can be particularly complex in the context of an annual wage review due to the competing considerations of strengthening incentives to work and minimising distortions in labour demand. The probability of employers reducing labour demand in response to higher minimum and award wages has implications for social inclusion. We were mostly referred to international studies that showed that an increase in the minimum wage has minimal disemployment effects, and an Australian study that found no statistically significant negative employment effects.

Employer groups again submitted their own surveys as evidence of the effects of increases in minimum wages on employment and hours. These surveys are not representative of the populations surveyed or employers more generally. If we are to rely on such material provided by any party, it must meet the accepted standards for survey reliability referred to earlier in this chapter.

A literature review in the research report found that very few studies have investigated labour supply responses to increases in minimum wages, with only one study conducted in the Australian context. Although the findings were that labour supply would increase from a rise in the minimum wage, the response was relatively small and varied for different groups, with other factors coming into consideration. We believe that future research involving modelling of the impact of increases in Australian minimum wages for different population groups would be of benefit in informing the wage-setting process.

Incentives for individuals to supply their labour remain a consideration for the Panel. We have previously concluded that incentives to work full-time at the NMW are significant, although the incentives for working part-time may be less. Modelling from DEEWR generally shows that there are financial incentives for obtaining a job. The evidence suggests that strong incentives exist for individuals in single-earner and couple households to take up full-time work paid at the NMW,
although we note lower incentives for secondary earners taking up part-time work paid at the NMW, which may be further eroded if childcare costs are incurred as a result.

[462] Data on the dynamics of labour market mobility show that low-paid employment is an important entry point into the workforce and a stepping stone to higher paid work, however, for some individuals for whom low pay can be highly persistent, increases in minimum wages are particularly important in maintaining living standards.

[463] There is limited evidence about the characteristics of those more likely to transition between labour force states and employment paid at low and higher rates of pay. This would be a useful area for further research and, given that multiple waves of HILDA data are available to produce what may now be sufficient sample sizes to disaggregate labour force dynamics by characteristics, this area for research may now be a practicable one.

[464] The research presented by parties to this Review has not convinced the Panel to alter its position from previous reviews that a modest increase in minimum wages has a very small, or even zero, effect on employment.

8. Encouraging Collective Bargaining

[465] As part of the modern awards objective, the Panel must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account the need to encourage collective bargaining.

[466] As illustrated in Chart 8.1 below, ABS data show that, from 2000 to 2012, the proportion of award-reliant employees has trended downwards (from 23.2 per cent to 16.1 per cent), while the proportion of employees on collective agreements has increased (from 36.8 per cent to 42.0 per cent). Despite this overall trend, the data also show that between 2010 and 2012, the proportion of award-reliant employees has marginally increased (from 15.2 per cent to 16.1 per cent), while the proportion of employees on collective agreements has marginally declined (from 43.4 per cent to 42.0 per cent).
Chart 8.1: Method of setting pay

```
<table>
<thead>
<tr>
<th>Year</th>
<th>Awards</th>
<th>Collective agreements</th>
<th>Individual arrangements</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>20</td>
<td>30</td>
<td>5</td>
</tr>
<tr>
<td>2002</td>
<td>15</td>
<td>35</td>
<td>10</td>
</tr>
<tr>
<td>2004</td>
<td>10</td>
<td>40</td>
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</tr>
<tr>
<td>2006</td>
<td>5</td>
<td>45</td>
<td>20</td>
</tr>
<tr>
<td>2008</td>
<td>2.5</td>
<td>50</td>
<td>25</td>
</tr>
<tr>
<td>2010</td>
<td>2.5</td>
<td>50</td>
<td>25</td>
</tr>
<tr>
<td>2012</td>
<td>2.5</td>
<td>50</td>
<td>25</td>
</tr>
</tbody>
</table>
```

Note: As defined by the ABS, individual arrangements include registered or unregistered individual agreements and owner managers of incorporated businesses.

[467] The Australian Government’s submission presented data from DEEWR’s Workplace Agreements Database to illustrate the indirect effects of minimum wage increases on the quantum of increases sought in collective agreement negotiations, without specifically addressing the “need to encourage collective bargaining”. Data drawn from the submission showed that:

“As at December 2012, 31.6 per cent (7338) of wage increases in current federal enterprise collective agreements (CAs) covering 24.3 per cent (566 000) of 2 332 100 employees on federal enterprise agreements are linked in some way to AWR outcomes. However, only 12.7 per cent (2940) of 23 236 federal CAs, covering 5.5 per cent (128 800) of 2 332 100 employees on federal enterprise agreements, automatically flow on AWR decisions. This is more common in smaller workplaces – with 14.9 per cent of small business CAs automatically linked to AWR decisions.”

[468] The Victorian Government and AFEI noted that the Commission should consider the potential indirect effects of annual wage review decisions on enterprise agreement negotiations.

[469] Some submissions cautioned that an increase to minimum wages may act as a disincentive to bargain. For example, Ai Group and the AAA argued that “the National Minimum Wage Order 2013 must be at a level significantly below average enterprise agreement wage outcomes, so as not to discourage the making of enterprise agreements under the FW Act”.

[470] Similarly, ACCI warned that minimum wage increases should not discourage employers and employees from engaging in collective bargaining and that any significant increase in award-based minimum wages will discourage bargaining.
Furthermore, ACCI noted that the reported increase in award reliance, from 15.2 per cent in May 2010 to 16.1 per cent in May 2012, is a “cautionary note”, suggesting that the increase in award reliance has had an impact on over-award bargaining and the ability of employers to fund over-award wages.  

[471] The Victorian Government also cautioned that the effect of an increase in minimum wages on the incentives to bargain may be different in weak economic conditions, and noted that:

“While a measured approach to minimum wages may not reduce incentives for bargaining at times when the economy and labour market are robust, when economic conditions are softer, it is particularly important that space for bargaining outcomes that reward flexible and productive work practices is maintained. This enables the objective of promoting flexible modern work practices and the efficient and productive performance of work to be met more effectively.”

[472] The New South Wales Government noted that the Commission should set minimum wages that “maintain incentives for enterprise bargaining that rewards flexible and productive work practices”. ACCER observed that “wage rates and other terms of employment in the bargaining sector are intended to be, and are able to be, more responsive to changing the operational needs of the firm than safety net rates.”

[473] ACCER also noted that award-reliant workers do not have the power to bargain and do not receive the benefits that come from bargaining. In addition, the ACTU submitted that since the relative living standards of low-paid workers are low, there are significant incentives in place to bargain for higher wages and acquire more skills and experience through stable employment. Based on data obtained from the DEEWR report *Trends in Federal Enterprise Bargaining December quarter 2012*, the ACTU indicated that the gap between the wages of award-reliant workers and those on collective agreements continues to widen. In its submission in reply, the ACTU maintained that:

“There are large and growing gaps in the wages paid to award-reliant workers and those paid to workers on collective agreements. Strong incentives to bargain remain. Awarding our claim will in no way undermine these incentives.”

[474] For the December quarter 2012, wage increases for federal enterprise agreements continued its decline, falling to their lowest level (3.4 per cent) since late 1999. In the *Trends in Federal Enterprise Bargaining December quarter 2012*, the Australian Government attributed this result to the “recent slight softening in labour market conditions”.

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Conclusion

[475] Recent EEH data highlights the continuing gap between average wages for employees covered by collective agreements and for award-reliant employees. In May 2012, average weekly total cash earnings for full-time award-reliant employees was $933.40, compared with $1518.50 for full-time employees covered by collective agreements. In May 2010, the average weekly total cash earnings for full-time award-reliant employees was $753.80, compared with $1386.20 for full-time employees covered by a collective agreement.

[476] The current evidence indicates that the level of increases in minimum award wages which have occurred over the last decade are compatible with the continuing encouragement of enterprise bargaining.

[477] Research on minimum wages and their role in the process and incentive to bargain is currently being undertaken for the Commission by the Workplace Research Centre, University of Sydney, and is due for completion in late 2013. This research examines the impact of minimum wage increases on over-award and agreement rates of pay, as well as the incentives to bargain, using a combination of quantitative and qualitative data. This research may go some way to assisting the Panel’s future consideration of minimum wage effects on bargaining.

9. The Principle of Equal Remuneration for Work of Equal or Comparable Value

[478] We are required by the minimum wages and modern awards objectives to take into account the principle of equal remuneration for work of equal or comparable value.

[479] The parties’ submissions differed in how the principle of equal remuneration should be considered and on the effect of minimum wage adjustments on gender pay equity.

[480] The ACTU and ACOSS submitted that the principle of equal remuneration requires the Panel to consider adjustments to minimum wages to address pay equity with the ACTU arguing that such adjustments maintain the real value of wage increases awarded through other mechanisms:

“Indeed, minimum wage increases are inextricably linked to bargaining outcomes both as a ‘floor’ for negotiations and as a means of maintaining the value and protecting the integrity of improvements to gender pay equity achieved though alternative mechanisms such as equal remuneration or low paid bargaining orders.”
The Australian Government submitted that although there were a number of mechanisms available within the Act to address equal remuneration (such as equal remuneration orders and bargaining provisions) the Panel’s review decisions also assisted in improving wage outcomes for low-paid women.\footnote{Page 481}

Ai Group submitted that minimum wage increases may assist to some measure in promoting pay equity, however, mechanisms in the Act, such as collective bargaining had proved more effective in addressing pay equity.\footnote{Page 482} ACCI submitted that, although the Panel must take into account the principle of equal remuneration in setting minimum wages, the provision does not require the Panel to increase minimum wages.\footnote{Page 483} The NFF submitted that other mechanisms in the Act should be used to address pay equity.\footnote{Page 484}

Several submissions, including from the Australian Government and ACOSS, which addressed the Panel’s consideration of the principle of equal remuneration, also referred to the impact of the \textit{Equal Remuneration Case}\footnote{Page 485} as an example of how mechanisms in the Act were effective in dealing with equal remuneration matters. ACCER however argued that the case highlighted the inequalities in wages which exist for certain low-paid workers\footnote{Page 486} and Business SA indicated that the case highlighted the increased costs business needed to absorb in 2013.\footnote{Page 487}

\textbf{Conclusion}

We adopt the conclusion of the Panel in the 2011–12 Review decision:

“Given women are disproportionately represented amongst the low paid, an increase in minimum wages is likely to promote pay equity, although moderate changes in award rates of pay would be expected to have only a small effect on the overall differences in earnings between males and females.”\footnote{Page 488}

We also note that there are other mechanisms within the Act, such as bargaining and equal remuneration provisions, which provide more direct means of addressing pay equity. However, we accept that minimum wage increases play a part in the promotion of pay equity.
10. Exceptional Circumstances/Special Circumstances Claims

The approach taken to date

[486] In each of the last three annual wage review decisions, a uniform increase was applied to modern award minimum wages and the NMW contained in the national minimum wage order.439

[487] As was the case in the 2011–12 Review decision, a number of employer parties have sought that certain awards not be subject to an increase, or be subject to a particular increase applicable only to those awards, as part of this Review. Although the precise grounds do vary, these requests were generally based upon the proposition that the circumstances applying in the relevant award or sector are such that there is no capacity, or a reduced capacity, to pay any increase in award wages.

