



DECISION

Fair Work Act 2009
s.285—Annual wage review

Annual Wage Review 2017–18 (C2018/1)

JUSTICE ROSS, PRESIDENT
VICE PRESIDENT HATCHER
DEPUTY PRESIDENT ASBURY
COMMISSIONER HAMPTON
MR COLE
PROFESSOR RICHARDSON
MR GIBBS

SYDNEY, 1 JUNE 2018

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Abbreviations

2009–10 Review decision	<i>Annual Wage Review 2009–10</i> decision
2010–11 Review decision	<i>Annual Wage Review 2010–11</i> decision
2011–12 Review decision	<i>Annual Wage Review 2011–12</i> decision
2012–13 Review decision	<i>Annual Wage Review 2012–13</i> decision
2013–14 Review decision	<i>Annual Wage Review 2013–14</i> decision
2014–15 Review decision	<i>Annual Wage Review 2014–15</i> decision
2015–16 Review decision	<i>Annual Wage Review 2015–16</i> decision
2016–17 Review decision	<i>Annual Wage Review 2016–17</i> decision
2017–18 Review decision	<i>Annual Wage Review 2017–18</i> decision
2018–19 Review	<i>Annual Wage Review 2018–19</i>
AAWI	average annualised wage increase
ABI and NSWBC	Australian Business Industrial and the NSW Business Chamber Ltd
ABS	Australian Bureau of Statistics
ACCI	Australian Chamber of Commerce and Industry
ACCER	Australian Catholic Council for Employment Relations
ACOSS	Australian Council of Social Service
Act	<i>Fair Work Act 2009</i> (Cth)
ACTU	Australian Council of Trade Unions
AFEI	Australian Federation of Employers and Industries
AHA	Australian Hotels Association
Ai Group	Australian Industry Group
All Trades matter	<i>All Trades Queensland Pty Limited v CFMEU and Ors</i>
ANZSIC	Australian and New Zealand Standard Industrial Classification
APCSs	Australian Pay and Classification Scales
<i>Apprentices decision</i>	<i>Modern Awards Review 2012—Apprentices, Trainees and Juniors</i> , [2013] FWCFB 5411
ARA	Australian Retailers Association
AWE	average weekly earnings
AWOTE	average weekly ordinary time earnings
AWRS	Australian Workplace Relations Study
C4	Engineering Associate/Laboratory Technical Officer Level 1
C10	Engineering/Manufacturing Tradesperson Level 1

C14	Engineering/Manufacturing Employee Level 1
CCIQ	Chamber of Commerce and Industry Queensland
CCIWA	Chamber of Commerce and Industry Western Australia
CCS	Child Care Subsidy
Commission	Fair Work Commission
CPI	Consumer Price Index
CURF	confidentialised unit record file
DSP	Disability Support Pension
ERO	Equal Remuneration Order
EEH	Survey of Employee Earnings and Hours
EHDI	equivalised household disposable income
FMW	Federal Minimum Wage
FTB	Family Tax Benefit
GDP	gross domestic product
GFC	global financial crisis
GVA	gross value added
HES	Household Expenditure Survey
HIA	Housing Industry Association
HILDA	Household, Income and Labour Dynamics in Australia
IMF	International Monetary Fund
LCI	Living Cost Index
Manufacturing Award	<i>Manufacturing and Associated Industries and Occupations Award 2010</i>
MGA	Master Grocers Australia
MIHL	Minimum Income for Healthy Living
Miscellaneous Award	<i>Miscellaneous Award 2010</i>
NAB	National Australia Bank
NAPSA	Notional Agreement Preserving State Awards
NBER	National Bureau of Economic Research
NCVER	National Centre for Vocational Education Research
NLW	National Living Wage
NMW	national minimum wage
NRA	National Retail Association
NSA	Newstart Allowance
NTWS	National Training Wage Schedule
OECD	Organisation for Economic Co-operation and Development
Panel	Expert Panel for annual wage reviews
<i>Penalty Rates decision</i>	<i>4 yearly review of modern awards – Penalty Rates – hospitality and retail industries decision</i>

<i>Penalty Rates Review</i> decision	<i>Shop, Distributive and Allied Employees Association v The Australian Industry Group and Others</i>
PPP	Purchasing Power Parity
RCI	Restaurant and Catering Industrial
RBA	Reserve Bank of Australia
Review	Annual Wage Review
RNNDI	real net national disposable income
SAWIA	South Australian Wine Industry Association
SES Award	<i>Supported Employment Services Award 2010</i>
SPRC	Social Policy Research Centre
Statistical Report	<i>Statistical Report—Annual Wage Review 2017–18</i>
SWS	Supported Wage System
SWSS	Supported Wage System Schedule
Transitional Act	<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
UK	United Kingdom
UNSW	University of New South Wales
US	United States of America
WAD	Workplace Agreements Database
WPI	Wage Price Index

1. The Decision

Introduction

[1] This Chapter summarises the matters we have considered, our reasoning and the increases we have decided upon. Chapters 2–4 of this decision deal with the statutory considerations we are required to take into account. We do not repeat that material here but the views expressed in this Chapter should be seen in the context of our decision as a whole.

[2] The *Fair Work Act 2009* (Cth) (Act) requires the Expert Panel for annual wage reviews (Panel) to conduct and complete a review of the national minimum wage (NMW) and modern award minimum wages, in each financial year (the Review). The Panel must make a NMW order and may set, vary or revoke modern award minimum wages. The NMW order applies to award/agreement free employees¹ and modern award minimum wages are the minimum wages contained in modern awards.²

[3] The number of employees who have their pay set by an award is estimated to be 2.3 million or 22.7 per cent of all employees.³ The proportion of employees that are paid at the adult NMW rate is estimated to be 1.9 per cent. Further, a significant number of employees are paid at junior or apprentice/trainee rates based on the NMW rate and modern award minimum wages. The Panel's decision will also affect employees paid close to the NMW and modern award minimum wages and those whose pay is set by a collective agreement which is linked to the outcomes of the Review.

[4] The Panel is required to conduct each Review within the legislative framework of the Act, particularly the object of the Act in s.3, the modern awards objective and the minimum wages objective. As part of the Review, the Panel considers both the setting of the NMW rate and whether to make any variation determinations in respect of modern award minimum wages. Each of these tasks is undertaken by reference to the particular statutory criteria applicable to each function.

The Statutory Framework

[5] The minimum wages objective applies to the exercise of functions and powers under Part 2-6 of the Act (which includes the Review),⁴ and is set out in s.284(1) of the Act:

‘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
- (e) providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.

This is the *minimum wages objective*.

[6] The modern awards objective applies to the performance or exercise of ‘modern award powers’⁵ (which are defined to include the variation of modern award minimum wages),⁶ and is set out in s.134(1) of the Act:

‘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
- (da) the need to provide additional remuneration for:
 - (i) employees working overtime; or
 - (ii) employees working unsocial, irregular or unpredictable hours; or
 - (iii) employees working on weekends or public holidays; or
 - (iv) employees working shifts; 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.

This is the *modern awards objective*.

[7] Further, s.578(a) provides that the Panel must take into account the objects of the Act in performing its functions or exercising its powers in a Review.

[8] Sections 134, 284 and 578 of the Act each direct the Panel to take into account certain specified considerations in conducting and completing a Review. As noted in *Peko-Wallsend*,⁷ matters which a decision maker must ‘take into account’ are matters the decision maker is bound to consider and treat as matters of significance in the decision-making process.⁸

[9] There is a substantial degree of overlap in the considerations the Panel is required to take into account under the minimum wages objective and the modern awards objective, though some of these considerations are not expressed in the same terms.⁹ Both the minimum wages objective and the modern awards objective require the Panel to take into account:

- promoting social inclusion through increased workforce participation;¹⁰
- relative living standards and the needs of the low paid;¹¹
- the principle of equal remuneration for work of equal or comparable value;¹² and
- various economic considerations.¹³

[10] There are differences in the expression of the economic considerations that the Panel is required to take into account under the modern awards objective and the minimum wages objective.¹⁴ But the underlying intention of the various economic considerations referred to in ss 134 and 284 is that the Panel takes into account the effect of its decisions on national economic prosperity and in so doing gives particular emphasis to the economic indicators specifically mentioned in the relevant statutory provisions.

[11] The modern awards objective also requires the Panel to take into account ‘the need to encourage collective bargaining’,¹⁵ whereas the minimum wages objective makes no express reference to any such consideration. This is relevant because it is the minimum wages objective, *not* the modern awards objective, which is relevant to setting the NMW rate. But as the Panel observed in the *Annual Wage Review 2014–15* decision (2014–15 Review decision),¹⁶ the fact that the minimum wages objective does not require the Panel to take this consideration into account does not make much difference, in practice, to the Panel’s task. This is because the Panel is required to take into account the object of the Act and one of the stated means by which the object of the Act is given effect is ‘through an emphasis on enterprise-level collective bargaining’ (s.3(f)). While not expressed in the same terms as in the modern awards objective, it is plain from s.3(f) and a reading of the Act as a whole that one of the purposes of the Act is to encourage collective bargaining. It is appropriate that the Panel takes that legislative purpose into account in setting the NMW rate.

[12] We also observe that the considerations in ss.134(1)(da) and (g) have little relevance in the context of the Review.

[13] We turn first to deal with some general aspects of the proper construction of the modern awards objective and the minimum wages objective.

[14] The statutory tasks in ss 134 and 284 involve an ‘evaluative exercise’ which is informed by the considerations in s.134(1)(a)–(h) and s.284(1)(a)–(e). While these statutory considerations inform the evaluation of what might constitute ‘a fair and relevant minimum safety net of terms and conditions’ and ‘a safety net of fair minimum wages’, they do not

necessarily exhaust the matters which the Panel might properly consider to be relevant. The range of such matters ‘must be determined by implication from the subject-matter, scope and purpose’ of the Act.¹⁷

[15] The considerations which the Panel is required to take into account do not generally set a particular standard against which a modern award or the ‘safety net of fair minimum wages’ can be evaluated; many of them may be characterised as broad social objectives. As the Full Court of the Federal Court said in *National Retail Association v Fair Work Commission*:

‘It is apparent from the terms of s 134(1) that the factors listed in (a) to (h) are broad considerations which the FWC must take into account in considering whether a modern award meets the objective set by s 134(1), that is to say, whether it provides a fair and relevant minimum safety net of terms and conditions. The listed factors do not, in themselves, however, pose any questions or set any standard against which a modern award could be evaluated. Many of them are broad social objectives. What, for example, was the finding called for in relation to the first factor (“relative living standards and the needs of the low paid”)?’¹⁸

[16] The statutory provisions relating to the Review and to NMW orders are set out in Divisions 3 (ss 284–292) and 4 (ss 293–299) of Part 2-6 of Chapter 2 of the Act. The purpose of Chapter 2 of the Act is to prescribe minimum terms and conditions of employment for national system employees (including those terms and conditions arising from a NMW order).¹⁹ We accept that it is appropriate to characterise the statutory provisions relating to the Review and to NMW orders as remedial, or beneficial, provisions. They are intended to benefit national system employees by creating regulatory instruments which intervene in the market, setting minimum wages to lift the floor of such wages. While these statutory provisions are properly characterised as remedial or beneficial provisions, the extent to which they are to be given ‘a fair, large and liberal’ interpretation in pursuit of that broad purpose is constrained by the fact that the relevant provisions seek to strike a balance between competing interests.

[17] Fairness is central to both the modern awards objective and the minimum wages objective. Section 134(1) refers to a ‘fair ... minimum safety net’ and s.284(1) refers to ‘a safety net of fair minimum wages.’ In the *Annual Wage Review 2016–17* decision (2016–17 Review decision) the Panel concluded that fairness in this context ‘is to be assessed from the perspective of the employees *and* employers’²⁰ affected by the Review decision, and noted that:

‘It seems to us that the statutory provisions relevant to the fixation of the NMW plainly seek to strike a balance between competing interests. So much is clear from the range of considerations the Panel is required to take into account in giving effect to the minimum wages objective (for example compare s.284(1)(a) and (c)). It is also clear from the minimum wages objective itself—to “establish and maintain a safety net of fair minimum wages”. Fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW order. The object of the Act also speaks to multiple legislative purposes. Section 3 provides that the object of the Act ‘is to provide a *balanced framework* for cooperative and productive workplace relations that promotes national prosperity and social inclusion for all Australians’ (emphasis added), by the means specified in sections 3(a) to (g).’²¹

[18] The Australian Catholic Council for Employment Relations (ACCER) submits that the Panel's construction of s.284(1) in the 2016–17 Review decision was erroneous and should be reconsidered.²²

[19] ACCER contends that a beneficial reading of s.284(1) excludes decision making being based on the application of the criterion of fairness as between employers and employees²³ and that the Panel's 'primary obligation' in setting wage rates is to set a safety net wage rate that will provide a decent standard of living.²⁴ In particular, ACCER contends that the 'operational objective' of minimum wage setting under the Act is that:

'Full time workers have a reasonable expectation of a standard of living that will be in excess of poverty and one which will enable them to purchase the essentials for a "decent standard of living" and engage in community life, assessed in the context of community norms.'²⁵

[20] ACCER acknowledges that the specified considerations in s.284(1)(a)–(e) inform and constrain this 'operational objective.'²⁶

[21] We reject the proposition that 'fairness' in the context of the modern awards objective and the minimum wages objective excludes the perspective of employers.

[22] The Panel's conclusion in last year's decision was based upon observations made by the Full Bench in the *4 yearly review of modern awards – Penalty Rates – hospitality and retail industries decision* (the *Penalty Rates decision*)²⁷ about the proper construction of the expression 'a fair and relevant minimum safety net of terms and conditions' in the modern awards objective. The Full Bench's decision was the subject of an application for judicial review to the Federal Court which was dismissed by the Full Court of the Federal Court in *Shop, Distributive and Allied Employees Association v The Australian Industry Group and Others* (the *Penalty Rates Review decision*).²⁸

[23] In the course of its judgment in the *Penalty Rates Review decision* the Full Court considered the expression 'a fair and relevant minimum safety net of terms and conditions' in the modern awards objective and held:

'It is apparent that "a fair and relevant minimum safety net of terms and conditions" is itself a composite phrase within which "fair and relevant" are adjectives describing the qualities of the minimum safety net of terms and conditions to which the FWC's duty relates. Those qualities are broadly conceived and will often involve competing value judgments about broad questions of social and economic policy. As such, the FWC is to perform the required evaluative function taking into account the s 134(1)(a)–(h) matters and assessing the qualities of the safety net by reference to the statutory criteria of fairness and relevance. It is entitled to conceptualise those criteria by reference to the potential universe of relevant facts, relevance being determined by implication from the subject matter, scope and purpose of the Fair Work Act...'

...

For the reasons already given it cannot be doubted that the perspectives of employers and employees and the contemporary circumstances in which an award operates are circumstances within a permissible conception of a "fair and relevant" safety net taking into account the s 134(1)(a)–(h) matters.²⁹ (emphasis added)

[24] The above observations are entirely consistent with the proposition that fairness in the context of minimum wage fixation is to be assessed from the perspective of the employees *and* employers affected by Review decisions.

[25] We also reject ACCER's submission as to the 'operational objective' of minimum wage setting under the Act. The proposition advanced finds no support in the words of the statute and seeks to elevate one relevant consideration ('relative living standards and the needs of the low paid') above all others. As the Full Court observed in the *Penalty Rates Review decision*:

'It is not legitimate to take one element in the overall suite of potentially relevant considerations to the discharge of the FWC's functions ... and discern from that one matter a Parliamentary intention that the scheme as a whole is to be construed with that end alone in mind.'³⁰

[26] However, as we note later, we accept the proposition that it is reasonable for full time employees to expect a standard of living in excess of poverty. But, as noted in previous Review decisions, the Act requires the Panel to take into account *all* of the relevant statutory considerations,³¹ and the relative living standards and needs of the low paid are but 'one of a number of considerations that [the Panel] must take into account.'³²

[27] We now turn to consider some of the particular considerations which we are required to take into account.

[28] As noted earlier, the Panel is required to take into account the need to promote 'social inclusion through increased workforce participation' (ss 134(1)(c) and 284(1)(b)). Consistent with past Review decisions, we interpret this to mean increased employment. We also accept however that minimum rates of pay impact upon an employee's capacity to engage in community life and the extent of their social participation. Higher minimum wages can also provide incentives to those not in the labour market to seek paid work, which needs to be balanced against potential negative impacts of increases in minimum wages on the supply of jobs for low-paid workers. In each Review, we must take into account the employment impacts of the NMW and modern award minimum wages and any proposed increases to those rates.

[29] The minimum wages objective and the modern awards objective both require the Panel to take into account relative living standards and the needs of the low paid when setting minimum wage rates (ss 134(1)(a) and 284(1)(c)). Those matters are different, but related, concepts.

[30] The relative living standards of employees on the NMW and 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.³³ The net effect of these factors is summarised in the notion of equalised household disposable income, a measure to which we return later in Chapter 3.

[31] The assessment of relative living standards requires a comparison of the living standards of workers reliant on the NMW and modern award minimum wages with those of other groups that are deemed to be relevant. We particularly focus on the comparison between

low-paid workers (including NMW and award-reliant workers) and other employed workers, especially non-managerial workers.³⁴ There is little basis for comparing the household income of the low paid and the award reliant with that of households that are principally reliant on social welfare benefits or private savings, when the purpose is to identify whether an increase in the NMW and modern award minimum wages will assist the relative standard of living of the low paid.

[32] The assessment of 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, assessed in the context of contemporary norms.³⁵ In successive Review decisions the Panel has concluded that a threshold of two-thirds of median (adult) full-time ordinary earnings provides ‘a suitable and operational benchmark for identifying who is low paid,’ within the meaning of s.134(1)(a).³⁶ The risk of poverty is also relevant in addressing the needs of the low paid. We accept, as we have in previous Review decisions, that if the low paid are forced to live in poverty then their needs are not being met.³⁷

[33] The modern awards objective and the minimum wages objective both provide that in a Review we must take into account ‘the principle of equal remuneration for work of equal or comparable value’ (s.134(1)(e) and s.284(1)(d)). The Dictionary section of the Act (s.10) directs attention to s.302(2) for the definition of the expression ‘equal remuneration for work of equal or comparable value.’ Section 302(2) is in Part 2-7 ‘Equal Remuneration’ and defines this expression to mean ‘equal remuneration for men and women workers for work of equal or comparable value.’ It seems highly unlikely that Parliament intended this expression to mean something different in ss 134 and 284. Hence, the appropriate approach to the construction of ss 134(1)(e) and 284(1)(d) is to read the definition into the substantive provision.³⁸ Accordingly, the relevant consideration is to be read as follows:

‘the principle of equal remuneration for men and women workers for work of equal or comparable value.’

[34] In the *Equal Remuneration Decision 2015*³⁹ the Full Bench concluded that the expression ‘work of equal or comparable value’ in s.302(1) refers to equality or comparability in ‘work value.’⁴⁰ We agree and, further, the same meaning should be attributed to this expression in ss 134(1)(e) and 284(1)(d). As explained in the *Equal Remuneration Decision 2015*, the principle of equal remuneration for work of equal or comparable value is enlivened when an employee or group of employees of one gender do not enjoy remuneration equal to that of another employee or group of employees of the other gender who perform work of equal or comparable value. Further, as the Full Bench observed:

‘This is essentially a comparative exercise in which the remuneration and the value of the work of a female employee or group of female employees is required to be compared to that of a male employee or group of male employees.’⁴¹

[35] The application of the principle of equal remuneration for work of equal or comparable value is such that it is likely to be of only limited relevance in the context of a Review. Indeed it would only be likely to arise if it were contended that particular modern award minimum wage rates were inconsistent with the principle of equal remuneration for work of equal or comparable value; or, if the form of a proposed increase enlivened the principle. We agree with the observations of a number of parties that Review proceedings are

of limited utility in addressing any systemic gender undervaluation of work. It seems to us that proceedings under Part 2-7 and applications to vary modern award minimum wages for 'work value reasons' pursuant to ss 156(3) and 157(2) provide more appropriate mechanisms for addressing such issues.

[36] But the broader issue of gender pay equity, and in particular the gender pay gap, is relevant to the Review. This is so because it is an element of the requirement to establish a safety net that is 'fair.' It may also arise for consideration in respect of s.284(1)(b) ('promoting social inclusion through workforce participation'), because it may have effects on female participation in the workforce.⁴²

[37] The gender pay gap refers to the difference between the average wages earned by men and women. It may be expressed as a ratio which converts average female earnings into a proportion of average male earnings on either a weekly or an hourly basis.⁴³ The *Statistical Report—Annual Wage Review 2017–18* (Statistical report) sets out three measures of the gender pay gap, ranging from 11.0 per cent to 15.3 per cent (see Table 4.1).

[38] As noted in the *Annual Wage Review 2015–16* decision (2015–16 Review decision), the causes of the gender pay gap are complex and influenced by factors such as: differences in the types of jobs performed by men and women; discretionary payments; workplace structures and practices; and the historical undervaluation of female work and female-dominated occupations.⁴⁴ We accept that moderate increases in the NMW and modern award minimum wages would be likely to have a relatively small, but nonetheless beneficial, effect on the gender pay gap.

[39] As the Panel has observed in previous Review decisions, there is a degree of overlap between the various considerations which the Panel must take into account.⁴⁵ A degree of tension is also evident between some of these considerations, for example, the extent to which minimum wage increases are able to meet the needs of the low paid may, depending on the magnitude of the increase and the prevailing circumstances, be constrained by the potential impact of such increases on employment. No particular primacy is attached to any of these considerations,⁴⁶ and it is this complexity that has led the Panel to reject a mechanistic or decision-rule approach to wage fixation.⁴⁷

[40] The Act also 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 (s.289(1)). In this Review, a number of parties took this opportunity by lodging one or more written submissions and participating in consultations on 15 and 16 May 2018.

[41] The timetable for the Review and all of the submissions, transcripts, research reports, and some additional economic data were published on the Fair Work Commission's (Commission) website to ensure that all parties had a reasonable opportunity to participate. The Panel considered all the material received from parties, the information in the statistical report and the research referred to in the Research reference list in making its decision.

The Panel's approach

[42] As part of the Review, the Panel considers both the setting of the NMW rate and whether to make any determinations varying modern award minimum wages. These tasks are undertaken by reference to the particular statutory criteria applicable to each function.

[43] The review and variation of modern award minimum wages is a separate, though related, function to reviewing and making a NMW order. In exercising its powers to set, vary or revoke modern award minimum wages, the Panel 'must take into account the rate of the national minimum wage that it proposes to set in the Review.'⁴⁸ It follows that, as part of our decision-making process, we must first form a view about the rate of the NMW we propose to set, and then take that proposed NMW rate into account (along with the other relevant statutory considerations) in exercising our powers to set, vary or revoke modern award minimum wage rates.⁴⁹

[44] The range of considerations we are required to take into account calls for the exercise of broad judgment rather than a mechanistic or decision rule approach to wage fixation. It is on this basis that past Review decisions have rejected proposals for the adoption of real wage maintenance,⁵⁰ a medium term target for the NMW,⁵¹ and the variation of modern award minimum wages based on trends in market wages.⁵²

[45] We accept that the Panel's decision-making process should be as transparent as possible and that the Panel should disclose the factors which are most relevant in a particular year, and we have done so in this decision.

[46] In assessing the various economic considerations, we take into account both actual data and forecasts. The actual indicators are the primary consideration because, by their nature, they are more reliable than forecasts.⁵³ But it is also appropriate to have regard to future projections that cast some light on the circumstances expected to apply during the period when any adjustment will operate. It is not uncommon for actual outcomes to differ from those forecast and those differences form part of our broad assessment and consideration of the actual indicators in subsequent reviews.

[47] We pay particular attention to trends, because of the volatility in some of the economic indicators⁵⁴ and routinely look to developments over the medium and long term, as well as to changes over the past year. This is evident in the material that is included in the Statistical Report that accompanies the Review. The longer-term perspective reduces our reliance on contemporary data that can be volatile and subject to revision. It also enables us to see the cumulative effects of the annual changes that we focus on, including our own decisions.

[48] We also compare past forecasts with actual economic outcomes, but this is not undertaken to enable some sort of quantifiable adjustment to minimum wage outcomes. There is no formulaic relationship between changes in particular indicators or factors over time and the outcome of Reviews.

[49] Given the range of considerations which we are required to take into account, it is neither necessary nor appropriate to quantify the weight given to particular considerations. This view is supported by the Full Court in the *Penalty Rates Review decision*, which held:

‘The fact that the FWC did not attempt to explain the relative weight it gave to the competing considerations in reaching its overall conclusions is immaterial. It is difficult to know how the FWC might meaningfully have done so given the nature of the decisions it was making and the broad scope of facts, matters and circumstances which fed into the conclusions (*National Retail Association v Fair Work Commission* [2014] FCAFC 118; (2014) 225 FCR 154 at [109]). Nothing in the statutory scheme or otherwise required the FWC to attempt to explain the relative weight it gave to the competing considerations in reaching its overall conclusions. What is apparent is that the FWC found that the relevant considerations did not all point in the same direction. They pulled in different directions, which is to be expected given the nature of the task. Provided the relevant matters were considered, the attribution of weight was wholly a matter for the FWC. That the FWC may be taken from the determinations to have given more weight to matters other than the relative living standards and needs of the low paid does not mean the FWC abdicated its responsibility for considering those matters or failed to consider them.’⁵⁵

The Decision

[50] The Panel received submissions from the Australian Government, several state governments, bodies that represent the interests of employees and employers, other entities and individuals. As in previous Reviews, the quantum and form of proposed increases to the NMW and/or modern award minimum wages varied significantly. The various proposals are set out in Appendix 2.

[51] National Retail Association (NRA) and Restaurant and Catering Industrial (RCI) proposed that no increase be made to minimum wage rates. RCI argued that ‘the prevailing economic conditions do not warrant any increase’.⁵⁶ A number of other business and industry associations proposed percentage increases of varying amounts. Master Grocers Australia (MGA) proposed an increase of not more than 1.1 per cent. Australian Industry Group (Ai Group) proposed an increase of 1.8 per cent. Australian Chamber of Commerce and Industry (ACCI), Australian Business Industrial and the NSW Business Chamber Ltd (ABI and NSWBC), Australian Hotels Association (AHA), Australian Retailers Association (ARA), Australian Federation of Employers and Industries (AFEI) and Chamber of Commerce and Industry Queensland (CCIQ) all proposed an increase of no more than 1.9 per cent.

[52] The State Governments of Queensland and Victoria proposed increasing the NMW to \$722.00 per week or \$19.00 per hour (an increase of \$27.10 per week or about 3.9 per cent) and that modern award minimum wages be adjusted by a ‘fair and reasonable increase.’⁵⁷

[53] The Australian Council of Trade Unions (ACTU) proposed that the NMW and modern award minimum wages be increased by 7.2 per cent. ACCER proposed a tiered adjustment to minimum wages, the NMW to be increased to \$735.00 (an increase of \$40.10 per week, or about 5.8 per cent); increasing modern award minimum wages up to and including the Engineering/Manufacturing Tradesperson Level 1 (C10) rate by \$32.00 per week; and increasing modern award minimum wages above the C10 rate by 3.9 per cent.

[54] A number of submissions did not propose a particular level of increase in the NMW or modern award minimum wages, including the Australian Government and the NSW, SA and WA Governments. Australian Council of Social Service (ACOSS) proposed that the Panel ‘increase real minimum wages substantially in order to specifically reduce the gap between

them and median pay levels⁵⁸ and the Federal opposition proposed ‘a fair and economically responsible real increase.’⁵⁹

[55] The modern awards objective and the minimum wages objective require us to take into account various economic and labour market considerations. While some of these are specifically mentioned in the Act, the Panel also considers other relevant indicators.

[56] While we seek to explain our view of the circumstances (including forecasts or projections) prevailing in each Review in comparison with previous years, it is not feasible to quantify the weight given to particular factors in balancing the various considerations prescribed by the Act. Rather, we consider all information about the economic and social environment that is available (including forecasts and any divergence from prior forecasts) to inform our decision.

[57] The Panel’s approach to its statutory function is encapsulated in the following extract from the 2014–15 Review decision:

‘In taking into account available economic and social data, the Panel’s approach is broadly to assess the changes in these data from year to year and determine how they inform the statutory criteria. Put another way, and consistent with ACCI’s submission, if there were no change in the relevant considerations from one year to the next then, all other things being equal, a similar outcome would result.’⁶⁰

[58] Broadly speaking, differently constituted Panels should evaluate the evidence and submissions before them in accordance with a consistent and stable interpretation of the legislative framework. Justice requires consistent decision making unless a difference can be articulated and applied.⁶¹

[59] The table below compares the data and Budget forecasts at the time of the 2016–17 Review with those before us in the current Review.

Table 1: Budget forecasts and actual outcomes for selected economic indicators, per cent

Indicator	Information at time of 2016–17 Review			Information at time of 2017–18 Review		
	Most recent data at Decision (6 June 2017)	Budget forecast for 2016–17 (Year to Jun qtr)	Budget forecast for 2017–18 (Year to Jun qtr)	Most recent data	Budget forecast for 2017–18 (Year to Jun qtr)	Budget forecast for 2018–19 (Year to Jun qtr)
Gross domestic product ^(a)	2.4* (Dec qtr 2016)	1¾	2¾	2.4* (Dec qtr 2017)	2¾	3
Consumer Price Index ^(b)	2.1^ (Mar qtr 2017)	2	2	1.9^ (Mar qtr 2018)	2	2¼
Wage Price Index ^(c)	1.9^ (Mar qtr 2017)	2	2½	2.1^ (Mar qtr 2018)	2¼	2¾
Unemployment rate ^(d)	5.8# (April 2017)	5¾	5¾	5.5# (April 2018)	5½	5¼
Employment growth ^(c)	1.3# (April 2017)	1	1½	2.9# (April 2018)	2¾	1½
Participation rate ^(d)	64.8# (April 2017)	64½	64½	65.7# (April 2018)	65½	65½

Note: Forecasts are (a) through-the-year growth rate to the June quarter, original series; (b) through-the-year growth rate to the June quarter; (c) seasonally adjusted, through-the-year growth rate to the June quarter; (d) seasonally adjusted rate for the June quarter. *Seasonally adjusted, year to December quarter 2016/2017, #Trend, April 2017/2018, ^Seasonally adjusted, Year to March quarter 2017/2018.

Source: Australian Government, *Budget Paper No. 1: Budget Strategy and Outlook 2017–18*, Canberra, p. 2-6; Australian Government, *Budget Paper No. 1: Budget Strategy and Outlook 2018–19*, Canberra, p. 2-6; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0; ABS, *Consumer Price Index, Australia, Mar 2018*, Catalogue No. 6401.0; ABS, *Wage Price Index, Australia, Mar 18*, Catalogue No. 6345.0; ABS, *Labour Force, Australia, Apr 2018*, Catalogue No. 6202.0; ABS, *Labour Force, Australia, Apr 2017*, Catalogue No. 6202.0; [2017] FWCFB 3500.

[60] Compared to the position at the time of the 2016–17 Review, the economic indicators now point more unequivocally to a healthy national economy and labour market. The recent data has shown strong growth in full-time employment together with a high participation rate.

[61] As the Treasurer and the Minister succinctly put it in their post Budget correspondence:

‘The Australian economy has entered its 27th year of economic growth and has performed remarkably well in adjusting from the investment phase of the mining boom towards broader-based sources of growth. Real GDP is forecast to grow by 2¾ per cent in 2017–18 and to accelerate further to 3 per cent growth in 2018–19 and 2019–20.’⁶²

[62] Some of the *key changes* to the economy evident in this Review include:

- Full-time employment grew by 3.1 per cent, significantly greater than the 1.0 per cent growth over the previous year.
- Hours worked increased by 3.3 per cent over the year to April 2018, compared with 1.8 per cent a year earlier.

- At 66.7 per cent in April 2018, the age-adjusted participation rate is at a record high and 0.8 percentage points higher than one year before.
- At 77.2 per cent, the employment to population ratio for persons aged 20–64 years, reached a historic high in December 2017.
- Strong contributions to gross domestic product (GDP) growth from non-mining business investment and household consumption.
- Business conditions are generally robust.

[63] The labour market has improved significantly with strong employment growth of 355 200 workers over the year to April 2018, of which 256 100 were full-time employees. Employment growth of over 3 per cent recorded at the end of 2017 and in early 2018 is much higher than at the time of the last Review. Further, as pointed out by the Reserve Bank of Australia (RBA), recent employment growth has been higher than population growth.⁶³

[64] Three out of the four most award-reliant industries experienced positive growth in employment over the year. Table 2.9 in Chapter 2 shows the variation in the performance of the four industries that have the highest proportion of employees paid at the award rate. Some general conclusions may be made from the data:

- the most award-reliant industries mainly had higher than average rates of growth in output and in profits;
- with the exception of Retail trade, business entry rates exceeded exit rates, as they have for the whole economy;
- the Wage Price Index (WPI) mostly grew at a rate that was below or at the economy-wide average, and wage growth under new collective agreements was, except in Other services, mostly below average; and
- employment growth was mixed, with strong growth in employment and in hours worked in Retail trade but weaker growth, or some decline, in the other sectors.

[65] Over the past year the unemployment rate and the underemployment rate declined only slightly, reflecting a sharp rise in the participation rate. The shift from part-time employment to full-time employment may explain some of the fall in underemployment. Despite strong employment growth, the unemployment rate dropped only 0.2 percentage points to 5.5 per cent. The strong growth in employment has not translated into a lower unemployment rate because the age-adjusted participation rate is much higher than one year ago. These indicators provide further evidence that the labour market is strengthening.

[66] The labour market is currently supporting social inclusion through increased workforce participation and there is no evidence that this is being inhibited by the current level of minimum wages. Over the year to April 2018, the youth unemployment rate fell by 0.3 percentage points to 12.6 per cent, which is just below its average over the past five years. The persistence of long-term unemployment and the rise in disengagement among 20–24 year old adults are principally the result of rapid structural change in the economy that is causing a relatively high mismatch between the skills of the non-employed and those sought by employers. There is no evidence that it was caused by excessive levels of minimum wages.

[67] Measures of labour productivity declined during 2017, but annual measures of productivity must be approached with caution. When measured over the course of the current business cycle, the rate of growth in labour productivity is 1.9 per cent per annum. It is likely that the measure of productivity for 2017 was affected by a surge in the total number of hours worked. Further, as noted by the RBA, recent employment growth was concentrated in household services, which typically has low measured productivity growth.⁶⁴

[68] GDP grew by 2.4 per cent, consistent with the five-year average for economic growth, and exceeded the average for the major seven Organisation for Economic Co-operation and Development (OECD) countries across three of the five quarters to the December quarter 2017. Growth in 2017 was broad-based, with 16 out of 19 industries recording growth. There was a significant contraction (8.8 per cent) in one industry only, Agriculture, forestry and fishing, following growth of 22.5 per cent in that sector in 2016.

[69] Business conditions remain positive. Profits grew by 4.3 per cent in 2017 and by 5.8 per cent in the non-mining sector. This growth, coupled with low wages growth, caused the profit share of total factor income to remain at its highest level since 2013. The business bankruptcy rate remained stable at a comparatively low level compared to the whole of the previous decade, business survival rates are the highest in at least a decade and business entry rates exceeded business exit rates by a larger than usual margin. Survey measures of overall business conditions are at their highest levels since the global financial crisis (GFC).⁶⁵

[70] Inflation and wages growth remain low. The Consumer Price Index (CPI) increased by 1.9 per cent over the year to the March quarter 2018 and underlying inflation and the Living Cost Index (LCI) for employee households rose by 2.0 per cent. Despite substantial employment growth, there was no appreciable acceleration in wages growth in 2017. The WPI increased by 2.1 per cent, which is slightly below the average for the last five years and historically very low, and the rate of wage increases arising from enterprise agreements is substantially below their ten-year average.

[71] Low wages growth has significant economic and social consequences. As RBA Governor Philip Lowe has remarked sustained low wages growth diminishes the sense of shared prosperity.⁶⁶

[72] The economic forecasts from the Australian Government, as presented in the 2018–19 Budget, the RBA and the International Monetary Fund (IMF) all point to improving economic conditions.

[73] The RBA's outlook for the economy is for GDP growth to be around trend in the near term before increasing, with employment to continue to grow faster than the working-age population leading to a slight decline in the unemployment rate.⁶⁷ GDP growth is forecast to be strongest over the year to the June quarter 2019.⁶⁸

[74] The Budget forecasts presented in the 2016–17 Review expected wages growth, as measured by the WPI, to be 2½ per cent over 2017–18.⁶⁹ This has been reduced to 2¼ per cent in the 2018–19 Budget. The 2018–19 Budget also forecasts the WPI to increase to 2¾ percent in 2018–19 and to 3¼ percent in 2019–20. The RBA does not provide a forecast for the WPI but expects wages growth to 'pick up only gradually as labour market spare

capacity declines and any effects of structural factors that are weighing on wages growth start to dissipate.⁷⁰

[75] The latest data show that the WPI increased by 2.1 per cent over the year to the March quarter 2018, having increased by 0.5 per cent in each of the last two quarters. To reach the Budget forecast for 2017–18 would require a quarterly increase of 0.7 per cent, which would be the highest increase since the March quarter 2014. Such an outcome seems unlikely.

[76] The WPI forecast in the Budget is predicated on increased GDP growth leading to a tighter labour market and hence wages growth. Productivity growth and the forecast increases in inflation were also expected to result in an increase in the WPI.

[77] The international experience, particularly in the United States of America (US), shows that a lower unemployment rate has not translated to stronger wages growth. The RBA has cautioned that there is uncertainty around the level of the unemployment rate consistent with full employment which could turn out to be lower than previously assumed, and that there is a risk that it may take a lower unemployment rate than currently expected to generate higher wages growth. Both the Budget and RBA forecasts are for the unemployment rate to only fall to 5¼ per cent by 2019–20.

