



Restaurant
& Catering

**FAIR WORK COMMISSION
2015 ANNUAL WAGE REVIEW**

REPLY TO QUESTIONS ON NOTICE

15 MAY 2015

ABN: 73 080 269 905
National Office: Level 3, 154 Pacific Highway, St Leonards NSW 2065

Restaurant & Catering Australia

- 1) Restaurant & Catering Australia is the only peak organisation representing the interests of the 35,000 restaurants, cafés and catering businesses in Australia.
- 2) The Association had a membership of approximately 8,100 outlets in the calendar year 2014.

About the Industry

- 3) The industry turns over some \$24 billion¹ per annum and has a projected five year employment growth rate of 8.5 per cent² to November 2018. This growth is on top of a sizeable attrition from the industry due to the large number of casual employees engaged.
- 4) Café, restaurants and takeaway food services is the largest employer of the Accommodation and Food Services industry, employing approximately 524,323 or 67.9 per cent of workers in the sector³. Approximately 93.1 per cent of café, restaurant and catering businesses are small businesses⁴. The average employment per business is 8 employees.
- 5) The average turnover of a small businesses in the restaurant and café sector is \$1 million⁵. The average net profit for a restaurant or café business is 3.6 per cent⁶.

Questions on Notice

- 6) Restaurant & Catering Australia provides this reply submission to the Fair Work Commission Expert Panel in response to a series of questions it has sought further information.

¹ Australian Bureau of Statistics (2015) 8501.0 Retail Trade, Australia; State by Industry Subgroup, Original

² Department of Employment (2014) *Industry Outlook : Accommodation and Food Services - December 2014*

³ Department of Employment (2014) *Industry Outlook : Accommodation and Food Services - December 2014*

⁴ Australian Bureau of Statistics (2014) 8165.0 *Counts of Australian Businesses, including Entries and Exits, Jun 2009 to Jun 2013*

⁵ Restaurant & Catering Australia (2014) *Industry Benchmarking Report, 2012-2013 Financial Year Results*

⁶ Australian Bureau of Statistics 8655.0, Café and Restaurant Series

- 7) The Expert Panel has asked Restaurant & Catering Australia to respond to the following series of Questions on Notice:

“Question to Restaurant & Catering Australia (R&CA)”

The R&CA submission contends that “Award wages have increased so dramatically that small business owners find themselves making less money each year than they pay to their staff in wages”⁷ (Page 8) and relies on Figure 7 - Working Owner Wages by State / Region in support of that proposition. The R&CA proposition that increases in actual wages arising from the Award Modernisation process have resulted in lower wage levels for working operators⁸ may also rely on Figure 7. In what way does Figure 7 justify the R&CA contentions, given that:

- *the ABS data in the relevant publication (Estimates of Personal Income for Small Areas, 2009-10, ABS Catalogue No. 6524.0.55.002) reports information from an ATO database which covers all individuals who submit an individual income tax return and includes persons with income from one or more of a range of sources, such as wages and salaries, own unincorporated business, superannuation and annuities, investments and Government pensions, benefits or allowances (Explanatory Note 21);⁹*
- *shows the average level of income from each source of income of taxpayers reporting income from that source; and*
- *“Own unincorporated business income” excludes the income of working directors/owners of incorporated businesses who are classified as employees and includes their income from that source under Wage and salary income (Explanatory Note 24).¹⁰*

Given the basis of the ABS data, does Figure 7 show “Working Owner Wages” in any sense?

Further, are the R&CA contentions affected by the information in the ABS publication which shows that average wage and salary income grew by 27 per cent between 2005–06 to 2010–11, whereas average income from unincorporated enterprises grew 38 per cent over the same period?¹¹

Given the average income from wages and salaries in Figure 7 was around \$1000 per week in 2010–11 and, from 1 July 2010 to 30 June 2011, the national minimum wage was \$569.90 per week and the highest food and beverage attendant classification rate in the general section of the hospitality award was \$629.90, does Figure 7 provide any information about award wages?

Finally, are the R&CA contentions affected by the fact that around two-thirds of small businesses (defined as businesses employing fewer than 20 employees) have no employees¹²?

- 8) In reply to the Questions on Notice Restaurant & Catering Australia provides the following response for consideration by the Expert Panel.

⁷ R&CA submission at p. 8, para. 21.

⁸ R&CA submission at p. 12, para. 30.

⁹ ABS, Catalogue No. 6524.0.55.002 - *Estimates of Personal Income for Small Areas, 2009–10*, Explanatory Note 21.

¹⁰ ABS, Catalogue No. 6524.0.55.002 - *Estimates of Personal Income for Small Areas, 2009–10*, Explanatory Note 24.

¹¹ ABS, Catalogue No. 6524.0.55.002 - *Estimates of Personal Income for Small Areas, 2009–10*.

¹² Connolly E, Norman D and West T (2012), *Small Businesses—An Economic Overview*, Small Business Finance Roundtable, Reserve Bank of Australia, 22 May.

Restaurant & Catering Australia continues to rely on the ABS report cited in its initial written submission at Figure 7 (Estimates of Personal Income for Small Areas, 2009-10, ABS Catalogue No. 6524.0.55.002), as some evidence of the income of small business operators decreasing. Whilst it is true, as pointed out by the Expert Panel, that the field “Own unincorporated business income” excludes the income of working directors/owners of incorporated businesses who are classified as employees and includes their income from that source under wage and salary income (Explanatory Note 24), this data does include drawings by small business operators that are unincorporated (sole-traders and partners) that are not employees.

In the Restaurant & Catering sector 22% of operators are sole-traders and partners¹³. The operators of these businesses would not be employees and as such would generate income through drawings on the trading business/partnership.

In relation to the data presented by the Expert Panel that ‘average wage and salary income grew by 27 per cent between 2005–06 to 2010–11, whereas average income from unincorporated enterprises grew 38 per cent over the same period’, this may be the case, however, the data still demonstrates that income of working operators that are sole traders/partners is at a level significantly below the national minimum wage in most cases and even at the 2010/2011 rate.

The challenge to whether the cited graph is relevant in that does it ‘provide any information about award wages’ is accepted in so far as that is not the assertion in the submission. The graph was intended, as indicated above and in the submission, to demonstrate the very low level of income of working operators in unincorporated businesses.

The challenge to our submission, on the basis of ‘the fact that around two-thirds of small businesses (defined as businesses employing fewer than 20 employees) have no employees’ simply does not hold true for the restaurant and catering sector. As pointed out, in our submission (in Figure 3), this figure is more like 25% of businesses with between 0 and 20 employees, are non-employing businesses.

Whilst the data on levels of income of working operators only contributes the evidence base in a small way, it is clear, and unchallenged, that the wage cost component of

¹³ Restaurant & Catering Australia, 2015 Benchmarking Report

operating expenses for restaurateurs is increasing. This increase means ipso facto that the profitability of the business is decreasing. In the case of an unincorporated business, where the owner is left with the drawings based on any surplus, their income is decreasing. This, Restaurant & Catering Australia contends, are grounds for restraint of increases to award wage rates, in an industry that is heavily award reliant.

- 9) Restaurant & Catering Australia trusts that the Expert Panel takes these considerations into account in determining the 2015 Annual Wage Review.