[488] In order to understand the current submissions, it is necessary to consider certain propositions from the parties and the determination of the Panel on those matters from the last Review.

[489] In the 2011–12 Review proceedings, ACCI with the support of some other parties submitted that the Panel should adopt a different process to that taken in previous cases and conduct a modern award by modern award review of minimum wages. It also submitted that the Panel should provide reasons to justify any increases determined in respect of each modern award.

[490] In that case, ACCI advanced two general propositions in relation to the provision of differential treatment. First, it was submitted that employers in receipt of natural disaster assistance or who operate in a relevant declared geographical area should receive a deferral of up to 12 months of any increase granted. Such a deferral was said to be justified on the basis of “exceptional circumstances” within the meaning of s.286(2) of the Act. The second proposition advanced by ACCI was that there should be an exemption from any increase in modern awards in designated industry sectors which are in significant difficulty and will be most affected by an increase to minimum wages including: trade exposed industry sectors, and manufacturing, tourism, general retail, food, accommodation, hospitality, residential building and construction industries.

[491] We have dealt with this proposition as further advanced before us, and the related suggestion that we should establish a “brief supplementary determination process”, in Chapter 2 of this decision.

[492] In its 2011–12 Review decision, the Panel relevantly indicated as follows:

“[239] The Act provides that the Panel must ‘maintain a safety net of fair minimum wages’ and to this end s.285(1) provides that an annual wage review must be ‘conducted and completed’ in each financial year. Further, a determination made in an
annual wage review which varies minimum wages in one or more modern awards must come into operation on 1 July in the next financial year, unless there are exceptional circumstances justifying why a variation should come into operation on a later date. A national minimum wage order that is made in a review also comes into operation on 1 July of the next financial year, unless there are exceptional circumstances justifying why a variation should come into operation on a later date. In each case, however, the later date of operation must be confined to the particular situation to which the exceptional circumstances relate.”

[493] In terms of the capacity for the Panel to accommodate the various proposals, the Panel found that:

“[245] As to the deferral claims, we accept that we may make a variation determination in respect of one or more modern awards that comes into operation on a day later than 1 July 2012, provided we are satisfied that there are exceptional circumstances justifying such a course. We also accept that a deferral claim may be granted in respect of a particular region(s) covered by a modern award, again provided that there are exceptional circumstances justifying such a result.

[246] However, we doubt that the Panel has power to defer the operation of a variation determination by reference to state or territory boundaries (as opposed to a particular region), because of the prohibition in respect of interstate wage differentials in s.154 of the Act. But it is not necessary for us to reach a concluded view in respect of this matter as none of the claims before us seeks a state-wide deferral of a variation determination.

[247] As to those claims that sought differential treatment in terms of the quantum of any variation (as opposed to a different date of operation) we accept ACCI’s contention that the Act does not compel the variation of modern award minimum wages in all modern awards. Section 285(2)(b) provides that in an annual wage review the Panel:

‘may make one or more determinations varying modern awards to set, vary or revoke modern award minimum wages’ (emphasis added).

[248] Further, s.284(4) defines varying modern award minimum wages as ‘varying the current rate of one or more modern award minimum wages’.

[249] It follows that the Panel has a discretion to vary some or all modern award minimum wages in the context of an annual wage review. The question then becomes the basis upon which the Panel should exercise that discretion.”

[494] In terms of the threshold to be met in order to warrant an exemption from a general determination in an annual wage review, the Panel considered both the historical approach to such matters and the present statutory context and concluded that the following approach remained relevant:

• the onus is on the party seeking to rely on economic incapacity and a strong case must be made out in order to warrant relief;
• an incapacity claim needs to be supported by oral and/or documentary evidence capable of analysis and evaluation; and

• incapacity claims will only rarely be successful in respect of a whole industry. In a number of cases the diversity of experience in the sectors covered by an award have made it inappropriate to exempt all sectors from an increase.

The proposals advanced as part of this review

[495] As we have already noted, a number of parties sought to further develop proposals for the specific treatment of certain awards and sectors in this Review. The specific outcomes proposed by the various employer organisations with respect to “their” relevant awards have been outlined in Chapter 2 and are summarised at Appendix A.

[496] ACCI again contended that there should be an ability for industry and employers to argue for differential treatment in the form of a different quantum of increase or a deferral from any increase for modern awards in designated services industry sectors which are experiencing significant difficulties. Industry sectors which were said to be in significant difficulty and would be most affected by an increase to minimum wages again include: trade exposed industry sectors, manufacturing, tourism, general retail, food, accommodation, hospitality, residential building and construction.

[497] Business SA also contended that, pursuant to s.286 and s.287 of the Act, the Panel should “facilitate” industry sectors such as retail and hospitality “applying for a lesser amount of any wage increase and/or a delay in the commencement date of any wage increases arising from the Review.”

[498] CCIQ proposed that particular industry specific employers should be exempt from any increase where they are determined to be facing significant challenges.

[499] VECCI supported the ACCI position and referred to the Full Bench in the Transitional Review Penalty Rates Decision and its recognition that the current economic conditions are impacting in particular industries and that this was a relevant consideration in this Review.

[500] R&CA contended that, where an industry or sector can demonstrate that profitability and economic difficulties are being experienced, it is incumbent on the Panel to provide relief in the form of wage exemptions or wage freeze periods to ensure businesses remain commercially viable.

[501] The NRA submitted that the Panel’s power included the “legal capacity” to make “specific determinations for individual awards in the broader retail space”. While the submission did not seek an exemption or deferral directly, the NRA was of
the view that it was open to the Panel to make specific determinations for individual awards, such as the *General Retail Industry Award 2010* and the *Fast Food Industry Award 2010*.\(^{452}\)

[502] In terms of particular industry or award specific outcomes that have been advanced by the parties it is convenient to consider these on the following sector basis.

**Hospitality and services sectors**

[503] The AHA submitted that the Panel should give special consideration to there being a “moderate wage increase” of 1 per cent in wages for the *Hospitality Industry (General) Award 2010*,\(^{453}\) noting the additional increase in the superannuation levy. It contended that the impact of the carbon pricing (said to have led to hotel profit reductions of up to 11.8 per cent for which no compensation was provided for the employers),\(^{454}\) the increasing costs of utilities, the increase in real wages and the poor trading conditions for hotels meant that a moderate wage adjustment was appropriate in order to sustain business and the overall hours for employees.

[504] The AAA contended that should the Panel “be minded to award an increase in the minimum wages in modern awards and the NMW, such an increase should not exceed 1.5 per cent.” Amongst other considerations, the AAA relied upon the effect of last year’s increase, increases to the superannuation guarantee charge, the downturn in the tourism industry, the impact of the various floods and fires in New South Wales and Queensland and some other regional areas, and predicted low occupancy and revenue rates for the accommodation industry, particularly due to an increase in outbound tourism. The AAA emphasised the contribution of the tourism industry to GDP, and national employment, and sought that the Panel take into account the pressures on this industry in terms of the steady decrease in profit margins in the accommodation sector.

[505] R&CA submitted that in performing its functions the Panel should:

- refrain from applying a one-size-fits-all approach across all industries when applying the annual wage review—industries experiencing little or no financial growth should be exempt from modern award minimum wage increases;

- recognise the structural changes in the Australian economy and review modern awards on a case-by-case or sector-by-sector basis;

- recognise that payroll of businesses will be increased by 0.25 per cent in line with the Superannuation Guarantee contributions increasing to 9.25 per cent of salary and wages, effective from 1 July 2013;

- detail the rationale for establishing any quantum granted; and
• have regard to the special circumstances of small and medium-sized enterprises.455

[506] In relation to the Restaurants industry, R&CA contended that the Panel “should not increase wages in service sector modern awards as part of this year’s annual wage review as exceptional economic circumstances exist.”456

Retail sectors

[507] The ANRA submitted that the NMW be increased by $9.10 per week and that this be applied as a flat dollar increase to all classifications in the General Retail Industry Award 2010. It contended that the Panel should take into account the fact that most award-dependent retail employees will also be receiving a scheduled wage increase on 1 July 2013, as part of the fourth and final phase of the modern awards transition process, the increase in the superannuation guarantee contributions and what it described as the soft trading conditions in the retail sector.

[508] The ANRA further contended that the retail sector had faced another tough year of trading in 2012 with employment, prices and profits falling in the sector and wages growth slower than the nationwide average. This combination means that “an excessive increase in the national minimum wage is highly likely to result in a further decline in retail employee numbers in the year ahead.”457

[509] The ARA proposed that the Panel “hand down a realistic and manageable minimum wage increase of no more than $5.80 (per week) for the retail sector.”458 This, it contended, was justified on the basis that previous increases had been generous (in terms of a comparison with CPI and industry earnings), the faltering economy and slow pace of growth across key sectors, rising unemployment, a weak jobs market, global risks, rising business costs, and increased global competition through the rising dollar. In terms of the retail industry, the ARA submitted that there were historically difficult trading conditions with flat or negative employment growth, low consumer confidence and high personal savings.459

[510] MGA contended that there should be a “nil increase” to minimum wage rates for award-reliant employees, in particular those in the retail sector. Amongst other considerations, it referred to the impact of the award modernisation process on employment costs, the low productivity levels and a declining market as major impediments to financial prosperity for independent supermarkets. MGA further contended that the nature of the supermarket sector in Australia (with primarily small businesses with limited resources operating in a sector where 80 per cent of the market share is controlled by Coles and Woolworths); the impending changes to superannuation legislation; rising energy and refrigerant gas costs due to the introduction of the carbon tax; price war campaigns by Coles and Woolworths; and the detrimental effect of tobacco plain packaging legislation all combined to justify its position.460
The NRA submitted that the Panel increase the NMW by no more than $4.75 for a 38 hour week, with that increase being applied across all award classifications. In support of its position, the NRA referred to increases scheduled to affect the incomes and benefits of minimum wage earners in areas such as increases in base rates and other rates (such as penalty rates) scheduled to occur on 1 July 2013 under the modern award transition process; the upcoming increases in superannuation entitlements; and increases in government payments and benefits applicable to low income earners. It contended that these increases were scheduled to occur irrespective of this decision and should be offset against considerations of inflation, living standards and cost of living issues.

The NRA also submitted that the Panel should make adjustments in its calculations to “correct for any previous under- or over-estimation of the impacts of inflation and increases in the cost of living in the previous year’s determination”. It also referred to what it described as the limited capacity for small businesses to pay for any increases, particularly in light of the changes in the retail industry and consumer behaviour—a “natural and unavoidable trade off between higher minimum wage levels and the number of jobs in the national retail sector” and the gap between domestic and international wage levels.