[78] The Budget forecasts in respect of the WPI appear overly optimistic, particularly as the RBA expects increases in wages growth to be gradual and the unemployment rate is only expected to decline slightly. For the reasons given in Chapter 2, while we expect wages growth to pick up over time, this is likely to be a more gradual process than that forecast in the Budget. We expect that our decision in this Review will result in an increase in the WPI but we do not expect any other significant sources of increase in wages growth in the short term.

[79] As mentioned earlier, in each Review we must take into account the employment impacts of the national NMW and modern award minimum wages and any proposed increases to those rates.

[80] We remain of the view that modest and regular minimum wage increases do not result in disemployment effects or inhibit workforce participation. Recent Australian research published by the RBA (Bishop 2018), discussed in Chapter 2, provides support for our view. Recent research in the UK continues to support this conclusion. The position is more contested in the US.

[81] A number of parties submitted that the increase of 3.3 per cent awarded in last year's Review was too high in the prevailing circumstances.⁷¹ No party was able to identify any economic indicator which demonstrated any discernible detriment arising from last year's decision. However, we accept that the 2016–17 Review increase may have longer-term effects which are not yet discernible.

[82] As to the impact of last year's Review decision, we note that employment continued to grow strongly in the economy generally, and it also grew in three of the four most award-reliant industries. The increase did not lead to inflationary pressure. Nor did it have a discernible effect upon general wages growth. Surprisingly, the WPI figure over the year to the March quarter 2018 increased in two out of the four most award-reliant sectors by *less*

than for the economy as a whole, and in all four sectors the percentage WPI increase was substantially less than the percentage increase which we awarded in the 2016–17 Review.

[83] The prevailing economic circumstances provide an opportunity to improve the relative living standards of the low paid, and to enable them to better meet their needs.

[84] The real value of the NMW has increased by 5.8 per cent over the last decade, and by 4.3 per cent over the past five years. However, this has not resulted in improvements to the actual or relative living standards for many categories of NMW and award-reliant households due to changes in the tax-transfer system.

[85] The effect of taxes and transfers on the disposable incomes of the low paid is relevant to the needs of the low paid and their relative living standards, both in terms of specific changes to the tax-transfer system and in assessing broader information in relation to measures of relative income of the low paid.

[86] There has been a decline in real disposable incomes for households that are more reliant on the tax and transfer system. Real disposable income for 11 out of 14 hypothetical NMW households fell over the year to 1 July 2017. Over the five years to July 2017, real disposable income for 10 out of 14 household types fell despite the real NMW rising by 3.9 per cent over the same period. The only family types that experienced an increase in real disposable income over the past year were single adults and couples without children. As noted by the Australian Government, increases in minimum wages in recent years have ‘been important for maintaining the real disposable incomes of many low-income households.’⁷²

[87] Consistent with the view the Panel has taken in past, we have not taken into account the measures proposed in the recent Budget which are yet to be legislated.

[88] The minimum wage bite increased by 0.8 percentage points to 54.8 per cent between 2016 and 2017, and has increased since 2012 following a decline between 1994 and 2012. The majority of hypothetical household types on NMW or award wage rates have disposable incomes above a relative poverty line of 60 per cent of median income. However, a number of household types with a single earner and children remain below the relative poverty line at both the NMW and the C10 award wage rate. It is also notable that, despite the increase of 3.3 per cent awarded in last year’s Review, the relative position of many NMW and award-dependent household types with children vis-a-vis the relative poverty line actually deteriorated due to changes in the tax-transfer system in 2017.

[89] The latest data suggests that income inequality in Australia has stabilised for some period with some indicators showing that income growth for households at the bottom of the distribution increased by more than for households at the top of the income distribution. However, inequality of household income remains high in Australia, relative to the past and to other comparable countries.

[90] A new report estimating budget standards based on the Minimum Income for Healthy Living (MIHL) standard has been released since the last Review. Overall, there was low support from the parties regarding the consideration of the new budget standards for this year’s Review. Application of the budget standards concluded that, in 2016, the disposable incomes of families comprising a NMW earner who were single adults, sole parents with one child and couple households with one child (with a partner not in the labour force) were above

the corresponding MIHL budget standard. The remaining two family types that were evaluated had incomes below the standard. We consider the MIHL budget standards to be useful and relevant insofar as they provide direct, if imperfect, evidence that a full time job at the NMW rate is sufficient to provide a single adult with a reasonable standard of living. This concurs with the assessment based on the 60 per cent relative poverty line.

[91] Measures of financial stress and deprivation find that low-paid families have considerably more stress than all employee families. Rates of financial stress and deprivation fell in all 15 indicators for all employee households between 2009–10 and 2015–16, although the base for measurement is the immediate aftermath of the GFC. For low-paid families, levels of stress and deprivation on three indicators rose. They fell for the other 12 indicators, some by less than for all employee families. This suggests that the level of financial comfort for low-paid families has fallen relative to all employee families, but their absolute position has probably improved.

[92] A number of other matters are relevant to the outcome of the Review.

[93] The *Penalty Rates* decision⁷³ provides for the phased reduction of Sunday penalty rates in certain awards in the hospitality and retail sectors which will reduce the employment costs of some employers covered by the modern awards affected by the decision.⁷⁴ We note that there have also been other changes to modern awards that have increased employment costs. It is not appropriate to take account all of these matters in some quantifiable or mechanistic way to support a particular outcome in the Review. But these matters form part of the broad context in which the Review is conducted and are relevant considerations.

[94] As mentioned earlier, one of the matters we are required to take into account is ‘the need to encourage collective bargaining.’ As set out in Chapter 4, while we accept that there has been a decline in current enterprise agreement making, a range of factors impact on the propensity to engage in collective bargaining, many of which are unrelated to increases in the NMW and modern award minimum wages.

[95] We are not persuaded that the gap between modern award minimum wages and bargained wages, to the extent it can be identified with any precision, has reached a level where it is encouraging or discouraging collective bargaining.

[96] We maintain the view expressed in past Review decisions that given the complexity of factors which may contribute to decision making about whether or not to bargain, we are unable to predict the precise impact of our decision. We cannot be satisfied that the increase we have determined will *encourage* collective bargaining and this is a factor to be weighed along with the other statutory considerations. However, we are also of the view that it is likely that the increase we have determined in this Review will impact on different sectors in different ways and will not, in aggregate, *discourage* collective bargaining.

[97] The gender pay gap is a factor in favour of an increase in minimum wages and we have considered this together with the various statutory considerations we are required to take into account.

[98] We conclude by noting that we have taken into account the circumstances of different regions, industries and sectors as part of our broader consideration of the national economy. These circumstances include that there are economic challenges currently facing certain

regions and sectors as a result of the transition taking place in the economy and other factors including natural disasters. CCIQ again contended that there were ‘extenuating circumstances’ including Cyclone Debbie which hit North Queensland in March 2017 and more recent flooding events, which combined with ongoing drought in other parts of Queensland, warrant ‘exemption from the minimum wage adjustment for a given period.’⁷⁵ CCIQ has advanced substantially the same proposition in past Review proceedings. As the Panel has observed in past Review decisions, we accept that such events cause hardship to both employers and employees.⁷⁶ However for the reasons we have set out at length in previous Review decisions in relation to the same submission that is advanced by CCIQ in these proceedings, CCIQ has failed to address the requirements to be met by a party seeking such an exemption.⁷⁷ No exceptional circumstances are demonstrated such as to warrant a deferral of the increases we have awarded. We are not persuaded to depart from the conclusions reached in past Review decisions in respect of this issue.⁷⁸

[99] For completeness, we note that we also reject ARA’s proposal that we adopt an award by award approach and provide an interim decision in this Review.⁷⁹ Submissions in substantially the same terms have been made previously, and rejected in past Review decisions.⁸⁰ We are not persuaded to depart from the conclusions the Panel has reached in past decisions in respect of this issue.

[100] The level of increase we have decided upon will not lead to undue inflationary pressure and is highly unlikely to have any measurable negative impact on employment. However, such an increase will mean an improvement in the real wages for those employees who are reliant on the NMW and modern award minimum wages and, absent any negative tax-transfer effects, an improvement in their living standards. We acknowledge that the compounding effect of increases over time may have a cumulative effect which is not apparent in the short term. We will continue to closely monitor this in future reviews.

[101] We have determined that it is appropriate to increase the NMW. The factors identified above have led us to award an increase of 3.5 per cent. The NMW will be \$719.20 per week or \$18.93 per hour. The hourly rate has been calculated by dividing the weekly rate by 38, on the basis of the 38-hour week for a full-time employee. This constitutes an increase of \$24.30 per week to the weekly rate or 64 cents per hour to the hourly rate.

[102] Having regard to the proposed NMW and the other relevant considerations, we also consider that it is appropriate to adjust modern award minimum wages.

[103] ACCER proposed a higher adjustment to the NMW than the adjustment they proposed to modern award minimum wages (or to award rates above a certain classification level), with the intention of providing a more substantial increase to the lowest paid. ACCER also contended that since the *Annual Wage Review 2011–12* decision (2011–12 Review decision), the Panel has applied what it describes as a ‘wages relativities policy’, which it submits has been contrary to law.⁸¹

[104] We accept that if the low paid are forced to live in poverty then their needs are not being met and that those in full-time employment can reasonably expect a standard of living that exceeds poverty levels.⁸² The increases we propose to award will not lift all NMW and award-reliant employees out of poverty (measured by household disposable income below a 60 per cent median income poverty line). But to grant an increase to the NMW and modern award minimum wages the size necessary to immediately lift all full-time workers out of

poverty, or an increase of the size proposed by ACCER and the ACTU, is likely to run a substantial risk of adverse employment effects. Such adverse effects will impact on those groups who are already marginalised in the labour market, with a corresponding impact on the vulnerability of households to poverty due to loss of employment or hours. An increase of the magnitude proposed by ACCER and the ACTU would also carry a substantial risk of reducing the employment opportunities for low-skilled workers, including many young persons, who are looking for work.

[105] Workers at the lower end of the wage distribution (such as those paid the NMW), including those on modern awards who tend to have less skill than other workers, are more vulnerable to disemployment. There is no justification to increase the NMW by a higher rate than modern award minimum wages (as proposed by ACCER). To do so would create a significant risk of disemployment effects—thus putting low-paid workers at risk of unemployment and poverty. Nor would it be fair to those on higher modern award minimum wages as it would erode the recognition of their higher skill and relative ‘work value.’

[106] As to ACCER’s ‘wages relativities policy’ argument, we considered, and rejected, a submission in substantially the same terms in the 2016–17 Review decision.⁸³ Nothing put in the present proceedings has persuaded us to depart from the views expressed in our previous decision.

[107] The proposed NMW and the relevant statutory considerations have led us to increase modern award minimum wages by 3.5 per cent.

[108] The determinations and order giving effect to our decision will come into operation on 1 July 2018. Weekly wages will be rounded to the nearest 10 cents.

2. Economic and Labour Market Considerations

[109] The economic and labour market considerations required to be taken into account in relation to the minimum wages objective in s.284(1)(a) and (b) and in relation to the modern awards objective in s.134(1)(c), (d), (f) and (h) are dealt with in this chapter. In addition, the Panel also considers a range of other relevant indicators. In doing so we examine information presented in the Statistical report, in submissions from parties, and in research published or referenced in the Research reference list by the Commission.

[110] We note at the outset the submission advanced by ABI and NSWBC that macroeconomic data are unlikely to be useful in a Review as they take a high-level view of the economy and that the Panel's 'primary consideration' should be on parts of the economy most affected by Review decisions.⁸⁴ ACCI advances a submission in similar terms.⁸⁵ We do not accept this view for a number of reasons.

[111] Firstly, although the degree of award reliance varies between industries, all industries contain a proportion of award-reliant employees, and in none are the majority of employees award reliant.⁸⁶ That requires us to have regard to developments in all industries and, in that context, macroeconomic data affecting all sectors is relevant and useful.

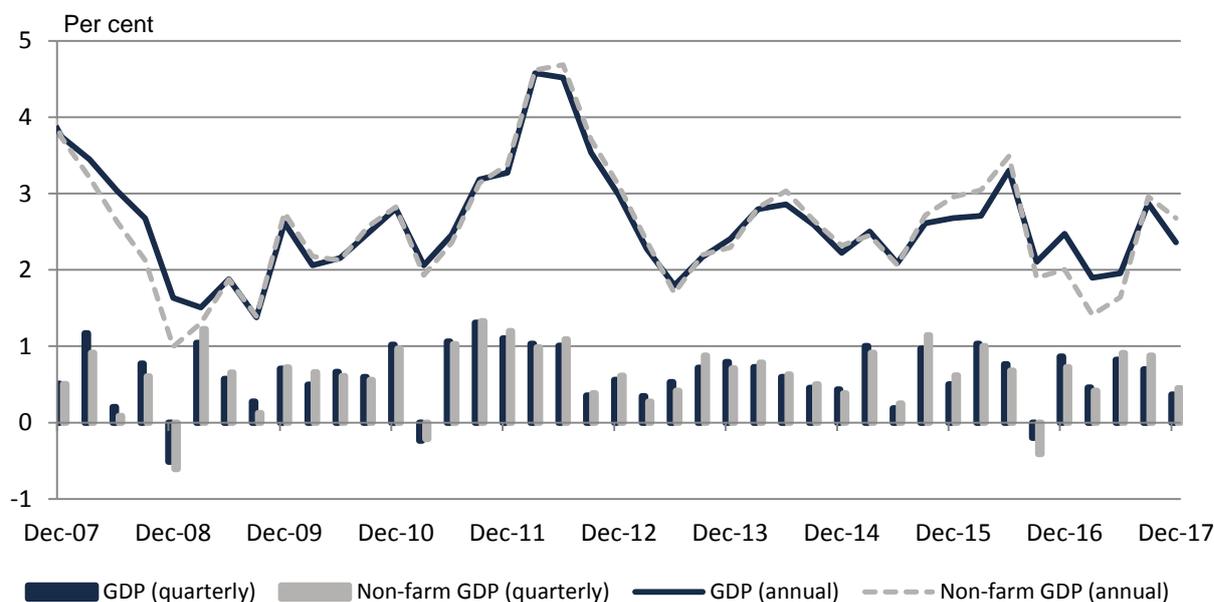
[112] Secondly, the Act requires that we make a national decision concerning the NMW and to consider variations to the minimum wages prescribed in all modern awards. Noting that no party (with one possible exception⁸⁷) has submitted that we should differentiate between modern awards in respect of minimum wage increases to arise from this Review, that necessarily requires us to pay regard to developments in the national economy as a whole.

[113] Thirdly, the minimum wages objective in s.284(a) requires us to take into account 'the performance and competitiveness of the national economy,' and this must accordingly be treated as a matter of significance in the decision-making process.⁸⁸

[114] Fourthly, the ABI and NSWBC submission implicitly assumes that employees in a particular industry are not, in respect of minimum wage adjustments, entitled to some share in the prosperity of the national economy if that sector is not doing as well as the economy as a whole. That is an assumption which we do not accept (nor its corollary that employees in a better-performing sector should, in respect of minimum wage adjustments, not share in any mitigation that might be required if the national economy is performing poorly). In a dynamic economy, there will always be firms and industries that are doing better or worse than the economy-wide average, and there will always be firms that are failing, together with new firms that are being created. We do, however, pay close attention to developments in the most award-reliant industries as we discuss later in this chapter.

Economic growth

[115] Annual growth in GDP over the year to the December quarter 2017 was the same as its five-year average of 2.4 per cent⁸⁹ after falling below 2 per cent early in 2017 (Chart 2.1).

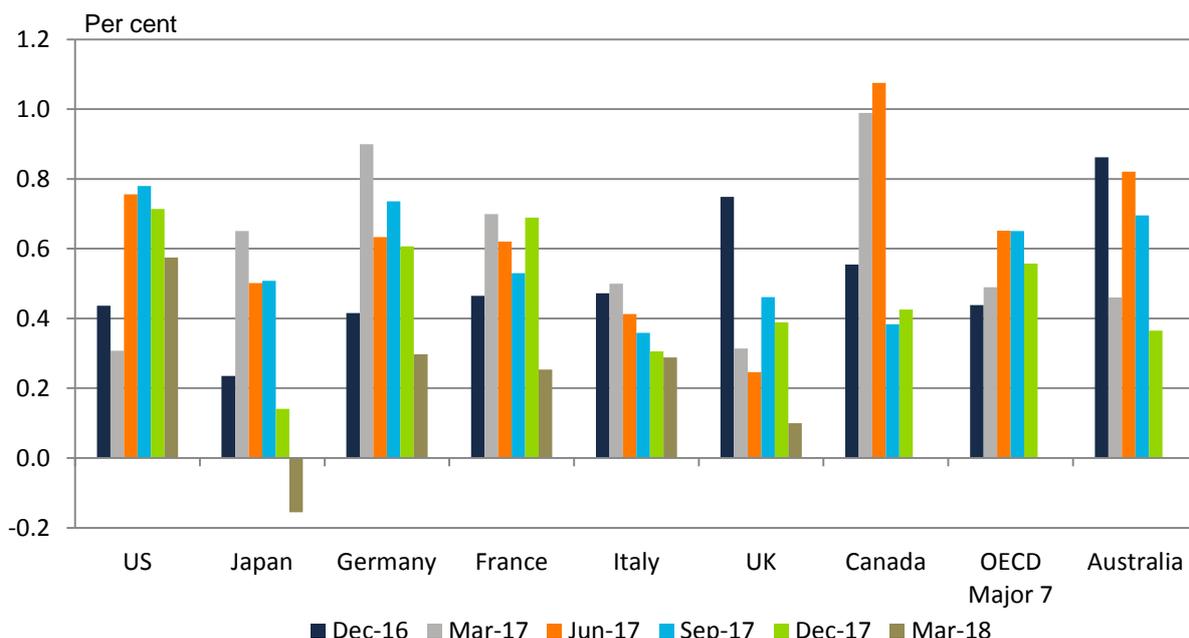
Chart 2.1: Growth in GDP, annual and quarterly rates

Source: Statistical report, Chart 1.1; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.

[116] Household consumption increased by 2.9 per cent over the year to the December quarter 2017, contributing 1.7 percentage points to GDP growth, both higher than the previous year.⁹⁰ Compensation of employees increased by 4.8 per cent over the year, largely due to strong employment growth, while the household saving ratio continued to decline, from 4.0 per cent in the December quarter 2016 to 2.7 per cent in the December quarter 2017. Public investment grew by 1.5 per cent over the year, much lower than the previous year, contributing only 0.1 percentage points of GDP growth. Exports increased by 0.8 per cent, contributing 0.2 percentage points of GDP growth. Mining; Information media and telecommunications; Rental, hiring and real estate services; Public administration and safety; and Health care and social assistance all made positive contributions to growth in the December quarter.⁹¹

[117] Australia's GDP growth exceeded the average growth rate for the major seven OECD economies in three of the five quarters to the December quarter 2017 (Chart 2.2).

Chart 2.2: International comparisons of quarterly GDP growth rates

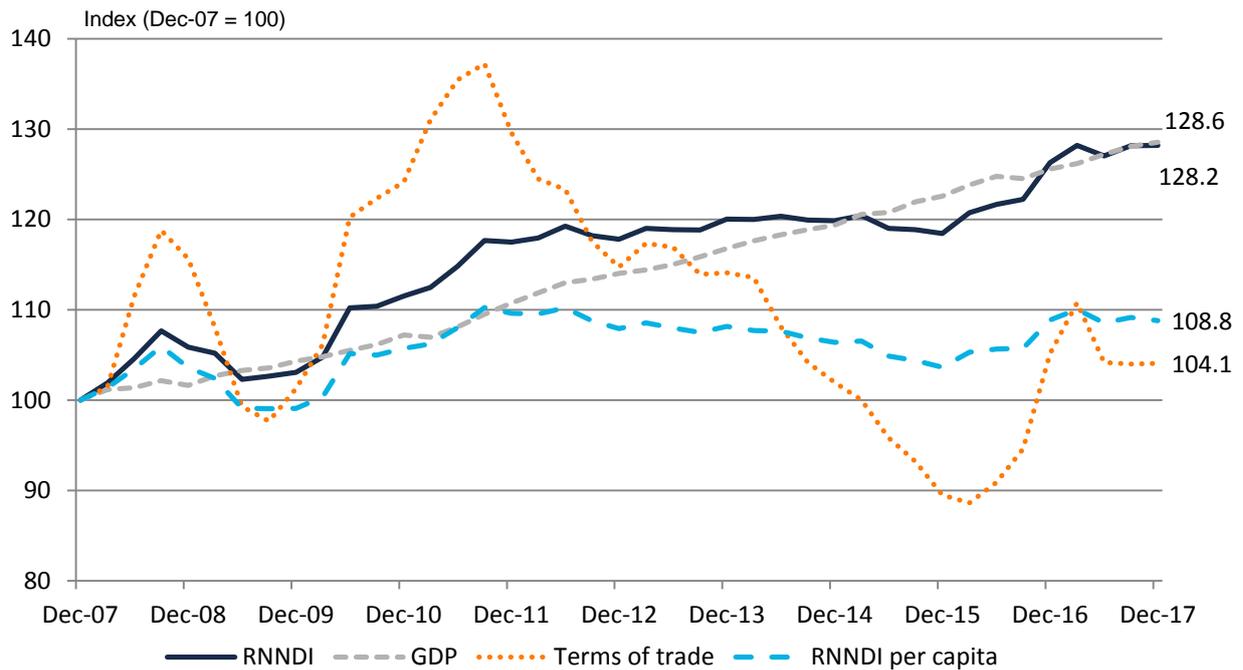


Note: March quarter 2018 data are not yet available for Canada and Australia.

Source: OECD (2018), *Quarterly GDP (indicator)*, <<http://data.oecd.org/gdp/quarterly-gdp.htm>>.

[118] The Panel has, for several Reviews, given consideration to real net national disposable income (RNNDI) which is influenced by movements in the terms of trade and net flows of income overseas and is a better measure of incomes available to Australians than GDP.⁹² However, the Panel has noted that short-term movements in RNNDI have not formed part of its decision.⁹³

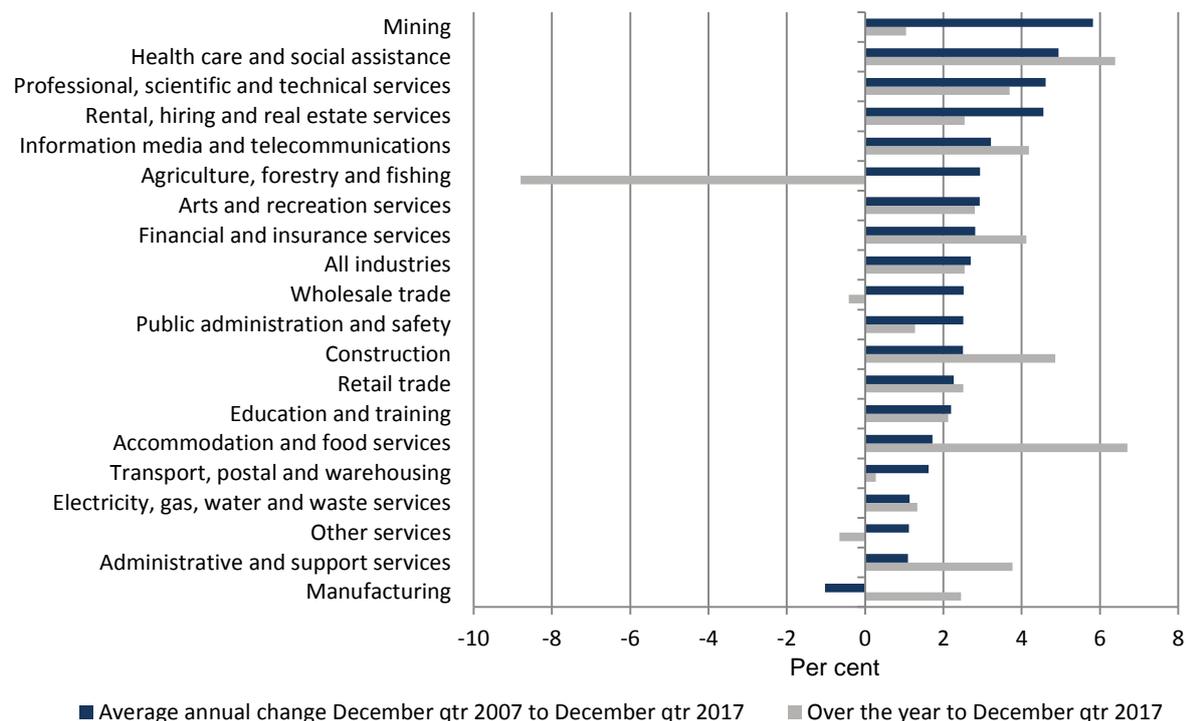
[119] Chart 2.3 shows that, despite variation during the period, GDP and RNNDI have grown at similar rates over the last 10 years. On a per capita basis, RNNDI did not grow at all in 2017⁹⁴ and remains at the same level as in 2011, having dipped during the interim due to falls in the terms of trade.

Chart 2.3: RNNDI, real GDP and the terms of trade

Source: Statistical report, Chart 1.3; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.

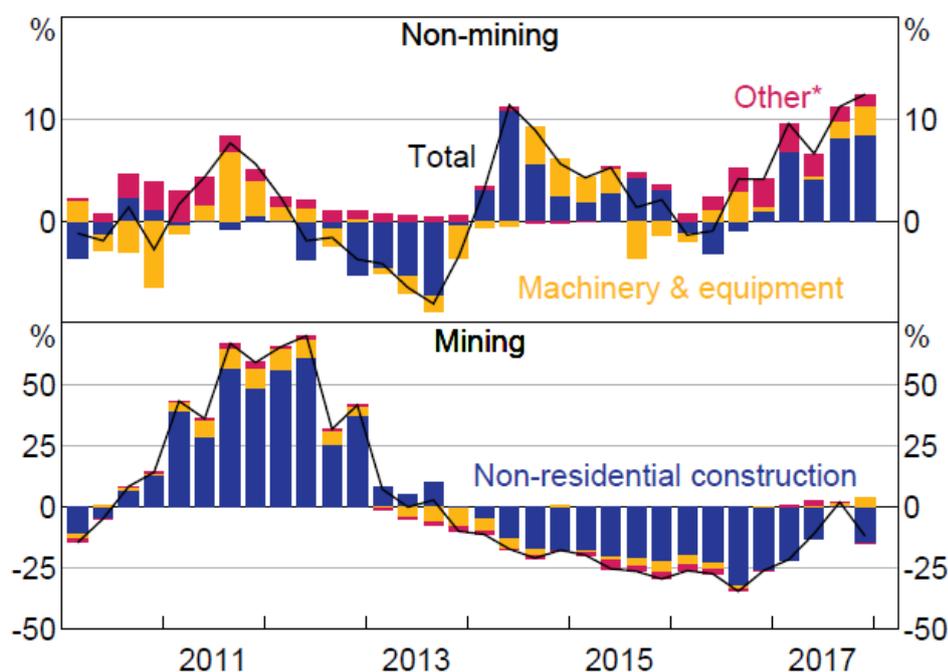
[120] Some submissions were concerned that growth was not broad-based across industries and that conditions in award-reliant industries were not as strong as in other parts of the economy.⁹⁵ However, Chart 2.4 shows that gross value added (GVA) grew over the year to the December quarter 2017 in all but three of the 19 industries. Growth was highest in the award-reliant industry Accommodation and food services (6.7 per cent) as well as Health care and social assistance (6.4 per cent). GVA fell by a large –8.8 per cent in Agriculture, forestry and fishing and also fell in Other services (–0.7 per cent).

Chart 2.4: Change in GVA by industry



Source: Statistical report, Chart 1.4; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.

[121] In relation to investment, the Australian economy was transitioning from the investment phase of the mining boom to the production phase for some time. According to the RBA, this transition is continuing, but the ‘drag from falling mining investment is expected to have disappeared completely towards the end of the forecast period; recent data suggest the trough in mining investment may occur later in 2018 or early 2019 (compared to the Bank’s expectation in February that it would be around the middle of this year).’⁹⁶ Both the RBA’s May 2018 *Statement on Monetary Policy* and the 2018–19 Budget point to the ‘stronger than expected’ growth in non-mining investment.⁹⁷ Non-mining business investment grew by 12½ per cent in 2017 according to the RBA.⁹⁸ Chart 2.5 presents RBA estimates of year-ended growth in non-mining and mining investment.

Chart 2.5: Private business investment (year ended growth)

Note: Includes cultivated biological resources (mainly livestock, vineyards and orchards), computer software, research development, mineral exploration and artistic originals.

Source: RBA (2018), *Statement on Monetary Policy*, May, p. 22, Graph 2.3.

Productivity and unit labour costs

[122] Both productivity and unit labour costs are relevant considerations in a Review. We have previously discussed these concepts⁹⁹ and continue to support the conclusion that ‘increases in minimum wages are more likely to stimulate productivity measures by some employers directly affected by minimum wage increases, rather than inhibit productivity.’¹⁰⁰

[123] The most recent data show that the absolute value of labour productivity across the whole economy and in the market sector declined over the course of 2017. However, we note the observation of the Australian Government that ‘productivity measures over short time periods can be volatile, cyclical and are subject to revisions.’¹⁰¹ ACCER provided as an illustration of revisions to productivity estimates, that the estimate for 2004 was revised from a decline to an increase of 1.2 per cent.¹⁰² As shown in Table 2.1, GDP per hour worked fell by 1.0 per cent and GVA per hour worked in the market sector fell by 0.9 per cent over the year to the December quarter 2017. However, it also shows that hours worked increased strongly during this period, by 3.5 per cent across the whole economy and 3.1 per cent in the market sector.

[124] It is likely that the fall in measured labour productivity is caused in some part by the large rise in the measured number of hours worked over the year to the December quarter 2017. A similar phenomenon occurred over the year to the December quarter 2015. In that year, total hours worked rose by 2.8 per cent and GDP per hour worked fell by 0.1 per cent. As shown in Table 2.1, there is a clear negative relationship between the annual growth in hours worked and the associated growth in labour productivity. The three years of decline in labour productivity (2010, 2015 and 2017) are each associated with unusually large increases in hours worked. In the year following each of 2010 and 2015, the rate of increase of both

hours worked and labour productivity returned to more usual levels. As we did in the 2015–16 Review decision, we ‘treat with caution the significantly higher hours growth reported over the year to the December quarter 2015 [2017] and the consequent reduction in productivity growth shown over the year to the December quarter 2015 [2017].’¹⁰³

[125] In its May 2018 *Statement on Monetary Policy*, the RBA points out that recent employment growth has been particularly concentrated in Health care and social assistance over the past year, with an additional 130,000 jobs in this sector. Many of these jobs are for aged and disabled carers and child care workers and they expect this growth to continue. It concludes that the concentration of employment growth in household services has contributed to low growth in labour productivity ‘because measured productivity growth in household services has typically been quite low,’ and changes in the output and quality of such services are hard to measure.¹⁰⁴

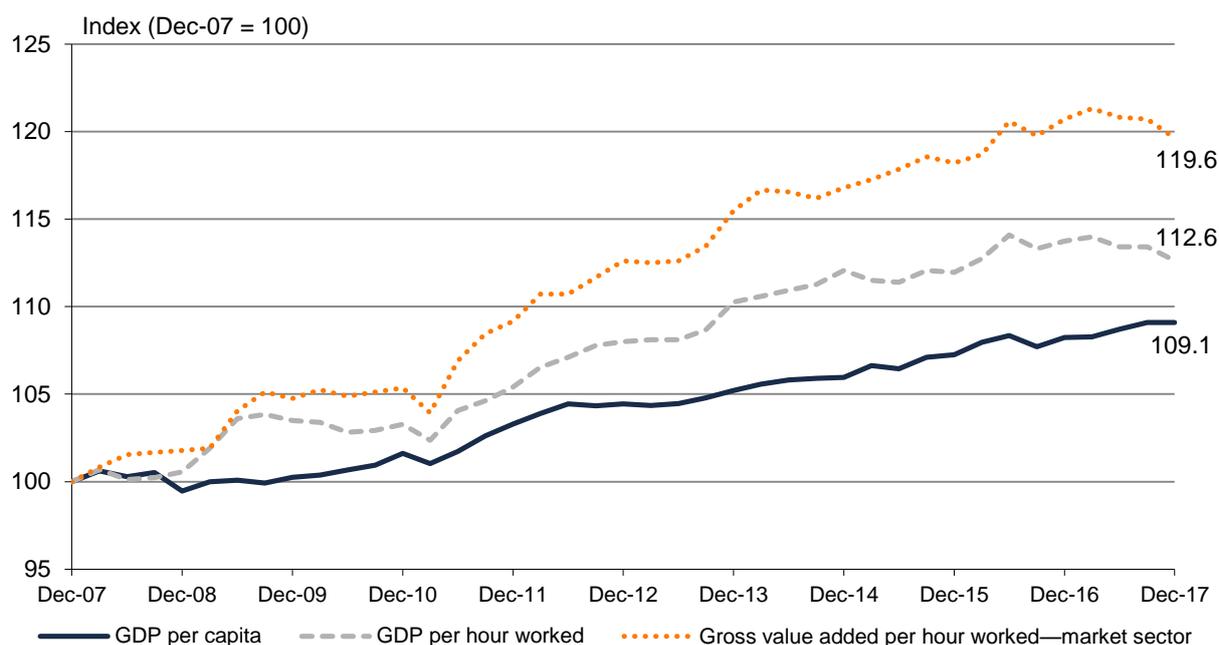
Table 2.1: Productivity growth and its components, growth rate over the year

Quarter	National Accounts						Labour Force
	Total			Market Sector			Hours worked
	GDP	Hours worked	GDP/hour worked	GVA	Hours worked	GVA/hour worked	(% change)
	(% change)	(% change)	(% change)	(% change)	(% change)	(% change)	(% change)
Dec-07	3.7	3.3	0.6	3.6	3.3	0.2	3.4
Dec-08	1.6	1.1	0.6	2.7	0.9	1.8	1.1
Dec-09	2.6	-0.3	2.9	1.5	-1.4	2.9	-0.1
Dec-10	2.8	3.0	-0.2	2.8	2.2	0.6	3.3
Dec-11	3.3	1.2	2.1	3.9	0.4	3.6	0.6
Dec-12	3.0	0.5	2.5	3.8	0.5	3.2	0.8
Dec-13	2.4	0.3	2.1	2.3	-0.2	2.5	0.1
Dec-14	2.2	0.5	1.6	2.2	1.1	1.1	1.1
Dec-15	2.7	2.8	-0.1	2.7	1.4	1.2	2.5
Dec-16	2.5	0.8	1.6	2.2	0.2	2.1	0.8
Dec-17	2.4	3.5	-1.0	2.3	3.1	-0.9	3.1

Note: Data from the National Accounts are seasonally adjusted. The percentage changes are calculated in relation to the corresponding quarter of the previous year. Hours worked data from the Labour Force are expressed in trend terms. The percentage changes are calculated in relation to the corresponding month of the previous year.

Source: Statistical report, Table 2.2; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0; ABS, *Labour Force, Australia, Apr 2018*, Catalogue No. 6202.0.

[126] Trends in productivity measures over the 10 years to the December quarter 2017 are presented in Chart 2.6.

Chart 2.6: Measures of labour productivity

Note: Labour productivity is measured as real GDP per hour worked. Gross value added measures the value of output at basic prices minus the value of intermediate consumption at purchasers' prices. The market sector includes all industries except for Public administration and safety, Education and training and Health care and social assistance.

Source: Statistical report, Chart 2.1; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.

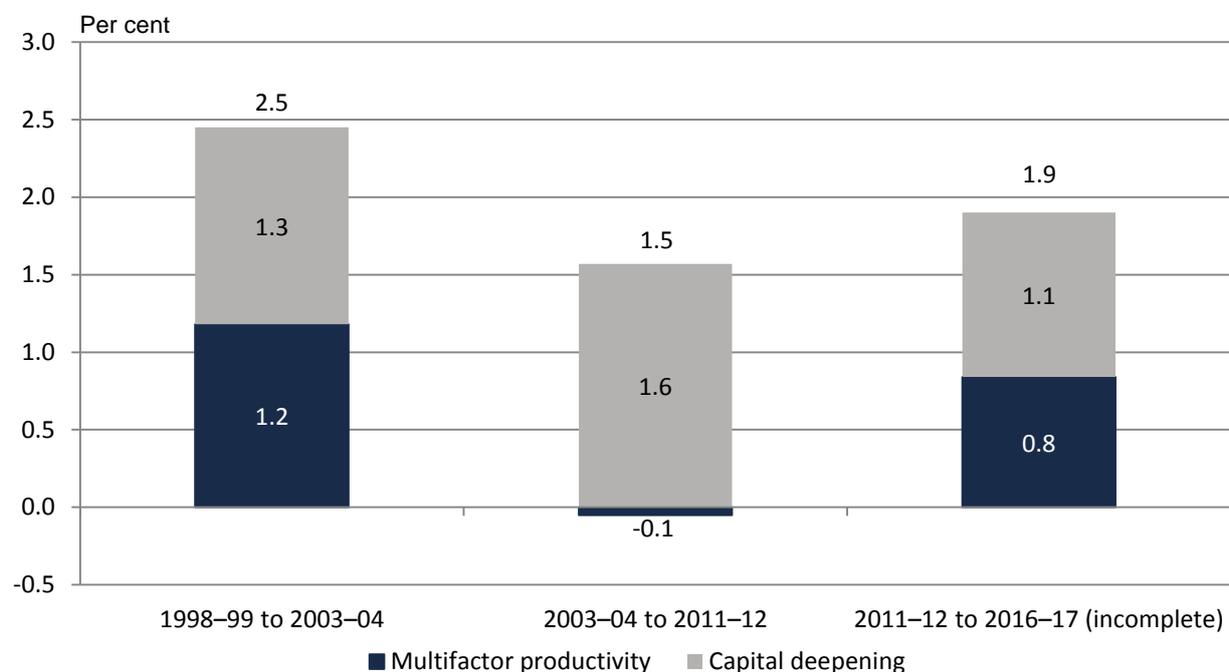
[127] We have previously concluded that short-term trends in labour productivity should be treated with caution as productivity is best measured over the business cycle, which is problematic as the business cycle does not align with the period of a Review.¹⁰⁵ A number of parties supported the assessment of productivity growth over the longer term or over cycles.¹⁰⁶ No party submitted that we should pay primary regard to the measurement of productivity over the most recent 12 months. However, we note that there appears to be no growth in labour productivity, measured as GVA per hour worked in the market sector, over the past 18 months, as shown in Chart 2.6. If this trend continues over a longer period, that is a matter to which the Panel would need to give greater weight in future Reviews, but for the reasons earlier given in paragraph [123] above we do not expect this trend to continue.

[128] Chart 2.7 presents changes in labour productivity over the most recent cycles together with its components: multifactor productivity and capital deepening. Since the last Review, the Australian Bureau of Statistics (ABS) has revised the time period of the last two business cycles and this is reflected in the chart. In last year's Review, the current business cycle was estimated to have begun in 2007–08, however, this has been revised to 2011–12.

[129] Ai Group submitted that productivity growth 'has been exceedingly weak over the past decade and over the current productivity growth cycle.'¹⁰⁷ This proposition is not supported by the available statistical material, nor by the Australian Government submission. The Australian Government submitted: '... labour productivity in the whole economy has grown at an average annual rate of 1.5 per cent over the past five years. This compares with a long-term average of 1.6 per cent over the past 30 years.'¹⁰⁸ Chart 2.7 shows that productivity growth was higher over the most recent cycle compared with the previous one, though it was lower than the 1998–99 to 2003–04 business cycle. The chart shows that, in contrast to the

previous cycle, a substantial proportion of the labour productivity growth in the current cycle has been due to multifactor productivity improvements, and not just due to capital deepening as in the previous cycle.

Chart 2.7: Productivity cycles, annualised growth in labour productivity



Note: Multifactor productivity is measured as output per combined unit of labour and capital. Capital deepening is the component of labour productivity growth which is due to the increase in the amount of capital that each unit of labour has to work with. Labour productivity is represented by the numbers above the bars, and is the sum of multifactor productivity and capital deepening. As a result of ABS revisions to the National Accounts, the productivity growth cycle has changed. The 2007-08 peak previously identified in the last publication has been revised to 2011-12.

Source: Statistical report, Chart 2.2; ABS, *Australian System of National Accounts, 2016-17*, Catalogue No. 5204.0.

[130] The ACTU referred to recent research from the Commonwealth Treasury (Campbell and Withers 2017, cited in the Research reference) list, that examined the impact of structural change on Australian productivity trends. The ACTU highlighted from this research that ‘it is labour productivity growth in the services sectors that has been underpinning aggregate productivity growth in Australia over recent decades.’¹⁰⁹ Over half of annual aggregate labour productivity growth was from growth within the services sector and around one-quarter was attributable to mining. The research found that aggregate productivity growth is driven overwhelmingly by within-sector productivity growth rather than across sectors (that is, a structural shift from lower to higher productivity industries), except during a mining boom period. Just over 90 per cent of aggregate labour productivity growth came from the within-sector contribution from the period 1989-90 to 2015-16.¹¹⁰

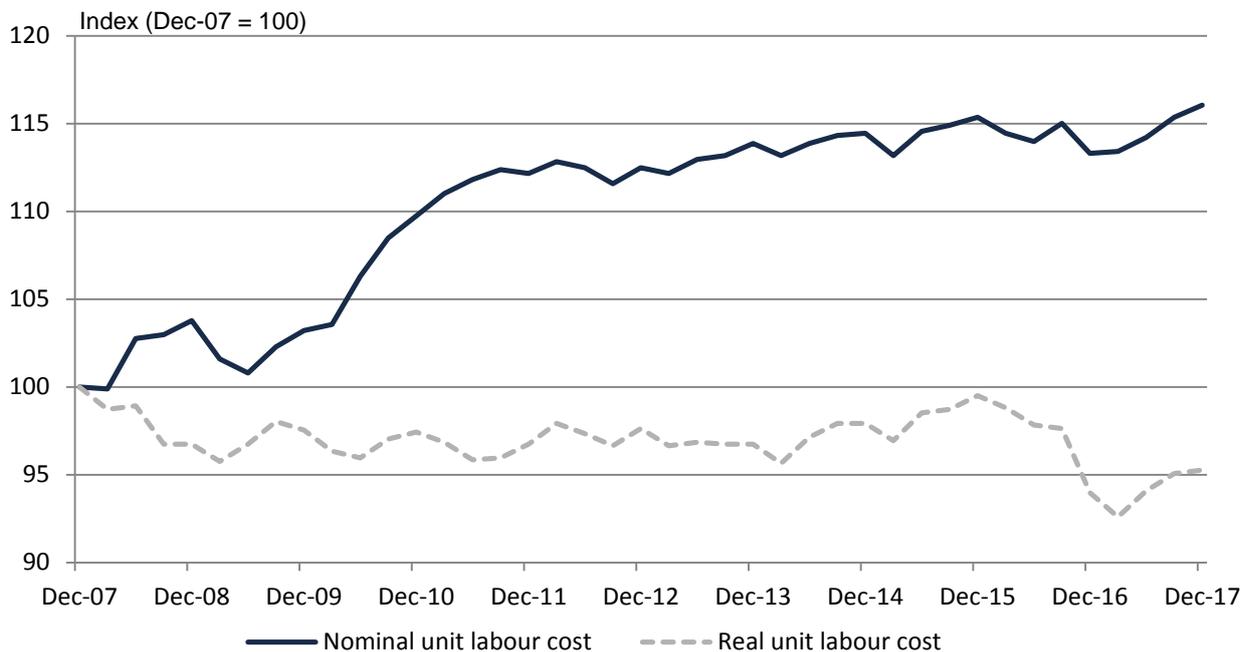
[131] In another paper included on the Research reference list, the Productivity Commission determined that structural change had a negative effect on productivity growth as Australia saw a long-term shift towards more labour-intensive service industries which, on average, have lower levels of productivity. This change is likely to reduce labour productivity growth during the adjustment following the mining boom period.¹¹¹

[132] The Australian Government, citing the Productivity Commission study, agreed that structural change probably had a negative impact on growth in labour productivity in

Australia and in many other OECD countries.¹¹² The Victorian Government also submitted that slower productivity growth appears to be a trend across advanced economies, according to the IMF.¹¹³

[133] In last year's Review, the information before the Panel was that real unit labour costs had fallen, largely due to the rise in the terms of trade, and the Panel placed little weight on this fall as the RBA was of the view that the high levels of the terms of trade were unlikely to be sustained.¹¹⁴ Over the course of 2017, the terms of trade did fall as anticipated, but only by a modest amount (see Chart 2.3 above), and hence real unit labour costs subsequently only rose by a small amount. The most recent data show that both nominal and real unit labour costs increased over the year to the December quarter 2017 (Chart 2.8).

Chart 2.8: Unit labour costs, nominal and real, index



Source: Statistical report, Chart 2.3; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.

[134] During the period of the last five years, real unit labour costs reached a peak in the December quarter 2015 before falling to their lowest level in the last decade in early 2017. They rose somewhat since then but remain at a lower level than at any time in the last decade prior to the December quarter 2016. The Australian Government observes that '[c]hanges in the wage share reflect essentially the same phenomenon as changes in real unit labour costs'¹¹⁵ and that 'the fall in the wage share from the recent peak of 55 per cent in March 2016 to 53 per cent in December 2017 can largely be attributed to volatility in commodity prices.'¹¹⁶ The Commonwealth Treasury found that, over the year to the June quarter 2017, real unit labour costs declined by 4.3 per cent. They explain that '[t]his means that the prices of firms' outputs have been growing faster than the labour costs of producing those outputs. The recent increases in the terms of trade have been an important part of the decline in real unit labour costs.'¹¹⁷ We conclude that, as anticipated in last year's Review, there was some reversal of the previous sizeable fall in real unit labour costs (and associated fall in labour's share of national income), due to some decline in the terms of trade during 2017. Despite this, real unit labour costs and labour's share of national income remain at unusually low levels.

Business competitiveness and viability

[135] Profits growth of 4.3 per cent over the year to the December quarter 2017 was much lower than the particularly strong result in the preceding year, and also lower than the five-year and 10-year averages (Table 2.2). The lower result was mainly driven by weaker growth in mining profits, which were exceptional (at 75.8 per cent) in the previous year. While profits growth in the non-mining sector was also lower than the previous year, it was above its five-year and 10-year averages. The Australian Government submitted that the recent profits growth follows years of low growth of profits in the non-mining economy.¹¹⁸ Evidence that supports this proposition is shown in Table 2.2 below.

Table 2.2: Company gross operating profits, mining and non-mining industries, growth rates

	Mining (%)	Non-mining (%)	Total (%)
Dec-07	-7.9	18.4	10.9
Dec-08	95.4	-5.0	18.8
Dec-09	-42.6	10.5	-10.1
Dec-10	62.5	1.2	16.4
Dec-11	4.3	1.1	2.2
Dec-12	-27.3	3.3	-7.6
Dec-13	36.3	1.1	10.9
Dec-14	-21.3	0.9	-6.7
Dec-15	-17.1	1.8	-3.6
Dec-16	75.8	10.6	26.8
Dec-17	1.4	5.8	4.3
5 years to Dec-17*	9.7	4.0	5.7
10 years to Dec-17*	8.2	3.0	4.5

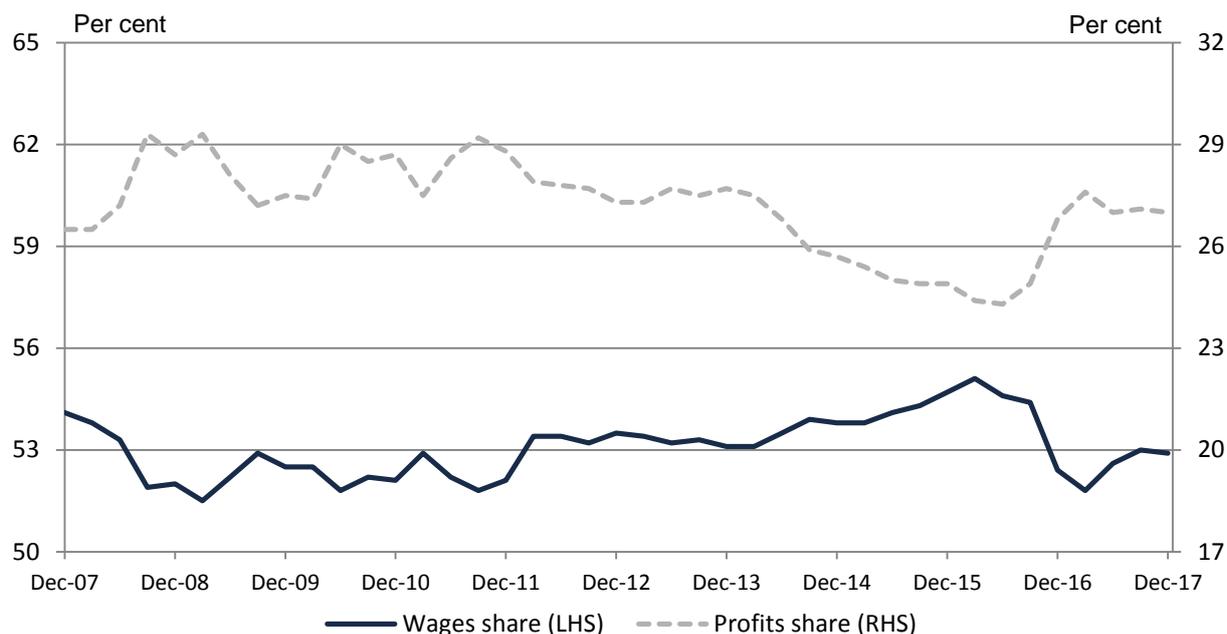
Note: *Annualised growth rates.

Source: Statistical report, Table 3.3; ABS, *Business Indicators, Australia, Dec 2017*, Catalogue No. 5676.0.

[136] The profits and wages share of total factor income experienced relatively large changes over the two years to the December quarter 2017 (Chart 2.9). After declining between the September quarter 2011 and the June quarter 2016, the profits share increased sharply and, at 27.0 per cent in the December quarter 2017, is similar to the previous December quarter. In contrast, the wages share increased between 2011 and 2016 before falling, particularly late in 2016 and early 2017. It has since risen to be 52.9 per cent in the December quarter 2017, above its level in the previous year and similar to the levels experienced in much of the past decade.

[137] The parties' submissions provided several explanations for the recent fluctuations in the wages and profits share. We accept that the most important recent factor is volatility in the price of commodities, which has a direct impact on the profitability of the affected exporters. The substantial growth in employment over the course of 2017 is likely to also have had some effect in increasing the wages share.¹¹⁹

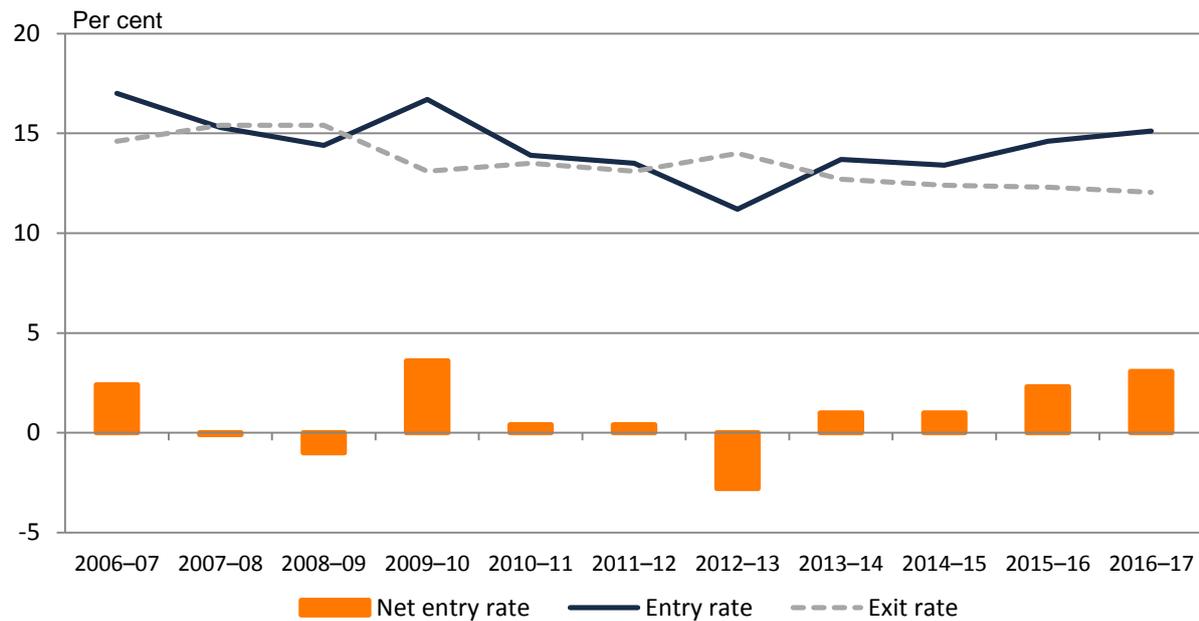
Chart 2.9: Profits and wages share of total factor income



Source: Statistical report, Chart 3.1; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.

[138] Chart 2.10 presents the business entry, exit, and net entry rates over the 10 years to 2016–17. It shows that, since 2012–13, the entry rate increased while the exit rate declined, resulting in a positive net entry rate since 2013–14. The net entry rate in 2016–17 was the highest since 2009–10.

Chart 2.10: Business entry, exit and net entry rates



Note: Entry rates are business entries in the financial year as a proportion of total businesses operating at the start of the financial year. Exit rates are total business exits in the financial year as a proportion of total businesses operating at the start of the financial year. Net entry rates are the difference between the entry and exit rates, and represent the percentage growth in the number of businesses over the respective financial year.

Source: Statistical report, Chart 3.4; ABS, *Counts of Australian Businesses, Including Entries and Exits*, various, Catalogue No. 8165.0.

[139] Business entry rates were higher than exit rates over the year to June 2017 across all industries except for Retail trade, Mining and Agriculture, forestry and fishing (Table 2.3).

Table 2.3: Business entry and exit rates by industry, 2016–17

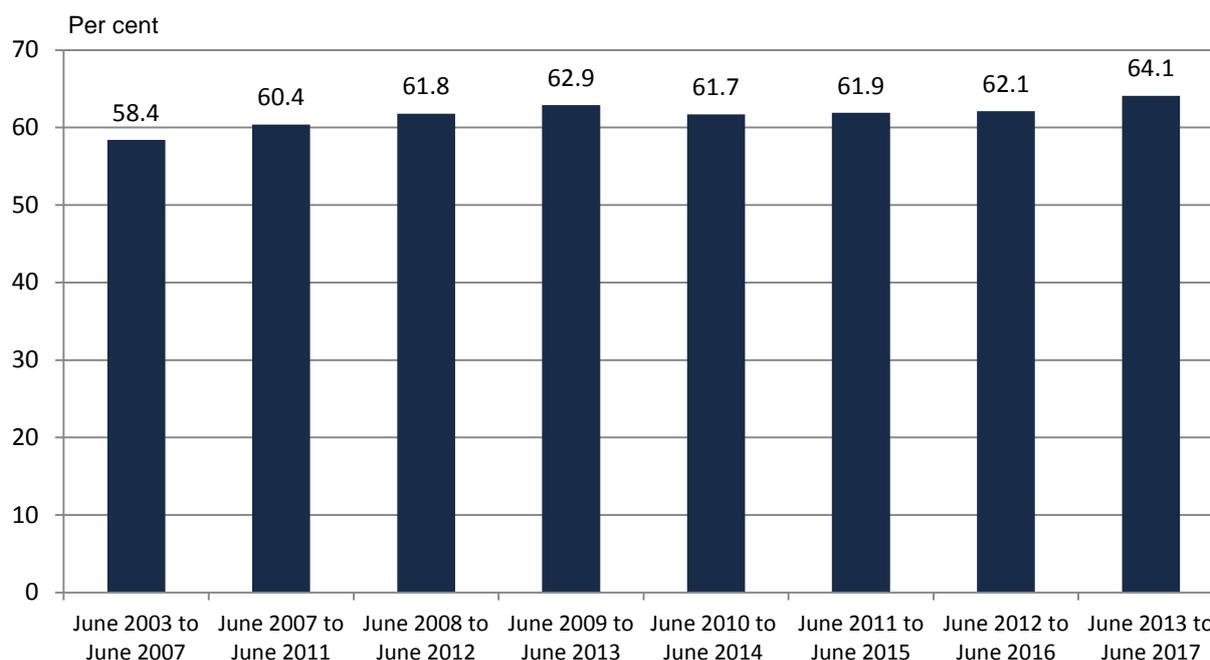
	Proportion of businesses at June 2017 (%)	Entry rate (%)	Exit rate (%)
Agriculture, forestry and fishing	8.0	7.3	8.0
Mining	0.4	10.8	12.0
Manufacturing	3.8	11.2	11.1
Electricity, gas, water and waste services	0.3	16.1	12.0
Construction	16.8	17.3	13.7
Wholesale trade	3.6	13.5	12.4
Retail trade	5.9	13.2	13.8
Accommodation and food services	4.2	18.7	15.9
Transport, postal and warehousing	6.8	26.8	14.6
Information media and telecommunications	1.0	18.7	14.2
Financial and insurance services	9.1	13.4	9.1
Rental, hiring and real estate services	11.2	11.5	9.3
Professional, scientific and technical services	12.2	16.1	13.1
Administrative and support services	3.9	19.3	15.2
Public administration and safety	0.3	18.1	15.9
Education and training	1.3	17.3	13.0
Health care and social assistance	5.8	12.4	8.4
Arts and recreation services	1.2	16.4	13.2
Other services	4.3	15.4	12.6
All industries	100.0	15.1	12.0

Note: Entry rates are business entries in the financial year as a proportion of total businesses operating at the start of the financial year. Exit rates are total business exits in the financial year as a proportion of total businesses operating at the start of the financial year. Only data for those businesses that were able to be classified to an industry division are presented. Of all businesses that were actively trading as at June 2017, 1.2 per cent were not classified to an industry.

Source: Statistical report, Table 3.5; ABS, *Counts of Australian Businesses, Including Entries and Exits, June 2013 to June 2017*, Catalogue No. 8165.0.

[140] Chart 2.11 shows business survival rates over four-yearly intervals, that is, the proportion of businesses in the initial period that were still trading four years later. The chart shows that business survival rates for the most recent period (June 2013 to June 2017) were the highest recorded over the past 10 years.

Chart 2.11: Business survival rates



Note: A surviving business is defined as a business which was actively trading in the first period and continued to be trading in the second period.

Source: Statistical report, Chart 3.5; ABS, *Counts of Australian Businesses, Including Entries and Exits*, various, Catalogue No. 8165.0.

[141] ACCI¹²⁰ and Ai Group¹²¹ contended that the Panel should consider Australia’s international competitiveness as part of this Review. In particular, Ai Group submitted that:

‘Australia’s relatively higher minimum wages reflect higher living costs and other factors in Australia over a very long period of time. Significantly, they do not appear to reflect higher labour productivity in Australia than in comparable economies. For example, OECD data indicate that on a PPP basis, Australia’s average labour productivity (measured as real output per hour worked) has been lower than in the US since at least the 1970s and that it has fallen further behind the US over the past decade ... This growing labour productivity ‘gap’ is indicative of Australia’s poor competitiveness across a range of factors that affect our productivity and performance, absolutely and relative to our global peers.’¹²²

[142] We deal with many of the issues that arise from this proposition, including business profitability and survival, productivity, and the degree to which minimum wage increases have in practice led to job or hours losses, elsewhere in this decision. It is not clear from the submissions how the broader issues of international competitiveness should bear upon our present considerations and the Panel may be assisted by hearing further from all parties in subsequent Reviews.

Small business and surveys of business performance

[143] The Panel gives consideration to small business as the general object of the Act is directed to providing a balanced framework for cooperative and productive workplace relations, which promote national economic prosperity and social inclusion for all Australians by, amongst other things, acknowledging the special circumstances of small and medium-sized businesses.¹²³

[144] The Australian Government again submitted an analysis of the characteristics of small businesses, identifying that:

- Small businesses are found in every sector of the economy, although they are less prevalent in Mining, Manufacturing and Electricity, gas, water and waste services;¹²⁴
- Small businesses contributed a higher proportion of employment compared with output for almost every industry, suggesting that they are more labour intensive relative to larger businesses, even within the same industry, and have lower labour productivity;¹²⁵
- Labour costs for small employing businesses averaged 17 per cent of total expenses in 2015–16;¹²⁶ and
- Small businesses accounted for around 34 per cent of all award-reliant employees, with 35 per cent of employees in small businesses being award reliant, a higher proportion than for larger businesses (100–999 employees) but similar to the proportion businesses with (20–49 employees).¹²⁷

[145] In response to a question on notice from the Panel, the Australian Government provided data that showed that, from 2014 to 2016, small businesses accounted for 17.8 per cent of the increase in total numbers of employees.¹²⁸ This is a much smaller proportion than their share of total non-financial private sector employment of 44 per cent.¹²⁹ Table 3.4 in the Statistical report shows that profit margins for small businesses (including non-employing businesses) exceeded those of all businesses both in the latest year for which data are available (2016–17) and in the five years to 2016–17. This higher small business profit margin was apparent also for most of the award-reliant industries (the exception being Accommodation and food services). While we are cognisant of the circumstances of small and medium enterprises, we have no reason to believe that their relative position in the Australian economy in 2017–18 is noticeably different from normal.

[146] Consistent with prior Reviews, the Panel has considered relevant business surveys that the Australian Government and RBA believe to ‘be quite reliable predictors of output and employment growth.’¹³⁰ The Australian Government,¹³¹ Ai Group,¹³² and the Federal opposition¹³³ discussed various business surveys which showed that business conditions are improving both at an aggregate level, and across most major sectors of the economy. For example, the National Australia Bank (NAB) concludes that:

‘Business conditions continued to look very healthy in the December quarter NAB Quarterly Business Survey... Investment expectations are looking strong for the year ahead, with most industries (outside retail) sitting above long-run average levels.

Employment intentions were also higher, while the increased difficulty firms are having finding suitable labour suggests further labour market tightening.¹³⁴

[147] The same report finds that, by a small margin, more firms are saying that difficulty in finding suitable labour is a constraint on expansion than saying that this constraint comes from a lack of demand for their output.¹³⁵

[148] The Australian Government commented that the NAB surveys show a difference between the economic conditions of small and larger-sized businesses, with all businesses reporting better conditions than small businesses.¹³⁶ Even so, business conditions for small businesses in the December quarter 2017 have risen quite strongly over the past two years, to be at their highest level for 10 years.¹³⁷ A separate NAB survey of small to medium enterprises finds that more small businesses are increasing than decreasing employment, especially businesses with a turnover of \$2–\$10m.¹³⁸ The Sensis small and medium business survey for the March quarter 2018 reported that the overall assessment of the economy improved for the fourth quarter in succession and is at the highest level recorded since December 2010.¹³⁹ In its May 2018 *Statement on Monetary Policy*, the RBA concluded:

‘Survey measures of overall business conditions are around their highest levels since before the global financial crisis.’¹⁴⁰

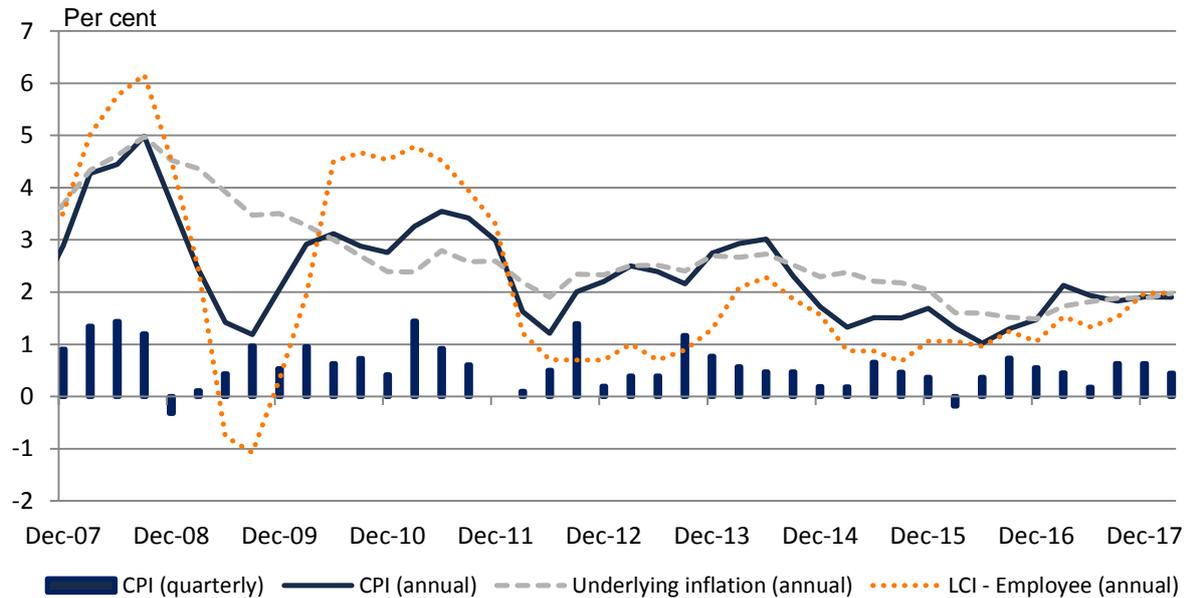
Inflation and wages

[149] The Review is being conducted during a period of low inflation and low wages growth. This is discussed in the following section.

Inflation

[150] Measures of inflation across 2017 were higher than the year before, although they remain at relatively low rates. The CPI increased by 1.9 per cent over the year to the March quarter 2018 and underlying inflation and the LCI for employee households increased by 2 per cent over the year, with the LCI increasing from a low of 1.0 per cent over the year to the December quarter 2016 (Chart 2.12).

Chart 2.12: Measures of inflation—CPI, underlying inflation and LCI for employee households



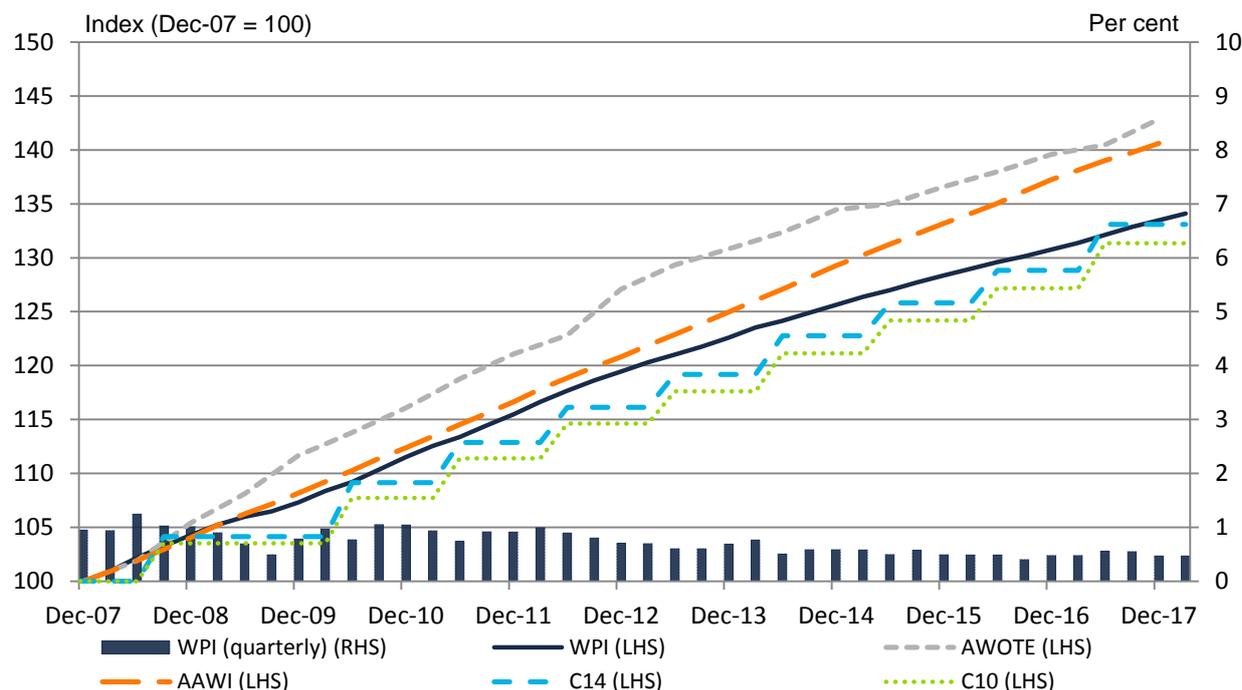
Source: Statistical report, Chart 4.1; ABS, *Consumer Price Index, Australia, Mar 2018*, Catalogue No. 6401.0; ABS, *Selected Living Cost Indexes, Australia, Mar 2018*, Catalogue No. 6467.0.

[151] Reasons for the relatively low inflation were discussed by parties and included low wages growth and heightened competition in the retail sector.¹⁴¹ Employer organisations submitted that low inflation suggests businesses do not have much pricing power¹⁴² and that their ability to raise prices to fund wage increases is limited.¹⁴³

Wages

[152] Low wages growth was discussed in last year's Review,¹⁴⁴ and measures of wages growth have not shown signs of strengthening over the past year. This is evident in Chart 2.13 by the quarterly increase in the WPI which has fallen from around 1.0 per cent in the March quarter 2012 to around 0.5 per cent in the March quarter 2018. As noted in the Statistical report, the most recent data show that the WPI increased by 2.1 per cent over the year to the March quarter 2018, average weekly ordinary time earnings (AWOTE) increased by 2.4 per cent over the year to the November quarter 2017 and the average annualised wage increase (AAWI) for federal enterprise agreements approved in the December quarter 2017 was 2.5 per cent, each around or below their five-year average¹⁴⁵, but substantially below their 10-year average. If the WPI is expressed in real terms (deflated by the CPI), there was a 0.2 per cent increase to the March quarter 2018, compared with the five-year average of 0.3 per cent. If the WPI is deflated by the GDP deflator (i.e., by producer prices) then it rose by 1.0 per cent in 2017, compared with a five-year average of 1.1 per cent.¹⁴⁶ Taken over a 10-year period, the Engineering/Manufacturing Employee Level 1 (C14) and C10 rates have increased at around the same level as the WPI (Chart 2.13).

Chart 2.13: Measures of nominal wages growth, quarterly and cumulative percentage change, indexes—Dec-06 = 100



Note: The WPI is an index for total hourly rates of pay excluding bonuses in both private and public sectors. It is unaffected by changes 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. Ordinary time earnings refers to earnings attributable to award, standard or agreed hours of work. 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. 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 index is calculated by first deriving a quarterly rate from the AAWI per employee for agreements approved in the quarter for all sectors. The C14 and the C10 are minimum award rates set under the *Manufacturing and Associated Industries and Occupations Award 2010* (Manufacturing Award) and the former *Metal, Engineering and Associated Industries Award 1998*. AWOTE data are published half-yearly for May and November, hence, a quarterly series has been derived. AWOTE data are expressed in original terms.

Source: Statistical report, Chart 5.1; ABS, *Average Weekly Earnings, Australia, Nov 2017*, Catalogue No. 6302.0; ABS, *Wage Price Index, Australia, Mar 2018*, Catalogue No. 6345.0; Department of Employment, *Trends in Federal Enterprise Bargaining*, December quarter 2017, <<http://employment.gov.au/trends-federal-enterprise-bargaining>>; *Metal, Engineering and Associated Industries Award 1998*; Manufacturing Award (from 1 January 2010).

[153] In last year’s Review, the Panel agreed with research from the RBA which stated that the reasons for low wages growth are somewhat puzzling.¹⁴⁷ Parties in this Review referred to factors including spare capacity in the labour market, lower inflation, more competition, structural adjustment after the mining boom, growth in part-time employment, lower business confidence and a focus on cutting costs as reasons for low wages growth.¹⁴⁸

[154] The decline in collective bargaining was also considered in submissions as reasons for low wages growth. The ACTU submitted that employees’ position in bargaining has weakened with the shift towards part-time employment.¹⁴⁹ ACCI also drew attention to the low growth in private demand, which they submit grew at 0.2 per cent in late 2016, compared with the 30-year average growth rate of 3.7 per cent.¹⁵⁰ ACCI associated this with the low growth in wages.¹⁵¹ The most recent National Accounts data show that over the year to the December quarter 2017, domestic final demand increased by 3.1 per cent and private demand increased by 2.8 per cent.¹⁵²

[155] Further research has since been undertaken on recent wages growth and was available for this Review (and included as part of the Research reference list). These include research from the IMF, RBA and the Commonwealth Treasury.

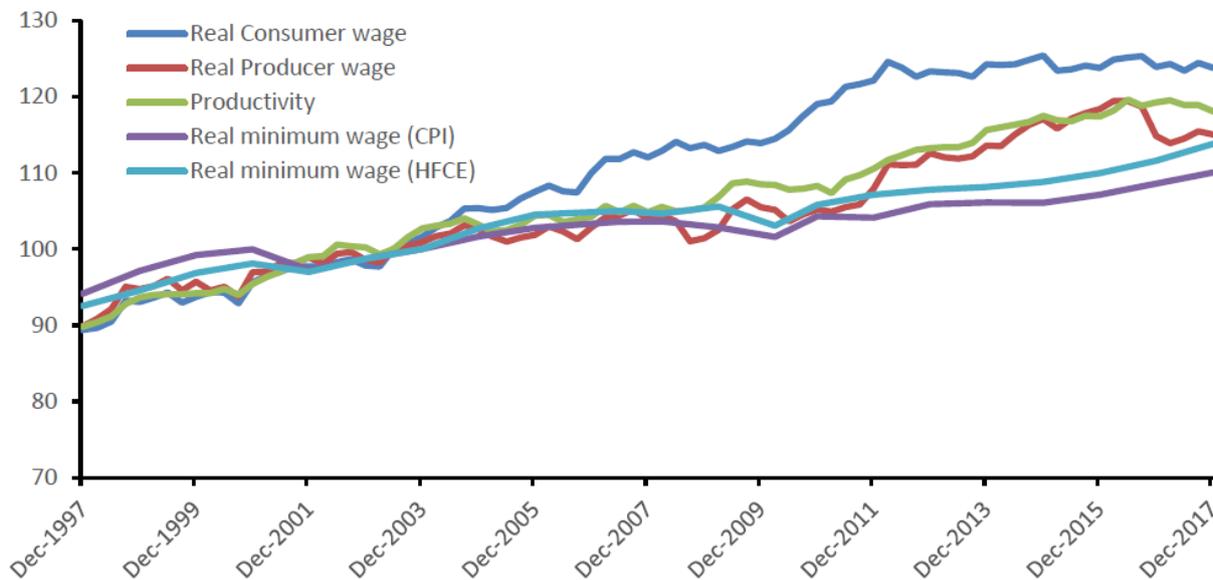
[156] The IMF analysed recent wage dynamics in advanced countries and concluded that the majority of the slowdown can be explained by labour market slack (both unemployment and underutilisation), low inflation expectations and trend productivity growth.¹⁵³ Although no specific analysis was undertaken of Australia, the research considered countries where the unemployment rate was still above the levels before the GFC (such as Australia).