VACC contended that should this Review grant an increase in award wages, this amount should be less than $10 per week. It relied upon:

- scheduled or potential major cost burdens that are about to be imposed on employers this year, including the increase in compulsory superannuation contributions and the “imminent increase to apprentice wages”;
- the current economic climate, which was said to be leading to the consolidation of existing workforces and, in some regions, very high rates of unemployment;
- the loss of jobs in the automotive industry when considered over a full 12 months; and
- business closures each year within the automotive industry and that most of these are small businesses.

Wine industry

The South Australian Wine Industry Association submitted that any wage increase should be no greater than the CPI less 0.25% to allow for the superannuation guarantee levy. It contended that the wine industry was facing many challenges in 2013, including: the impact of carbon pricing, increased energy costs and the effects of water restrictions; the declining of Australian export and domestic wine sales values; the steady increase of wine imports to Australia; and what it described as increased
labour costs resulting from complying with the increase in regulatory requirements in relation to employment conditions, including the relevant modern award.

**Rural sectors**

[515] The NFF proposed that the NMW and award minimum wages relevant to this sector be increased by $7.50, operative from 1 July 2013. This amount involved a discount to take into account the increase in superannuation contributions and was said to be recognise the circumstances facing the rural industry. The circumstances relied upon by the NFF included the sharp divergences in agricultural conditions across the country and across different sectors, the nature and profile of those sectors and the economic conditions and outlook for rural industries.

[516] In terms of the economic conditions, the NFF relied in particular upon the Australian Farm Survey Results 2010–11 to 2012–13.

**The positions of other parties**

[517] The ACTU contended that no party had made a cogent case in this Review for the Panel to deviate from its approach in previous reviews in awarding an increase that is consistent in both quantum and date of operation across all modern awards. It further contended that the material provided showed that the degree of dispersion in economic activity (in such measures as real output, wages growth, and employment growth) was no greater than is typical. The ACTU emphasised the underpinning necessity of the fixing of minimum wages in modern awards to provide for uniformity and consistency of treatment to provide consistent minimum rates within and across modern awards.

[518] The ACTU further contended that the current annual wage review process provides ample opportunity for interested parties to make contributions to the process and that to establish a mechanism for any kind of post-decision review (including the issuing of an interim decision) would allow parties to have “two bites of the cherry”, create uncertainty and instability and greatly reduce the effectiveness of the process.

[519] Although not contending for different outcomes in relation to particular modern awards, Ai Group urged the Panel to take account of “the triple blow” employers are being subject to this year in terms of the combination of the fourth phase increase to modern award wages (under the transitional provisions) any annual wage increase combined with the Superannuation Guarantee increase (which they stated is on its own a safety net increase).

[520] Additionally Ai Group contended that the Panel should recognise the significant increases in labour costs brought about by the implementation of the modern award process for employers, particularly in the glass and fast food industries. In this regard they drew attention to the 35 per cent increase to the afternoon shift loading, payable
by employers in the glass industry under the *Joinery and Building Trades Award 2010* and the impact of increased weekend penalty rates facing fast food employers.

[521] ABI also did not pursue differential outcomes but submitted that the existence of sector or economy-wide considerations should not be applied in an absolute way to deny exceptional circumstances. Further, it contended that structural change is an economy-wide phenomenon, but that change impacts differently on different locations and sectors of the economy and individuals.

### Consideration

[522] We have comprehensively dealt with the statutory framework and the context for the consideration of these matters in Chapter 2 of this decision.

[523] Given our statutory charter, it is necessary to consider proposals to adopt particular outcomes in various awards or sectors, or to delay the introduction of any wage adjustment, as part of the current review process. Further, it is not within the scheme of the Act to allow individual employers or sectors within awards to seek exemptions after any wages adjustments have been determined and have commenced to apply.

[524] In addition, given the timeframes established by the Act, it is, in practical terms, necessary for parties to advance relevant material against which any exceptional circumstances considerations might be advanced as part of the current review.

[525] Finally, given the safety net role of the NMW and the wages within the modern awards, cogent evidence of different circumstances would be required to warrant a different outcome in terms of the application of the increases we have otherwise determined.

[526] Consideration of differential increases or timing of minimum wage increases in relation to individual employers or specific industry sectors in exceptional circumstances should be primarily directed to addressing temporary issues and temporary relief from minimum wage increases, rather than to seek to hold back the ongoing process of structural change in the economy. The circumstances of those employers and industries, however, remains a relevant consideration for any economy-wide outcomes.

[527] It is against that background that we now consider the various proposals advanced by the parties.

[528] In Chapter 4, we assessed both aggregate economy-wide material and the specific indicators of business competitiveness and viability applicable to many of the sectors seeking differential treatment. Those findings are directly relevant to the positions being considered here. We have also considered the material advanced by the
parties pertaining to sectors where parties have sought a specific outcome in relation to nominated modern awards, including no increase in wages.

[529] Further, as cited by some of the parties, we note that a Full Bench of the Commission, when considering penalty rates in the retail and hospitality sectors, found that:

“[225] There is some indication that the general economic climate is having an impact in the particular industries under review. Trading conditions are tight and this is having an impact upon margins and employment levels. While these matters are relevant to our consideration of the modern award objective they can also be considered as part of the Annual Wage Review.”

[530] The sector specific material advanced as part of this Review was of limited evidentiary value. At its highest, it suggests that some sectors are facing challenges as a result of various factors including structural changes in the economy, the impact of the high Australian dollar, seasonal or weather related events and other matters. This material also demonstrates that within each of these sectors there is a variety of economic performance and circumstances and that some of these factors are being experienced across the economy.

[531] As part of the consultation process, we put the following question to the parties:

“Given the number and coverage of those sectors seeking differential outcomes as part of this Review (including in some cases no adjustment), what would be the implications of such an approach for adjustments in other sectors where no particular outcomes have been sought?”

[532] Very limited responses were provided and none of those parties who were actually supporting a differential outcome took the opportunity to address this aspect in any detail.

[533] The ACTU, in its response to this and a related question, contended that any deviation in a common outcomes had the very real potential to create subclasses of workers depending on the industry in which they work, or which entity employs them. Further, it argued that such an approach would undermine the consistency, fairness and coherence of the safety net and distort award relativities.

[534] The Australian Government contended that a strong case would have to be made to justify increasing the differentials between award pay rates, given the equity implications of providing different minimum wage increases across different sectors and the complexity of determining appropriate wage increases at the sector level. Further, it submitted that the contention that there may be some sectors that have not sought differential outcomes despite having similar claims to such outcomes. In that context, it suggested that the extent of any differentiation between different sectors and pay rates in this decision was a matter for the Panel to determine having regard to s.285(2)(b) of the Act.
The combination of sectors seeking some form of differential outcome represents a significant proportion of the award-reliant industries. This means that any attempt to carve out these sectors would have an impact upon the scope and nature of the considerations applying to the balance of the workforce subject to this Review.

Further, given that many of the factors relied upon by the parties seeking differential outcomes are structural and ongoing, rather than temporary, a decision to depart from a general adjustment would lead to an ongoing fracturing of the modern award wages scheme.

A number of the parties described the nature of small business operations and the elements affecting them relevant to their industry sector. This is a relevant consideration given the objects of the Act, and s.3(g) in particular, which cites “acknowledging the special circumstances of small and medium-sized businesses” as part of the broader object to promote national economic prosperity and social inclusion for all Australians.

Many employer organisations in the retail, hospitality, service and rural sectors submitted, in effect, that the Panel should take into account the “capacity to pay” of small businesses. They contended that the high degree of award reliance of many small businesses meant that they would be disproportionately exposed to any increase that may result from the Panel’s decision.

As with many other elements of the material provided by the parties touching upon this aspect, this material addressed national trends, conditions and insights into some of the pressures said to be causing an impact on small business. However, the material and evidence provided was not sufficient to support the contentions being advanced.

We have discussed the material relating to small business and the circumstances of the award-reliant industries more generally as part of our earlier considerations in Chapter 4. In particular, we have considered the economic performance, profitability and employment within those sectors. This discussion reveals that many of the contentions advanced by the parties seeking a differential outcome were not supported by the evidence. For example, contrary to some of the positions advanced, annual growth in gross value added for some of the award-dependant industries was significant. Further, company gross operating profits increased by 2.4 percent on average for the non-mining industries, with both the Other services and Retail trade industries having higher growth rates.

However, there is a diversity in outcomes between the award-reliant industries, and within the Accommodation and food services, Retail trade and Other services industries. This suggests that the most award-reliant industries do not face a uniformly difficult economic environment, although it is clearly challenging for some.
Conclusions

[542] The Panel has had regard to the range of submissions seeking consideration of differential treatment of any wage increase. The submissions generally sought the provision of either an exemption, deferral or variation of any wage increase in connection with particular industry circumstances.

[543] As determined by the Panel in the 2011–12 Review, the onus is on the party seeking to rely on economic incapacity and a strong case must be made out in order to warrant relief. Also, an “incapacity claim” needs to be supported by oral and/or documentary evidence capable of analysis and evaluation. Further, such claims will only rarely be successful in respect of a whole industry. In a number of cases the diversity of experience in the sectors covered by an award have made it inappropriate to exempt all sectors from an increase.475

[544] Nothing has been put to us to alter this approach.

[545] The parties have had the opportunity to raise economic and business conditions with the Panel to demonstrate the case for exemptions or differential outcomes and we must deal with those circumstances based upon the material before us.

[546] In this case, the material provided in the submissions was predominately in the form of reference to broad economic conditions said to be affecting the industry concerned. There was no evidence setting out particularised, current, acute and definable circumstances (relevant to an industry or sector) that would justify different treatment in the particular sectors drawn to our attention.

[547] We are not persuaded that those parties supporting a deferral have established that there are “exceptional circumstances” which justify an operative date later than that prescribed in s.286(1). The reasons given for rejecting similar claims in the 2011–12 Review remain apposite.

[548] We are also not persuaded to grant a general exemption or differential outcomes to the modern awards which operate in the retail, hospitality, services and rural sectors, or otherwise. The diversity of experience within these sectors tells strongly against the grant of a general exemption. Further, given the scheme of the Act, the nature of the material before the Panel does not support a conclusion that these industries are suffering economic or other circumstances which would warrant an exemption or differential treatment from the wage increases arising from our decision.

[549] The general matters relied upon by those supporting an exemption, such as structural changes in the Australian economy, changed patterns of consumer behaviour, utility and rental costs, and a level of corporate insolvencies, generally relate more broadly to the award-reliant sectors and do not support differential treatment for the modern awards that have been raised with the Panel. We have also considered the circumstances of small businesses in these sectors and the impact of the
transitional arrangements in most of the modern awards. Although these factors do not support a differential outcome, they are relevant matters taken into account in our consideration of the economy in Chapter 4 and in the decision more generally.