[157] The Commonwealth Treasury has published a series of research papers that analysed different aspects of recent trends in wages growth. They start from a position that ‘[t]he key driver of wage growth over the long-term is productivity and inflation expectations. This means that real wage growth—wage growth relative to the increase in prices in the economy—reflects labour productivity growth.’¹⁵⁴ Further specific points from the research are that:

- over the past five years, annual real wage growth (measured by the WPI) has averaged 0.4 per cent, compared with 1.0 per cent in the decade prior;¹⁵⁵
- all industries have experienced lower wage growth over the last five years, particularly in Mining;¹⁵⁶
- the weakness in real wage growth has not been as pronounced as the weakness in nominal wage growth due to low inflation;¹⁵⁷
- weaker labour productivity growth seems unlikely to be a cause of the current period of low wage growth in Australia and over the past five years labour productivity has grown at about the 30-year average;¹⁵⁸
- the unwinding of the mining investment boom and spare capacity in the labour market are important cyclical factors that are currently weighing on wage growth;¹⁵⁹
- wage growth is weaker than the historical relationship between wage growth and the unemployment rate would suggest;¹⁶⁰
- the Treasury Labour Market Conditions index was positive as at September 2017—i.e. conditions in the labour market were tighter than average, following a prolonged period of weak labour market conditions;¹⁶¹
- inflation expectations are low and this is weighing on nominal growth in wages, because wage-setting decisions are forward-looking;¹⁶²
- many advanced economies have experienced low wage growth, particularly since the GFC;¹⁶³ and
- structural change has caused a shift towards greater employment in the services industries which tend to have lower productivity and wages.¹⁶⁴

[158] In response to a question on notice, the Australian Government amended a chart on growth in real wages and labour productivity during the mining boom that it had included in its initial submission to include the NMW deflated by each of the CPI and the household consumption deflator.¹⁶⁵ Their revised chart is included below (Chart 2.14).

Chart 2.14: Real wages and labour productivity during the mining boom



Note: The real producer wage is AENA (per hour) deflated by the GDP deflator; the real consumer wage is AENA (per hour) deflated by the household consumption deflator; labour productivity is per hour. March 2003 = 100; for real minimum wage June 2003 = 100.

Source: Australian Government response to questions on notice, 9 April 2018 at p. 10; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0; Department of Treasury calculations.

[159] The chart uses measures of inflation derived from the ABS National Accounts, in addition to the usual CPI measure. It shows that the high levels of the terms of trade and the associated increases in the Australian dollar exchange rate that occurred during the resources investment boom had an unusual effect in driving a wedge between the growth in the prices facing consumers and the growth in the prices being received by producers. The net effect was that between 2002 and 2011, the real consumer wage rose by about 20 per cent while the real producer wage (deflated by the prices that producers received for their product) rose by only half that amount. Labour productivity grew in line with the real producer wage, while the real consumer wage rose at a substantially faster rate than labour productivity. Since 2011, the real consumer wage has not increased at all, while the real producer wage and labour productivity rose steadily until mid-2016 and since then both have declined.

[160] In the past 10 years, the real value of the NMW has grown much more slowly than the real consumer wage, but unlike that wage, it has had modest increases over the past five years. When measured by the household consumption deflator, the real value of the NMW has grown a little faster than it has when measured by the CPI over the past 10 years. But in neither case has it grown as fast as labour productivity, the real producer wage or (by a substantial margin) the real consumer wage.

[161] The Australian Government submitted that low wages growth 'is part of the adjustment as the economy transitions from the investment phase to the production phase of

the commodities boom.¹⁶⁶ The Federal opposition also cited low GDP growth and some spare capacity in the labour market from weak demand as relevant factors.¹⁶⁷

[162] Over the year to the December quarter 2017, the WPI for three of the most award-reliant industries increased by an amount less than the growth in award rates. In response to a question for final consultations, parties offered a number of possible reasons for the large discrepancy in increases in the WPI and that awarded in the 2016–17 Review decision. All agreed that the reasons given could not fully account for the difference. The possible reasons given included some non-compliance with the increase in the NMW and modern award minimum wages,¹⁶⁸ and the potential that over-award payments had been absorbed.¹⁶⁹ There are varying estimates about the degree of non-compliance and it is important for the integrity of the minimum wage system that the monitoring of compliance and appropriate enforcement measures are given a very high priority. However, whilst non-compliance may be a factor, it is unlikely to fully explain the most recent WPI results. In its response to the question, Ai Group provided a chart that showed the history over the past 10 years of increases to the NMW, the WPI and enterprise bargaining agreements.¹⁷⁰ The chart shows that the large gap between the 3.3 per cent increase from the 2016–17 Review decision and the subsequent levels of increase in the WPI (2.1 per cent for the WPI across all sectors and 1.9 per cent for the private sector WPI) is an anomaly and that these series have tracked each other more closely in the past. It is an issue which should be kept under consideration in subsequent Reviews.

[163] We conclude that since about 2011 a range of factors have operated to depress the rate of growth of nominal wages and, to a lesser extent, of real wages. The phenomenon is not fully understood and is not confined to Australia; and it must be noted that over the past decade real wages as measured by producer prices have continued to rise at about the rate of labour productivity. Further, the real value of the wage measured at consumer prices, while almost unchanged over the past six years, has still grown more rapidly than the real producer wage over the period since 2003.

[164] Whatever the relative weight that should be attributed to the many factors identified as weighing on wage growth, the low wage growth environment supports an increase to the NMW and modern award minimum wages. So too does the extent to which growth in the real values of the NMW and modern award minimum wages has lagged behind growth in labour productivity over time.

Labour market

[165] Trends relating to the labour market encompass employment and hours worked, as well as data on workforce participation indicators such as underemployment, long-term unemployment and participation rates. As in the Statistical report, trend data are used in this section unless otherwise indicated.

Employment and hours worked

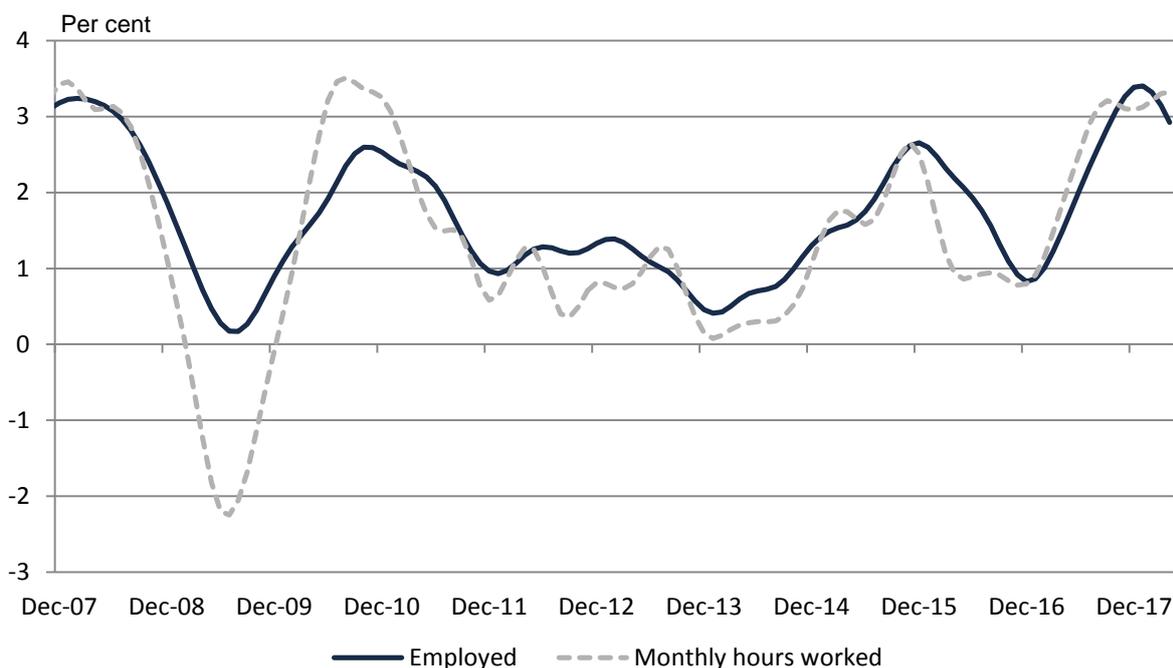
[166] According to the RBA's May 2018 *Statement on Monetary Policy*, conditions in the domestic labour market improved significantly over 2017 and into 2018, although spare capacity still remains:

‘Employment grew by 3½ per cent over the past year. This is the strongest rate of growth since 2008 and full-time employment contributed the bulk of that growth.

Employment growth has moderated in recent months, though it remains higher than working-age population growth. Leading indicators of labour demand, such as job vacancies and hiring intentions, continue to point to above-average growth in employment over the next six months, though it is not expected to be as strong as seen over the past year.¹⁷¹

[167] Growth in employment and hours worked is shown in Chart 2.15. Over the year to April 2018 the number of employed persons increased by 2.9 per cent, a rate that was well above the five-year average of 1.7 per cent.¹⁷² Similarly, hours worked increased strongly over the year, at 3.3 per cent.

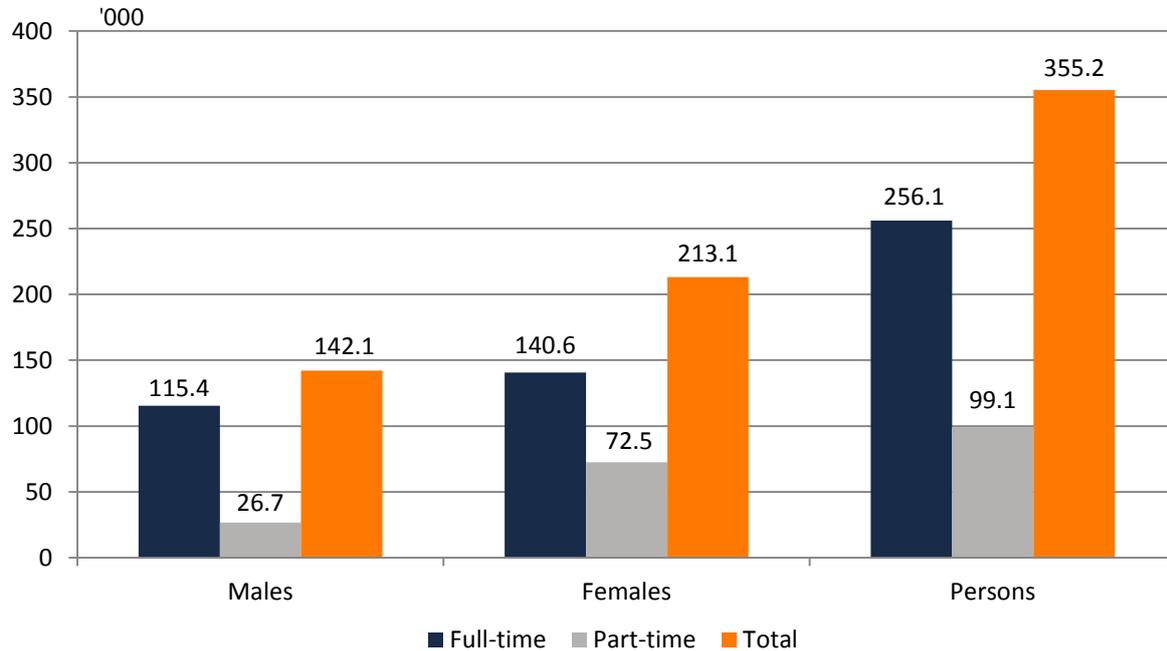
Chart 2.15: Employed persons and monthly hours worked, growth rate over the year



Source: Statistical report, Chart 6.2; ABS, *Labour Force, Australia, Apr 2018*, Catalogue No. 6202.0.

[168] Chart 2.16 shows the change in employment by full-time and part-time status and by gender over the year to April 2018. Total employment increased by 355,200 persons, with 72.1 per cent of the increase attributable to full-time employment. This is in contrast to the latest data for the previous year where only 32.4 per cent of employment growth came from full-time positions.¹⁷³ The majority of additional full-time employment went to females. Total employment growth was also higher among females, growing by 213,100 persons (3.8 per cent) compared with 142,100 persons for males (2.2 per cent).

Chart 2.16: Change in full-time, part-time and total employment by gender, April 2017 to April 2018



Note: All data are expressed in trend terms.

Source: Statistical report, Chart 6.4; ABS, *Labour Force, Australia, Apr 2018*, Catalogue No. 6202.0.

[169] Growth in employment across industries was again quite diverse: employment increased across the majority of the 19 industries over the year to the February quarter 2018, with the highest increase in Arts and recreation services (Table 2.4).

[170] Three out of the four most award-reliant industries experienced positive growth in employment over the year. Total employment in Retail trade increased strongly at 5.5 per cent, above the all industries average. Employment in Other services also increased above the all industries average, however, employment growth was below the all industries average in Accommodation and food services, while it fell in Administrative and support services. The employment growth in Retail trade is notable, given both the relatively rapid recent growth in multifactor productivity in that sector¹⁷⁴ and the generally pessimistic views about the circumstances of the retail industry that was expressed in a number of submissions.¹⁷⁵

Table 2.4: Employment by industry for selected periods

	Average annual growth rates (%)	Annual percentage changes (%)		
	Feb-08 to Feb-18	Feb-16	Feb-17	Feb-18
Agriculture, forestry and fishing	-0.3	4.0	-7.1	9.0
Mining	4.4	-1.6	2.4	1.6
Manufacturing	-1.7	-4.1	4.7	-2.4
Electricity, gas, water and waste services	2.7	-1.2	-2.3	10.6
Construction	2.2	2.7	3.7	9.0
Wholesale trade	-0.6	-4.1	-2.1	1.9
Retail trade	0.6	4.3	-3.0	5.5
Accommodation and food services	2.3	0.4	3.8	1.6
Transport, postal and warehousing	1.8	4.0	-1.8	5.8
Information media and telecommunications	-0.6	-1.0	4.0	-2.2
Financial and insurance services	0.5	9.1	-0.5	-3.2
Rental, hiring and real estate services	1.1	3.0	-2.9	3.2
Professional, scientific and technical services	2.7	2.7	0.3	1.3
Administrative and support services	1.8	7.5	-0.5	-2.6
Public administration and safety	1.1	1.7	5.3	-10.3
Education and training	2.7	1.3	5.2	5.6
Health care and social assistance	4.5	7.0	1.5	8.1
Arts and recreation services	2.8	-0.4	-7.9	17.6
Other services	1.0	-1.1	2.6	4.8
All industries	1.6	2.4	1.2	3.3

Note: All data are expressed in trend terms.

Source: Statistical report, Table 6.3; ABS, *Labour Force, Detailed, Quarterly, Feb 2018*, Catalogue No. 6291.0.55.003.

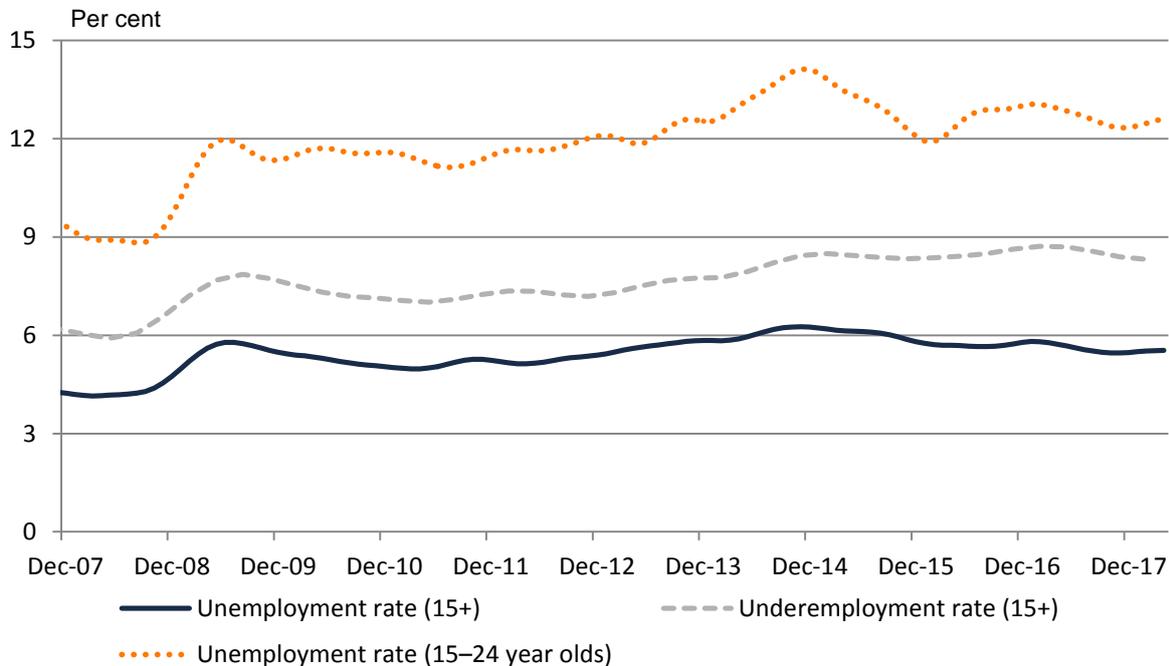
Unemployment and underemployment

[171] In last year's decision, the Panel noted that since the mid-2000s the unemployment rate and underemployment rate had generally moved similarly, but had recently diverged somewhat.¹⁷⁶ Over the past year to April 2018, the two rates have fallen, particularly the underemployment rate. The Australian Government submitted that the increase in full-time employment has come at the same time as the decline in underemployment.¹⁷⁷ It may be that some of these people would have previously been classified as underemployed but ceased to be underemployed once additional hours were obtained. This would have the effect of decreasing the underemployment rate without affecting the unemployment rate.

[172] Despite strong employment growth, the unemployment rate only declined by 0.2 percentage points to 5.5 per cent over the year to April 2018.¹⁷⁸ The unemployment rate remained unchanged for the nine months to April 2018 and is below its five-year average of 5.8 per cent (Chart 2.17).¹⁷⁹

[173] Over the year to February 2018, the underemployment rate fell 0.4 percentage points to 8.3 per cent, the equal lowest figure since August 2014. The shift from part-time employment to full-time employment may explain some of the fall in underemployment.

Chart 2.17: Unemployment and underemployment rates



Note: The unemployment rate and the underemployment rate is the number of unemployed and underemployed persons, respectively, expressed as a percentage of the labour force. A person is underemployed if they want, and are available, to work more hours than they currently have. Underemployment is only considered for people employed part-time and for full-time persons who, for economic reasons, worked part time hours during the reference week. All data are expressed in trend terms. The unemployment rates are monthly, while the underemployment rate is quarterly.

Source: Statistical report, Chart 6.1 and Chart 6.5; ABS, *Labour Force, Australia, Apr 2018*, Catalogue No. 6202.0.

[174] Over the year to April 2018, the youth unemployment rate fell by 0.3 percentage points to 12.6 per cent, which is just below its average over the past five years.¹⁸⁰ It has broadly followed aggregate unemployment, but with a greater degree of fluctuation, as shown in Chart 2.17.

[175] The Panel has previously stated that the youth unemployment rate is generally more sensitive to demand or supply shocks affecting aggregate unemployment.¹⁸¹ The Australian Government explained that:

‘When labour markets rebound, disadvantaged groups, such as youth, are generally the last to reap benefits from strong jobs growth since they are competing with cohorts possessing greater skills and experience. Similarly, when labour market conditions are weak, youth are particularly vulnerable as they often have fewer skills, and less experience and education and are therefore the first to be retrenched by employers in times of economic difficulty.’¹⁸²

[176] This explanation is consistent with the greater amplitude shown in the youth unemployment rate.

[177] The youth unemployment rate encompasses youth who were actively looking for work. The Australian Government drew attention to the rise in the proportion of youth who were disengaged; i.e., not in the labour force and not in full-time education.¹⁸³ The increase has been driven entirely by those aged 20–24 years, especially males, whose rate of disengagement has risen from 9.2 per cent in September 2008 to 12.9 per cent in January 2018.¹⁸⁴ In response to a question on notice, the Australian Government submitted that the higher rate of disengagement of young men is likely to be the result of the structural changes in the economy away from male-intensive occupations towards female-intensive occupations.¹⁸⁵ We accept these interpretations of the causes of high levels of youth unemployment and disengagement, and the implied conclusion that the level of minimum wages for youth is not a significant cause.

[178] The characteristics of the underemployed were examined in research for this Review (Research Report 2/2018—*The characteristics of the underemployed and unemployed*). The research involved two parts: the first examined whether underemployed workers were similar to unemployed and other employed workers; the second involved analysis of the duration of underemployment and how underemployed workers transition out of underemployment.

[179] The paper found that personal and household characteristics of underemployed workers were similar to those of the unemployed. These included characteristics such as age, family type, whether born in a non-English speaking country and being a full-time student. However, after including work characteristics (therefore excluding unemployed workers), underemployed workers more closely resembled other part-time workers (not preferring to work more hours). This was the case for particular industries (Accommodation and food services, Education and training and Health care and social assistance) and casual employment.

[180] The dynamic analysis of underemployment found that most workers who were underemployed in one year were not underemployed in the following year, including almost half who moved to full employment (where they did not prefer to work more hours) and usually remained with the same employer. Males were more likely to exit underemployment to full employment, particularly partnered males. Older workers and those with a work-limiting health condition were more likely to exit underemployment to non-employment.

[181] The second part of the paper concluded that, for most people who experience underemployment, it appears to be a relatively short-term experience, although some exit underemployment to non-employment while others have a change in their preferred working hours.

Long-term unemployment

[182] Long-term unemployment has risen 5.2 per cent over the past 12 months and remains relatively high, at 24.5 per cent of all unemployed.¹⁸⁶ Long-term unemployment is particularly damaging to skills, confidence and to the prospect of re-employment. One source of long-term unemployment is a mismatch between the skills of the unemployed and those required by employers. The Australian Government cites a 2017 report by the OECD that found that Australia has a comparatively high incidence of skills mismatch, in part caused by the restructuring of the economy away from manufacturing and towards services such as health care, education, retail and hospitality.¹⁸⁷

Workforce participation

[183] The reason that strong employment growth has not translated into a much lower unemployment rate is that there has been a corresponding increase in individuals participating in the labour force.

[184] It is interesting to note the views expressed by the Deputy Governor of the RBA, Dr Guy Debelle, on the behaviour of unemployment. He stated that:

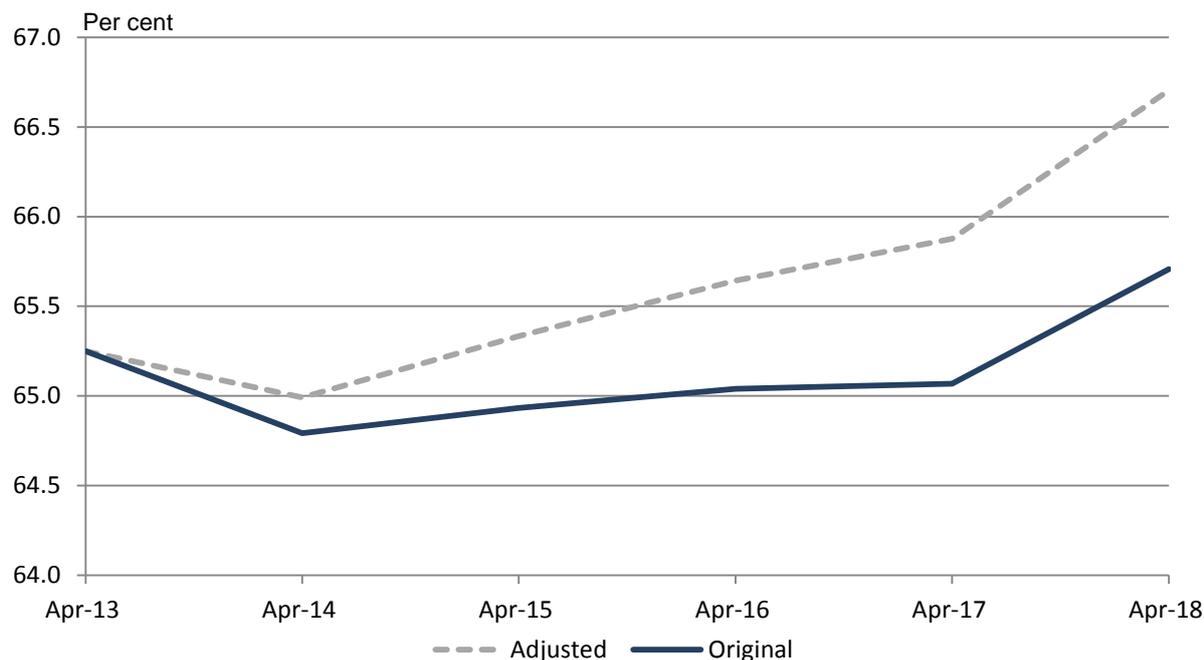
‘The reduction in the unemployment rate has stalled for some months. I find the unemployment rate is the most useful single statistic to assess the state of the labour market. The unemployment rate has remained steady in an environment where employment growth has been measured to be particularly strong. Labour supply has risen strongly alongside it. Part of the explanation for this is an increase in female participation and older workers remaining in employment longer than previously. The strong employment growth has reduced unused capacity, which is a positive development, but not in a way that has lowered the unemployment rate.’¹⁸⁸

[185] The Australian Government added that on their estimate, cyclical factors produced an encouraged worker effect that added 0.33 percentage points to the participation rate.¹⁸⁹

[186] The RBA also referred to the strong employment growth—of more than 150,000 in the year to February 2018—in the Health care and social assistance industry. They noted that this particularly encouraged women aged between 25 and 44 years to enter the labour force to take these jobs.¹⁹⁰

[187] In their submission, the Australian Government estimated that had there been no change in the age distribution of the population since January 2013, the participation rate would be 1 percentage point higher than it was in January 2018.¹⁹¹ That is, the ageing of the population is having a depressing effect on the participation rate that is independent of the state of the labour market. Chart 2.18 uses the same methodology to adjust the participation rate, updating the data for April 2018. The chart shows that both measures of the participation rate increased strongly over the past year, to be at their highest levels in at least five years.

Chart 2.18: Age-adjusted participation rates, April 2013 to April 2018



Source: Australian Government submission at para. 111, Chart 4.4; ABS, *Labour Force, Australia, Detailed—Electronic Delivery, Apr 2018*, Catalogue No. 6291.0.55.001.

[188] Because of the changes in the age composition of the population, in previous decisions the Panel has preferred measures of participation for the adult working age population (20–64 years) (Table 2.5). Over the year to April 2018, this measure of the working-age participation rate continued its upward trend, increasing 0.5 percentage points to 80.3 per cent.¹⁹² The female working age participation rate increased by 1.1 percentage points, much higher than the male working age participation rate which decreased by 0.1 percentage points. This continued a recent trend. The RBA reported that ‘[t]he increase in labour market participation has been most notable for females, especially those aged 25–44 years, and older males.’¹⁹³

Table 2.5: Participation rate by gender, 20–64 years

Month	Participation rate					
	- male	- male	- female	- female	- total	- total
		(ppt change)		(ppt change)		(ppt change)
Dec-07	86.5		71.2		78.8	
Dec-08	86.3	-0.2	71.6	0.4	78.9	0.1
Dec-09	86.1	-0.2	71.5	-0.1	78.8	-0.1
Dec-10	86.9	0.8	72.0	0.5	79.4	0.7
Dec-11	85.9	-1.0	72.0	0.0	78.9	-0.5
Dec-12	86.4	0.5	72.0	0.0	79.1	0.2
Dec-13	85.8	-0.6	71.9	0.0	78.8	-0.3
Dec-14	85.8	0.0	72.5	0.6	79.1	0.3
Dec-15	86.2	0.4	73.6	1.1	79.8	0.7
Dec-16	86.0	-0.2	73.7	0.1	79.8	0.0
Dec-17	86.7	0.7	75.3	1.5	80.9	1.1
Apr-18	85.9	-0.1	74.9	1.1	80.3	0.5

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 is calculated in relation to the corresponding month in the previous year. All data are expressed in original terms.

Source: Statistical report, Table 6.9; ABS, *Labour Force, Australia, Detailed—Electronic Delivery, Apr 2018*, Catalogue No. 6291.0.55.001.

[189] The increase in participation rates is further evidence that the labour market is strengthening. Ai Group submitted that the increase in participation was a sign that current wage rates are attracting more people into the labour force.¹⁹⁴ We note that a change in wage rates has an ambiguous impact on labour force participation. On the one hand, a higher wage rate increases the reward for working, and hence, encourages greater participation. This is the effect on which Ai Group focussed. But a higher wage rate also means that a given level of earnings can be achieved with a reduction in working hours, and might therefore induce a lower level of family labour supply.

[190] Over the year to April 2018, the employment to population ratio among the adult working age population increased by 0.6 percentage points (Table 2.6). This was underpinned by an increase in the proportion of people working full time, which increased by 0.8 percentage points, above the decrease of 0.2 percentage points for part-time work.

Table 2.6: Employment to population ratio, total and by full-time/part-time status, persons 20–64 years

Month	Full-time	Change over year (ppts)	Part-time	Change over year (ppts)	Total	Change over year (ppts)
Dec-07	57.6		18.7		76.2	
Dec-08	57.0	-0.6	19.0	0.4	76.0	-0.2
Dec-09	55.6	-1.4	19.7	0.7	75.3	-0.7
Dec-10	56.6	1.0	19.8	0.1	76.4	1.1
Dec-11	56.4	-0.2	19.3	-0.5	75.7	-0.7
Dec-12	56.1	-0.3	19.5	0.2	75.6	0.0
Dec-13	54.9	-1.2	20.0	0.4	74.8	-0.8
Dec-14	55.2	0.3	20.0	0.0	75.2	0.3
Dec-15	55.6	0.5	20.3	0.3	76.0	0.8
Dec-16	55.0	-0.6	20.9	0.6	75.9	-0.1
Dec-17	56.0	1.0	21.2	0.2	77.2	1.3
Apr-18	54.8	0.8	21.5	-0.2	76.4	0.6

Note: The employment to population ratio is the number of employed persons expressed as a percentage of the civilian population. Change over year (ppts) calculates the percentage point change from the corresponding month in the previous year. All data are expressed in original terms.

Source: Statistical report, Table 6.6; ABS, *Labour Force, Australia, Detailed—Electronic Delivery, Apr 2018*, Catalogue No. 6291.0.55.001.

[191] As was the case with the increase in the participation rate, much of the growth in the employment to population ratio was driven by increases in female employment. The female working age employment to population ratio increased by 1.3 percentage points to 71.0 per cent and the male working age employment to population ratio decreased 0.2 percentage points to 81.8 per cent.¹⁹⁵

[192] This increase in the working-age employment to population ratio, in conjunction with the increase in employment, hours worked and participation rate, point to a labour market that is stronger than it has been in recent years.

Labour market transitions

[193] As in previous Reviews, the Australian Government presented data from the Household, Income and Labour Dynamics in Australia (HILDA) survey on duration in low-paid employment, updated for the latest release (Tables 2.7 and 2.8). It reported that ‘35 per cent of people who enter the workforce do so by taking a low-paid job’ and that this is the case for 45 per cent of workers aged under 25 years and 43 per cent of workers with Year 12 qualifications or below.¹⁹⁶ The Australian Government submitted that the analysis supported its argument that low-paid employment provides opportunities or a ‘stepping stone’ to higher-paid employment.¹⁹⁷ As the Panel noted in the 2016–17 Review, the data again show that about half of low-paid workers¹⁹⁸ spend less than a year in low-paid work before moving to higher-paid work.¹⁹⁹ The remainder either spend more than one year in low-paid work, or move from a low-paid job into unemployment or not in the labour force.

Table 2.7: Duration in low-paid employment, per cent

Duration	Less than 1 year	1 to 2 years	2 to 5 years	More than 5 years
Proportion	66.6	18.4	12.8	2.3

Note: Data is based on flows into low-paid work, not the number of people in low-paid work at a point in time. Numbers are mutually exclusive.

Source: Australian Government submission, 13 March 2018 at p. 57, Table 7.1; HILDA survey, pooled waves 1 to 16.

Table 2.8: Destination on leaving low-paid employment, per cent

Duration in low-paid employment	Higher paid work	Left the labour force	Unemployment
Less than 1 year	76.8	16.5	6.7
1 to 2 years	76.4	16.8	6.8
2 to 5 years	80.7	13.1	6.1

Note: Those remaining in low pay for 5 years or more are not shown due to a small sample size.

Source: Australian Government submission, 13 March 2018 at p. 57, Table 7.2; HILDA survey, pooled waves 1 to 16.

[194] The above data are not significantly different to that submitted by the Australian Government in the 2016–17 Review. As such, while in the 2016–17 Review decision we agreed that employment in low-paid work is a stepping stone for many into higher-paid work, as discussed above there are many others for whom this is not true. We have also previously observed that ‘[w]e cannot be indifferent to the standard of living of low-paid workers just because many do not stay in that situation for long periods.’²⁰⁰

Award-reliant industries

[195] Table 2.9 summarises various indicators for award-reliant industries that were provided in previous sections. The Panel continues to use these data to assist with an understanding of the overall conditions of these industries.

Table 2.9: Current economic indicators by award-reliant industries

	Accommodation and food services	Administrative and support services	Other services	Retail trade	All industries
• Percentage of non-managerial employees reliant on award wages, May 2016 ^a	42.7	42.1	34.3	34.5	24.5
• Gross value added: percentage growth over the year to December quarter 2017	6.7	3.8	-0.7	2.5	2.5
• Company gross operating profits: percentage growth over the year to December quarter 2017 ^b	7.0	53.8	-15.0	10.7	4.3
• Business entry rate, over year to June 2017	18.7	19.3	15.4	13.2	15.1
• Business exit rate, over year to June 2017	15.9	15.2	12.6	13.8	12.0
• Wage Price Index: percentage growth over the year to March quarter 2018a	2.1	1.9	2.4	1.5	2.1
• Percentage annual wage growth under new collective agreements December quarter 2017	2.1	2.4	2.8	2.3	2.5
• Employment: percentage increase over the year to February quarter 2018	1.6	-2.6	4.8	5.5	3.3
• Hours worked: percentage increase over the year to February quarter 2018	0.3	-4.0	1.3	10.2	4.2

Note: (a) All industries excludes Agriculture, forestry and fishing; (b) All industries excludes Education and training, Health care and social assistance and some subdivisions of Finance and insurance services. The award-reliant industries selected are the four industries with the highest proportion of employees reliant on award rates of pay according to the Employee Earnings and Hours 2016 survey. The WPI and actual hours worked data are expressed in original terms. Employment data are expressed in trend terms. Entry rates are business entries in the financial year as a proportion of total businesses operating at the start of the financial year. Exit rates are total business exits in the financial year as a proportion of total businesses operating at the start of the financial year.

Source: Statistical report, Table 7.2; ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0; ABS, *Business Indicators, Australia, Dec 2017*, Catalogue No. 5676.0; ABS, *Counts of Australian Businesses, including Entries and Exits, Jun 2013 to Jun 2017*, Catalogue No. 8165.0; ABS, *Employee Earnings and Hours, Australia, May 2016*, Catalogue No. 6306.0; ABS, *Labour Force, Australia, Detailed, Quarterly, Feb 2018*, Catalogue No. 6291.0.55.003; ABS, *Wage Price Index, Australia, Mar 2018*, Catalogue No. 6345.0; Department of Jobs and Small Business, *Trends in Federal Enterprise Bargaining*, December quarter 2017, <<http://employment.gov.au/trends-federal-enterprise-bargaining>>.

[196] The table shows mixed fortunes for the four industries that have the highest proportion of their workforces that are paid at the award rate. We are aware that some of the indices, including growth rates of value added and profits, are quite volatile when disaggregated to this industry level. Nonetheless, we can draw some general conclusions from the data. These include:

- The most award-reliant industries mainly had higher than average rates of growth in output and in profits.
- With the exception of Retail trade, business entry rates exceeded exit rates, as they have for the whole economy.

- The WPI mostly grew at a rate that was below or at the economy-wide average, and wage growth under new collective agreements was, except in Other services, mostly below average.
- Employment growth was mixed, with strong growth in employment and in hours worked in Retail trade but weaker growth, or some decline, in the other sectors.

[197] The evidence from this table suggests that the four most award-reliant industries have performed relatively well over the past year. Accommodation and food services and Administrative and support services both had good growth in output, profits and entry of new businesses, but had relatively low growth in bargained wages and below average or negative growth in employment. In contrast, Other services showed a decline in profitability but relatively high growth in employment. Retail trade stands out as having both a significant improvement in profitability and a high growth in employment (but little growth in wages). The data on Retail trade do not support the somewhat negative picture that was provided in a number of submissions.²⁰¹ ACCI noted the relatively strong productivity growth in Retail trade.²⁰² This is consistent with the industry's relatively strong profit growth but not with its strong employment growth. The observation by the Australian Government that Retail trade 'might be passing on productivity increases through lower consumer prices rather than higher nominal wages'²⁰³ may provide a partial explanation for the low growth in wages in that sector. We accept that the retail industry is experiencing technological disruption and strong international competition, together with subdued demand from consumers. Further, there will be diversity of experience among different parts of the retail sector. Nonetheless, it appears that the sector has recently managed to increase output, profits and employment in the face of these challenges.

[198] As shown in Table 2.9, the WPI grew by 2.1 per cent for Accommodation and food services; 1.9 per cent for Administrative and support services; and 1.5 per cent for Retail trade over the year to the March quarter 2018. During that year, the NMW and modern award minimum wages increased by 3.3 per cent. It remains a puzzle as to why the increase in minimum wages that was awarded in the 2016–17 Review is not reflected more fully in the WPI for the industries that are most affected by this decision. As we have mentioned, in response to a question on notice on this matter, the parties offered a number of possible reasons, but all agreed that the reasons given could not fully account for the difference.²⁰⁴

Apprenticeships and traineeships

[199] ACCI, ACOSS, ARA and Housing Industry Association (HIA) all highlighted in their submissions the ongoing reduction in commencement and in-training rates for apprenticeships and traineeships since 2012.²⁰⁵ Both ACCI and HIA also referred to an increase in cancellation and withdrawal rates for apprenticeships and traineeships over the year to June 2017.²⁰⁶

[200] ACCI²⁰⁷ and ARA²⁰⁸ attributed the long-term decline in apprenticeship and traineeship commencement rates to demand-side factors (that have reduced employer demand for apprentices), specifically, on-going increases in modern award minimum wages and their cumulative effects.

[201] Conversely, ACOSS attributed the long-term decline in trade commencement rates to supply-side factors (that have reduced the number of people wanting to undertake apprenticeships), including, but not limited to, age-related cultural issues, wage rates and the duration of apprenticeships.²⁰⁹ ACCI also noted the removal of government subsidies for adult apprentices in reducing commencement and completion rates for trade apprenticeships for those aged 25 years and older.²¹⁰

[202] As outlined in the last Review, the Commission published Research Report 3/2017–*Factors affecting apprenticeships and traineeships* in February 2017.²¹¹ This report discussed both supply-side and demand-side factors that can affect people commencing and completing apprenticeships and traineeships.

[203] Part II of this report contended that demand-side factors were dominant in determining apprenticeship and traineeship rates, as opposed to supply-side factors, and suggested that commencement and in-training rates would be higher if more apprenticeships and traineeships were offered.

[204] The report concluded that the decline in government subsidies clearly contributed to the decline in commencement rates, whilst the decision made by the Full Bench in the 2013 Modern Awards Review (*Apprentices decision*)²¹² to increase apprentice wages ‘may have played a role, but it seems that any effect appears minor.’²¹³ The report also concluded that ‘employers are becoming increasingly less enamoured with the apprenticeship and traineeship model.’²¹⁴

[205] The Panel concluded from this research that although both the removal of government subsidies and the *Apprentices decision* contributed to a decline in commencement rates, the *Apprentices decision* only had a minor effect.²¹⁵ The latter conclusion was supported by the occurrence of over-award payments to apprentices and the lack of uniformity in commencement trends across industries. Nothing advanced in the submissions in this Review would cause us to reach any different conclusion.

Economic outlook

[206] The economic forecasts from the Australian Government, as presented in the 2018–19 Budget, the RBA and the IMF all point to improved economic conditions.

Global forecasts

[207] The IMF global growth forecasts are presented in Table 2.10 and show a projected increase in Australian GDP growth to around 3 per cent or more in 2018 and 2019, a significant increase from 2017 and higher than for other advanced economies. Growth in world GDP is expected to increase slightly to 3.9 per cent.

Table 2.10: IMF real GDP growth forecasts

	2017 (estimates)	2018 (projections)	2019 (projections)
Australia	2.3	3.0	3.1
Advanced economies	2.3	2.5	2.2
World	3.8	3.9	3.9

Note: Year-on-year percentage changes shown. World and domestic economy growth rates are calculated using GDP weights based on purchasing power parity (PPP).

Source: Statistical report, Table 12.2; IMF (2018), *World Economic Outlook*, April, <http://www.imf.org/en/Publications/WEO/Issues/2018/03/20/world-economic-outlook-april-2018?cid=em-COM-123-36912>.

[208] According to the 2018–19 Budget, global growth over 2017 was at its fastest pace since 2011, with the economic strength seen across most advanced and emerging economies expected to continue in the near term. The Australian Government forecasts, provided in Table 2.11, show that growth in Australia’s major trading partners is expected to remain above world growth. Short-term risks are evenly balanced. The possibility of growth exceeding expectations in some economies is an upside risk, whilst the RBA listed a number of downside risks to global growth including an escalation in protectionist measures or geopolitical events, the risk that global inflation will be higher than expected prompting a faster tightening of monetary policy and the continuing high debt levels in China. Europe continues to face legacy issues following the GFC and upward movement in US interest rates is also a source of uncertainty.²¹⁶

Table 2.11: 2018–19 Budget forecasts of international GDP growth

	2017 (actuals)	2018 (forecasts)	2019 (forecasts)	2020 (forecasts)
World	3.8	3¾	3¾	3¾
Major trading partners	4.6	4¼	4¼	4¼

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

Source: Statistical report, Table 12.1; Australian Government, *Budget Paper No. 1: Budget Strategy and Outlook 2018–19*, Canberra, p. 2-10.

Australian forecasts

[209] The 2018–19 Budget stated that the Australian economy strengthened in the second half of 2017 due to contributions from non-mining business investment and household consumption which are forecast to continue.²¹⁷ Recent employment growth has led to a strengthening in household consumption which is forecast to continue to grow faster than household income, leading to a continued fall in the household saving rate. However, uncertainty remains with regards to the extent of decline in this rate, with changes in asset prices and attitudes to savings and debt to affect the outlook for both household consumption and income.²¹⁸

[210] Wage growth is forecast to increase as the economy improves above its potential rate and spare capacity is absorbed. While leading indicators suggest continued jobs growth, the

higher participation rate presents uncertainty around the amount of spare capacity in the labour market and wage pressures.²¹⁹ Inflation is also forecast to increase over the period.²²⁰

[211] The effect of falling mining investment is diminishing and while it is expected to decline further, its impact on the Australian economy is almost complete.²²¹ The final transition to the production phase of the mining boom is expected by the end of the forecast period.²²² The 2018–19 Budget forecasts that non-mining investment will increase by 10½ per cent in the 2017–18 financial year, then moderate to a ‘still solid pace’ of 5½ per cent in 2018–19 and 5 per cent in 2019–20.²²³

[212] Table 2.12 presents the Australian Treasury forecasts for the domestic economy.

Table 2.12: 2018–19 Budget, domestic economic forecasts^(a)

	Outcomes ^(b)		Forecasts	
	2016–17	2017–18	2018–19	2019–20
Real gross domestic product	2.1	2¾	3	3
Household consumption	2.6	2¾	2¾	3
Dwelling investment	2.8	–3	1½	0
Total business investment ^(c)	–4.0	4½	3	4½
Mining investment	–24.2	–11	–7	3½
Non-mining investment	6.1	10½	5½	5
Private final demand ^(c)	1.4	2½	2½	3
Public final demand ^(c)	5.1	4¾	3	2¾
Change in inventories ^(d)	0.1	–¼	0	0
Gross national expenditure	2.4	3	2¾	3
Exports of goods and services	5.5	2½	4	2½
Imports of goods and services	4.9	5	2	2½
Net exports ^(d)	0.0	–½	¼	0
Nominal gross domestic product	5.9	4¼	3¾	4¾
Prices and wages				
Consumer price index ^(e)	1.9	2	2¼	2½
Wage price index ^(f)	1.9	2¼	2¾	3¼
GDP deflator	3.8	1¾	¾	1½
Labour market				
Participation rate (per cent) ^(g)	65.0	65½	65½	65½
Employment ^(f)	1.9	2¾	1½	1½
Unemployment rate (per cent) ^(g)	5.6	5½	5¼	5¼
Balance of payments				
Terms of trade ^(h)	14.4	1½	–5¼	–2¼
Current account balance (per cent of GDP)	–2.1	–2¼	–2¾	–3¼

Note: The forecasts for the domestic economy are based on several technical assumptions. The exchange rate is assumed to remain around its recent average level—a trade-weighted index of around 63 and a US dollar exchange rate of around 77 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\$71 per barrel.

(a) Percentage change on preceding year unless otherwise indicated.

(b) Calculated using original data unless otherwise indicated.

(c) Excluding second-hand asset sales from the public sector to the private sector.

(d) Percentage point contribution to growth in GDP.

(e) Through-the-year growth rate to the June quarter.

(f) Seasonally adjusted, through-the-year growth rate to the June quarter.

(g) Seasonally adjusted rate for the June quarter.

(h) The forecasts are underpinned by price assumptions for key commodities: Iron ore spot price remaining at US\$55/tonne free-on-board (FOB); metallurgical coal spot price falling over the June and September quarters of 2018 to reach US\$120/tonne FOB by the December 2018 quarter; and the thermal coal spot price remaining at US\$93/tonne FOB.

Source: Statistical report, Table 12.3; Australian Government, *Budget Paper No. 1: Budget Strategy and Outlook 2018–19*, Canberra, p. 2-6.

[213] The RBA expects GDP growth to be around trend in the near term, peaking at 3½ per cent over the year to the June quarter 2019.²²⁴ The RBA's GDP forecasts are for stronger growth than in the Budget. The unemployment rate is forecast by the RBA to remain at around 5½ per cent over 2018 before falling gradually. Growth in the CPI is forecast to pick up to be around 2¼ per cent over most of the forecast period with underlying inflation increasing more gradually (Table 2.13).

Table 2.13: RBA economic forecasts

	Dec-17	Jun-18	Dec-18	Jun-19	Dec-19	Jun-20
GDP growth	2.4	2¾	3¼	3½	3¼	3
Unemployment rate*	5.5	5½	5½	5¼	5¼	5¼
CPI inflation	1.9	2	2¼	2¼	2¼	2¼
Underlying inflation	1¾	2	2	2	2	2¼

Note: *Average rate in the quarter. Percentage change for the year-ended shown. Technical assumptions include A\$ at US\$0.75, Trade Weighted Index at 62, Brent crude oil price at US\$71 per barrel. Shaded regions are historical data.

Source: Statistical report, Table 12.4; RBA (2018), *Statement on Monetary Policy*, May, p. 58, Table 5.1.

[214] The RBA's forecast of strengthening GDP growth is due to the drag from decreasing mining investment subsiding and the current monetary policy settings providing support for growth in household income and consumption as well as non-mining business investment.²²⁵ GDP growth is expected to slow towards the end of the forecast period due to the production of liquefied natural gas reaching its 'steady-state' level.²²⁶ Growth in non-mining business investment is expected to remain 'solid over the coming year.'²²⁷

[215] The RBA identifies a number of potential risks to its domestic forecasts being:

- Uncertainty about how much spare capacity there is in the labour market and how quickly it might decline, particularly given the recent improvements in the participation rate;
- Uncertainty about how much decline in spare capacity will build into wage pressures and inflation;
- Uncertainty about the outlook for household income growth which translates into uncertainty about household consumption and so GDP; and
- High levels of household debt are likely to increase the sensitivity of households' consumption decisions to changes in their income and wealth.²²⁸

[216] The Budget forecasts presented in the 2016–17 Review expected wages growth, as measured by the WPI, to be 2½ per cent over 2017–18.²²⁹ This has been reduced to 2¼ per cent in the 2018–19 Budget. The 2018–19 Budget also forecasts the WPI to increase to 2¾ percent in 2018–19 and to 3¼ percent in 2019–20. The RBA does not provide a forecast for the WPI but expects wages growth to 'pick up only gradually as labour market spare capacity declines and any effects of structural factors that are weighing on wages growth start to dissipate.'²³⁰

[217] In response to questions about the WPI forecasts during the consultations on 15 May 2018, the Australian Government representatives submitted that the WPI was expected to increase as higher GDP growth leads to a tighter labour market. Productivity growth and the forecast increases in inflation were also expected to result in an increase in the WPI.²³¹

[218] While we expect wages growth to pick up over time, a number of considerations suggest that this is likely to be a more gradual process than that forecast in the Budget.

[219] First, the latest data show that the WPI increased by 2.1 per cent over the year to the March quarter 2018, having increased by 0.5 per cent in each of the last two quarters. It would therefore require an increase of 0.7 per cent in the June quarter 2018 to achieve the Budget forecast of 2¼ per cent. An increase of 0.7 per cent would be the highest quarterly increase since the March quarter 2014. Such an outcome seems unlikely.

[220] Second, the international experience shows that a reduced unemployment rate has not immediately translated into stronger wages growth. Wages growth has remained subdued in the US despite strong labour markets, low unemployment and a pick-up in overall economic performance.²³² As the RBA has cautioned, ‘there is uncertainty around the level of the unemployment rate that is consistent with full employment (that is, spare capacity in the labour market having been fully absorbed). If experience overseas is any guide, this level of the unemployment rate could turn out to be lower than previously assumed.’²³³ Further, in a recent speech, RBA Deputy Governor Dr Guy Debelle observed:

‘The experience of other countries with labour markets closer to full capacity than Australia’s is that wages growth may remain lower than historical experience would suggest. In Australia, 2 per cent seems to have become the focal point for wage outcomes, compared with 3–4 per cent in the past.’²³⁴

[221] The Deputy Governor concluded that there is a risk that it may take a lower unemployment rate than currently expected to generate higher wages growth, that is, above 2 per cent growth. Recent research supports this contention, with an estimate of the long run annual WPI growth at less than 3 per cent in Australia²³⁵ and researchers in the United Kingdom (UK) suggesting that the natural rate of unemployment (or NAIRU) is closer to 3 per cent in the UK and ‘is well below 4% and perhaps even below 3%’ in most advanced countries.²³⁶ We note that both the Budget and RBA forecasts are for the unemployment rate to only fall to 5¼ per cent by 2019–20.

[222] Third, the AAWI for approved federal enterprise agreements reached a low of 2.2 per cent in the September quarter 2017, increasing to 2.5 per cent in the December quarter 2017. As the RBA has observed, these agreements will be in place for a little over three years,²³⁷ suggesting that ‘new enterprise bargaining agreements with lower wage growth than current agreements will exert downward pressure on overall wage growth for the next couple of years.’²³⁸

[223] The information before us in this Review does not suggest that wages growth will accelerate significantly in the near term. The Budget forecasts in respect of the WPI appear overly optimistic, particularly as the RBA expects increases in wages growth to be gradual and the unemployment rate is only expected to decline slightly. In sum, while we expect that our decision in this Review will result in an increase in the WPI, we do not expect any other significant increase in wages growth in the short term.

Employment effects of minimum wage increases

[224] Given its significance, the Panel pays close attention to new research that might provide additional insight on the impact of minimum wages on employment, hours worked and unemployment. Since the last Review, there were an unusually large number of new studies, most of them based on other countries.

[225] The ACTU identified, and briefly described, four papers written on the Seattle experience, six other new papers for the US, four papers on the German experience, the many papers commissioned by the UK Low Pay Commission, and a number of others including those by international agencies.²³⁹ All these were published within the past 18 months.

[226] The UK Low Pay Commission has commissioned research on a range of possible consequences of the decisions that they make. Of particular interest are studies on the effect of the introduction of the National Living Wage (NLW) and meta studies that seek to draw lessons from the full range of relevant literature. The NLW increased the minimum wage for those over the age of 24 years by 7.5 per cent in 2016 and led to a minimum wage bite of 56.4 per cent.²⁴⁰

[227] In the US, particular attention has focussed on the implementation in the city of Seattle of an increase to their minimum wage of 58 per cent for large employers (to \$15.00) and 37 per cent (to \$13.00) for smaller employers, between April 2015 and January 2018.

[228] Of particular interest for this Review is a paper by Bishop of the RBA. Bishop (2018) used unpublished job-level data from a survey of firms undertaken for the construction of the ABS WPI survey.²⁴¹ The survey has not previously been used for an assessment of any types of employment changes.

[229] A feature of the WPI survey is that the unit of analysis is a job rather than an employee. The survey can identify if a job is paid at an award rate, and if it continues from one period to the next (independent of who might be employed in that job). Firms and their jobs are followed for a period of five years. The sample for the research was restricted to private sector jobs (full or part time) filled by adults on award rates of pay and excluded juniors, apprentices and trainees. The data used have several distinct advantages over other sources of data used in Australian (and many international) studies. The jobs that are paid the award rate, the rate of pay and the hours worked in those jobs, are obtained from firms' payroll records. Further, this information for each individual job is observed every quarter for five years. There are about 18,000 jobs observed in each quarter, 15–20 per cent of which are paid exactly at the award rate.²⁴²

[230] Bishop analysed the period between 1998 and 2008 when minimum wages increased by a flat dollar amount, which led to larger percentage increases for lower-paid award-reliant jobs compared with higher-paid award-reliant jobs. Using the difference-in-difference method, Bishop found that changes in the NMW and modern award minimum wages were almost fully passed through to wages.²⁴³ To determine any employment effects, Bishop estimated the impact on the number of hours worked and the extent to which jobs were eliminated in response to increases in award rates. He found no statistically significant effect on either measure.²⁴⁴

[231] However, Bishop (2018) cautioned that this does not rule out an adverse effect on employment borne by job seekers rather than job holders.²⁴⁵ He also observed that ‘the results may not necessarily generalize to large, unanticipated changes in award wages.’²⁴⁶

[232] The research by Bishop has been published by the RBA, but is yet to be fully evaluated by other researchers. Nonetheless, it is an important addition to the very limited research that is available for Australia.

[233] Research commissioned by the UK Low Pay Commission includes an interim report on the impact of the NLW on employment and hours.²⁴⁷ The interim report found that the NLW led to large increases in real wages for NLW workers, particularly for those who were previously paid the UK NMW, and larger for those paid just above the NLW than for those earning higher wages. Using variations of the difference-in-difference approach, the report did not find evidence of a robust impact on employment, although the report found mixed evidence on hours worked for those who retained their jobs.²⁴⁸ We note that this is an interim, not the final, report.

[234] Researchers in the UK are now reasonably settled on the view that, at the levels and rates of change in the minimum wages experienced, there is little or no disemployment effect. The situation in the US is quite different. The impact on employment from minimum wages and adjustments remain a point of contention for US labour economists. This dispute has intensified as substantial wage increases have been implemented: more than 30 US states, cities or counties have implemented or have committed to implement minimum wage policies ranging from \$11.00 to \$15.00 per hour.²⁴⁹ The first jurisdiction to begin implementation was Seattle.

[235] In April 2015, Seattle increased its minimum wage from \$9.47 an hour to \$11.00—an increase of 16.2 per cent. In January 2016, the minimum was increased to \$13.00 an hour for large employers that do not provide health insurance—an increase of 18.2 per cent. For these large employers, the rate increased again in January 2017 by 15.4 per cent to reach \$15.00. For small employers and those contributing to health insurance, the rate will increase progressively to \$15.00 at various times out to 2021.²⁵⁰ The minimum wage for large companies that do not provide health insurance has risen by a cumulative 58.4 per cent over a little less than three years.

[236] These increases are far beyond what we and other participants would consider ‘modest.’ However, academic researchers who have been pressing for higher minimum wages argue that the increases to \$13.00 are within the range of increases that research has shown had little or no impact on employment. They focus on the starting point and the ratio of minimum wages to median wages (i.e., the minimum wage bite). According to Zipperer and Schmitt (2017), increasing the minimum wage up to a level that is about half or less of an area’s median wage is expected to lead at most to a small reduction in employment. The observed range of the minimum wage bite that covers 90 per cent of cases is 32 per cent to 55 per cent.²⁵¹ The \$13.00 increase lifted the Seattle bite to 50.7 per cent. The increase to \$15.00 lifted the bite to a little over 55 per cent.²⁵²

[237] Two academic teams have studied the impact of the first two steps implemented by Seattle—i.e., the increase to \$13.00. Neither has, at this point, been peer reviewed. While their findings were vastly different, they were consistent with each group’s prior views. Reich et al. (2017) conducted the first of these studies. They also used the synthetic control method.

Their focus was on the food service and restaurant sectors. This is also common practice and is based on the view that the impact of the minimum wage on employment will be largest for those workers whose wages experience the largest rise in the minimum wage.²⁵³ The study's results show that wages in food services did increase—indicating the policy achieved its goal. Wages increased much less among full services restaurants, indicating employers took advantage of the tip credit which is quite common across the US but was only introduced in Seattle as part of the minimum wage package. However, employment in the food sector was not affected. The authors contend the Seattle experience extends knowledge of minimum wage effects to policies as high as \$13.00. However, they note that the 'new wave of minimum wages policies'²⁵⁴ and the extent of the increases being implemented lie well beyond previous studies of the topic.²⁵⁵

[238] The second Seattle study was undertaken by Jardim et al. (2017). The study used administrative data on quarterly payroll records for all workers who receive wages in Washington and are covered by unemployment insurance for the period between 2005 and the third quarter of 2016. The data included earnings and hours for each quarter for each worker. For workers earning below \$19.00 per hour, the study found no statistically significant impact on employment and hours resulting from the increase in the minimum wage from \$9.47 to \$11.00. For the increase to \$13.00 it found negative effects of around 7 per cent for employment and 9 per cent for hours worked.²⁵⁶

[239] The data used by Jardim et al. (2017) enabled them to analyse individual industries. They used these data to analyse the impact on the restaurant industry as it is often the only sector studied. They found a zero or near zero impact on headcount employment, which, of course, was also found by Reich et al. and many earlier studies which have focussed on restaurant workers and teenagers.

[240] Zipperer and Schmitt (2017) have criticised the Jardim et al. study saying it has a number of 'data and methodological problems that bias the study in the direction of finding job loss, even where there may have been no job loss at all.'²⁵⁷

[241] Neumark (2017) examined why, even with developments in data and new methodologies, the employment effects of minimum wages remains contentious. Like Reich, he is very conscious that what is happening across many states and counties is well outside past experience. He notes that '[t]rying to predict the effects of large minimum wage increases from simple extrapolation of reduced-form estimates of the employment effects of minimum wages, based on evidence from much lower minimum levels and much more moderate changes, is a highly dubious exercise.'²⁵⁸

[242] In a peer reviewed paper, Totty (2017) used factor model methods 'to resolve issues in the minimum wage-employment debate', explaining that the methods are 'robust to critiques from either side of the debate.'²⁵⁹ He analysed data on restaurant workers and teenagers and found that estimates from factor model methods were smaller than those produced by other methods.²⁶⁰ Overall, Totty found little to no effect of minimum wage increases on restaurant or teenage employment over the last three decades but cautioned that the size of the minimum wage increase is important and that his study may not be informative about the effects of larger increases.²⁶¹

[243] Australia has not had a long period in which its minimum wages have been frozen in nominal terms. Consistent with this we have a minimum wage bite that is relatively high.

Although our circumstances are very different from those in the US, we will observe future developments and invite parties to consider this research in their submissions to future Reviews.

[244] Most of the new research, particularly that of Bishop, reinforces the view of the Panel that moderate and regular increases to the NMW and to modern award minimum wages do not cause significant job losses or reductions in hours worked.

[245] For completeness, we turn to consider the position put by the ACTU that increased wages for the low paid would likely raise aggregate demand ‘because low paid people spend most or all of their incomes’²⁶² and thereby have positive employment effects. In response to a question from the Panel, the ACTU estimated that an increase in minimum wages by the amount of its claim would (using two different methodologies) result in an increase in employment of between 40 000 and 57 000 in the first year and 27 000 and 30 000 in the second year.²⁶³

[246] Ai Group argued that there would be a number of offsetting considerations which would ‘impede the impact on aggregate demand of an increase in minimum wage rates.’²⁶⁴ These included the effect of taxes and the changes to income transfers on the amount finally received by the worker, that many low-paid individuals are in middle and high-income households, and that those who have to pay wage increases may correspondingly reduce spending and investment.²⁶⁵ ACCI responded by arguing that ‘[a]ggregate household consumption is best encouraged by policies that promote greater workforce participation, employment growth and a low unemployment rate.’²⁶⁶

[247] The Australian Government concluded that ‘[t]he net effect of raising minimum wages on aggregate household incomes is ambiguous and rough calculations suggest that the net effect can be close to zero.’²⁶⁷

[248] This issue was canvassed in last year’s Review when the Panel found that the impact of an increase in minimum wages was ‘not likely to be comparable to that of a public sector macroeconomic stimulus.’²⁶⁸ Nonetheless, the ACTU submission makes the important point that increases to the NMW and award wages are likely to have some effect on consumer demand that needs to be taken into account.²⁶⁹ We remain of that view. Its significance for this Review is not that we seek to have an effect on macroeconomic outcomes, as suggested by ACCI.²⁷⁰ Rather, it provides some part of the reasoning for why a modest increase in minimum wage rates has little negative impact on employment.

The incentive to seek employment at the NMW and the tax-transfer system

[249] The Panel has previously stated that the incentives for people to obtain paid work are a relevant consideration in a Review²⁷¹ and that the level of the NMW and modern award minimum wages ‘will play some, but probably a small, part’ in determining household and individual appetite for paid employment.²⁷²

[250] As in previous Reviews,²⁷³ the Australian Government modelled the effect of the tax-transfer system on changes in disposable income when unemployed members of various hypothetical household types obtain employment at the NMW.²⁷⁴

[251] The modelling found that all household types were better off after an unemployed member gained employment,²⁷⁵ with some variation between households. For example, a single adult household without children increased disposable income by 127.9 per cent by obtaining a full-time NMW job. However, a second member of a household with two children (with child care) increased disposable income by only 5.6 per cent when they found a part-time NMW job.²⁷⁶

[252] As we noted in the 2016–17 Review, those who received the greatest financial benefit from obtaining employment are also those who receive the least in payments from the tax-transfer system.²⁷⁷

[253] Based on the Australian Government’s modelling, as at 1 January 2018, the NMW was set at a sufficient level to ensure all persons employed at the NMW would be better off than if unemployed and in receipt of welfare benefits. It is important to note, however, that in some cases, this net financial gain is quite small and may become negligible once incidental costs of employment (including transport costs) are taken into account.

Conclusion

[254] As compared to the 2016–17 Review, the economic indicators point more unequivocally to a healthy national economy and labour market. GDP grew by 2.4 per cent, consistent with the five-year average for economic growth, and equalled or exceeded the average for the major seven OECD countries across three of the five quarters to December 2017. RNNDI has grown at a rate (1.5 per cent) that is close to the five-year average. We draw attention, however, to the fact that RNNDI per capita is no higher in the December quarter 2017 than it was in the December quarter 2011. Growth in 2017 was broad-based, with 16 out of 19 industries recording growth. There was a significant contraction (8.8 per cent) in one industry only, Agriculture, forestry and fishing, but this followed growth of 22.5 per cent in 2016.

[255] Business conditions remain positive. Profits grew by 4.3 per cent in 2017 and by 5.8 per cent in the non-mining sector. This growth, coupled with low wages growth has caused the profit share of total factor income to remain at around its highest level since 2013. The business bankruptcy rate remained stable at a comparatively low level compared to the whole of the previous decade,²⁷⁸ business survival rates are the highest in at least a decade and business entry rates exceeded business exit rates by a larger than usual margin. Business surveys, including those for small and medium businesses, show that business conditions are very healthy, with above average expectations for future investment and employment.

[256] The labour market is strong. Total employment increased by 355,200 over the year to April 2018, with about three-quarters of the growth being in full-time employment (unlike previous years in which growth in part-time employment predominated). Employment grew in 14 of the 19 industry sectors. The unemployment rate and the underemployment rate have declined only slightly, reflecting a sharp rise in the participation rate. The age-adjusted participation rate reached a historic high in April 2018. The employment to population ratio is also at a historic high. We accept the view that the persistence of long-term unemployment and the rise in disengagement among 20–24 year old adults are principally the result of rapid structural change in the economy that is causing a relatively high mismatch between the skills of the non-employed and those sought by employers. There was no evidence that it has been caused by excessive levels of minimum wages. We consider that the labour market is

currently supporting social inclusion through increased workforce participation and that this is not being inhibited by the current safety net of the NMW and modern award minimum wages.

[257] Inflation and wages growth remain low. The CPI increased by 1.9 per cent over the year to the March quarter 2018 and underlying inflation and the LCI for employee households rose by 2 per cent. Despite substantial employment growth, there was no appreciable acceleration in wages growth in 2017. The WPI increased by 2.1 per cent, which is slightly below the average for the last five years and historically very low, and the rate of wage increases arising from federal enterprise agreements is significantly below the five-year average.

[258] Measures of labour productivity showed a decline during 2017. As discussed earlier, annual measures of productivity, which may be the subject of subsequent revision, must be approached with caution. It is likely that the measure of productivity for 2017 has been affected by a surge in the total number of hours worked. When measured over the course of the business cycle, the rate of growth in labour productivity is 1.9 per cent per annum, and improvements to multifactor productivity have been making a substantial contribution to this.

[259] We remain of the view that modest and regular minimum wage increases do not result in disemployment effects or inhibit workforce participation. The strongest new evidence in support of this view is that provided for Australia in the 2018 paper by Bishop. Recent research in the UK, including that commissioned by the UK Low Pay Commission, continues to support this conclusion. The position is more contested in the US where studies, including those of the very large minimum wage increases in Seattle, have rendered mixed and conflicting results. The recent US studies are, in our view, of limited relevance given that the minimum wages increases involved were as high as 37 per cent, and implemented in a short space of time from a low base (that is, they did not, in any view, involve ‘modest and regular’ increases).

[260] We expressed the view in the 2016–17 Review that the international research, particularly that from the UK, suggested that the Panel’s past assessment of what constitutes a ‘modest’ increase may have been overly cautious in terms of its assessed disemployment effects.²⁷⁹ This influenced our decision to increase the NMW and modern award minimum wages in modern awards by 3.3 per cent. We also stated ‘[t]he level of increase we have decided upon will not lead to inflationary pressure and is highly unlikely to have any measurable negative impact on employment.’²⁸⁰

[261] A number of parties submitted that the increase of 3.3 per cent we awarded in the 2016–17 Review was too high in the prevailing circumstances. However, no party was able to identify any economic indicator which demonstrated any discernible detriment arising from the 2016–17 Review decision. Employment continued to grow strongly in the economy generally, and it also grew in three of the four most award-reliant industries. The employment to population ratio, a key indicator, rose to record high levels during 2017. The increase did not lead to inflationary pressure. Nor did it have a discernible effect upon general wages growth. Surprisingly, the WPI figure over the year to the March quarter 2018 increased in two out of the four most award-reliant sectors *less than* for the economy as a whole, and in all four sectors the percentage WPI increase was substantially less than the percentage increase which we awarded in the 2016–17 Review.

[262] We accept it is possible that the 2016–17 Review increase may have longer-term effects which are not yet discernible in the available economic information. Furthermore, the compounding effect of increases over time may have a cumulative economic effect which is not apparent in the short term. We will continue to closely monitor this in future Reviews. However the information available to us at the present time tends to affirm the view we expressed in the 2016–17 Review that our previous assessments as to what constituted a ‘modest’ increases without disemployment effects may have been too conservative.

3. Relative living standards and the needs of the low paid

[263] In this chapter we deal with the social considerations in s.284(1)(c) in respect of the minimum wages objective and in s.134(1)(a) in relation to the modern awards objective. We do so by providing an assessment of the relative living standards of workers reliant on the NMW and modern award minimum wages and an examination of the extent to which low-paid workers are able to meet their needs, judged as their ability to purchase the essentials for a decent standard of living.²⁸¹

[264] The assessment of some of these considerations has benefited from new data released by the ABS that has not been updated for six years.²⁸² Although the Survey of Employee Earnings and Hours (EEH) data referred to in the last Review remains the most recent, we take note of the recent budget standards study of the Minimum Income for Healthy Living (MIHL).

Award-reliant employees and the low-paid workforce

[265] The number of award-reliant employees (that is those employees that are paid exactly an award rate) is estimated to be 2.3 million or 22.7 per cent of all employees.²⁸³ The proportion of employees that is paid at the adult NMW rate is estimated to be 1.9 per cent. Further, a significant number of employees are paid at junior or apprentice/trainee rates based on the NMW rate and modern award rates.²⁸⁴ This makes it clear that most workers whose pay is directly affected by a rise in the NMW and modern award minimum wages are on rates that exceed the NMW. However not all of the estimated 2.3 million workers who are award reliant will be affected by this decision, because a proportion of these are state public sector employees and private sector employees in non-incorporated businesses in Western Australia who are not in the federal industrial relations system.

[266] The Panel's decision is also likely to affect employees 'paid close to the national minimum wage rate and workers whose pay is set by collective agreement which is linked to the outcomes of the Annual Wage Review.'²⁸⁵ It is also likely that there are workers whose pay is set by individual arrangements which are referenced to an award rate—for example, by being paid a certain dollar amount or percentage above the modern award. The Australian Government also submitted that employers 'may also pass on the minimum wage rate adjustments to higher wage earners in order to maintain wage relativities.'²⁸⁶

[267] Research by Commission staff undertaken for this Review (Research Report 3/2018—*Characteristics of workers earning the national minimum wage rate and of the low paid*) used the EEH to provide the most recent information on characteristics of employees earning around the adult NMW and low-paid adult employees. The findings from the report are consistent with previous studies. The analysis found that a relatively high proportion of NMW earners were female, employed on a casual basis, working part time, award reliant, and 22 per cent were aged between 15 and 20 years.

[268] The analysis of the characteristics of low-paid (as distinct from NMW) adult employees was undertaken using data from the HILDA survey for 2016. A 'low-paid employee' was defined as an adult employee paid below two-thirds of median hourly earnings, consistent with the approach used in prior Reviews.²⁸⁷ The analysis found that 13.1 per cent of all employees were low-paid adult employees,²⁸⁸ which compares to the

Australian Government submission to last year's Review (using data from the 2016 EEH) which found that 12.4 per cent of all employees were low-paid employees.²⁸⁹

[269] The analysis found some substantial differences between higher-paid adult employees and low-paid adult employees. Low-paid adult employees were more likely to be employed on a casual basis, work part time, prefer to work more hours, work in the private sector, and work in small businesses. They were also more likely to be award reliant, have Year 12 or below as their highest level of education, work in the Accommodation and food services and Retail trade industries, and be aged between 21 and 24 years. Low-paid adult employees were also substantially more likely to be non-dependent children and, among couple households, substantially more likely to be secondary earners.

[270] A detailed analysis by the Australian Government, also using data from the HILDA survey for 2016, covered all low-paid workers, juniors, as well as adults. It showed, among other things, that of the low paid 41 per cent were aged 15–24 years; 62 per cent were single; 71 per cent had no children; 19 per cent had a long-term health condition; 77 per cent had two or more years of work experience and 63 per cent were on casual contracts; and they were predominantly employed as Community and personal service workers, Sales workers and Labourers.²⁹⁰

[271] Overall, the Commission's research found that NMW earners and low-paid adult employees had very similar characteristics. The Victorian Government submitted that the research identifies groups where minimum wages can address disadvantage.²⁹¹ ACOSS also highlighted the following findings from the research report:

- people under 25 years accounted for 41 per cent of all NMW employees;²⁹²
- 22 per cent of low-paid workers were non-dependent children living with their parents,²⁹³ and
- for low-paid employees in couple households, 38 per cent were either sole or primary earners.²⁹⁴

Award-reliant and low-paid households in the income distribution

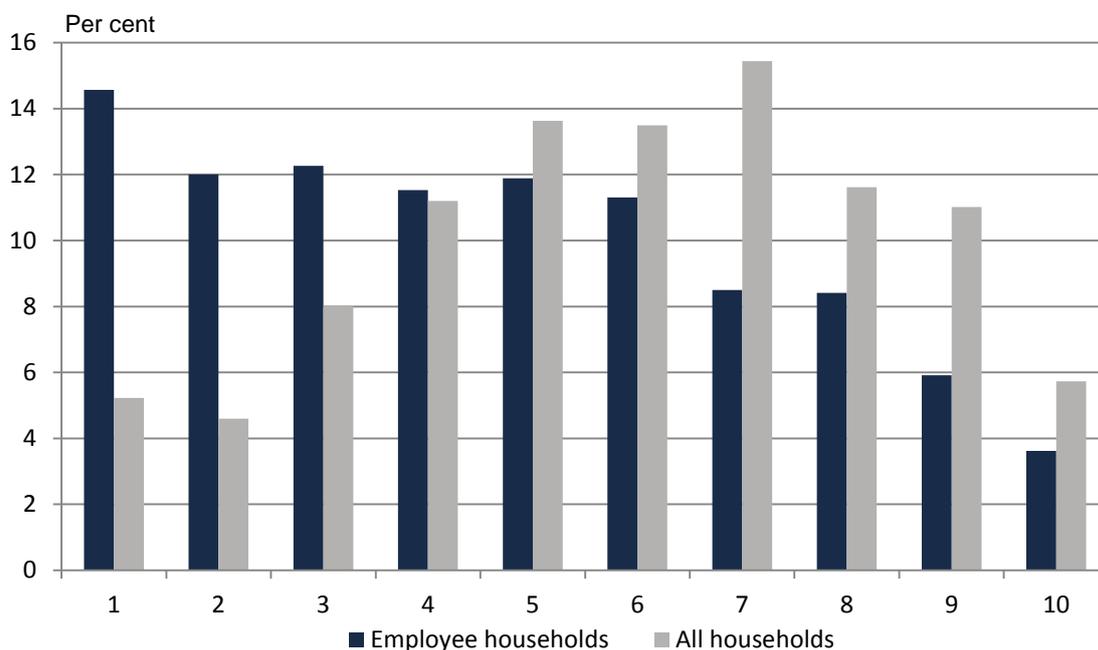
[272] The Australian Government presented data, updated from the last Review, on the distribution of low-paid employees across equivalised household disposable income for both employee households (with at least one employee) and all households (including jobless and retiree households), using data from the 2016 HILDA survey.²⁹⁵ The Panel continues to consider that the former distribution 'provides the best basis for assessing the relative living standards and the needs of the low paid on the basis of where they fall within the distribution of household income.'²⁹⁶

[273] Similar to analysis presented in previous Reviews,²⁹⁷ the Australian Government found that, while the low paid are spread across the income distribution of employee households, they are concentrated in the lower deciles: 64.6 per cent of low-paid employees were in the bottom half of the distribution of employee households.²⁹⁸ This is consistent with the Panel's conclusion in the 2015–16 Review that around two-thirds of low-paid employees are in the bottom half of the income distribution for employee households.²⁹⁹

[274] The Statistical report included data on the distribution of low-paid employees across equivalised household disposable income for employee and all households using data for 2015–16 from the ABS Household Expenditure, Income and Housing (Chart 3.1). In contrast to the Australian Government’s definition of employee households using the HILDA survey, this analysis defined employee households as those whose principal source of income is from wages and salary.

[275] The results from the two different estimates are similar. Chart 3.1 shows that across all employee households, the low paid are disproportionately found in the bottom deciles, with 62.3 per cent of the low paid in the bottom half of the distribution.