11. Other Matters

Transitional Australian Pay and Classification Scales, Division 2B
State awards and other transitional instruments

[550] The Panel is required to review and, if appropriate, make one or more determinations varying a number of transitional instruments as part of its review.476 The majority of these instruments have ceased to operate or have been terminated in accordance with the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Transitional Act).477 The remaining instruments continuing to operate in the system include, but are not limited to, instruments which cover:

- employees also covered by enterprise instruments;478
- employees also covered by State reference public sector transitional awards;479 or
- employees also covered by the Social, Community, Home Care and Disability Industry Award 2010.480

[551] Three categories of instruments will continue to operate regardless of the Commission’s termination of instruments process. The first category of instruments flow from state referrals of power, and include:

- Division 2A State reference transitional enterprise awards;
- Division 2A State reference public sector transitional awards;
- Division 2B State reference transitional enterprise awards;
- Division 2B State reference public sector transitional awards; and
- Division 2A and 2B State reference awards not terminated by the Fair Work Commission as they cover employees who are also covered by enterprise instruments or State reference public sector transitional awards.

[552] These instruments are terminated either when the Commission makes a modern enterprise or public sector award or on 31 December 2013, whichever comes first.481 Where they continue to operate, these instruments remain subject to review and, if appropriate, adjustment by the Panel.
[553] The second category of transitional instruments are Transitional Australian Pay Classification Scales (APCSs), State reference transitional instruments and Division 2B State awards preserved by the *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009* and transitional pay equity orders created by the Transitional Act. These can be divided into two groups.

[554] The first group relates to competency-based wage arrangements for trainees or apprentices, or provisions relating to the provision of tools for trainees or apprentices (principally in Queensland). They are excluded from the termination arrangements that generally apply under the Transitional Act and must be considered as part of the Panel’s review.482

[555] The second group are a new category of transitional instruments created or varied by operation of modifications to the Transitional Act, called “transitional pay equity orders”.483 The Panel must review, and may make a determination varying aspects of one of the transitional pay equity orders.484 This transitional pay equity order relates to Division 2B State awards for which base rates of pay were determined by a pay equity order made by a state Industrial Relations Commission, to the extent it is derived from certain Queensland awards.485

[556] The third category of instruments came into existence in December 2012, when the Act was amended to provide for the continued operation of certain state awards in relation to employees of non-national system state public sector employers who transfer their employment to a national system employer as part of a transfer of business.486 When this occurs, a copied State award is created which contains the same terms as the original state award at that point in time.487 The Panel is required to review, and, if appropriate, make a determination varying minimum wages in copied State awards.488

[557] A small number of parties addressed the issue of how transitional instruments should be adjusted. The ACTU and ABI supported a flow-on of increases applied to modern awards. The ACTU and Queensland Government made submissions specifically in relation to apprentices and trainees, supporting the continued flow-on of increases for instruments preserved in Queensland subject to competency-based wage progression. Business SA highlighted that, from 1 February 2012, South Australian employers previously subject to Division 2B State awards would now be subject to largely higher modern award provisions.

[558] In relation to the adjustment of new transitional instruments (being the transitional pay equity order and copied State awards) the Australian Government, ACTU and the AAA provided additional submissions to the Panel in May 2013. In relation to the adjustment of the transitional pay equity order, the Australian Government and ACTU submitted that the Panel is required to review and may adjust the order to the extent that it relates to Division 2B State awards that are not derived from the *Queensland Community Services and Crisis Assistance Award—State 2008*.489 The Australian Government identified that certain groups of disability support
workers, dental assistants and employees engaged in the provision of children’s services would be affected by any adjustment. The AAA submitted that it did not oppose the transitional pay equity order being adjusted in line with modern award minimum wages.

In terms of the copied State awards, the Australian Government submitted that these instruments may be varied in the same way as Division 2B State awards. The ACTU noted that there is no information available as to the number of copied State awards (if any) in operation however it submitted that the Panel should still vary these rates. The ACTU however submitted that any increase to these rates should be differentiated on the basis of when they came into effect (as some copied State awards may include rates of pay that have been increased as a result of state Industrial Relations Commission minimum wage determinations in the previous 12 months). The ACTU therefore submitted that a flow on of the increase awarded in this decision should only apply to those copied State awards that do not include a minimum wage increase awarded by a state Industrial Relations Commission in the past 12 months, with those that include a state increase awarded in the second half of 2012 to receive 50 per cent, and those awarded in the first half of 2013 to receive no increase. The AAA submitted that it did not oppose the transitional copied State awards being adjusted in line with modern award minimum wages.

We have decided that for copied State awards currently in operation, in order to limit the impact of any “double-dipping” as a result of this decision and minimum wage increases previously awarded by state Industrial Relations Commissions, a tiered increase will be applied to these instruments in the following terms:

- an increase of 2.6 per cent applies to wage rates in copied State awards that were not the subject of a state minimum wage decision that commenced after 1 July 2012 and before 1 July 2013;

- an increase of 1.3 per cent applies to wage rates in copied State awards that were the subject of a state minimum wage decision that commenced after 1 July 2012 and before 1 January 2013; and

- no increase applies to wage rates in copied State awards that were the subject of a state minimum wage decision that commenced on or after 1 January 2013 and before 1 July 2013.

For all other transitional instruments, we have decided that the increase we have awarded in modern award minimum wages should also apply to those transitional instruments which remain in operation. There is no requirement to publish the variations.
Modern award minimum wages for junior employees, employees to whom training arrangements apply, employees with disability and piece rates

[562] As part of this Review, the Panel is required to review minimum wages for junior employees, employees to whom training arrangements apply, employees with disability, and piece rates.497

[563] The ACTU, ACCI, ACOSS, CCIQ and Business SA submitted that any minimum wage increases awarded as part of this Review should flow on to junior wages in modern awards.498 The South Australian Government supported the elimination of sub-minimum wage rates for employees under 21499 and, although supporting a flow on, the ACTU also argued for the elimination of all junior rates:

“The removal of discounted wage rates for 20 year olds is necessary to ensure this group of workers is provided with a fair and relevant safety net.”500

[564] The Victorian Government and AFEI recommended the Panel exercise caution in light of current levels of youth unemployment,501 while CCIQ submitted that minimum engagement periods in a number of awards restricted the capacity of employers to employ junior staff.502

[565] Conversely, ACCI, MGA and CCIQ submitted that employers were increasingly engaging junior employees over adult employees due to the lower cost of their engagement.503 ACCI referred to the findings of its 2013 National Minimum Wage survey and submitted that:

“In summary, the latest survey shows the impact of the 2013 decision resulted [in]: …Employers increasing the number of junior employees.”504

[566] MGA opposed increasing junior wage rates, citing reasons of compromised service and competency.505 ACOSS submitted that present minimum wages for junior employees did not adversely affect their employment levels.506

[567] We have decided to allow the increase we have granted to flow through to junior rates through the operation of provisions for calculating junior rates in modern awards.

[568] The ACTU, ACCI, ACOSS, CCIQ and Business South Australia submitted that any minimum wage increases awarded as part of this Review should flow on to the modern award wages of employees to whom training arrangements apply.507

[569] ACOSS noted the decline in general apprenticeships, but submitted that there had not been a decline in adult apprentices, despite their higher wages.508 ACOSS also proposed differentiating the adjustment of modern award apprentice and trainee wages in accordance with differing labour force conditions.509
ACCI noted in its submission the economic difficulties employers of training wage employees faced, while CCIQ submitted that compliance with the Act had increased costs of operation for businesses. VACC noted the current reluctance of employers to hire trainees and apprentices. Although the Motor Trade Association of South Australia supported a moderate increase in apprentice wages, they warned that substantial increases could jeopardise the feasibility of training schemes.

In relation to the adjustment of the National Training Wage Schedule (NTWS) for trainees which is attached to most modern awards, the ACTU expressed support for a continuation of the Panel’s approach in the past two annual wage reviews:

“We submit that it is appropriate to adjust the rates contained in NTWS by a uniform percentage that is equivalent to the increase in the NMW in order to maintain the relativity of trainee wage rates to the NMW. The ACTU’s flat dollar claim with respect to the NMW equates to approximately 4.95 per cent.”

We have also decided to flow through that percentage increase to employees to whom training arrangements apply in modern awards. We have also decided to flow on the percentage increase we have determined to the rates in the NTWS to maintain its existing relativities.

A number of submissions to this Review raised the potential effects of the outcomes of the current modern awards review of junior, trainee and apprentice award rates.

The South Australian Government supported the Modern Awards Review into juniors, trainees and apprentices, in particular noting their support as part of that review for increases to first year apprentice rates.

VACC, HIA and AFEI expressed concerns about the effects of a potential double increase of subsidiary wages as a result of both the Annual Wage Review and any potential Modern Award Review 2012 decision; warning that this may potentially act as a disincentive for employers to engage trainees, juniors or persons with disability. AFEI submitted that:

“The loss of teenage job opportunities is a factor which should be considered by the Panel in determining the minimum wage level. This is particularly the case in the 2012-2013 Review where apprentice rates are currently the subject of significant wage claims in Fair Work Commission. Any increase resulting from those matters will inevitably flow to other junior rates in modern awards.”

We have noted the parties’ submissions in relation to the potential effects of any decision arising from the Modern Awards Review into junior, trainee and apprentice award rates. However, in the absence of any decision by the Full Bench, we must proceed on the basis of the current wages and the arrangements for the determination of these other rates.
Employees with disability

[577] For employees with disability, the ACTU, ACCI, ACOSS, CCIQ and Business SA submitted that any minimum wage increases awarded as part of this Review should flow on through the Supported Wage System Schedule (SWSS) attached to most modern awards. 520

[578] ACOSS supported the extension of the supported wage system to more employees with disability, but noted that the various wage instruments could be further standardised:

“The extension of the Supported Wage System makes careful monitoring of the reliability and equity of the various instruments used to assess productivity essential. On equity grounds, it would be desirable to standardise the instruments to a greater degree than at present.” 521

[579] ACOSS also expressed concerns about the rate of the minimum payment in the SWSS attached to a number of modern awards being set at the income test-free area for the Disability Support Pension. 522

[580] We have decided that the adjustment will flow through to employees with disability through the operation of the SWSS and that the minimum payment in the SWSS should be adjusted in accordance with past practice.

Piece rates

[581] The ACTU directly supported a flow on of any minimum wage increase awarded as part of this Review to piece rates. 523 In response to the Panel’s questions for consultations document, the Australian Government and the NFF also supported this flow on, 524 although the NFF requested that the Commission provide exceptional circumstances exemptions should future circumstances prove necessary. 525

[582] We have decided to flow on the increase we have determined to modern award employees engaged in piece work.