Chart 3.1: Distribution of low-paid employees across equivalised household disposable income for employee and all households, 2015–16



Note: Low-paid employees refer to all employees whose hourly earnings are below two-thirds of median hourly earnings of full-time adult employees, including juniors. Hourly earnings are calculated as current weekly cash employee income from main job (including salary sacrifice) divided by usual hours worked per week in main job. Usual hours worked in main job are top-coded at 60 hours per week. No allowance for casual loading has been made as casual employees cannot be identified. Employee households are those whose principal source of income is from wages and salary.

Source: Statistical report, Chart 8.7; ABS, *Microdata: Household Expenditure, Income and Housing, 2015–16*, Detailed Microdata, DataLab, Catalogue No. 6540.0.

[276] On the basis of this evidence, we remain of the view that low-paid workers, whose wages are likely to be affected by the NMW or modern award minimum wages, are disproportionately located in the lower deciles of equivalised household disposable income.

Real earnings

[277] The NMW increased in real terms by 5.8 per cent over the decade to the December quarter 2017, and by 4.3 per cent in the last five years, and there has been a real increase across each calendar year since 2014 (Table 3.1). The real increase of 1.4 per cent over the year to the December quarter 2017 was the highest since the year to the December quarter 2010.

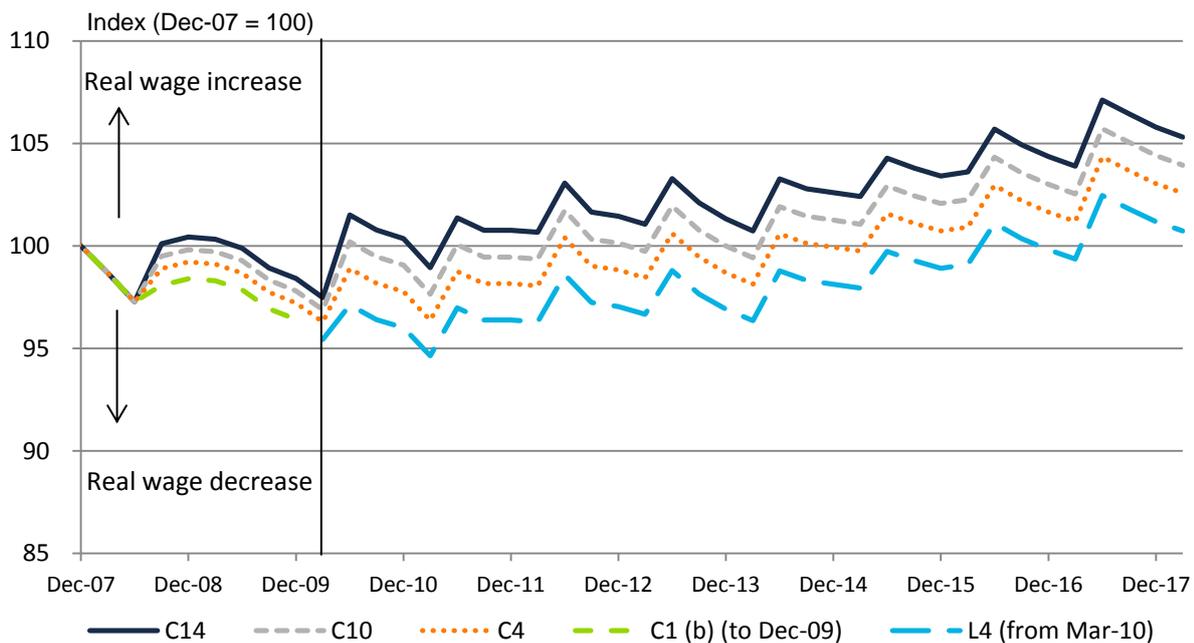
Table 3.1: Real national minimum wage and percentage change, December quarter 2017 dollars

Year	Real national minimum wage	Change
	(\$)	(%)
Dec-07	656.90	-0.9
Dec-08	659.72	0.4
Dec-09	646.42	-2.0
Dec-10	659.30	2.0
Dec-11	661.93	0.4
Dec-12	666.45	0.7
Dec-13	665.54	-0.1
Dec-14	673.97	1.3
Dec-15	679.32	0.8
Dec-16	685.54	0.9
Dec-17	694.90	1.4
Change over decade	38.00	5.8

Note: Real minimum wage calculated from the NMW/FMW and CPI from the December quarter of each year.

Source: Statistical report, Table 9.1; Australian Fair Pay Commission/Fair Work Australia/Commission decisions; ABS, *Consumer Price Index, Australia, Mar 2018*, Catalogue No. 6401.0.

[278] Chart 3.2 compares the growth in the real value of selected modern award minimum wages from the December quarter 2007 to the March quarter 2018. The chart shows that the real value of each of these modern award minimum wages is above its value from 10 years ago and highlights the consistent increases in value from 2014. The relative values of modern award minimum wages have not changed since the Panel awarded uniform percentage increases across all minimum rates in the *Annual Wage Review 2010–11* (2010–11 Review) and each subsequent Review.

Chart 3.2: Real value of selected minimum wage rates, index—Dec-07 = 100

Note: Up to 30 June 2009, the minimum rates are those in Australian Pay and Classifications Scale (and from 1 July 2009, transitional Australian Pay and Classification Scale) derived from the *Metal, Engineering, and Associated Industries Award 1998*; post 1 January 2010 minimum rates C14, C10 and C4 are those in the Manufacturing Award and the L4 rate from the *Professional Employees Award 2010*. For the purpose of the analysis, the L4 rate was calculated by dividing the annual salary for the L4 classification by 365 and multiplying by 7 to get a weekly rate.

Source: Statistical report, Chart 9.1; ABS, *Consumer Price Index, Australia, Mar 2018*, Catalogue No. 6401.0; *Metal, Engineering and Associated Industries Award 1998*; Manufacturing Award; *Professional Employees Award 2010*.

[279] In the last two Reviews, we indicated that it was our intent to provide a level of minimum wage increase that would result in an improvement in real wages and relative living standards of those reliant on the NMW and modern award minimum wages.³⁰⁰ There has been an increase in real wages, but this has not resulted in an improvement in actual or relative living standards for all categories of such employees due to changes in the tax-transfer system, as discussed later in this chapter.

Household disposable income and tax-transfer system changes

[280] The Panel has accepted that the effect of taxes and transfers on disposable incomes of the low paid is relevant to the needs of the low paid and their relative living standards, both in terms of specific changes to the tax-transfer system and in assessing broader information in relation to measures of the relative income of the low paid.³⁰¹

[281] The measure of income most commonly used in analysis of living standards is equivalised household disposable income. This measure considers the type of household and also incorporates both labour market earnings and income from other sources, as well as the net impact from taxes and transfers.

[282] In this section we discuss changes made to the tax-transfer system and changes in disposable income following the 2016–17 Review decision for selected household types.

[283] In its initial submission, the Australian Government advised that a single adult household working full time at the NMW would not attract transfer payments, but ‘those working part-time, couples with one partner earning the full-time minimum wage and families with children can receive significant additional assistance ... For full-time minimum wage workers in single-income households with children, transfer payments are typically around a third of disposable income.’³⁰² The Australian Government also submitted that:

‘... full-time workers without children retained the greatest fraction of the minimum wage increase after taxes and transfers (nearly 80 per cent), since they receive no transfer payments and therefore face no income tests. Part-time workers and workers with children kept less, since they are affected by the means tests on payments such as Newstart and FTB [Family Tax Benefit]. Couples with one partner on Newstart retained the least.’³⁰³

[284] The points made by the Australian Government above highlight the tension in the interaction between the level of minimum wages and the tax-transfer system in providing for the needs of the low paid. Families with children or an unemployed partner face the greater challenge in meeting their needs, but also receive the smallest benefits from increases in minimum wages. Despite this, all family types that have been modelled do receive some increase in their disposable income from an increase in the NMW. In this respect, we note the view of the Australian Government that ‘[i]ncreases to the minimum wage have, over recent years, been important for maintaining the real disposable incomes of many low-income households ... however the tax-transfer system remains the primary means of redistributing income to low-income households.’³⁰⁴

[285] The *Social Services Legislation Amendment Act 2017* included a measure to freeze the base and the maximum rate of Family Tax Benefit (FTB) (Part A) and FTB (Part B) for low-income families commencing from 1 July 2017 to 2019. This change reduces the real incomes of families receiving these benefits over the two years.³⁰⁵

[286] From July 2018, the Child Care Subsidy (CCS) will replace the current Child Care Benefit and the Child Care Rebate with a single means-tested subsidy.³⁰⁶ As these changes will apply when our decision is in operation they are potentially relevant to this Review.

[287] Amongst the parties who addressed this issue there were quite different views. The Federal opposition submitted that the changes to child care assistance will leave 279 000 families worse off, including those on low incomes.³⁰⁷ In contrast, Ai Group argued that the CCS will provide ‘significant benefit to most low income workers who are currently receiving childcare assistance’ and that the Panel should award a lower increase than it otherwise would in consequence.³⁰⁸

[288] It is difficult to evaluate the impact of the changes to child care assistance on low-paid employees, in part because the current arrangements are complex. While the new arrangements are intended to simplify them, they remain difficult to assess. The previous arrangements included a means tested scheme and a non-means tested scheme. An activity test (encompassing the self-employed, employees, and those engaging in study or training or looking for work) applied to the previous non-means tested scheme. The new scheme is both means tested and activity tested. The maximum benefit is payable at a family income of \$66,958 and is phased out to zero at \$351,248.³⁰⁹ The means test on the current scheme

provides maximum payments at incomes below \$45,114 and reduces to zero at a family income of \$156,914 with one child in approved care.³¹⁰

[289] Perhaps the most helpful summary of the impact of the changes is provided in the media release of the Minister for Education and Training at the time of the announcement of the changes. This release included the advice that the new child care package would deliver:

- ‘the highest rate of subsidy to those on the lowest income levels and more hours of subsidy to those who work the most’; and
- ‘increasing the base subsidy from around 72 per cent to 85 per cent for the more than 370 000 families earning around \$65,000 or less a year.’³¹¹

[290] On the information available, the Panel cannot determine what the precise financial impact of the changes to child care assistance will be on low-wage families, although we accept that it will probably be of some benefit. Because the impact is uncertain, we have given it little weight in this decision. If thought relevant, the parties are invited to provide further material to the *Annual Wage Review 2018–19* (2018–19 Review).

[291] The Australian Government’s 2018–19 Budget, announced proposed changes to income tax rates for individuals to be phased in over a number of years. The earliest step in the proposed changes is a tax offset increase targeted at low to middle income taxpayers for 2018–19. The benefit is payable as a tax refund at the end of the 2018–19 tax year.

[292] Because the tax changes have not been legislated for, and in any event would not as a practical matter provide any financial benefits to employed persons on or before 30 June 2019, the Panel does not propose to take them into account in this Review.

[293] Table 3.2 presents the changes to nominal disposable income for a range of hypothetical household types reliant on the NMW. It incorporates the increase to the NMW and modern award minimum wages of 3.3 per cent from the 2016–17 Review decision, and the reductions in a range of benefits for low-income families, including the removal of the Schoolkids Bonus. Over the year to July 2017, changes in nominal disposable incomes ranged between a fall of –2.0 per cent (single parent working part time with two children) to an increase of 3.0 per cent (dual-earner couple, no children). Six out of the 14 selected household types experienced a decline in their nominal disposable incomes. Growth in nominal disposable income exceeded the CPI in only three of the 14 selected household types. Those which had a real increase were adult singles or couples without children. Since the increases to the NMW and modern award minimum wages exceeded inflation over the year to July 2017, the falls in nominal and real disposable incomes have come from the effects of, and changes to, the tax-transfer system.

[294] Over the five years to July 2017, growth in nominal disposable income for 10 out of the 14 selected household types was below CPI. Over the same five-year period, increases to the NMW and modern award minimum wages exceeded the CPI by 3.9 per cent, which highlights the negative impact of changes to the tax-transfer system. Of the selected household types, dual-earner couples with no children had the highest growth in nominal disposable income while single parents with two children and working part time had the lowest.

[295] While there has been a real increase in minimum wages over the past five years, changes to the tax-transfer system have negatively affected disposable incomes for some household types. As the Australian Government submitted, ‘[o]utcomes for families receiving transfer payments were ... affected by measures such as the ceasing of the School Kids Bonus, closure of Energy Supplement paid with FTB for new entrants, and the measure to maintain the current FTB rates for two years from 1 July 2017.’³¹²

Table 3.2: Nominal disposable income of selected NMW-reliant households

Household type	Disposable income July 2017 (\$pw)	Change		
		July 2016 to July 2017 (\$pw)	July 2016 to July 2017 (%)	July 2012 to July 2017 (%)
Single adult	624.03	17.54	2.9	12.0
Single parent working FT, 1 child	882.30	8.39	1.0	9.9
Single parent working PT, 1 child	591.82	-4.27	-0.7	9.6
Single parent working FT, 2 children	987.86	-1.42	-0.1	8.4
Single parent working PT, 2 children	697.38	-14.08	-2.0	7.6
Single-earner couple (with NSA)	805.75	8.50	1.1	11.0
Single-earner couple	637.93	12.22	2.0	12.7
Single-earner couple, 1 child (with NSA)	993.70	-0.41	-0.0	9.2
Single-earner couple, 1 child	882.30	8.39	1.0	9.9
Single-earner couple, 2 children (with NSA)	1100.79	-9.62	-0.9	8.0
Single-earner couple, 2 children	987.86	-1.42	-0.1	8.4
Dual-earner couple	971.48	28.64	3.0	12.9
Dual-earner couple, 1 child	1162.09	13.54	1.2	10.0
Dual-earner couple, 2 children	1267.65	2.51	0.2	8.9
CPI			1.9	10.3

Note: The percentage change in the CPI over July 2016 to July 2017 and July 2012 to July 2017 were calculated with reference to the June quarter.

Assumptions: Single-earner households earn 100 per cent of the weekly NMW. Single parents working part time (PT) are earning 50 per cent of the weekly NMW rate, those working full time (FT) earn 100 per cent of the NMW. Dual-earner households comprise one partner earning 100 per cent of the NMW, the other earns 50 per cent of this rate. Applicable minimum wage rates (equivalent to the C14 rate) per week are: \$606.40 in July 2012; \$672.70 in July 2016; and \$694.90 in July 2017.

Tax/transfer parameters as at July each year. Disposable income includes all available income transfers, unless otherwise specified. Children are aged 8–12 years and attending primary school. Households paying sufficient rent to receive maximum Rent Assistance where applicable. Single-earner couples are modelled in two scenarios: 1) the non-earning partner is in the labour force and receiving proportional rates of Newstart Allowance (NSA) and 2) the non-earning partner is not in the labour force and therefore not in receipt of NSA. Single-parent households and secondary earners in dual-earner households are not seeking further work and not in receipt of income support.

Households with children receive the fixed value of the Education Tax Refund (ETR) transitional lump-sum payment in 2012 and the Schoolkids Bonus from 2013 to 2016. Disposable incomes for households with children for 2012 to 2016 reflect the average weekly rate of the ETR transitional lump-sum payment, or Schoolkids Bonus instalments, in the given year. In 2016 the Schoolkids Bonus accounted for a weekly average of \$8.27 per child in the disposable income for all households with children modelled (excepting dual earner households earning AWOTE as they were not eligible for this transfer). The Schoolkids Bonus was not payable in 2017.

Source: Statistical report, Table 8.4; ABS, *Consumer Price Index, Australia, Mar 2018*, Catalogue No. 6401.0; Fair Work Commission modelling.

[296] The Australian Government's submission also contained modelling of changes in real disposable household income for identified household types for the period 2013–2018. That modelling showed that there was a reduction in real income for a single-parent family earning the NMW full-time with one child (aged 3 or 9), a single parent family on the NMW part-time with one child (aged 9), a single-income couple with one parent on the NMW full-time and one or two children, and dual-income couples with one parent on the NMW full-time and the other part-time with two children. The Australian Government's modelling showed that

NMW increases had a net positive effect on income in relation to each household type modelled, but that the tax-transfer system made a negative contribution in 10 out of the 14 household types, including the six household types where real income declined over the five year period. This is consistent with the Commission’s own modelling and demonstrates that changes to the tax-transfer system have caused a reduction in real income for a number of household types, notwithstanding real increases to the NMW over the period.

[297] We concur with the Australian Government’s submission that ‘[i]ncreases in the minimum wage are not fully reflected in household disposable income, although it plays a large role in improving household income for low-income, minimum wage families.’³¹³

[298] Table 3.3 shows the proportion of the increase awarded in the 2016–17 Review which was retained by the same range of household types. Almost all households had their disposable income reduced by the income tax: single parents working part-time retained 100 per cent of the increase while a single-earner couple receiving Newstart Allowance (NSA) retained less than one-sixth of the increase. In addition, single-earner couples with a partner receiving NSA, with and without children, and dual-earner couples with children also had a reduction in their transfer payments. Households that received NSA retained the smallest share of the increase to the NMW.

Table 3.3: Modelling the 2017 NMW increase, wage increase retained and components of change in disposable income of selected NMW-reliant households, July 2017

Household type	Change in disposable income (\$ pw)	Components of change			NMW increase retained (%)
		Wage increase (\$)	Taxes (\$)	Transfers (\$)	
Single adult	17.54	22.20	-4.66	0.00	79.0
Single parent working FT, 1 child	17.98	22.20	-4.22	0.00	81.0
Single parent working PT, 1 child	11.10	11.10	0.00	0.00	100.0
Single parent working FT, 2 children	17.98	22.20	-4.22	0.00	81.0
Single parent working PT, 2 children	11.10	11.10	0.00	0.00	100.0
Single-earner couple (with NSA)	3.51	22.20	-5.37	-13.32	15.8
Single-earner couple	17.98	22.20	-4.22	0.00	81.0
Single-earner couple, 1 child (with NSA)	6.16	22.20	-5.37	-10.66	27.8
Single-earner couple, 1 child	17.98	22.20	-4.22	0.00	81.0
Single-earner couple, 2 children (with NSA)	7.32	22.20	-4.22	-10.66	33.0
Single-earner couple, 2 children	17.98	22.20	-4.22	0.00	81.0
Dual-earner couple	28.64	33.30	-4.66	0.00	86.0
Dual-earner couple, 1 child	20.69	33.30	-4.66	-7.95	62.1
Dual-earner couple, 2 children	18.23	33.30	-7.12	-7.95	54.7

Note: Tax/transfer parameters as at July 2017. The NMW increase retained is calculated as the change in disposable income as a proportion of the wage increase. Other assumptions as per Table 3.2.

Source: Statistical report, Table 8.5; Fair Work Commission modelling.

[299] One important additional change to the tax-transfer system has been legislated reductions to corporate taxation rates. As part of a progressive reduction in tax rates for small and medium-sized incorporated business, the taxation rate was reduced for ‘small business

entities' with a threshold of \$2 million turnover from 30 per cent to 28.5 per cent in 2015–16, and to 27.5 per cent in 2016–17 with a threshold of \$10 million turnover. For 'base rate entities' with a turnover threshold of \$25 million, the rate was reduced to 27.5 per cent in 2017–18, and the threshold is to increase to \$50 million in future years.³¹⁴

[300] The Australian Government has modelled the long-term impact of corporate taxation reductions. However, this modelling includes the effect of the reductions that are yet to take effect and further proposed reductions which are yet to be legislated. The modelling in general predicts that the reductions will lead to higher business investment and productivity and drive an improvement in real wages. However, the modelling 'does not describe the transition path to the long-term,' and the Australian Government submitted that 'it will be difficult to identify when business investment is responding to the tax cut.'³¹⁵ This means that it is not possible to ascertain what, if any, effect the tax reductions which have already come into effect have had on investment, productivity, employer profitability, employees' wages or income and wealth inequality. Only the ACTU submitted that we should take into account the corporate tax reductions in this year's Review, on the basis that their impact 'ought to be that the Panel is less restrained in its awarding of increases than it otherwise would be.'³¹⁶ However, the impact of the changes at this point cannot be assessed, and as a result we will not take them into account in this Review. The Panel will look for reliable evidence of their effect, if any, in future Reviews.

[301] We accept that changes to the tax-transfer system are relevant to our consideration of the needs of the low paid and their relative living standards. The identified changes to the tax-transfer system and their adverse effects on low-paid employees have been taken into account pursuant to s.134(1)(a) and s.284(1)(c). Consistent with the approach taken in the 2016–17 Review decision, we do not accept that a mechanistic or formulaic approach can be taken in regard to our consideration on this matter.³¹⁷ However, the above evidence does emphasise, once changes to the tax-transfer system which have occurred are taken into account, the importance of increases to the NMW and modern award minimum wages in maintaining the real disposable income of many low-income households.

Relative earnings and earnings inequality

[302] As the Panel has previously noted, the relative living standards of low-paid workers are affected by the degree of dispersion in earnings. If the earnings of workers in the lowest deciles are growing more slowly than those in the higher deciles, then the relative earnings of the low paid will fall.³¹⁸

[303] In this section we consider earnings inequality with reference to changes in the minimum wage relative to median earnings of full-time employees (the minimum wage bite) and, more broadly, in the distribution of real weekly earnings for full-time non-managerial adult employees.

[304] The minimum wage bite was estimated at 54.8 per cent in 2017, 0.8 percentage points higher than in 2016. This followed a decline between 1994 and 2012 to a low of 52.7 per cent, with the bite increasing by 2.1 percentage points since 2012.

[305] The Australian Government submitted that the NMW has increased by an average of 2.8 per cent per annum over the last 10 years, compared with an average increase of 2.7 per cent in median full-time earnings.³¹⁹ ACOSS and the Federal opposition submitted that a

major reason for the recent increase in the minimum wage bite is slow overall wages growth.³²⁰ The Australian Government attributed part of the decline in the minimum wage bite prior to 2008 to the mining boom, which pushed up median wages.³²¹ Clearly, the behaviour of median wages is a significant contributor to the level of the minimum wage bite.

[306] The minimum wage bite is usually based on the median earnings of full-time workers. An ABS measure of hourly earnings is available from 2004. The benefit of using hourly earnings is that it can incorporate part-time workers. As noted previously, more than three-quarters of NMW employees work part time (including youth who are paid at reduced rates).

[307] The Australian Government did not specify a preference for the use of an hourly or weekly minimum wage bite, but noted that it used the median wage bite of full-time employees and owner managers of incorporated enterprises in its submission, which is the same approach as the OECD.³²² ACCI argued that while the Panel should have regard for all the different measures of the minimum wage bite, the hourly measure for all employees is the closest to how minimum wages are applied.³²³ The ACTU did not have a preference for the weekly or hourly measure, but argued that ‘for as long as the dominant form of employment is full time, the full time median should be used.’³²⁴ RCI preferred the current approach, which is using the full-time weekly measure of the minimum wage bite.³²⁵

[308] Chart 3.3 compares the different measures of the minimum wage bite using the following measures of median earnings:

- weekly median earnings of full-time employees;
- hourly earnings of full-time employees; and
- hourly earnings of adult full-time and part-time employees.

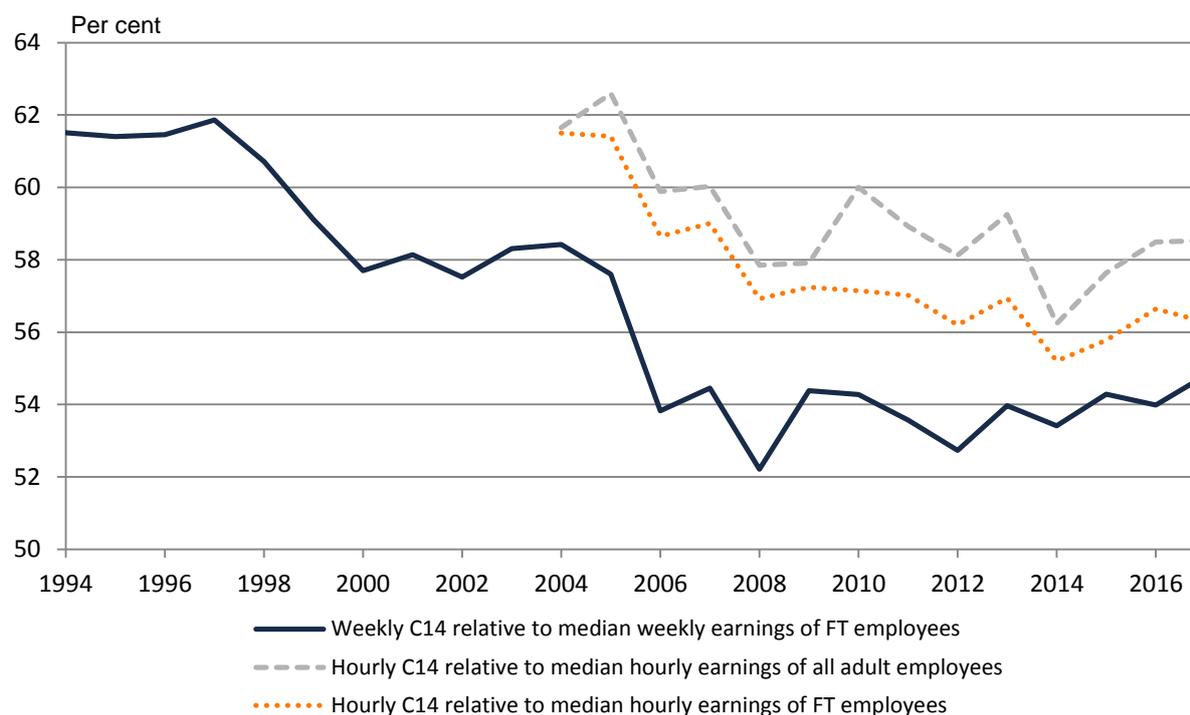
[309] Although the trends between 2004 and 2017 are broadly similar across the different measures, the chart shows that using median hourly earnings of full-time employees raises the minimum wage bite to 56.3 per cent in 2017. This higher bite is likely to be the result of including reported hours worked, which will include any unpaid hours worked, thereby reducing the hourly earnings of workers and increasing the minimum wage bite.

[310] Using the median hourly earnings of adult full-time and part-time employees raises the minimum wage bite to 58.5 per cent in 2017. This is most likely to be because part-time workers tend to be concentrated at the lower end of the wage distribution.

[311] There is a clear case for continuing to pay attention to the conventional measure of the minimum wage bite, i.e. the NMW as a percentage of weekly median earnings of full-time employees and owner managers of incorporated enterprises. This measure has a long history, and is used in standard international comparisons. We think it is also valuable to consider the wage bite expressed in hourly terms, because it includes the many employees who are paid at or near to the NMW who work part time.

[312] Whatever the measure chosen, it can be seen that there has been some modest rise in the wage bite since 2014.

Chart 3.3: C14 rate relative to median weekly earnings of employees in main job, 1994 to 2017



Note: Median earnings are measured in August of each year. Following the amendments to the *Workplace Relations Act 1996* (Cth) taking effect in 2006, the Federal Minimum Wage (FMW) was set at \$12.75 per hour, equivalent to \$484.50 per week. Earnings are for employees including owner-managers of incorporated enterprises. Median earnings from 2004 onwards are taken from the August 2017 *Characteristics of Employment* survey.

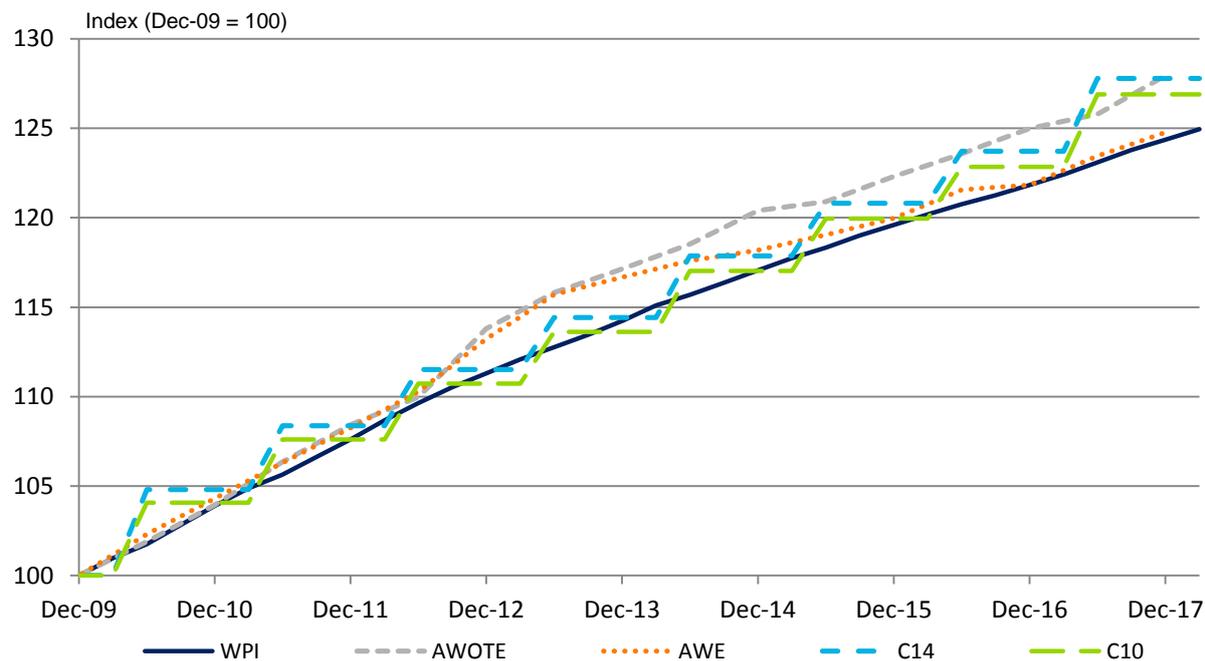
Source: ABS, *Characteristics of Employment, Australia*, August 2017, Catalogue No. 6333.0; ABS, *Employee Earnings, Benefits and Trade Union Membership, Australia*, various, Catalogue No. 6310.0; ABS, *Weekly Earnings of Employees (Distribution), Australia*, various, Catalogue No. 6310.0; *Metal, Engineering and Associated Industries Award 1998*; *Manufacturing Award*.

[313] The Australian Government submitted that the median full-time award-reliant wage, that is, the median wage among all full-time award-reliant employees, not just those on the NMW, was 82.8 per cent of the median full-time wage among all employees.³²⁶

[314] The Australian Government also provided a list of the lowest adult rates across modern awards in the most award-reliant industries as a proportion of the median wage of all full-time employees. Among the list of 14 modern awards, only two included wage rates equivalent to the NMW, at a minimum wage bite of 54.8 per cent. Of the remaining modern awards, the wage bite was calculated as between 56.0 per cent and 60.7 per cent.³²⁷

[315] Another way of measuring earnings inequality is to compare changes in modern award minimum wages with broader measures of wage growth. Chart 3.4 compares the growth in the C14 and C10 classifications with AWOTE, average weekly earnings (AWE), and the WPI between the December quarter 2009 and the March quarter 2018. While their relative growth rates varied somewhat over the period, by the March quarter 2018 the rate of growth in modern award minimum wages had exceeded that of the WPI and matched that of AWOTE. This recent development has made some contribution towards improving the relative position of the low paid.

Chart 3.4: Growth in C14 and C10 relative to AWOTE, AWE and WPI, index



Note: 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. 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 Award and the former *Metal, Engineering and Associated Industries Award 1998*. AWOTE and AWE data are published half-yearly for May and November; hence, a quarterly series has been derived. AWOTE and AWE data are expressed in original terms.

Source: ABS, *Average Weekly Earnings, Australia, Nov 2017*, Catalogue No. 6302.0; ABS, *Wage Price Index, Australia, Mar 2018*, Catalogue No. 6345.0; *Metal, Engineering and Associated Industries Award 1998*; Manufacturing Award.

[316] No new data were available to update movements in the distribution of real weekly total earnings of full-time non-managerial employees. As we noted in the 2016–17 Review decision, over the decade to 2016, total earnings at the 90th percentile rose faster (22 per cent) than for the 10th percentile (13 per cent) but real earnings rose for all points in the earnings distribution.³²⁸ Much of the increase in inequality occurred in the first part of the decade and there has been no clear growth in inequality of earnings over the last five years.

Income and wealth inequality

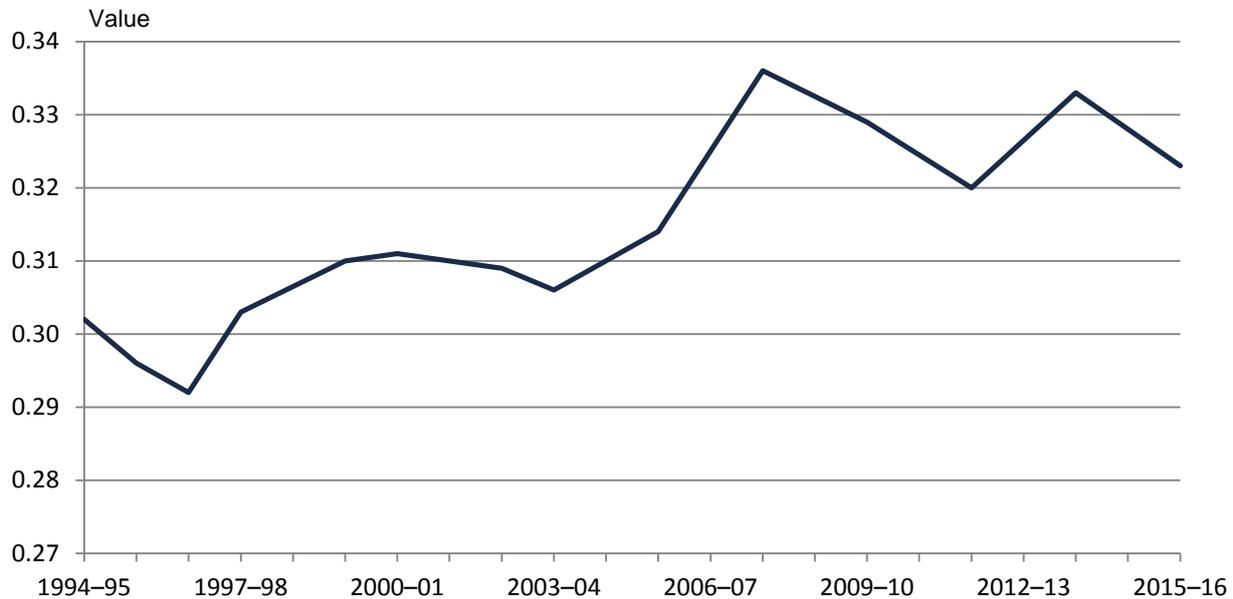
[317] The Panel takes into account a broad range of measures when assessing inequality, which is relevant to a consideration of the relative living standards of the low paid.

[318] As we explained earlier, the most appropriate analysis when making comparisons of living standards is at the household level, specifically, equivalised household disposable income.³²⁹

[319] In the 2016–17 Review decision, the Panel referred to trends in two measures of inequality: the Gini coefficient and the distribution of equivalised household disposable income, which reflected data from 2013–14. These measures have been updated with new data for 2015–16.

[320] A measure of the Gini coefficient is shown in Chart 3.5.³³⁰ By this measure, income inequality in 2015–16 is higher than in the mid-1990s but has stabilised from at least 2007–08, with the Gini coefficient falling from 0.336 then to 0.323 in 2015–16.

Chart 3.5: Gini coefficient of equivalised household disposable income



Note: Estimates presented for 2007–08 onwards are not fully comparable with estimates for previous cycles due to improvements made to measuring income introduced in the 2007–08 cycle. Estimates for 2003–04 and 2005–06 have been recompiled to reflect those improvements; however, not all components introduced in 2007–08 were available for earlier cycles. Changes in the methodology are likely to have exaggerated income growth at the top of the distribution over this period (see Australian Government submission, 13 March 2018 at para. 248, fn. 34).

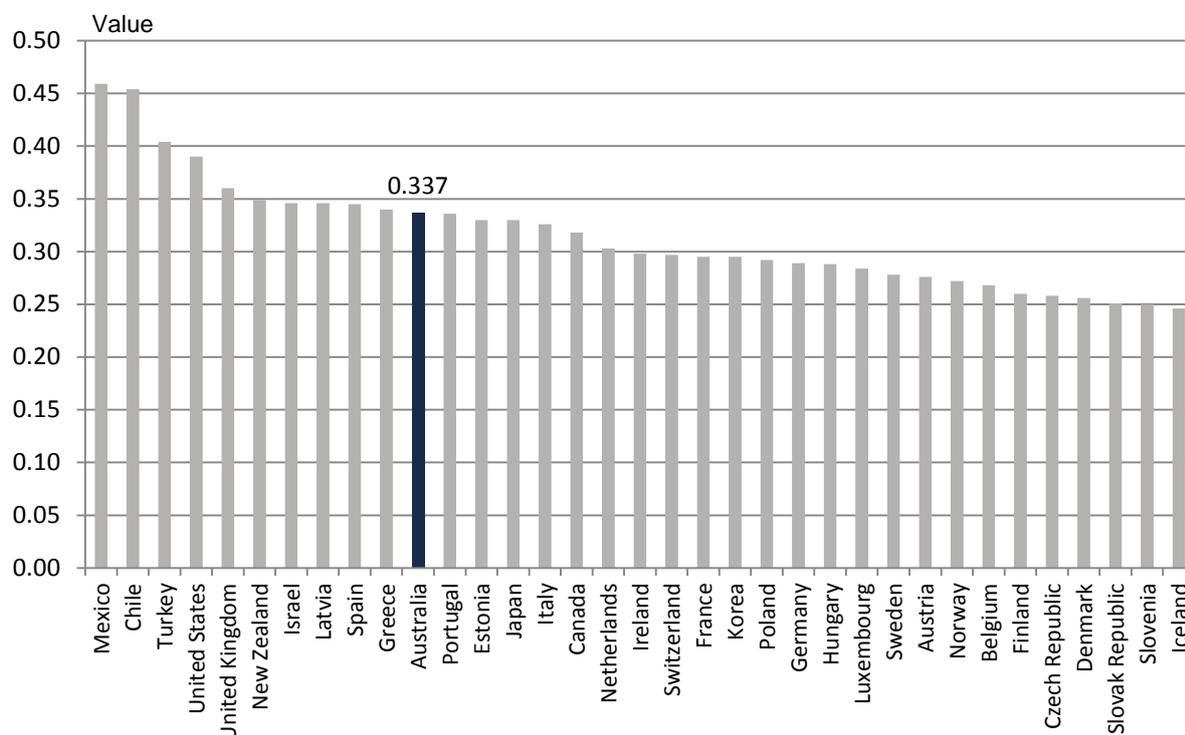
Source: Statistical report, Chart 8.5; ABS, *Household Income and Wealth, Australia, 2015–16*, Catalogue No. 6523.0.

[321] The Australian Government referred to data from the HILDA survey on the Gini coefficient from 2001 to 2015. In comparison to the ABS estimates, the Gini coefficient estimated from the HILDA survey was lower and more stable, falling from 0.303 to 0.296 over the period. The report also showed that real equivalised household disposable income increased by 38.3 per cent at the 10th percentile from 2001 to 2015, higher than at the median (28.5 per cent) and the 90th percentile (29.9 per cent).³³¹

[322] The Australian Government provided data showing that Australia was ranked 11th out of the 35 OECD countries in terms of inequality, one place higher than last year,³³² and remains more unequal than a number of major European economies including France and Germany (Chart 3.6). It is, however, more equal compared to the US, UK and New Zealand.

[323] It is not possible to make such international comparisons with precision, so small differences should be ignored. But Australia's position in the distribution suggests that a number of similar countries, including Canada, the Netherlands, France and Germany, are able to achieve higher degrees of equality than the current level in Australia.

Chart 3.6: Gini coefficient measures of inequality among OECD countries: household disposable income, 2015 or latest year



Note: Latest available data refer to 2015, except for except for Israel (2016); Japan (2012); and Mexico, New Zealand, Australia, Italy, Ireland, Switzerland, Germany, Hungary, Luxembourg, Czech Republic and Iceland (2014).

Source: Australian Government, 13 March 2018, at Chart 8.1; OECD Stat, *Income Inequality*, <<https://data.oecd.org/inequality/income-inequality.htm>>.

[324] Table 3.4 presents the growth in real weekly equivalised household disposable income for selected percentiles from 2007–08 to 2015–16 (and therefore provides a consistent time series unaffected by methodological changes). It shows that real growth at the 10th percentile exceeded growth at the median and 90th percentile over both the first and second half of the period. This suggests that there has been a significant decline in the inequality of household disposable income over the past 10 years.

Table 3.4: Growth in real weekly equivalised household disposable income, by selected percentiles, 2007–08 to 2015–16

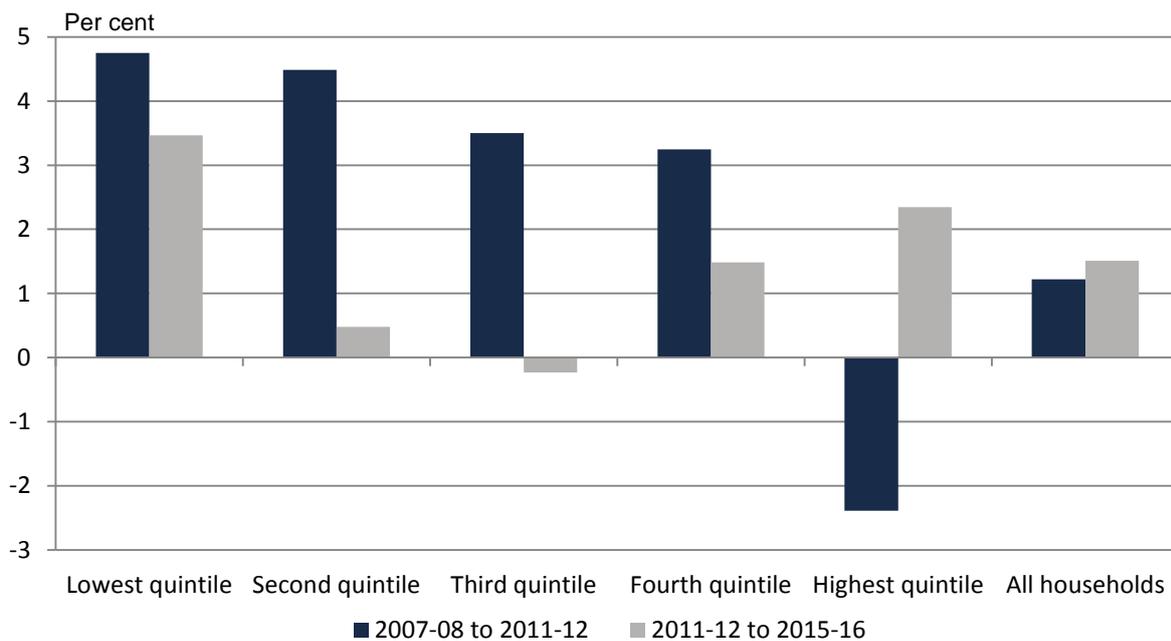
	2007–08 to 2011–12 (% change)	2011–12 to 2015–16 (% change)
10 th percentile	7.9	6.3
50 th percentile (median)	3.1	–0.4
90 th percentile	1.8	1.2

Source: Statistical report, Table 8.7; ABS, *Household Income and Wealth, Australia, 2015–16*, Catalogue No. 6523.0.

[325] Chart 3.7 presents a more complete picture, showing growth in the real weekly equivalised household disposable income for each quintile, comparing the same two periods as Table 3.4 above. Over the four years to 2011–12, the two lowest quintiles experienced the

highest rates of growth, increasing by 4.7 and 4.5 per cent, respectively. In comparison, income at the highest quintile fell by 2.4 per cent. Over the following four years, real household income growth was again highest at the lowest quintile, at 3.5 per cent, while income at the highest quintile increased by 2.3 per cent. Real weekly equivalised household disposable income fell in this period for the third, or middle, quintile. The overall consequences for inequality are less clear than they appear to be in Table 3.4, although households in the lowest quintile have had strong gains over the decade.

Chart 3.7: Growth in real weekly equivalised household disposable income, by quintile, 2007–08 to 2015–16



Source: Statistical Report, Chart 8.6; ABS, *Household Income and Wealth, Australia, 2015–16*, Catalogue No. 6523.0.

[326] In the 2016–17 Review, the Panel found that ‘there was no evidence of recent rises in inequality of household disposable income among at least the bottom half of the income distribution for all households.’³³³ The latest data suggest that income inequality has stabilised for some period, with some indicators showing income growth for households at the bottom of the distribution increasing more than households at the middle and top of the income distribution. However, referring to ABS data, the ACTU pointed out that after taking into account the number and age of people in the household, households in the highest income quintile received 40 per cent of total income in 2015–16.³³⁴ By comparison, households in the lowest income quintile received just 8 per cent of total income. Income inequality, while it has fallen recently, is still quite high, relative to the past in Australia and relative to other OECD countries.

[327] The ACTU submitted that the Panel should take into account wealth inequality in Australia when considering relative living standards and the needs of the low paid. In support of this submission, it referred to several studies that showed that wealth and income inequality are correlated and have a negative impact on economic growth. They also provided data from the ABS that showed that wealth inequality in Australia is high and rising.³³⁵

[328] The Panel considers that, notwithstanding the evidence of substantial and increasing wealth inequality, it is a matter which may only be assigned limited weight in this Review. While there is undoubtedly a link between income levels and wealth accumulation, there are a range of factors which contribute more significantly to wealth inequality (as the ACTU's submissions recognised³³⁶). We consider it unlikely that any adjustment to the NMW or modern award minimum wages arising from this Review, within the range of outcomes proposed by the various interested parties, could have any discernible effect upon wealth inequality.

Poverty and poverty lines

[329] Consideration of the needs of the low paid involves an assessment of an employee's capacity to purchase the essentials for a 'decent standard of living' and to engage in community life, assessed in the context of contemporary norms. In this regard, the Panel assesses measures, or the risk, of poverty for NMW-reliant and award-reliant employees and their ability to meet basic needs.³³⁷ As we have previously stated:

'If the low paid are forced to live in poverty then their needs are not being met and those in full-time employment can reasonably expect a standard of living that exceeds poverty levels.'³³⁸

[330] Because families differ in their size, composition and extent of employment, it is not feasible that minimum wages on their own could ensure that all families with a full-time minimum wage worker have incomes that exceed poverty levels. Larger families may need help from the welfare system.

[331] In each Statistical report, the Panel presents the disposable incomes of hypothetical households earning the NMW, selected modern award minimum wages and AWOTE and compares them against a relative poverty line.

[332] Relative poverty lines are essentially a measure of inequality at the lower end of the income distribution. They are not based on an observed incapacity to meet needs. This incapacity is better indicated by measures of deprivation and financial stress. The recent publication of research on budget standards, based on the MIHL,³³⁹ provides an additional benchmark against which to assess the ability of the low paid to meet their needs. The MIHL is discussed later in this chapter.

[333] The Panel has generally relied on poverty lines that are based on median income, using a 60 per cent threshold on the basis that those in full-time employment can reasonably expect some margin above a harsher measure of poverty.³⁴⁰

[334] Table 3.5 compares the equivalised household disposable income for a range of hypothetical households reliant on the NMW and selected modern award minimum wages with a 60 per cent median income poverty line. The table includes additional households to that in the last Review,³⁴¹ including a single parent working part time (assumed to be working half of 38 hours). We remain aware, however, that the margin between the selected poverty line and the equivalised disposable income of award-reliant households provides, at best, a broad indicator of the extent to which the needs of the low paid are met.

[335] We can observe from this table that most of the hypothetical household types have a disposable income above the relative poverty measure. Households earning the NMW with disposable income below the relative poverty line were single-earner households working part time with children, and couple households where the non-earning partner is outside the labour force and not receiving NSA.

[336] We give particular weight to the capacity of the NMW and modern award minimum wages to provide an adequate standard of living to a single adult. This worker receives no assistance from the welfare system and is entirely reliant on his or her earnings. The table shows that a single adult on the NMW had a disposable income that exceeded the 60 per cent poverty line by 20 per cent in 2017, a little higher than in 2016. The margin for a worker on the C10 rate was 34 per cent. In contrast, the disposable income of a single-earner couple, with or without children, was about 10 to 20 per cent below the 60 per cent poverty line and either stayed the same or fell compared with the relative poverty measure over the year, notwithstanding the 3.3 per cent adjustment which resulted from last year's Review. As noted by ACOSS, this is reflective of 'ongoing reductions in the real value of family tax benefits and the abolition of the Schoolkids Bonus' in 2017.³⁴² ACOSS concluded that this has led to low-income families being more reliant on wage increases, with which we concur.³⁴³

Table 3.5: Ratio of disposable income of selected households earning various wage rates to a 60 per cent median income poverty line

	December 2016					December 2017				
	60% median income PL (\$ pw)	Disposable income as a ratio of 60% median income PL				60% median income PL (\$ pw)	Disposable income as a ratio of 60% median income PL			
		NMW	C10	C4	AWOTE		NMW	C10	C4	AWOTE
Single adult	515.95	1.18	1.32	1.52	2.26	522.01	1.20	1.34	1.54	2.28
Single parent working FT, 1 child	670.74	1.30	1.42	1.55	1.97	678.61	1.30	1.41	1.55	1.93
Single parent working PT, 1 child	670.74	0.89	0.96	1.06	1.40	678.61	0.87	0.95	1.05	1.39
Single parent working FT, 2 children	825.53	1.20	1.29	1.41	1.74	835.21	1.18	1.28	1.39	1.68
Single parent working PT, 2 children	825.53	0.86	0.92	1.00	1.28	835.21	0.84	0.90	0.98	1.26
Single-earner couple (with NSA)	773.93	1.03	1.04	1.04	1.51	783.01	1.03	1.04	1.04	1.52
Single-earner couple	773.93	0.81	0.90	1.01	1.51	783.01	0.81	0.90	1.03	1.52
Single-earner couple, 1 child (with NSA)	928.72	1.07	1.08	1.12	1.42	939.62	1.06	1.06	1.12	1.39
Single-earner couple, 1 child	928.72	0.94	1.02	1.12	1.42	939.62	0.94	1.02	1.12	1.39
Single-earner couple, 2 children (with NSA)	1083.50	1.03	1.04	1.07	1.32	1096.22	1.01	1.01	1.06	1.28
Single-earner couple, 2 children	1083.50	0.91	0.99	1.07	1.32	1096.22	0.90	0.97	1.06	1.28
Dual-earner couple	773.93	1.22	1.39	1.59	2.38	783.01	1.24	1.41	1.62	2.39
Dual-earner couple, 1 child	928.72	1.24	1.33	1.45	1.98	939.62	1.24	1.33	1.45	2.00
Dual-earner couple, 2 children	1083.50	1.17	1.25	1.35	1.70	1096.22	1.16	1.23	1.34	1.71

Note: Poverty lines are based on estimates of median equivalised household disposable income for 2015–16 for December 2015 and for December 2016, and adjusted 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. AWOTE data are expressed in original terms.

Assumptions: Tax-transfer parameters as at December 2016 and December 2017. Wage rates for 2016: NMW = \$672.70 pw; C10 = \$783.30 pw; C4 = \$940.90 pw; and AWOTE of full-time employees = \$1533.40. Wage rates for 2017: NMW = \$694.90 pw; C10 = \$809.10 pw; C4 = \$971.90 pw; and AWOTE of full-time employees = \$1569.60. Other assumptions as per Table 3.2.

Source: Statistical Report, Table 8.6; ABS, *Average Weekly Earnings, Australia, Nov 2017*, Catalogue No. 6302.0; ABS, *Household Income and Income Distribution, Australia, 2011–12*, Catalogue No. 6623.0; ABS, *Household Income and Wealth, Australia, 2015–16*, Catalogue No. 6523.0; Fair Work Commission modelling; *Manufacturing and Associated Industries and Occupations Award 2010*; Melbourne Institute of Applied Economic and Social Research (2018), *Poverty Lines: Australia*, December quarter 2017.

[337] We have previously stated that the tax-transfer system plays a major role in raising the living standards of families reliant on the NMW and modern award minimum wages that have

children.³⁴⁴ However, it does not support them to the point that single parents working part time and single-earner couples with one partner not in the labour force are able to maintain an income above the poverty line. Single adults and single parents able to obtain full-time employment and those couples where the second partner gains part-time employment at the NMW have a substantial margin above the poverty line.

[338] ACCER argued, as it has previously, that the minimum wage should be sufficient to support sole parents and single-earner couples with one or two children,³⁴⁵ with the implication that the Panel should set a NMW for these families at a margin above the 60 per cent relative poverty line.³⁴⁶ ACCER referred the Panel to the Panel's earlier comments that a full-time employee should reasonably expect a standard of living exceeding the poverty line and questioned why the single breadwinner family falls below this standard.³⁴⁷

[339] On this matter, we note that we have one instrument available, namely the level of minimum wages, and a number of statutory considerations that we have to take into account. We are required to set the NMW and modern award minimum wages that are fair to both employees and to employers. It is not possible, with this one instrument, to accommodate the normal variation in the composition of families and in the levels of household labour supply. The level of the NMW and modern award minimum wages that would be sufficient alone to exceed 60 per cent of median equivalised household disposable income for a single breadwinner family with several children would be more than sufficient for a single adult or dual-income couple without children. In this context, we note the data provided by the Australian Government that 77.5 per cent of low-paid workers have no children (between 0–17 years).³⁴⁸ We also note that 40 per cent of all the hours worked by employees paid at or below the C12 level (i.e. close to or a little above the NMW) were worked by youth aged 15–19 years and a further 24 per cent of such hours were worked by adults aged 20–24 years.³⁴⁹ We may reasonably presume that most of these young people do not have dependent children, yet they would, under the ACCER proposal, be the main beneficiaries of a large rise in the NMW and nearby modern award minimum wages.

[340] The size of the adjustment required to reach such a level would also, in our judgement, run a substantial risk of causing job losses and reduced employment opportunities for low-skilled workers, including many youth. We are reassured that the NMW and modern award minimum wages that we have set are at least sufficient to enable a single adult who works full time to have an income that is significantly above the 60 per cent poverty line. This will contribute to providing an adequate income to other household types, but those with dependents also need assistance from the tax-transfer system.

Budget standards

[341] Budget standards estimate what is needed, in terms of material goods and services, by a particular family type in order to achieve a particular standard of living. In previous Reviews, parties have referred to research on budget standards conducted in the mid-1990s.³⁵⁰ The Panel concluded that the budget standards estimated in that research 'were not seen to provide useful contemporary information about the needs of the low paid.'³⁵¹

[342] In a Statement issued on 11 August 2017,³⁵² the Panel referred to a current project to provide contemporary budget standards data and that the Panel would consider a preliminary hearing on their outcomes. The report was published on 23 August 2017 (Saunders and Bedford 2017).³⁵³ A further Statement,³⁵⁴ released on 25 August 2017, invited parties to give

consideration to the report and provide comment on the utility of holding a preliminary hearing to discuss its outcomes for the Review. Following submissions which did not support a separate hearing on the matter, a Statement³⁵⁵ on 20 September 2017 was released that cancelled the proposed hearing and noted that Commission staff would seek another forum for the discussion of the budget standards research.³⁵⁶

[343] The Commission invited interested parties to attend a presentation by the authors of the report, Professor Peter Saunders and Megan Bedford, held on 27 November 2017. The session was recorded and materials were made available on the 2017–18 Review website.

[344] The new budget estimates are based on the MIHL standard which encompasses the ‘ingredients of a healthy life in all of its dimensions, including diet, clothing, personal hygiene, health promotion, exercise and other forms of social engagement and activity.’³⁵⁷ They state that they are intended to provide ‘a set of contemporary budget standards that reflect the needs of low-income working and unemployed individuals and families that can be used to assess income adequacy and guide decision-making.’³⁵⁸ They therefore differ from the earlier budget standards calculated for Australia that focussed on income adequacy to avoid poverty.

[345] Saunders and Bedford (2017) provided the MIHL budget estimates for five different family types and compared these to their disposable income if one member was earning the NMW as at June 2016. Their analysis showed that the disposable incomes of families comprising single adults, sole parents with one child and couple households with one child (with the female partner not in the labour force) earning the NMW were above the corresponding MIHL budget standard (ranging from \$8.84 to \$61.91 per week above). However, the disposable income of the remaining two family types, couple household with no children (with the female partner unemployed) and couple household with two children (with the female partner not in the labour force), fell below the estimated budget standard (by \$39.03 and \$88.74 per week, respectively).³⁵⁹

[346] These findings differ somewhat from findings of adequacy that are based on the application of the 60 per cent of median income poverty line. Specifically, they find that, in 2015–16, several NMW-reliant family types with children had disposable incomes that exceeded the MIHL. Two family types that were evaluated had incomes below the standard. Both indicators concluded that a full-time job at the NMW was sufficient to provide a single adult with a reasonable standard of living.

[347] ACOSS submitted that, while the approach of the research is transparent and adaptable, there are problems with relying on the judgements of experts and the need to update the standards to reflect changes in a ‘basic’ standard of living.³⁶⁰ ACOSS noted that the ‘new budgets are more stringent’ compared with the previous research and would only support a ‘frugal living standard, arguably below that which the [NMW] should support...’³⁶¹

[348] Overall, there was low support from parties regarding the consideration of the budget standard for this year’s Review. Parties identified particular aspects of the methods used to calculate the standards that they felt undermined their confidence in the outcomes.³⁶² The ACTU submitted that the budget standards be given ‘no special status’ and were ‘far too modest to in fact reflect the needs of a person or household today.’³⁶³ The ACTU also argued

that the research ‘failed to enumerate or address the many costs of working that are not immediately apparent.’³⁶⁴

[349] ACCI submitted that the availability of the research does not ‘elevate relative living standards and the needs of the low paid above other considerations.’³⁶⁵ ACCI urged the Panel to use caution in forming a decision based on the new budget standards research, and that ‘[t]o the extent that the Panel is attracted to the Budget Standards material and wishes to accord weight to it in its decision making, we suggest the Panel advance any conclusions tentatively or provide suggestions of its thinking at this point which can be responded to and engaged with in 2019 and beyond.’³⁶⁶

[350] ACCER broadly supported the use of the budget standards research as it identifies and measures a contemporary decent standard of living consistent with the Panel’s statements that an assessment of 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, assessed in the context of contemporary norms.’³⁶⁷ In its submission in reply, ACCER noted the reservations articulated by the ACTU, ACOSS, ACCI and Ai Group. It concluded that despite these reservations, ‘the budget standards research presents the FWC and the parties to annual wage reviews with a very valuable resource...’³⁶⁸

[351] The new budget standards research is the first time that a serious effort has been made, using contemporary scholarship in this field, to estimate the needs of low-paid employee households. We judge it to be useful and relevant, while recognising its limitations and the Panel has taken it into account along with all of the relevant material we have before us. We note the comment from the authors that ‘[b]udget standards are not a panacea but they provide important information that can inform and assist decisions taken about adequacy...’³⁶⁹

[352] We agree with ACCER’s submission that the research is the ‘best evidence available in regard to the needs of the low paid Australian workers and their families,’³⁷⁰ but also with ACCI’s submission that the ‘budget standards cannot of themselves be determinative of the NMW or any uprating of minimum award rates.’³⁷¹

Other measures of relative living standards

[353] To understand the relative standard of living and the needs of the low paid we also consider data on patterns of expenditure and levels of financial stress.

[354] Updated data on expenditure patterns and financial stress indicators of households was released by the ABS since the last Review and included in this year’s Statistical report. This data was last released in 2009–10.

Expenditure

[355] Table 3.6 presents data on the composition of household expenditure of low-paid and all employee households in 2015–16. Low-paid employee households are defined as those in the bottom quintile of equivalised household disposable income of employee households. Employee households are those whose main source of income is from wages and salary.

[356] We find little difference in the pattern of expenditure between low-paid employee households and all employee households. Most expenditure is directed to current housing

costs, food and non-alcoholic beverages, and transport. Low-paid households allocate relatively more expenditure to current housing costs and food and non-alcoholic beverages, and relatively less to transport. We note that even for low-paid households, only 3.3 per cent of total expenditure went to payment for domestic fuel and power, although this percentage has probably increased in light of recent sharp rises in power prices. These conclusions are similar to those reached by the Minimum Wage Panel in the *Annual Wage Review 2012–13* decision (2012–13 Review) based on data from 2009–10.³⁷²

[357] Table 3.6 shows that the difference in average total expenditure between low-paid and all employee households is smaller than the difference in their average total income. The table also shows that the average expenditure of low-paid households exceeds their income (this was also found in 2009–10³⁷³).

[358] The data used in Table 3.6 is only updated by the ABS every six years, and as such, it has greater value as a point-in-time estimate of expenditure patterns. We do find, however, that similar proportions of average expenditure were evident in the 2009–10 data, presented in the *Statistical report—Annual Wage Review 2014–15*.³⁷⁴

Table 3.6: Estimated proportion of average weekly expenditure, employee households in bottom quintile of equivalised household disposable income and all employee households, 2015–16

Expenditure group	Employee households in bottom quintile of EHD	All employee households
	(%)	(%)
Current housing costs (selected dwelling)	22.0	19.0
Domestic fuel and power	3.3	2.5
Food and non-alcoholic beverages	17.3	15.7
Alcoholic beverages	1.8	2.2
Tobacco products	1.1	0.8
Clothing and footwear	3.0	3.1
Household furnishings and equipment	3.7	3.8
Household services and operation	2.9	3.1
Medical care and health expenses	5.4	5.1
Transport	12.6	14.6
Communication	3.6	3.1
Recreation	9.3	11.4
Education	3.4	3.1
Personal care	1.9	2.0
Miscellaneous goods and services	5.4	6.7
Other capital housing costs (restricted)	3.1	3.9
	100.0	100.0
Average household expenditure on goods and services (including other capital housing costs (restricted)) (\$)	1319.63	1781.27
Average household income (\$)	1246.38	2680.06
Observations	1027	5181

Note: Employee households are those whose principal source of income is from salary and wages. Other capital housing costs (restricted) excludes Mortgage repayments—principal component (other property), Purchase of selected dwelling or other property and Capital housing costs not elsewhere classified (nec). About 28.9 per cent of all adult employees in the bottom quintile of EHD are classified as low paid, with hourly earnings equal to or below two-thirds of median hourly earnings of full-time adult employees. Hourly earnings are calculated as current weekly income (including salary sacrifice) divided by usual hours worked per week in main and second job. Communication and Education were introduced as separate categories of expenditure in the 2015–16 Household Expenditure Classification.

Source: ABS, *Microdata: Household Expenditure, Income and Housing, 2015–16*, Detailed Microdata, DataLab, Catalogue No. 6540.

Financial stress and deprivation

[359] The Statistical report also includes a comparison of financial stress and deprivation indicators from 2009–10 and 2015–16 using data from the ABS. The Panel considers that changes in the levels of financial stress and deprivation reported by low-paid households over time, both in absolute terms and relative to other households, assists with its assessment of the extent to which the needs of the low paid are being met, and that minimum wages are fair.³⁷⁵

[360] Table 3.7 presents this information for all employee households and for households with only low-paid adult employees. The table generally shows a decline in the proportion of households experiencing financial stress or deprivation. We note, however, that the data for 2009–10 are for the period immediately after the GFC, when the economy was coping with a substantial negative shock. It is to be expected that levels of financial stress were elevated in that year.

[361] Households with only low-paid adult employees were more likely than all employee households to report experiencing financial stress and deprivation, which is not surprising. By 2015–16, both sets of households had noticeable falls in the proportions who reported experiencing specific indicators of financial stress, such as not being able to pay utility bills on time. The one exception was a rise in the proportion of households with low-paid adult employees who felt unable to raise \$2000 in a week for something important.

[362] The situation reflected by the indicators of deprivation was different. For all employee households, the experience of specific indicators of deprivation fell substantially. But for low-paid households, their gains were either small, or in the case of two out of the six indicators, the levels of deprivation rose. For example, 13 per cent of low-paid families said that they could not afford to have friends or family over for a meal once a month (this was 11 per cent five years earlier) while 18 per cent said they could only afford second hand clothes most of the time (previously 17 per cent). This provides some evidence that the economic gains that have flowed more generally to the workforce have not been fully shared with the low paid. It is also evidence that some employee families are struggling to have a decent standard of living.

Table 3.7: Financial stress and deprivation experienced by all households with adult employees and households with only low-paid adult employees

Financial stress indicators	All households with adult employees		Households with only low-paid adult employees	
	2009–10 (%)	2015–16 (%)	2009–10 (%)	2015–16 (%)
In the last 12 months, spent more money than received/usually spend more than income	17.6	12.2	24.4	19.0
Unable to raise \$2000 in a week for something important	17.6	11.5	21.1	23.1
Could not pay electricity, gas or telephone bills on time	14.1	10.2	20.9	14.1
Could not pay car registration or insurance on time	5.8	4.2	10.2	4.2
Pawned or sold something	3.6	2.3	5.8	2.6
Went without meals	3.7	1.5	6.8	4.5
Could not afford to heat home	2.8	1.0	2.2	1.3
Sought assistance from welfare/community organisation	4.2	1.1	6.5	2.2
Sought financial help from friends or family	8.9	6.5	14.7	9.2
Deprivation indicators				
Could not afford holiday for at least one week a year	31.4	21.1	38.4	36.7
Could not afford a night out once a fortnight	24.3	16.0	31.5	30.6
Could not afford friends or family over for a meal once a month	10.5	5.2	10.9	13.2
Could not afford a special meal once a week	16.8	9.7	21.2	19.1
Could only afford second hand clothes most of the time	13.7	8.5	16.6	17.5
Could not afford leisure or hobby activities	14.7	7.9	19.6	14.6

Note: Low-paid adult employees defined as employees whose hourly earnings are at or below two-thirds of median hourly earnings of full-time adult employees. Households whose principal source of income is from own unincorporated business are excluded. Hourly earnings calculated as current weekly income (including salary sacrifice) divided by usual hours worked per week in main and second job. About 15.6 per cent of all adult employees were low paid in 2009–10 and 16.4 per cent were low paid in 2015–16.

Source: Statistical report, Table 16.2; ABS, *Household Expenditure Survey Expanded Confidentialised Unit Record File, 2009–10*, Catalogue No. 6540.0; ABS, *Microdata: Household Expenditure, Income and Housing, 2015–16*, Detailed Microdata, DataLab, Catalogue No. 6540.0.

[363] Analysis by the Australian Government using data from the HILDA survey for 2016 showed that 24.4 per cent of low-paid employees experienced at least one indicator of financial stress compared with 16.4 per cent of higher-paid employees and 37.7 per cent of unemployed persons.³⁷⁶

[364] When it is available, the ABS Household Expenditure Survey (HES) is a preferred source for indicators of expenditure and financial stress, mainly because of its larger sample size. Indicators of financial stress from the HILDA survey are likely to be presented in future Reviews until the release of new HES data from the ABS, as has been the case in previous Reviews.

Conclusion

[365] The Panel's decision arising from this Review will directly affect the 1.9 per cent of all employees who are NMW earners and the 22.7 per cent of all employees who are award reliant (except state public sector employees and some other workers who are award reliant but not in the federal industrial relations system). It is also likely to indirectly affect a larger pool of employees who are paid close to the NMW or modern award minimum wages, whose pay rates under collective agreements or individual arrangements are linked to the outcome of the Review, or whose employer may pass on Review increases in order to maintain relativities, but it is not possible to quantify this.

[366] It is clear that, having regard to those directly affected, the Panel's decision is significant to the needs of the low paid and their relative living standards, since workers who receive the NMW or a modern award minimum wage are disproportionately located in the lower deciles of employee household disposable income. The real value of the NMW has increased by 5.8 percent over the last decade, and by 4.3 per cent in the last five years. However, this has not resulted in improvements to the actual or relative living standards for many categories of NMW and award-reliant households. Real disposable income for 11 out of 14 hypothetical NMW households fell in the year to 1 July 2017 and, over the five years to July 2017, fell for 10 out of 14 household types. This has primarily affected families with children, and has occurred because of changes to the tax-transfer system. By contrast, single adults and couples without children, who have not been affected by the changes to the tax-transfer system, have enjoyed an increase in their real disposable income.

[367] The minimum wage bite increased by 0.8 percentage points to 54.8 per cent between 2016 and 2017, and has increased since 2012 following a decline between 1994 and 2012. The majority of hypothetical household types on NMW or modern award minimum wages have disposable incomes above a relative poverty line of 60 per cent of median income. However, a number of household types with a single earner and children remain below this relative poverty line at both the NMW and the C10 rate. It is also notable that, despite the increase of 3.3 per cent awarded in last year's Review, the relative position of many NMW and award-dependent household types with children vis-a-vis the relative poverty line actually deteriorated due to changes in the tax-transfer system in 2017.

[368] The latest data suggest that income inequality in Australia has stabilised for some period with some indicators showing that income growth for households at the bottom of the distribution increasing more than for households at the top of the income distribution. However, inequality of household income remains high in Australia, relative to the past and to other comparable countries.

[369] A new report estimating budget standards based on the MIHL has been released since the last Review. Overall, there was low support from the parties regarding the consideration of the new budget standards for this year's Review. Application of the budget standards concluded that, in 2016, the disposable incomes of families comprising a NMW earner who were single adults, sole parents with one child and couple households with one child (with a partner not in the labour force) were above the corresponding MIHL budget standard. The remaining two family types that were evaluated had incomes below the standard. We consider the MIHL budget standards to be useful and relevant insofar as they provide direct, if imperfect, evidence that a full time job at the NMW rate is sufficient to provide a single adult

with a reasonable standard of living. This concurs with the assessment based on the 60 per cent relative poverty line.

[370] Measures of financial stress and deprivation find that low-paid families have considerably more stress than all employee families. Rates of financial stress and deprivation fell in all 15 indicators for all employee households between 2009–10 and 2015–16, although the base for measurement is the immediate aftermath of the GFC. For low-paid families, levels of stress and deprivation on three indicators rose. They fell for the other 12 indicators, some by less than for all employee families. This suggests that the level of financial comfort for low-paid families has fallen relative to all employee families but their absolute position has probably improved.

[371] We consider that an increase to the NMW and modern award minimum wages of the size necessary to ensure that all household types, most particularly single-earner families with children, earn more than the relative poverty line would likely lead to discernible disemployment effects. An increase in minimum wages makes an important contribution to the maintenance and improvement of relative and actual living standards for the low paid, but it is not sufficient by itself to perform this function and must necessarily be supported in relation to families with children by the tax-transfer system. However, the fact that recent changes to the tax-transfer system have resulted in a deterioration in the real disposable income and relative living standards of NMW and award-reliant single-earner households with children places a greater burden on minimum wage adjustments, and tends to favour a larger rather than smaller increase to the NMW and modern award minimum wages.

4. Other relevant considerations

[372] This Chapter deals with the remaining considerations we must take into account, including the need to encourage collective bargaining and some other relevant matters.

Encouraging Collective Bargaining

[373] In giving effect to the modern awards objective, the Panel must take into account ‘the need to encourage collective bargaining’ (s.134(1)(b)). In making the NMW order, the Panel must give effect to the minimum wages objective. While the minimum wages objective does not refer to ‘the need to encourage collective bargaining,’ one of the objects of the Act is to encourage collective bargaining and it is therefore appropriate to consider that legislative purpose in making the NMW order.³⁷⁷

[374] The ACTU submitted that these provisions (ss 3 and 134) permit consideration of not only the incentive to bargain but the type of collective bargaining that should be promoted.³⁷⁸ It contended that a larger increase would help to encourage bargaining that promotes national economic prosperity and social inclusion, and achieves productivity and fairness.³⁷⁹

[375] A number of submissions referred to a decline in both collective agreement-making and the AAWI in federal enterprise agreements. We have considered the reasons for these trends including the impact of the gap between modern award minimum wages and bargained wages and the regulatory issues associated with agreement approvals.

[376] In the 2016–17 Review decision, we noted that each of the two major data sources from which information is derived about coverage and wages outcomes in collective agreements—the EEH and the Workplace Agreements Database (WAD)—has limitations. The EEH captures employees covered by collective agreements while current agreements in the WAD only capture employees covered by federal enterprise agreements that have not passed their nominal expiry date.³⁸⁰

[377] The EEH provides data on method of setting pay and is conducted every two years. The most recent release was for data collected in May 2016, discussed in the 2016–17 Review, where we observed a decline in the proportion of employees reported as covered by collective agreements and an increase in the extent of reported award reliance between 2014 and 2016.³⁸¹

[378] The 2016–17 Review decision also discussed changes to the application of the Method of Setting Pay conceptual framework undertaken by the ABS, which resulted in the shift of a significant proportion of employees in the NSW public sector to the ‘Award only’ category between 2014 and 2016 and other recoding from collective agreements to awards.³⁸² We also referred to Research Report 4/2017 *Explaining recent trends in collective bargaining* (Peetz and Yu 2017) which examined factors that influenced recent changes in the collective agreement coverage of employees.³⁸³ Among other things, that report found that the decline in public sector employment between 2000 and 2014 had a large negative effect on collective agreement coverage. Analysis of the WAD between 2014 and 2016 also found that the decrease in the incidence of collective agreement coverage was due to falls in Retail trade, Public administration and safety and Health and community services.³⁸⁴ The fall in union density was also considered to be a contributing factor.³⁸⁵

[379] Research Report 1/2018 *Employee and employer characteristics and collective agreement coverage* (Peetz and Yu 2018) released in February 2018 utilises confidential unit record file data from the 2016 EEH to estimate the probability of an employee being covered by a collective agreement relative to all other forms of wage setting: award rates of pay; and an individual agreement.³⁸⁶ The report found that the main determinants of collective agreement coverage were the sector of the economy in which the employees were employed, employer size, and, union density. Public sector employees and those who worked in medium/large firms had a higher probability of collective agreement coverage and there was a strong and positive association between union density and the likelihood of being covered by a collective agreement. The authors concluded that the analysis did not ‘substantially change’ the findings of their 2017 report.³⁸⁷

[380] In reference to the finding on the association between union density and collective agreement coverage, the ACTU commented that this was consistent with analysis drawn from the Fair Work Commission General Manager’s 2015 report, which showed that the most popular reason cited by employers for making an enterprise agreement was ‘Employee organisation/employee association demands/log of claims.’³⁸⁸ The ACTU submitted:

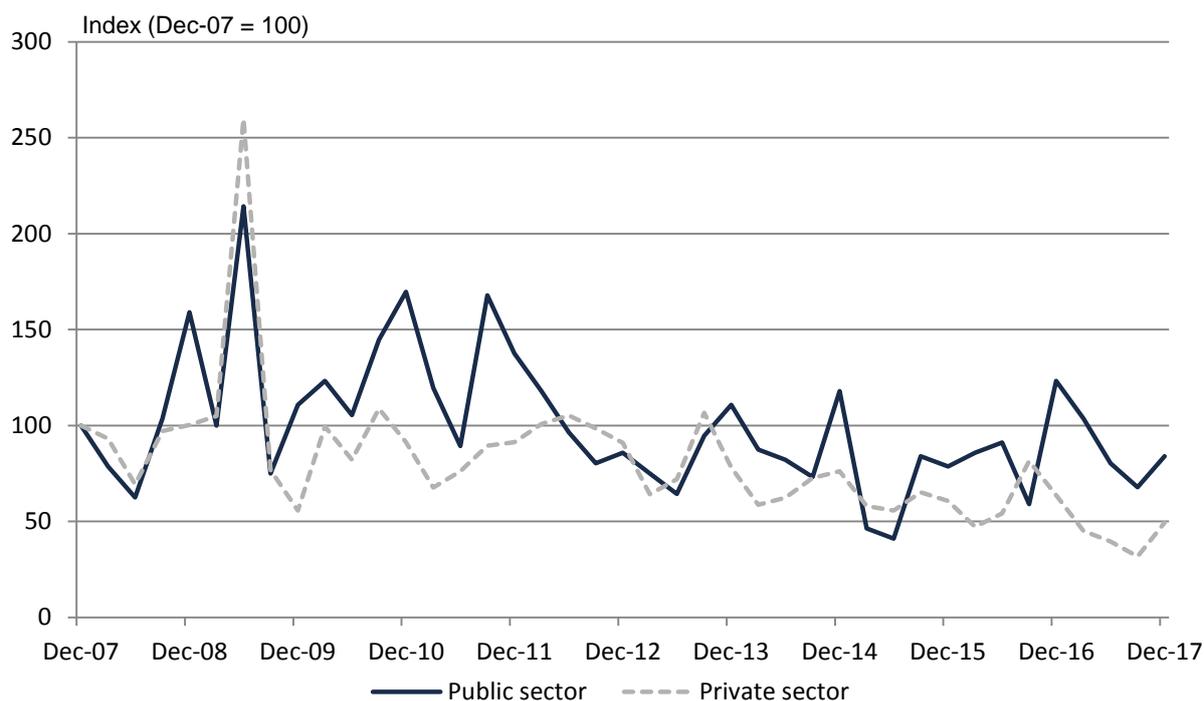
‘These observations do provide some insight into the patterns and predictability of collective agreement coverage, but do not inform the inquiry as to what may be done to encourage or incentivise the making of collective agreements through changes in minimum wage movements.’³⁸⁹

Trends in federal enterprise agreements

[381] The *Trends in Federal Enterprise Bargaining Report* provides information on trends in federal enterprise bargaining agreements, including the AAWI and the number of agreements approved and current in each quarter. A number of submissions referred to the September quarter 2017 *Trends in Federal Enterprise Bargaining Report*; drawing attention to the reduction in both the number of agreements approved and the AAWI in those agreements for the September quarter 2017 when compared with the same quarter in previous years. The December quarter 2017 *Trends in Federal Enterprise Bargaining Report* was released in May 2018.