Casual loadings under modern awards and the casual loading for award/agreement free employees

[583] In each review the Panel is required to review casual loadings in modern awards and to include a casual loading for award/agreement free employees in the national minimum wage order. The casual loading for award/agreement free employees must be expressed as a percentage. 526
The ACTU, Ai Group, and ABI supported increasing the casual loading for award/agreement free employees to 24 per cent\(^\text{527}\) and submitted that the casual loading in modern awards should be maintained at 25 per cent.\(^\text{528}\)

A number of submissions outlined the costs to employers associated with casual loadings, but few specified whether this should be taken into account in relation to the adjustment of casual loadings in modern awards or minimum wage adjustments more generally.\(^\text{529}\)

We have decided to increase the casual loading for award/agreement free employees to 24 per cent in line with approach adopted in the 2009–10 Review decision.\(^\text{530}\) We have also determined that it is appropriate not to make any alteration to the standard casual loading in modern awards, noting the transitional arrangements applying in those instruments.

**Special national minimum wages**

The Panel is required by s. 294 of the Act to set a national minimum wage for award/agreement free employees which includes special national minimum wages for award/agreement free junior employees, employees to whom training arrangements apply and employees with disability.

For junior award/agreement free employees, the Panel in 2010–11 Review decision decided to adopt the junior wage percentage scale in the *Miscellaneous Award 2010*\(^\text{531}\) as the special national minimum wage for award/agreement free junior employees.\(^\text{532}\)

The Ai Group supported the continuation of the Panel’s approach to using the scale in the *Miscellaneous Award 2010* for award/agreement free juniors.\(^\text{533}\) The ACTU and ABI also supported the flow on of the Panel’s percentage determination to junior special national minimum wages.\(^\text{534}\)

We have decided to again adopt the junior wage percentage scale in the *Miscellaneous Award 2010* as the special national minimum wage for award/agreement free junior employees.

In relation to award/agreement free employees to whom training arrangements apply, Ai Group supported the Panel’s approach in the last review in which apprentice and trainee rates were set in accordance with the apprentice provisions and NTWS in the *Miscellaneous Award 2010*.\(^\text{535}\) The ACTU and ABI also supported the flow on of the Panel’s percentage determination to apprentice and trainee special national minimum wages.\(^\text{536}\)

We have again decided to adopt the provisions of the *Miscellaneous Award 2010* as the basis for the special national minimum wages for employees to whom training arrangements apply. The national minimum wage order will incorporate, by
reference, the apprentice and NTWS provisions of that award. The national minimum wage order will also provide that adult apprentices should not receive less than the national minimum wage.

[593] The ACTU, Ai Group and ABI supported a twofold approach of separating national minimum wages for employees with disability whose productivity is not affected and those whose productivity is affected.537

[594] Ai Group, the ACTU and ABI also supported the flow on of the Panel’s percentage determination to these wages.538 The ACTU submitted that the minimum payment in the SWSS attached to the National Minimum Wage Order should also be adjusted to reflect any increase to the Disability Support pension’s income free area (as is the usual approach).539

[595] We have decided to follow previous years’ approaches to these wages and set two special national minimum wages for employees with disability. The first, for employees with disability without affected productivity, will be set at the rate of the national minimum wage. The second, for employees with disability with affected productivity, will be paid in accordance with an assessment under the supported wage system. The minimum payment will be fixed in accordance with the adjustment to the SWSS.

12. Conclusion

[596] This chapter sets out the outcome of the Review and mentions some matters relevant to the 2013–14 Review.

[597] The outcome of the Review in relation to modern award minimum wages is that from the first full pay period on or after 1 July 2013 minimum weekly wages are increased by 2.6 per cent, with commensurate increases in hourly rates on the basis of a 38 hour week. The increase applies to minimum wages for junior employees, employees to whom training arrangements apply and employees with disability, and to piece rates through the operation of the methods applying to the calculation of those wages. Wages in the NTWS will be adjusted by 2.6 per cent.

[598] The determinations necessary to give effect to the increase in modern awards will be made available in draft form shortly after this decision. Determinations varying the modern awards will be made as soon as practicable and the modern awards including the varied wage rates will be published as required by the Act.

[599] In relation to transitional instruments, from the first full pay period on or after 1 July 2013 wages in those instruments, including Division 2B State enterprise awards, will be varied by 2.6 per cent per week, with commensurate increases in hourly rates based on a 38 hour week. Wages in Division 2B State awards relating to Queensland trainees, apprentices and employees subject to specific Queensland labour market
programs will be varied to achieve parity with minimum wages in the corresponding transitional APCSs and State reference transitional awards.

[600] The national minimum wage order will contain:

(a) a national minimum wage of $622.20 per week or $16.37 per hour,

(b) two special national minimum wages for award/agreement free employees with disability: for employees with disability whose productivity is not affected, a minimum wage of $622.20 per week or $16.37 per hour based on a 38 hour week, and for employees whose productivity is affected, an assessment under the supported wage system, subject to a minimum payment fixed under the SWSS,

(c) wages provisions for award/agreement free junior employees based on the percentages for juniors in the Miscellaneous Award 2010 applied to the national minimum wage,

(d) the apprentice wage provisions and the NTWS in the Miscellaneous Award 2010 for award/agreement free employees to whom training arrangements apply, incorporated by reference and a provision that adult apprentices should not receive less than the national minimum wage, and

(e) a casual loading of 24 per cent for award/agreement free employees.

[601] We intend to give consideration to the research program for the Annual Wage Review 2013–14 as soon as practicable and will invite interested parties to lodge research proposals. The research program will not necessarily be restricted to the parties’ proposals.

[602] The timetable for the Annual Wage Review 2013–14 will be announced in the last quarter of 2013.

[603] We wish to express our appreciation to the parties who participated in the Review for their contributions and to the staff of the Fair Work Commission for their assistance.

PRESIDENT
### Appendix 1—Proposed Minimum Wages Adjustments

<table>
<thead>
<tr>
<th>Submission</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>National minimum wage</td>
</tr>
<tr>
<td>Australian Government</td>
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<tr>
<td>Government of South Australia</td>
<td>No quantum specified</td>
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<td>New South Wales Government</td>
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<tr>
<td>Queensland Government</td>
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<tr>
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<td>Government of Western Australia</td>
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<td>Australian Council of Trade Unions</td>
<td>$30.00 pw</td>
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<td>Australian Industry Group</td>
<td>1.75% pw, applicable to all</td>
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<td>Australian Chamber of Commerce and Industry</td>
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<td>Australian Council of Social Service</td>
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<td>Australian Business Industrial</td>
<td>1.2% pw, applicable to all</td>
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<td>Australian Federation of Employers and Industries</td>
<td>Not more than $5.80 pw, applicable to all</td>
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<td>Accommodation Association of Australia</td>
<td>1.5% pw, applicable to all</td>
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<td>Australian Hotels Association</td>
<td>1.0% pw, applicable to the <em>Hospitality Industry (General) Award 2010</em></td>
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<td>Australian National Retailers Association</td>
<td>$9.10 pw, applicable to all</td>
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<td>Australian Retailers Association</td>
<td>Not more than $5.80 pw for the retail sector, considered on an award-by-award basis</td>
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<td>Australian Road Transport Industrial Organisation</td>
<td>No quantum specified</td>
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<tr>
<td>Business SA</td>
<td>$5.80 pw, applicable to all</td>
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<tr>
<td>Chamber of Commerce and Industry Queensland</td>
<td>Supports no increase. In the event of an increase, not more than $5.80 pw, applicable to all. Increase considered on an award-by-award basis</td>
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<td>Victorian Employers’ Chamber of Commerce and Industry</td>
<td>$5.80 pw, applicable to all</td>
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<td>Growcom</td>
<td>Between $10.00 and $15.00 pw, applicable to all</td>
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<td>HR Nicholls Society</td>
<td>No increase</td>
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<tr>
<td>Master Grocers Australia</td>
<td>No increase</td>
</tr>
<tr>
<td>Submission</td>
<td>Proposal</td>
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<tr>
<td>----------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
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<tr>
<td>Master Plumbers and Mechanical Services Association of Australia</td>
<td>$5.80 pw, applicable to all</td>
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<td>Motor Trade Association of South Australia Inc</td>
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<td>National Farmers’ Federation</td>
<td>$7.50 pw, applicable to all</td>
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<td>National Retail Association</td>
<td>Not more than $4.75 pw, applicable to all</td>
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<tr>
<td>Restaurant &amp; Catering Australia</td>
<td>No quantum specified</td>
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<tr>
<td>South Australian Wine Industry Association Incorporated</td>
<td>No greater than CPI less 0.25% to compensate for the superannuation guarantee levy.</td>
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<tr>
<td>Victorian Automobile Chamber of Commerce</td>
<td>Less than $10.00 pw, applicable to all</td>
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<tr>
<td>Australian Catholic Council for Employment Relations</td>
<td>$10.00 pw plus the equivalent of the C10 increase as a dollar amount as calculated in the next column.</td>
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<tr>
<td>United Voice</td>
<td>$30.00 pw</td>
</tr>
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1 Australian Bureau of Statistics, Catalogue No. 6306.0 - Employee Earnings and Hours, Australia, May 2012.

2 AFEI submission at p. 3, para. 7.

3 ACCI submission at p. 12, para. 45; pp. 59–60, para. 201; AFEI submission at p. 3, para. 7; ABI submission at p. 4, paras 2.7–2.8; p. 8, para. 3.11.

4 S.134(1)(a) and 294(1)(c).

5 See s.186(2)(d); the Commission may approve an enterprise agreement that does not pass the ‘better off overall test’ if satisfied that, because of exceptional circumstances, the approval of the agreement would not be contrary to the public interest - s.189.

6 [2012] FWAFB 5000.

7 [2012] FWAFB 5000 at paras 257 and 258.

8 See Chart 4.6.

9 Section 576T(2) of the WR Act permitted State based differences as part of the award modernisation process but only for a limited period designed to allow for transitional arrangements.


12 MA000010.


15 ACOSS submission at pp. 26-27


17 Australian Bureau of Statistics, Catalogue No. 6306.0 - Employee Earnings and Hours, Australia, May 2012.

18 Australian Bureau of Statistics, Catalogue No. 6306.0 - Employee Earnings and Hours, Australia, May 2010.


20 MA000010; This is the lowest level in the Manufacturing Award.


24 s.3


26 Annual Wage Review 2011–12 Decision [2012] FWAFB 5000 at p. 12, para. 41: For example, promoting productivity and economic growth (s.3(a)); promoting flexible modern work practices and the efficient and productive performance of work (s.134(1)(d)); the likely impact of any determination on business including on productivity, employment costs and the regulatory burden (s.134(1)(f)); the likely impact of any determination on employment growth, inflation and the sustainability, performance, and competitiveness of the national economy (s.134(1)(h)); the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth (s.284(1)(a)); and acknowledging the special circumstances of small and medium-sized businesses (s.3(g)).

27 Annual Wage Review 2011–12 Decision [2012] FWAFB 5000 at p. 12, para. 41: For example; the establishment and maintenance of a safety net of fair, relevant and enforceable minimum wages within the context of an easy to understand, stable and sustainable modern award system (ss.3(b), 134(1), 134(1)(g) and 284(1)); the promotion of social inclusion through increased workplace participation (ss.134(1)(c) and 284(1)(b)); relative living standards and the needs of the low paid (ss.134(1)(a) and 284(1)(c)); the principle of equal remuneration for work of equal or comparable value (ss.134(1)(e) and 284(1)(d)); and providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability (s.284(1)(e)).

28 Annual Wage Review 2011–12 Decision [2012] FWAFB 5000 at p. 12, para. 41: For example, the need to encourage collective bargaining (s.134(1)(b); see also s.3(f)).

29 [2012] FWAFB 5000 at para 257 and 258.

30 ACCI submission March 2013 at paras 73 - 76.

For example see [2009] AIRCFB 50 at paras 46–8 and [2009] AIRCFB 345 at paras 43 and 94.
ABI Submission at paragraph 2.15.
See s.186(2)(d); the Commission may approve an enterprise agreement that does not pass the ‘better off overall test’ if satisfied that, because of exceptional circumstances, the approval of the agreement would not be contrary to the public interest - s.189.
CCIQ submission at paragraph 15(b).
ARA submission at p13.
Business SA submission at p7 para 2.4.
[2012] FWAFB 5000 at paras 281–282
ABI submission at para. 11.10.
Chamber of Commerce and Industry Queensland submission, p. 7 at paras 14–15; HR Nicholls Society submission at p. 1; Master Grocers Australia submission at pp. 4, 6.
Australian Chamber of Commerce and Industry submission, p. 32 at para. 147; Australian Federation of Employers and Industry submission, p. 8 at para. 19; Victorian Employers’ Chamber of Commerce and Industry submission at pp. 1–2; Master Plumbers and Mechanical Services Association submission, p. 4 at para. 3.6; Australian Retailers Association submission at p. 5; Business SA submission, p. 5 at para. 2.3; National Farmers’ Federation submission, p. 17 at para. 6.2; Australian National Retailers Association submission, p. 4 at paras 1.1–1.2; National Retailers Association submission, p. 13 at para. 56; CCIQ submission, p. 7 at paras 14–15; Growcom submission at p. 7; Victorian Automobile Chamber of Commerce submission at pp. 5, 16; Master Grocers Australia submission at p. 4; Restaurant and Catering Australia submission, p. 13 at para. 39.
AFEI submission at p. 3, para. 7.
ACCI submission, p. 12 at para. 45; AFEI submission, p. 8 at para. 19; Business SA submission, p. 5 at paras 2.3–2.4; VECCH submission at pp. 1–2; ARA submission at pp. 5–6; MPMSAA submission, p. 4 at paras 3.6–3.7.
ACCI submission at p. 60, para. 203.
CCIQ submission, p. 7 at paras 14–15.
NRA submission, p. 13 at para. 57; ANRA submission, p. 4 at para. 1.2.
NRA submission, p. 13 at para. 56.
ANRA submission, p. 4 at paras 1.1–1.2.
Ai Group submission at pp. 3, 55.
Ai Group submission at p. 55.
ABI submission, p. 4 at para. 2.1; AAA submission at p. 2.
AHA submission at p. 2.
ACTU submission, pp. 4–5 at paras 16–20; ACCER submission, pp. 142–143 at para. 458.
The C10 level refers to the rate of pay for an employee classified as an Engineering/ Manufacturing Tradesperson—Level I under the Manufacturing Award, and equivalent levels within other modern awards.
ACTU submission, p. 7 at para. 28.
ACTU submission, p. 20 at para. 74.
ACTU submission, p. 21 at para. 75.
ACTU submission, p. 8 at para. 34.
ACCR submission, p. 61 at para. 197.
ACCR submission, p. 143 at para. 461.
ACCR submission, p. 34 at para. 98.
Ai Group submission in reply, at pp. 3–4.
All data are seasonally adjusted unless otherwise noted.
RNNDI takes into account the impact of changes in prices of exports relative to imports, the real impact of income flows between Australia and the rest of the world, and the consumption of fixed capital. Income flows between Australia and
the rest of the world are fairly smooth over time and changes tend to have little impact on short-term movements in RNNDI. The consumption of fixed capital tends to stall growth in RNNDI, but for the most part, the impact on short-term movement is small. Australian Bureau of Statistics - Catalogue No. 5206.0, ‘Real net national disposable income - a new national accounts measure’, Australian National Accounts: National Income, Expenditure and Product, Dec 2001, Feature Article.

70 OECD, Economics: Key Tables from OECD, Table No. 13, OECD iLibrary.
73 Source: RBA, Index of Commodity Prices, April 2013.
74 op cit., Bishop et al at p.40.
75 Ibid, p.44.
76 Ibid, p.44–7.
81 ss.134(1)(a) and 284(1)(c).
82 ACTU submission, page 6, para 26 and ACCER submission, pp.6 and para 41 at pp. 20–21.
83 ACTU submission p.52, para 160.
84 ACTU submission, p.55, para 169.
85 ACTU submission, p.57-8, paras 172 and 173.
86 ACTU submission, p.58, para 174.
87 ABI submission, p.15, para 8.1
88 Australian National Accounts: National Income, Expenditure and Product, 5206.0, December 2012: Analysis and comments
92 ‘Productivity boost first, then labour can share’, Australian Financial Review, Friday 18 January 2013.
93 ACTU Post-Budget Submission, p.14, para 56.
94 ACTU Post-Budget Submission, p.15, para 59.
95 ACTU Post-Budget Submission, p.15, paras 60 and 61.
96 Ai Group submission, pp. 26–7, para 2.8
101 Ibid, pp.111 and 145.
103 Australian National Accounts, 5206, as cited in footnote to Table 3.1 of the Statistical Report.
105 Ai Group submission, p.7.
106 ACTU reply submission, at p.20, para. 86.
107 VACC submission at p. 14.
108 VACC submission at p. 15.
109 R&CA submission at pp. 4, 5.
110 ACTU reply submission, at p. 21, para 88.
112 Automotive Skills Australia, February 2013, Automotive Environmental Scan 2013, ASA, Australia.
113 VACC submission at p. 14.
114 Business Related Bankruptcies under the Bankruptcy Act 1966 - Insolvency and Trustee Service Australia Annual Report 2011/12, Table 38.
115 ABS Cat. No. 8165; Counts of Australian Businesses Including Entries and Exits June 2007 - June 2012,
118 During the 2011–12 financial year, the 'Accommodation and Food Services' and 'Administrative and Support Services' industries had the highest entry rates of 16.7% and 16.4% respectively. ABS Cat. No. 8165; Counts of Australian Businesses Including Entries and Exits June 2007 - June 2012, Summary of Findings, p.6.
119 ABS Cat. No. 8165; Counts of Australian Businesses Including Entries and Exits June 2007 - June 2012, table 1.
120 ABS Cat. No. 8165; Counts of Australian Businesses Including Entries and Exits June 2007 - June 2012, table 1.
121 MGA submission, p.5.
122 ARA Submission, p.9.
123 ANRA Submission p.7. para 2.10.
125 [2012] FWAFB 5000, at para 277
126 Australian Bureau of Statistics 8501.0 - Retail Trade, Australia, Mar 2013.
128 Australian Government submission at p. 17, para. 63.
129 ACCI submission at p. 13, para. 47.
131 VACC submission at p. 8, MTASA submission, p.5 at para. 2.33 and HIA submission, at p.6, para 3.4.1.
132 AM2012/18 and others.
133 HIA submission, at p.6, para 3.4.1.
134 Ai Group submission, p.58.
135 Victorian Government submission at pp. 12–13, para. 2.30.
136 AHA submission at p. 6; MGA submission at p. 16, para. 7.5.1; RCA submission at p. 12, para. 34.
137 R&CA submission at p. 12, para. 34.
138 AHA submission at p. 5.
140 MGA submission at p. 13, paras 7.2.1–7.2.2; CCIQ submission at p. 22, para. 49; NRA submission at p. 11, paras 46–48.
141 NRA submission at p. 11, para. 46.
142 MGA submission at p. 13, para. 7.2.2.
The trimmed mean is the weighted average of the central 70 per cent of the price change distribution. The weighted median is calculated as the average price change at the 50th percentile by weight of the price change distribution.

The CPI and LCI differ in their approach to three areas of expenditure: purchase of dwellings; purchase of durable items; and financial services and the use of credit.


ACCI submission at p. 59, para. 200; Business SA submission at p. 17, para. 6.3.2.1.

Australian Government at p. 23, para. 102.

ACCI submission at p. 12, para. 45; pp. 59–60, para. 201; AFEI submission at p. 3, para. 7; ABI submission at p. 4, paras 2.7–2.8; p. 8, para. 3.11.

ACTU submission at p. 45, para. 136.


ACCI submission at p. 12, para. 45; pp. 59–60, para. 201; AFEI submission at p. 3, para. 7; ABI submission at p. 4, paras 2.7–2.8; p. 8, para. 3.11.

ACCI submission at p. 60, para. 203.

[2010] FWAFB 4000

Business SA submission at p. 6.


ABS, *Average Weekly Earnings, Australia, Nov 2012*, Catalogue No. 6302.0


Metal, Engineering and Associated Industries Award 1998; Manufacturing and Associated Industries and Occupations Award 2010 (from 1 January 2010).


Ai Group submission at p. 15; AFEI submission at p. 11, para. 27 and ACCI submission at p. 46, para. 177.


Australian Government submission at p. 32, paras 133 and 135.
181 Australian Government submission at p. 32, para. 137.
182 ACOSS submission, at pp. 41–42.
183 Australian Government submission at p. 30, para. 126; Victorian Government submission at p. 11, para. 2.20.
184 Australian Government submission at p. 30, para. 128.
185 ACCI submission at pp. 48–49, para. 181; Ai Group submission at p. 16.
186 ACCI submission at p. 48, para. 180.
187 ACCI submission at pp. 48–49, para. 181; Ai Group submission at p. 16.
188 Australian Government submission at p. 30, para. 127.
189 ACTU submission, p.69, para 209.
190 ACTU submission, p.69, para 211-12.
191 ACTU submission in reply at p. 6, Figure 1.
193 Australian Government responses to questions for consultations at p.13.
197 ACCI submission at pp. 51–55, paras 186–193, Ai Group submission at pp. 36–41; ABI submission at p. 13, para. 7.5.
200 ABI submission at p. 13, para. 7.5; ACCI submission at p. 53, para 190.
201 ACCI submission at pp. 53–4, para. 191.
202 ABS, Underemployed Workers, Sep 2012, Catalogue No, 6265.0.
203 ACCI submission at p. 54, para. 192.
204 ABS, Labour Force, Detailed, Quarterly, Feb 2013, Catalogue No. 6291.0.55.003; and ABS, Forms of Employment, Australia, November 2011, Catalogue No. 6359.0.
206 ABS, Underemployed Workers, September 2012, Catalogue No, 6265.0.
207 ABS, Australian Social Trends, June 2011, Catalogue No. 4102.0.
208 ABS, Australian Social Trends, Jun 2011, Catalogue No. 4102.0.
209 Section 3(g).
210 Connolly E, Norman D and West T, “Small Businesses: An Economic Overview, ACCI Submission, Annexure C.
211 AFEI Submission, p.31, at para 76 and Charts 21 and 22.
212 AFEI Submission, p.31, at para 76 and Charts 21 and 22.
213 Connolly E, Norman D and West T, “Small Businesses: An Economic Overview, ACCI Submission, Annexure C.
214 AFEI Submission, p.31, at para 76 and Charts 21 and 22.
216 AFEI Submission, p.31, at para 76 and Charts 21 and 22.
217 R&CA submission at para 32, pp. 10–11; ABI submission at para 10.1, p. 19; ACCI reply submission at para 17, p. 7
218 ABI submission at p. 19, para. 10.1.
219 R&CA at para 32, pp. 10–11.
220 ABI submission at p. 19, para. 10.1.
221 Sections 134(1)(a) and 284(1)(c).
222 ABS Cat No 6524.0.55.002: 2009-10.
223 ABI submission at p. 19, para. 10.1.


ABS Cat No 6224.0.55.002; Explanatory Note 24 and ABS 6225.0.55.001, Explanatory Note 14.


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ACTU submission, in table 5.

ACTU submission, in table 5.

ACTU submission at p. 15, para. 61; ACCI submission at p. 54, para. 192.

Australian Government submission at p. 13, para. 39; AFEI submission at p. 13, para. 31 and ACCER submission at p. 31, para. 85.


[2012] FWAFB, Table 4.5.


IMF, World Economic Outlook, April 2013.


RBA, Statement on Monetary Policy, May 2013, Table 6.1.


ACTU submission, at p. 34, paras 107–108.

ACTU submission, at p. 75 para. 221.

Australian Government submission at p.33, para. 142.

Ai Group submission at p. 19.


ACCI submission at p. 41, para. 167.

ACTU submission in reply, p. 12, para. 47.


Gruen D, Li B and Wong T (2012), Unemployment disparity across regions, Treasury Economic Roundup Issue 2, August.

Ibid, at p.74.

Ibid, at p.70.


Ibid.
260 ibid. et al at p.48.
261 [2012] FWAFB 5000, at paras 257 and 258.
263 Superannuation Guarantee (Administration) Act 1992, s.27. Schedule 1(4) of the Superannuation Guarantee (Administration) Amendment Act 2012 removes the former s.27(1)(a) which provided for the age limit of 70 for contributions.
265 Australian Government submission, p. 16 at para. 54; Victorian Government submission, p. 15 at para. 2.44; Ai Group submission at pp. 51–53; ABI submission, p. 5 at para. 2.10; AAA submission, p. 6 at para. 20 and p. 12; AHA submission at p. 4; ANRA submission, p. 4 at para. 1.5; NFF submission, p. 15 at para. 5.16; MGA submission, p. 14 at para 7.3.1; VACC submission at p. 6.
266 Australian Government submission, p. 16 at para. 51.
267 Australian Government submission, p. 16 at para. 51.
268 ACTU submission in reply, p. 19 at para. 82.
269 ACTU submission in reply, p. 19 at para. 82.
270 Ai Group submission in reply at p. 3.
271 Ai Group submission at p. 3.
272 NFF submission, p.17 at para. 6.2.
273 ACTU submission at p. 127, Table 14.
274 ACTU submission at p. 128, paras 400-402.
275 ACCER submission in reply, p. 2 at para. 3.
276 ACCI submission, pp. 29–30 at para. 138; Ai Group submission at p. 3; CCIQ submission at pp. 4–5 and p. 24; AFEI submission, p. 7 at para. 17; AHA submission at p. 4; AAA submission at p. 2; ANRA submission, p. 4 at para. 1.5; ARTIO submission at p. 3.
277 Victorian Government submission, p. 15 at para. 2.4.4; NFF submission, p. 16 at para. 5.18.
278 ABI submission, p. 12 at para. 6.3.
279 Ai Group submission at p. 53.
280 ARTIO submission at p. 3.
283 CCIQ submission, p. 27 at paras 61–62.
284 Industrial Relations Act 1988, s.90A; Workplace Relations Act 1996, s.90A.
286 ibid.
289 (1998) 79 IR 37 at 60.
291 ACTU submission in reply at p. 18, para. 78.
292 Ai Group submission at pp. 49–50; NFF submission, p. 15 at para. 5.16.
293 Ai Group submission at pp. 49–50.
296 ABS, Employee Earnings, Benefits and Trade Union Membership, Australia, various, Catalogue No. 6310.0; ABS, Employee Earnings and Hours, Australia, various, Catalogue No. 6306.0; ABS, Average Weekly Earnings, Australia, Nov 12, Catalogue No. 6302.0.

297 The ACTU estimated that about 10% of award-reliant workers were managers or professionals and among non-managerial workers, over half were paid above the C10 rate. ACTU submission, p 18 and p.20.

298 ACTU submission at pp. 15–19, paras 61–70.

299 ACTU submission, p. 13 at para. 55.

300 ACTU submission at p. 19, para 70 and Table 6.

301 The ACTU imputed the classification levels of award-only workers based on their hourly ordinary time cash earnings, with classification levels and wage rates drawn from the Manufacturing and Associated Industries and Occupations Award 2010 as at May 2012. Employees were assigned to the ‘C14’ category if they had earnings between $15.51 and $15.96 (one cent below C13), and so on for higher levels. These calculations were based on separate percentile distributions of the hourly ordinary time cash earnings of permanent/fixed term and casual award-only employees. These distributions are unpublished data from the 2012 ABS Employee Earnings and Hours survey. The earnings of intra-percentile workers were estimated using interpolation of the percentile data. The ACTU reduced casuals’ earnings by a fifth to remove a loading, assumed to be 25%.

302 ACTU calculations based on ABS 6306 (unpublished). Classifications imputed based on average hourly ordinary time cash earnings. Casual employees’ earnings have been deflated by a fifth to remove an assumed 25 per cent casual loading. Each classification level includes employees employed at the relevant minimum wage and those earning up to and including one cent below the minimum for the classification above.

303

304 ACTU submission, p.21, para 75.

305 Fair Work Commission; ABS, Consumer Price Index, Australia, Mar 2013, Catalogue No. 6401.0.

306 ACCER submission at p. 84, para. 269(b).

307 ACCER submission at p. 89, para. 283.

308 ACCER submission at p. 89, para. 281

309 MA000065.

310 ABS, Consumer Price Index, Australia, Mar 2013, Catalogue No. 6401.0; Metal, Engineering and Associated Industries Award 1998; Manufacturing and Associated Industries and Occupations Award 2010; Professional Employees Award 2010.

311 Ai Group submission at p. 31.

312 Ai Group submission at pp. 34, 35.

313 Ai Group submission at p. 35, Chart 22.

314 Ai Group submission at pp. 34–36.

315 ACTU submission at p. 98, para.290.

316 ACTU reply submission at p. 30, para.123.

317 ACTU submission in reply p. 32, para. 124.

318 Australian Government submission at p. 55, para. 275.

319 See, for example, [2010] FWAFCB 4000, at para 337.


322 ABS, Employee Earnings, Benefits and Trade Union Membership, Australia, Aug 2012, Catalogue No. 6310.0; Metal, Engineering and Associated Industries Award 1998; Manufacturing and Associated Industries and Occupations Award 2010 (from January 2010).

323 Australian Government submission at p. 55, para. 275.

324 ACTU submission at pp. 102/3, para 302.

325 This chart reflects data for the period December quarter 2002 to December quarter 2012. WPI is the index for total hourly rates of pay excluding bonuses in both private and public sectors. It is unaffected by change in the quality or quantity of work performed. AWOTE is calculated by dividing estimates of weekly ordinary time earnings by estimates of the number of employees. It is calculated before taxation and other deductions such as superannuation. It also excludes payments which are not related to the reference period such as overtime, leave loading and redundancy payments. AWOTE estimates refer to full-time adult employees. Average weekly earnings (AWE) is the gross (before tax) earnings
of employees (excluding salary sacrifice). The C14 and the C10 are minimum award rates set under the Manufacturing and Associated Industries and Occupations Award 2010 and the former Metal, Engineering and Associated Industries Award 1998. AWOTE and AWE data are published half-yearly, hence, a quarterly time-series is derived through linear interpolation. AWOTE and AWE data are expressed in original terms. ABS, Average Weekly Earnings, Australia, Nov 2012, Catalogue No. 6302.0; ABS, Wage Price Index, Australia, Dec 2012, Catalogue No. 6345.0; Metal, Engineering and Associated Industries Award 1998; Manufacturing and Associated Industries and Occupations Award 2010 (from 1 January 2010).

327 ABS, Consumer Price Index, Australia, Mar 2013, Catalogue No. 6401.0; ABS, Employee Earnings and Hours, Australia, various, Catalogue No. 6306.0.
328 Australian Government submission, p. 57, para 287
330 Australian Government submission at p. 53, Table 5.6.
331 DEEWR modelling.
332 ACCER submission, p.120, Table 17.
333 Calculation of wages net of tax takes into account exemptions granted from the Medicare Levy where applicable (for example, at the NMW, the full Medicare Levy exemption adds $9.10 per week to the net wage). Family transfers in 2012 include the equivalent weekly value from the FTB A and FTB B and the Schoolkids Bonus which is calculated on the basis that one child is in primary school and the other is in secondary school. See ACCER submission at p. 120.
335 ACOS submission at pp. 8–9.
336 National Retailers Association submission at p. 6, para. 22; ABI, at para 2.8 (in respect to overcompensation)
338 Statistical Report, in Table 8.2.
339 Australian Government submission at p. 57, para 289.
341 ACTU submission at p. 103, Figure 109.
342 ACTU submission at p. 103, para. 303.
343 ACOS submission at pp. 26–7.
344 ACOS submission at pp. 27–29.
345 ACOS submission at pp. 27–28.
346 ACCER submission at p. 136, para. 438.
348 ACCER submission at p. 135, para. 436.
349 For example, ACCER submission, p. 111, table 13.
350 For example, ACCER submission, p. 103, para 334 and table 13.
352 Australian Government submission at p. 47, para. 235.
353 This section of the submission does not provide a definition of a low-paid employee.
354 Australian Government submission at p. 49, Table 5.2 and p. 51, para. 248.
355 Australian Government submission at p. 48, Table 5.1 and pp. 48–9, para. 239.
356 ACOS submission at pp. 31–2.
358 ABS Catalogue No. 4159.0.30.003 Expanded Confidentialised Unit Record File, 2010.
361 ABS, Household Expenditure Survey Expanded Confidentialised Unit Record File, 2003–04, 2009-10, Catalogue No. 6540.0.: Could not afford holiday for at least one week a year, Could not afford a night out once a fortnight, Could not afford friends or family over for a meal once a month, Could not afford a special meal once a week, Could only afford second hand clothes most of the time and Could not afford leisure or hobby activities.


364 Australian Government submission, p. 40 at para. 179.


366 Australian Government submission, p. 40 at para. 182.


368 NSW Government submission at p. 7.

369 NRA submission, p. 12 at para. 55.


371 ACTU submission at p. 110, para. 328.


373 ibid. at pp. s376–s401. The AIRC did not see the introduction of minimum wage legislation per se. In 1997, the AIRC, in its Safety net review – Wages- April 1997 (IR) 1 decided to introduce a federal minimum wage of $359.40 into all awards. The significance of this decision is that it could be seen as a formal introduction of a basic minimum wage in Federal Awards. From 1993, with the introduction of an enterprise bargaining framework via the Industrial Relations Reform Act 1993, awards (other than paid rates awards) were formally defined as safety nets which operated to underpin the enterprise bargaining process. (See s.7 of the Industrial Relations Reform Act 1993). From this time, although there was no legislated or uniform minimum wage, the rates provided in awards were essentially minimum wage rates.

374 ACTU submission at p. 106, para. 316.

375 ACCI submission at p. 76, para. 245.

376 ACCI submission, p. 4 at para. 20 and p. 6 at para. 28; Accommodation Association of Australia submission, pp. 7–9 at paras 1–16; Australian Hotels Association submission at pp. 4–5; Australian Retailers Association submission at p. 12; Master Grocers Australia submission, p. 9 at para. 5.3.; R&CA submission, p. 8 at para. 22; Victorian Automobile Chamber of Commerce submission at p. 16.


378 ACCI submission, p. 5 at para. 25.

379 ACTU submission in reply, p. 36 at para. 143.


381 ibid.

382 ibid. at pp. 8–17.

383 ACTU submission, p. 118 at para. 358.

384 ACCI submission, p. 91 at para. 302.

385 ACCI submission, pp. 91–92 at paras 303–304.

386 ACROSS submission at p. 41.

387 ACTU submission at pp. 69–71, paras 208–215; ACROSS submission at p. 51; Ai Group submission at p. 18.

388 Ai Group submission at p. 18.

389 ACROSS submission at p. 8.

390 ABS, Labour Force, Australia, Detailed - Electronic Delivery, Apr 2013, Catalogue No. 6291.0.55.001; original data.


392 Australian Government submission, pp. 66–7, Table A.3.

393 Australian Government submission, p. 41 at para. 193.

394 Australian Government submission at p. 65, Table A.2.

395 Australian Government submission at p. 68, Table A.4.
396 ACOSS submission at pp. 50–51.
397 Australian Government submission at p. 42, para. 197.
399 Australian Government submission at p. 43, Table 4.2.
400 Australian Government submission at p. 43, para. 206.
401 Australian Government submission at p. 43, Table 4.2.
402 NSW submission at p. 7; ACCI submission, pp. 49–50 at para. 183.
403 ACOSS submission at p. 57.
407 Australian Government response to consultation questions at p. 11.
408 ACTU post-budget submission at p. 36, para. 145.
409 Australian Government responses to questions for consultations at p. 10.
410 ACTU responses to questions for consultations at p. 33, paras 132–135.
412 ABS, Employee Earnings and Hours, Australia, various, Catalogue No. 6306.0.
413 Australian Government submission at pp. 14–15, para. 41.
414 Victorian Government submission at p. 20, para. 3.17; Australian Federation of Employers and Industries submission at p. 6, para. 14.
415 Australian Industry Group submission at p. 45; Accommodation Association of Australia submission at p. 6, para. 21.
416 ACCI submission at p. 29, para. 136.
417 ACCI submission at p. 4, para. 18.
418 Victorian Government submission at p. 20, para. 3.14.
419 New South Wales Government submission at p. 7.
420 ACCER submission at p. 23, para. 48.
421 ACCER submission at p. 23, para. 48.
422 ACTU submission, p. 103 at para. 303.
423 ACTU submission, p. 50 at para. 154.
424 ACTU submission in reply, p. 33 at para. 129.
426 Australian Bureau of Statistics, Catalogue No. 6306.0 - Employee Earnings and Hours, Australia, May 2012.
428 Fair Work Act, ss.284(1)(d) and 134(1)(e).
429 ACTU submission, p. 125 at para. 385.
431 Ai Group submission at pp. 45–47.
432 ACCI submission, p. 26 at paras 117 and 120.
433 NFF submission, p. 10 at para 4.2.
434 Matter no. C2010/3131
435 Australian Government submission, p.12 at paras 28–29; ACOSS submission at pp. 16–17.
436 ACCER submission, p. 110 at paras 353–355.
437 Business SA submission, p.11 at para. 4.2.9.
...

MA000100; Equal Remuneration Order, 22 June 2012, PR52485 at p 16, para 5.

Transitional Act, items 5(2) and 9(4) of Sch.6 and item 5 of Sch. 6A.

Fair Work (Transitional Provisions & Consequential Amendments) Regulations 2009, Reg. 3A.01. One category of these instruments, that is Division 2B State awards, state reference transitional awards and transitional APCSs derived from instruments which covered employees participating in employment schemes in Queensland known as the Community Jobs Plan and the Green Army, are set to terminate on 30 June 2012 (Regs 3.04 and 3A.01). These instruments will cease to exist before the determinations that flow from this decision take effect.


Fair Work (Transitional Provisions & Consequential Amendments) Act 2009 (item 30D(1) of Sch 3A). It is also worth noting that there is another transitional pay equity order which relates to base rates of pay under Division 2B State reference transitional awards. While the Panel is not required to review this transitional pay equity order, any minimum wage adjustment to the Social, Community, Home Care and Disability Services Industry Award 2010 will apply to the base rate of pay of these transitional pay equity orders. See Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009 (Regs 3.03H and 3A.01B).

The Fair Work (Transfer of Business) Amendment Act 2012, which commenced on 4 December 2012, introduced a new Part 6.3 into the Act. A copied State award continues to operate under the national system for a period of five years, unless terminated or extended by regulation. See Fair Work Act, s. 768AO.

Fair Work Act, s. 768AI.

The provisions of the Transitional Act dealing with the variation of Division 2B State awards in annual wage reviews also apply to copied State awards. See Fair Work Act, s.768BY and s.768AW(b).

RA140348; ACTU response to panel questions at pp 30–31 and Australian Government response to panel questions at p 9.

Australian Government response to panel questions at p 9.

Australian Accommodation Association Response to Consultation Questions, p. 8.

Australian Government Response to Consultation Questions, p. 10.

ACTU Response to Consultation Questions, pp. 31–32, para. 129.

ACTU Response to Consultation Questions, pp. 32–33, para. 130.

Australian Accommodation Association Response to Consultation Questions, p. 8.

Fair Work (Transitional Provisions & Consequential Amendments) Act 2009, item 12A of Sch. 3 and items 10 and 20 of Sch. 9.

Fair Work Act, s. 284(3).

ACTU submission, p. 129 at para. 407; ACCI submission, p. 26 at para. 121, pp. 31–32 at para. 147(d); ACOSS submission, p. 10; CCIQ submission, p. 7 at 15(c); CCIQ submission, p. 7 at para. 15(c); Business SA submission, p. 5 at para. 2.3.

South Australian Government submission, p. 9.

ACTU submission, p. 129 at para. 406.

Victorian Government submission, p. 26 at para. 4.25; AFEI submission, pp. 14-15 at paras 35-41

CCIQ submission, p. 24 at para. 56(e).

ACCI submission, p. 4 at para. 22; MGA submission, p. 20 at para. 9.2; CCIQ, p. 26 at para. 60.

ACCI submission, p. 4 at para. 22.

MGA submission, p. 20 at para. 9.2.

ACOSS submission, p. 57.

ACTU submission, p. 130 at paras 412–44; ACCI submission, p. 26 at para. 121, pp. 31–32 at para. 147(d); ACOSS submission, p. 10; CCIQ submission, p. 7 at para. 15(c); Business SA submission, p. 5 at para. 2.3.

ACOSS submission, pp. 57–58.

ACOSS submission, p. 58.

ACCI submission, p. 26–27, para. 123.
511 CCIQ submission, p. 24 at para. 56(f).
512 VACC submission, p. 18.
513 MTASA submission, p. 5, at para. 2.3.3.
514 ACTU submission, p. 130 at para. 412.
515 ACTU submission, p. 130 at para. 413.
516 South Australian Government submission, p. 8, p. 10.
517 VACC submission at p. 8; HIA submission, p. 6 at para. 3.4.1; AFEI submission, p. 15 at para. 41.
518 AFEI submission, p. 15 at para. 41.
519 AM2012/196, AM2012/18 and others.
520 ACTU submission, p. 129 at para. 407, pp. 130–131 at paras 415–416, p. 133 at para. 426; ACCI submission, p. 26 at para. 121; ACOSS submission, p. 10; CCIQ submission, p. 7 at para. 15(c); Business SA submission, p. 5 at para. 2.3.
521 ACOSS submission, p. 59.
522 ACOSS submission, p. 59.
523 ACTU submission, p. 131 at para. 419.
525 National Farmers’ Federation response to Consultation Questions, p. 12.
526 Fair Work Act, s. 295(1)(b).
527 ACTU submission, p. 133 at para. 429; Ai Group submission, p. 60; ABI submission, p. 22 at para. 12.4.1.
528 ACTU submission, p. 131 at para. 420; Ai Group submission, p. 60; ABI submission, p. 23 at para. 12.8.
529 ACCI submission, p. 86 at para. 289, pp. 87–89 at para. 295 and Annexure 1, Table 1; Ai Group submission, p. 48, p. 60; Business SA submission pp. 9–10 at paras 4.2.7–4.2.8.2; CCIQ submission, p. 26 at paras 59–60; NRA submission, pp. 5–6 at paras 15–18; MGA submission, p. 8 at para. 5.2, p. 20 at para. 9.3; MTASA submission, pp. 5–6 at para. 2.4; SAWIA submission, p. 5; AAA submission, p. 6 at para. 18 and p. 13 at para. 5.
530 [2010] FWAFB 4000 at pars 397 to 403.
531 MA000104.
533 Ai Group submission at p. 58
534 ACTU submission, p. 133 at para. 427; ABI submission, p. 22 at para 12.4.2.
535 Ai Group submission, p. 58.
536 ACTU submission, p. 133, para. 427; ABI submission, p. 22 at paras 12.4.3-12.4.4
537 ACTU submission, p. 133 at para. 428.
538 Ai Group submission at p. 59; ACTU submission, p. 133 at paras 426–427; ABI submission, p. 22 at paras 12.4.5–12.4.6.
539 ACTU submission, p. 133 at para. 428.