[382] Chart 4.1 presents an index of the number of federal enterprise agreements approved by sector between the December quarter 2007 and the December quarter 2017. The data show that the number of agreements approved per quarter in the private sector has decreased since 2013, while the trend in the number of agreements approved in the public sector has been more stable. We note that there has been an increase in the number of agreements approved since the September 2017 quarter.

Chart 4.1: Number of agreements approved in the quarter by sector, indexes



Source: Statistical report, Chart 10.1; Department of Jobs and Small Business, *Trends in Federal Enterprise Bargaining*, December quarter 2017.

[383] The Australian Government submitted that the decline in the approval of new federal enterprise agreements, particularly in the private sector, is ‘driven primarily by a reduction in agreements covering small numbers of employees,’ and that while the decline is seen in almost all industries, it is larger in Construction, Retail trade and Accommodation and food services.³⁹⁰ The Australian Government also noted that, despite the decline in new federal enterprise agreement approvals, over one-third of all employees are still covered by collective agreements.³⁹¹

[384] ACCI submitted that larger businesses (in Accommodation and food services) ‘continue to bargain and finalise’ agreements while fewer smaller and medium-sized businesses do so.³⁹² ACCI also identified what it described as a significant decline in bargaining in the retail sector and contended that there has been a 77.4 per cent decrease in the numbers of retail agreements and an 84.8 per cent fall in the number of employees covered by those agreements between December 2013 and December 2016. According to ACCI, in the December quarter 2013 there were 1049 current retail agreements applying to 390,700 employees, compared to the December quarter 2016 when there were 237 current retail agreements applying to 59,300 employees.³⁹³ The source of these data are not stated in the ACCI submission. However, on the assumption that it is derived from the *Trends in Federal Enterprise Bargaining Report* for the September quarter 2017, the figures for the December quarter 2016 indicate that there were 238 agreements current at the end of that quarter covering some 59,400 employees.³⁹⁴

[385] The *Trends in Federal Enterprise Bargaining Report* use the WAD which, as we have mentioned, capture data relating to current agreements and not agreements that are still in effect but have passed their nominal expiry dates. We accept that there is a decline in current enterprise agreement-making but there are a range of factors which contribute to this decline, many of which are unrelated to increases in the NMW and modern award minimum wages. A

closer examination of the retail sector data referred to by ACCI suggests that a number of factors may have contributed to the decline in collective bargaining in the period cited and highlights the difficulty in drawing conclusions about the reasons for a decline in bargaining in particular industries or in particular time periods. We make three points in this regard.

[386] First, the period identified by ACCI as the starting point for its analysis—the end of the December quarter 2013—was prior to the transitional arrangements in modern awards ceasing and those modern awards becoming fully operational. The timing of the cessation of transitional arrangements in modern awards may have provided an incentive for retail employers to bargain in 2013, which was the last full year in which transitional arrangements applied. By the December quarter 2014, the number of current retail agreements was 318 covering some 294,100 employees. At the end of the December quarter 2017, there were 213 retail agreements covering 50,500 employees. The reduction in the number of current agreements between the December quarter 2013 and the December quarter 2014 is more significant than in subsequent periods.

[387] An examination of numbers of agreements in the retail sector prior to the commencement of modern awards in 2010 and, in the period up to the end of transitional provisions, shows a similar picture. Significant levels of bargaining occurred in the retail sector in 2009, immediately prior to the introduction of modern awards and the number of current agreements in the sector peaked in the March quarter 2011, when there were 2013 current Retail trade agreements. This number reduced to 1,048 by the December quarter 2013 which is the start of the timeframe identified by ACCI in its analysis of Retail trade bargaining. The timing of the peak and the reduction in the number of Retail trade agreements suggests that the implementation of modern awards impacted on bargaining in this sector. It is apparent also that the decline referred to by ACCI commenced before the period in its analysis.

[388] Second, the ACCI submission does not have regard to expired agreements that have not been terminated or replaced. Data from the WAD, obtained from the Department of Jobs and Small Business, show that in the December quarter 2017, there were 34,497 expired agreements that have not been terminated or replaced, covering around 2.3 million employees.³⁹⁵ However, these data provide only an estimate on the number of employees covered by ‘potentially still operational agreements’ that are not included in an analysis of current agreements.³⁹⁶

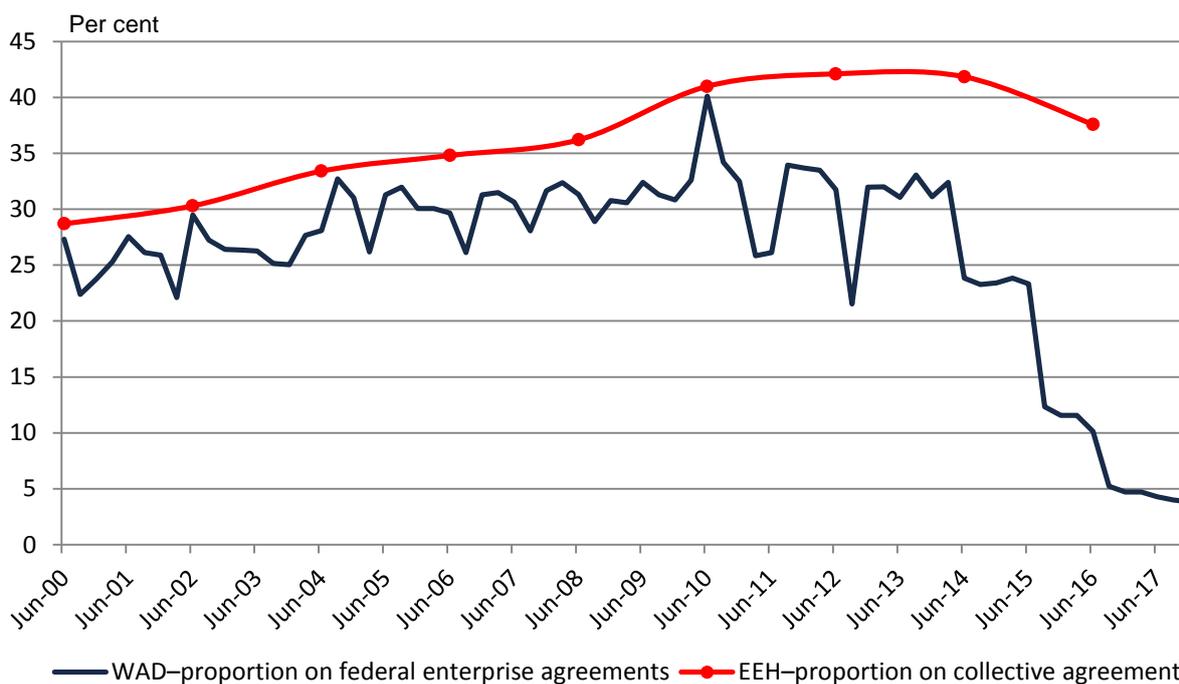
[389] While there has been a decline in the numbers of current agreements, and in the employees covered by current agreements, in the Retail trade sector, there may be small to medium-sized employers in that sector still using expired agreements as an alternative to modern awards. Those employers may also be using a combination of expired agreements supplemented with increases in the base rates under those agreements in accordance with the requirements in s.206 of the Act.

[390] Third, the bargaining figures for the Retail trade sector are skewed somewhat by the number of agreements covering large employers which reached their nominal expiry dates. For example, the Coles Agreement covering 79,754 employees reached its nominal expiry date in May 2014; the Woolworths Agreement covering 95,571 employees reached its nominal expiry date in June 2015; the Big W Stores Agreement covering 19,703 employees reached its nominal expiry date in August 2015; the K-Mart Agreement covering 23,853 employees reached its nominal expiry date in April 2016; and the Target Retail Agreement

covering 20,226 employees reached its nominal expiry date in July 2016.³⁹⁷ A new agreement for Coles was approved on 23 April 2018 covering 82,638 employees.³⁹⁸ The other Retail sector agreements referred to are still in effect.

[391] Chart 4.2 illustrates the effects of expired agreements that may still be operational in Retail trade. Using the EEH and WAD data, the chart compares the proportion of employees covered by collective agreements (from the EEH) with the proportion of employees covered by current federal enterprise agreements (from the WAD).

Chart 4.2 Proportion of employees covered by current enterprise agreements in Retail trade



Note: Data from the EEH for 2016 are non-managerial employees as data for all employees by method of setting pay and industry are not available. Data from the Labour Force are expressed in original terms.

Source: ABS, Employee Earnings and Hours, Australia, various, Catalogue No. 6306.0; ABS, Labour Force, Australia, Detailed, Quarterly, Feb 2018, Catalogue No. 6291.0.55.003; Department of Jobs and Small Business, Trends in Federal Enterprise Bargaining, December quarter 2017.

[392] The chart shows that movements in the proportion of employees covered by federal enterprise agreements were broadly consistent with those from employees on collective agreements (from the EEH) until June 2010.³⁹⁹ After June 2010, the two series appear to diverge. In May 2016, there is a 27.5 percentage point difference between the proportions of employees on collective agreements compared with those covered by federal enterprise agreements. The difference between these two data sources likely reflects the large number of employees covered by Retail trade agreements which have passed their nominal expiry date, but which are still in operation.

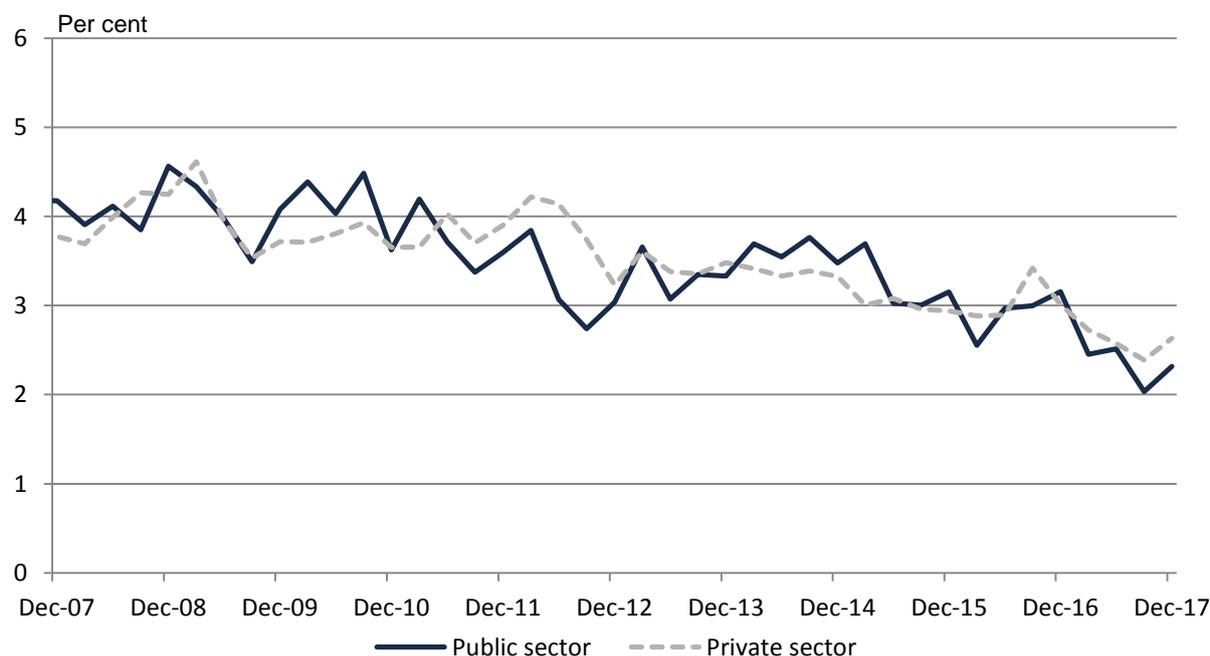
[393] A close consideration of the data in relation to Retail trade agreements does not indicate that increases in the NMW or in modern award minimum wages have contributed to a decline in collective bargaining. It is clear that other factors are at play, including reliance on expired agreements; bargaining currently underway; or recently completed in large enterprises employing significant numbers of employees. It is also likely that reliance on expired

agreements by employers in the Retail trade sector is not motivated by disincentives to bargain but rather by maintaining conditions as they existed prior to the full introduction of modern awards. We also note that in the December quarter 2017 a total of 20 agreements were approved covering employers in the Australian and New Zealand Standard Industrial Classification (ANZSIC) Division for Retail trade, up from 10 agreements in the September quarter 2017.⁴⁰⁰

[394] The general increase in award reliance resulting from the decline in enterprise bargaining noted in previous Reviews, may also have been impacted by the award modernisation process, which has resulted in simplified and more flexible awards. We also note that the most recent *Trends in Federal Enterprise Bargaining Report* for the December quarter 2017 covered more than 1.8 million employees on current agreements.⁴⁰¹ There are also agreements covering a number of large employers finalised and awaiting approval reflecting that bargaining is trending upwards, albeit slightly.⁴⁰²

[395] AAWIs in both public and private sector federal enterprise agreements approved are at relatively low levels (Chart 4.3). The AAWI for all federal enterprise agreements approved in the December quarter 2017 was 2.5 per cent, up from 2.2 per cent in the previous quarter but down from 3.1 per cent in the December quarter 2016. The fall in the AAWI has followed the trends of other wage measures.

Chart 4.3: AAWI for agreements approved in the quarter by sector, December quarter 2007 to December quarter 2017



Source: Department of Jobs and Small Business (2018), *Trends in Federal Enterprise Bargaining*, December quarter 2017.

[396] The WAD also provides data on federal enterprise agreements where wage increases defined as ‘non-quantifiable’ are not included in the calculation of the AAWI. This excludes, among others, agreements where wage increases are linked to Review decisions, as future Review decisions are not known and cannot be quantified.⁴⁰³ The ACTU submitted that a ‘sizeable increase to minimum wages’ would have a direct impact on the proportion of agreements linked to Review decisions.⁴⁰⁴ However, the number of employees linked to Review decisions is small, with the Australian Government submitting that the Panel’s

decision would directly affect 62,200 employees, or 3.5 per cent of employees on federal enterprise agreements.⁴⁰⁵

[397] The ACTU also submitted that while minimum wages ‘served as a guide to negotiating wages,’ any spillover effects of the Panel’s decision are ‘difficult to quantify precisely and admittedly likely small.’⁴⁰⁶

[398] We note that the December quarter 2017 Report indicates a slight increase in AAWI for public sector agreements from 2.0 per cent in the September quarter 2017 to 2.3 per cent in December quarter 2017. In the same period, AAWI for private sector agreements also increased slightly from 2.4 per cent to 2.6 per cent.

Implications of these trends for the setting of the NMW and minimum award wages

[399] A number of submissions discussed the impact of the gap between modern award minimum wages and bargained wages on collective bargaining. The ACTU submitted that narrowing the gap between award and bargained wages may provide incentive for employers to bargain for productivity reasons.⁴⁰⁷ The ACTU pointed to, among other things, reductions in the numbers of non-managerial employees on collective agreements and individual arrangements as an indication that employers have a diminished incentive to bargain, given that minimum rates have fallen so far relative to average or median wages.⁴⁰⁸

[400] The ACTU submitted that many employers who do not bargain have little incentive to do so at the contemporary level of the gap between bargained and award wages, notwithstanding that they have the financial capacity to do so.⁴⁰⁹ The Federal opposition made a similar point submitting that the gap between agreement and modern award minimum wages is discouraging bargaining by employers and warranted an increase in the minimum wage.⁴¹⁰

[401] The Queensland Government submitted that improving the real value of modern award minimum wages will not result in bargaining becoming less attractive to employees, as not all employees are able to bargain with their employers for a variety of reasons.⁴¹¹

[402] A number of parties contended that a reduction in the gap between modern award minimum wages and bargained wages is, and will continue to be, an impediment to bargaining. AFEI submitted that modern award minimum wages and entitlements have reached levels which adversely impacted on the incentive to bargain. AFEI also submitted that the more modern award minimum wages are pushed up into what would be market rates, the less encouragement there is for enterprise bargaining and the less flexibility there is for the employer to accommodate the widely differing circumstances of individual business, including within the same market or industry.⁴¹²

[403] Ai Group submitted that it is important that the level of increase in minimum wages awarded by the Panel does not limit the scope or motivation for bargaining over wages at the enterprise level. Ai Group submitted that, in its experience, the level of minimum wage increase granted in the Review is a factor considered by employers and employees when deciding to consider whether to make an enterprise agreement, and that the higher the minimum wage increase granted by the Panel the less likely an employer and its employees will seek an enterprise agreement.⁴¹³ For this reason, Ai Group submitted that the level of any

minimum wage increase should generally be set at a level that is lower than AAWIs in enterprise agreements.⁴¹⁴

[404] The extent of the gap between modern award minimum wages and bargained wages is difficult to quantify. It can be estimated with reference to Table 8.2 in the 2016–17 Review decision, which sets out average hourly total cash earnings for full-time non-managerial employees paid at the adult rate by industry and method of setting pay in May 2016.⁴¹⁵ The table compares the average hourly total cash earnings of full time non-managerial employees on awards, collective agreements and individual arrangements by industry. It shows that, overall, the ratio of average hourly earnings for award-reliant employees to employees on collective agreements was lower than employees on individual arrangements. However, this was not consistent across each industry. No more recent data are available.

[405] Using the data from Table 8.2 and the ratio of average hourly earnings in award only and collective agreement rates, it can be estimated that the average gap between earnings under awards and collective agreements for all industries is about 22 per cent. The extent of the gap using this method varies between industries.

Other considerations affecting bargaining

[406] A number of parties submitted that the regulatory and legislative environment associated with the bargaining process and agreement approval is contributing to a decline in enterprise bargaining. Ai Group pointed to problematic drafting of various provisions of the Act (including the better off overall test) and the absence of an express provision allowing the Commission to overlook minor procedural defects in the agreement-making process, as impediments to agreement making.⁴¹⁶

[407] ACCI submitted that the regulatory environment is failing to adequately support and encourage enterprise bargaining.⁴¹⁷

[408] The legislative environment in which bargaining is occurring is a matter for Parliament and is outside the scope of the Review. The Commission's processes for approving agreements have led to greater consistency and provide a systematic method for identifying and addressing common errors made by parties to agreements which would otherwise render such agreements (if approved) open to challenge and risk of being found to be invalid, and incapable of approval. We reject any suggestion that this process is an impediment to bargaining.

Conclusions

[409] We maintain the view expressed in past Review decisions that, given the complexity of factors which may contribute to decision making about whether or not to bargain, we are unable to predict the precise impact of our decision.⁴¹⁸ We cannot be satisfied that the increase we have determined will *encourage* collective bargaining and this is a factor to be weighed along with the other statutory considerations. However, we are also of the view that it is likely that the increase we have determined in this Review will impact on different sectors in different ways and will not, in aggregate, *discourage* collective bargaining.

[410] We are not persuaded that the gap between modern award minimum wages and bargained wages, to the extent it can be identified with any precision, has reached a level

where it is encouraging or discouraging collective bargaining. We maintain the view that the decline in agreement making and levels of current agreements is impacted by a range of factors, many of which are unrelated to the Review process.

Equal Remuneration

[411] In giving effect to both the modern awards objective and the minimum wages objective, the Panel must also take into account the principle of equal remuneration for work of equal or comparable value (s.134(1)(e) and s.284(1)(d)).

[412] A number of submissions in the present Review questioned the relevance of the equal remuneration principle. The ACTU submitted that the principle of equal remuneration prevents the Panel from taking into account the underlying causes of the gender pay gap or gender-based undervaluation of modern award minimum wages.⁴¹⁹ The ACTU also submitted that the equal remuneration principle ‘as defined is accordingly not a useful tool in the context of an AWR for addressing systemic undervaluing of female dominated occupations or industries.’⁴²⁰

[413] In response to questions on notice raised by the Panel about this proposition, ACCER agreed⁴²¹ and submitted that:

‘... the practical application of the equal remuneration principle is to be found in the making and reviewing of awards. The fact that gender-based breaches of the principle may be pursued under Part 2-7 of the *Fair Work Act* does not exclude this process.’⁴²²

[414] ACCI submitted that the principle was ‘potentially applicable to these reviews’⁴²³ but contended that wages operating in accordance with an industrial instrument (i.e. a modern award or enterprise agreement) are determined on a gender neutral basis⁴²⁴ and that the Review should not be ‘distorted to become vehicles’ for equal remuneration applications ‘for which a separate part of the Act applies.’⁴²⁵

[415] The modern awards objective and the minimum wages objective both provide that in a Review we must take into account ‘the principle of equal remuneration for work of equal or comparable value’ (ss 134(1)(e) and 284(1)(d)). The Dictionary section of the Act (s.10) directs attention to s.302(2) for the definition of the expression ‘equal remuneration for work of equal or comparable value.’ Section 302(2) is in Part 2-7 ‘Equal Remuneration’ and defines this expression to mean ‘equal remuneration for men and women workers for work of equal or comparable value.’ It seems highly unlikely that Parliament intended this expression to mean something different in ss 134 and 284. Hence the appropriate approach to the construction of ss 134(1)(e) and 284(1)(d) is to read the definition into the substantive provision.⁴²⁶ Accordingly the relevant consideration is to be read as follows:

‘the principle of equal remuneration for men and women workers for work of equal or comparable value.’

[416] In the *Equal Remuneration Decision 2015*⁴²⁷ the Full Bench concluded that the expression ‘work of equal or comparable value’ in s.302(1) refers to equality or comparability in ‘work value.’⁴²⁸ We agree and, further, the same meaning should be attributed to this expression in ss 134(1)(e) and 284(1)(d). As explained in the *Equal Remuneration Decision*

2015, the principle of equal remuneration for work of equal or comparable value is enlivened when an employee or group of employees of a particular gender do not enjoy remuneration equal to that of another employee or group of employees of the opposite gender who perform work of equal or comparable value. Further, as the Full Bench observed:

‘This is essentially a comparative exercise in which the remuneration and the value of the work of a female employee or group of female employees is required to be compared to that of a male employee or group of male employees.’⁴²⁹

[417] The application of the principle of equal remuneration for work of equal or comparable value is such that it is likely to be of only limited relevance in the context of a Review. Indeed it would only be likely to arise if it was contended that particular modern award minimum wages were inconsistent with the principle of equal remuneration for work of equal or comparable value; or if the form of a proposed increase enlivened the principle. We agree with the observations of a number of parties that Review proceedings are of limited utility in addressing any systemic gender undervaluation of work. It seems to us that proceedings under Part 2-7 and applications to vary modern award minimum wages for ‘work value reasons’ pursuant to ss 156(3) and 157(2) provide more appropriate mechanisms for addressing such issues. But the broader issue of gender pay equity, and in particular the gender pay gap, is relevant to the Review.

Gender pay gap

[418] The gender pay gap becomes a relevant consideration in our task because, as was stated in the *Penalty Rates decision*, it is an element of the requirement to establish a safety net that is fair as well as relevant.⁴³⁰ It may also arise for consideration in respect of s.284(1)(b) (‘promoting social inclusion through workforce participation’), because it may have effects on female participation in the workforce.

[419] The gender pay gap refers to the difference between the average wages earned by men and women. It may be expressed as a ratio which converts average female earnings into a proportion of average male earnings on either a weekly or an hourly basis.⁴³¹ The Statistical report sets out three measures of the gender pay gap, ranging from 11.0 per cent to 15.3 per cent, which are presented in Table 4.1.⁴³²

Table 4.1: Estimates of the gender pay gap

Measure	Male earnings	Female earnings	Gender pay gap
AWOTE (Nov 2017)	\$1662.70	\$1409.00	15.3%
EEH adult hourly ordinary time cash earnings (May 2016)	\$42.03	\$36.13	14.0%
EEH non-managerial adult hourly ordinary time cash earnings (May 2016)	\$39.41	\$35.09	11.0%

Note: AWOTE is expressed in trend terms and refers to full-time adult employees.

Source: Statistical report, Table 11.1; ABS, *Average Weekly Earnings, Australia, Nov 2017*, Catalogue No. 6302.0; ABS, *Microdata: Employee Earnings and Hours, Australia, May 2016*, Catalogue No. 6306.0.55.001.

[420] Peetz and Yu 2018 found that women were less likely than men to be covered by a collective agreement, which appeared to reflect the relative concentrations of men and women by industry and occupation, rather than their behaviour in terms of collective negotiation or desires for representation.⁴³³

[421] In previous Reviews, the Panel has been informed by research about the extent to which the Review may have a role in addressing the gender pay gap.⁴³⁴ The Australian Government referred to past research undertaken by the Commission and concluded that it ‘shows little evidence of an hourly gender pay gap for workers on awards. The gender pay gap, therefore, appears to be mostly driven by higher paid workers.’⁴³⁵

[422] To support this proposition, the Australian Government presented data from the EEH 2016 which showed a negative hourly gender pay gap for non-managerial employees on awards, suggesting that females on awards are paid a higher hourly rate than males and that there are ‘no wage disparity issues among non-managerial employees on awards.’⁴³⁶

[423] In other research, Broadway and Wilkins (2017) analysed the difference in hourly wages between award-reliant males and females aged 25–54 years and whether the award system mitigates or exacerbates the gender pay gap. Using data from the HILDA survey between 2008 and 2014, the study found a gap of 10 per cent between the mean wages of award-reliant men and women, smaller than the 19 per cent found for non-award-reliant employees. The analysis also found that the award system contributes to closing the gender pay gap as the wages of award-reliant males and females are less dispersed across the hourly wage distribution.⁴³⁷ As a higher proportion of women were award reliant, the study concluded that the award system prevents the wages of females falling even further behind those of men.⁴³⁸

[424] The research also considered whether the gap among award-reliant employees could be explained by differences in human capital (education and work experience) between men and women—that is, whether the levels of education and work experience, or the returns to education and work experience, affected the gender pay gap.

[425] Differences in returns to education and work experience can arise in two ways—that men progress to higher classifications faster than women, or that progression in ‘typical male’ careers leads to larger wage increases than for ‘typical female’ careers.⁴³⁹ To test this, the research analysed the effect of working in ‘female-dominated’ industries compared with working in ‘male-dominated’ industries.

[426] While the pay gap was not found to be due to differences in the levels of education or experience, the research determined that a large part could be explained by the returns to education and experience.⁴⁴⁰ The paper found a ‘strong penalty’ associated with working in a female-dominated industry, for both males and females, however it only applied to workers without university education (with no evidence that work experience is associated with the gender pay gap).⁴⁴¹ The industries where this was found to be a major cause were retail, hospitality and personal care.⁴⁴² We note that these are amongst the award-reliant sectors.

[427] Broadway and Wilkins discussed several reasons for this finding: male-dominated industries may have benefited from a long history of unionisation that resulted in higher average wages which is less common among the service sector; or that certain jobs may also receive compensation for being dangerous or dirty work.⁴⁴³

[428] In terms of the impact of the gender pay gap upon this Review, the Victorian Government referred to this research and stated that there is a ‘wage penalty’ in the award system for jobs more commonly held by women.⁴⁴⁴ The Western Australian⁴⁴⁵ Government recognised that many factors influenced the gap but contended, as did the Victorian⁴⁴⁶ and Queensland⁴⁴⁷ Governments, that in effect, an increase to the NMW and modern award minimum wages would impact positively upon pay equity.

[429] The Federal opposition submitted that increasing minimum wages is ‘critical to reducing the gender pay gap.’⁴⁴⁸

[430] The ACTU continued to adopt the view that ‘the existence of a gender pay gap is a factor which supports an increase to minimum wage and modern award minimum ... wages.’⁴⁴⁹ It added that, with strong employment growth in award-reliant industries, the Panel’s decision ‘might have a greater impact’ this year.⁴⁵⁰ Despite proposing a percentage increase to this Review, rather than a ‘hybrid’ proposal as in previous Reviews, the ACTU did not accept that a hybrid increase would necessarily do less to address the gender pay gap than a uniform increase.⁴⁵¹ It did, however, acknowledge that whilst not all causes of the gender pay gap lie outside of the award system, any systematic gender-based undervaluation of female-dominated work between awards is not readily capable of being addressed in the Review.⁴⁵²

[431] ACCER contended that the uniform percentage increase ‘compromised the setting of a fair safety net for the women who are most in need of financial support.’⁴⁵³ ACCER maintained its position that a flat dollar increase would best serve the economic interests of women, particularly lower-paid women,⁴⁵⁴ but that a tiered increase, as it has proposed, ‘would recognise the interests of higher and lower paid women.’⁴⁵⁵ ACCER also submitted that the gender pay gap ‘is caused by factors outside the award system ... in the practices of employers.’⁴⁵⁶

[432] ACCI submitted that the causes of the gender pay gap were complex and multifaceted and that the obligation of the Panel to consider this factor is best satisfied by setting wages that do not discriminate between men and women.⁴⁵⁷ It also indicated a view that the particular form of an increase (i.e., uniform percentage or tiered amount) did not impact this consideration ‘because the setting of the NMW and award rates of pay occurs on a gender neutral basis and we agree with ACCER’s submission that the aggregate differential between male and female earnings is attributable to factors outside the award system.’⁴⁵⁸

[433] ACCI also cautioned against an approach that would see a higher level of wage increase ‘merely on account of the fact that more women are paid pursuant to awards than other instruments.’⁴⁵⁹

Conclusions

[434] As noted in the 2015–16 Review decision, the causes of the gender pay gap are complex and influenced by factors such as: differences in types of jobs performed by men and women; discretionary payments; workplace structures and practices; and the historical undervaluation of female work and female-dominated occupations.⁴⁶⁰ We accept that moderate increases in the NMW and modern award minimum wages would be likely to have a relatively small effect on the gender pay gap.

[435] Based upon the material discussed earlier, and the conclusions from last year's Review,⁴⁶¹ the following general observations may be made:

- there are more women than men who are award reliant;
- award-reliant workers are more likely to be low paid than other workers;
- women are significantly more likely to be paid at the award rate than are men at all levels of education and experience (except in their first year of work)⁴⁶²; and
- men are more likely to receive over-award payments or be subject to collective agreements (with higher wages) due to the industry or occupation in which they work.

[436] Women are disproportionately represented among the low paid and, hence, an increase in minimum wages is likely to promote gender pay equity. Increases in minimum wages, particularly adjustments that might exceed increases evident through bargaining, are likely to have a beneficial impact. This is so because of the dispersion of women within award classification structures and the greater propensity for women to be paid award rates.

5. Transitional Instruments and Other Matters

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

[437] The Panel is required to review, and may make a determination varying a number of transitional instruments as part of the Review. Transitional instruments include:

- Transitional Australian Pay and Classification Scales (APCSs);⁴⁶³
- State reference transitional awards, which include:
 - Division 2A State reference transitional awards;⁴⁶⁴
 - Division 2A State reference transitional enterprise awards;
 - Division 2A State reference public sector transitional awards;
 - Division 2B State reference transitional awards;⁴⁶⁵
 - Division 2B State reference public sector awards; and
 - Division 2B State awards.⁴⁶⁶
- Transitional Pay Equity Orders;⁴⁶⁷
- Certain copied State awards.⁴⁶⁸

[438] The content and coverage of most of these instruments were addressed in the Panel's *Annual Wage Review 2009–10* decision (2009–10 Review decision)⁴⁶⁹ and Fair Work Australia's Research Report 6/2010.⁴⁷⁰ The application of annual wage review decisions on copied State awards was also considered in the Fair Work Commission's Background Paper⁴⁷¹ and the Panel's decision correcting errors in the 2016–17 Review decision.⁴⁷²

[439] Transitional instruments also include those award-based transitional instruments subject to modernisation processes which continue to operate, and those preserved by operation of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Transitional Act). Most transitional instruments have been terminated or have ceased to operate; however, some continue to operate subject to the conclusion of the modernisation process. These instruments include, but are not limited to:

- transitional instruments which cover employees also covered by enterprise instruments;⁴⁷³
- transitional instruments which cover employees also covered by State reference public sector awards which have not been terminated by the Commission or replaced by a State reference public sector modern award;⁴⁷⁴ or
- transitional instruments which cover employees which were not terminated as part of the termination of modernisable instruments commenced in 2010.⁴⁷⁵

[440] Transitional instruments preserved by the Transitional Act include Transitional APCSs; State reference transitional instruments and Division 2B State awards preserved by operation of the *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009*; and transitional pay equity orders created by the Transitional Act.⁴⁷⁶ These instruments may be considered as part of the Panel's review.⁴⁷⁷

[441] Transitional APCSs and State reference transitional awards operate until the Commission makes an order to terminate them,⁴⁷⁸ or they are terminated by legislative provisions.⁴⁷⁹ The 2016–17 Review decision⁴⁸⁰ referred to the Commission's decision in *All*

Trades Queensland Pty Limited,⁴⁸¹ that was affirmed on appeal in *All Trades Queensland Pty Limited v CFMEU and Ors*⁴⁸² (the All Trades matter) and a subsequent application for judicial review was dismissed by the Federal Court.⁴⁸³ The Court held that the employees were modern ‘award covered employees for the purpose of s.206 of the Act’⁴⁸⁴ and that their award based transitional instruments⁴⁸⁵ (Notional Agreements Preserving State Awards (NAPSAs⁴⁸⁶)) had terminated as a result of sunset provisions in the Transitional Act.⁴⁸⁷ While these transitional instruments may be relevant for the purpose of calculating accrued entitlements, they will not cover a person now covered by a modern award.⁴⁸⁸

[442] A number of transitional instruments covering employees also covered by the Social, Community, Home Care and Disability Industry Award 2010 and the Social, Community and Disability Services Industry Equal Remuneration Order 2012 (ERO) are yet to be terminated by the Commission⁴⁸⁹ and the Panel must review and may make a determination varying these instruments.⁴⁹⁰ In the Preliminary Decision for the 2016–17 Review⁴⁹¹ we considered that we should not proceed to terminate any transitional instruments for reasons outlined in that decision.⁴⁹²

[443] Also within this category of transitional instruments are copied State awards. These apply 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.⁴⁹³ The Panel is required to review and, if appropriate, make a determination varying minimum wages in copied State awards.⁴⁹⁴

[444] The method for adjusting wages in copied State awards was the subject of a decision by the Panel issued on 4 January 2018.⁴⁹⁵ In that decision, the Panel expressed the following provisional view:

‘It is our *provisional view* that AWR adjustments should generally apply to copied State awards, subject to a different outcome being determined in respect of particular copied State awards. In other words, rather than seeking to apply a tiered approach as a decision rule to mitigate ‘double dipping’ we propose to address any ‘double dipping’ on a case by case basis. We invite submissions on our *provisional view* in the context of the 2017–18 Review proceedings.’⁴⁹⁶

[445] Parties were invited to comment [44] on our *provisional views* in the context of these proceedings.

[446] The ACTU submitted that ‘the Commission’s provisional view is consistent with the function of distinct Reviews in each year and is a more orderly approach, notwithstanding that it does rely on parties to come forward should they contend for a different outcome.’⁴⁹⁷

[447] However, the ACTU also submitted that:

‘The difficulty from our perspective is the lack of certainty regarding how a future Panel might deal with an application that a different increase, or no increase, apply to employees to whom a particular copied state award applies. If the Panel were inclined to confirm its provisional view, it would in our view be usefully supplemented by an expression of support for the merits of the approach adopted in the 2012–13 decision - and re-applied to the 2016–17 decision by the correction order issued this year - when dealing with requests for an exemption.’⁴⁹⁸

[448] The CPSU submitted that:

‘... the current Annual Wage Review should make a fresh determination in relation to copied State awards such that

- a. wages increases mandated by Annual Wage Review decisions apply as a matter of course to copied State awards; and
- b. should a party to a copied State award make an application to vary (by reducing) the Annual Wage Review increase applied to a copied State award, then (and only then) the tiered approach developed by the Commission in the 2012-2013 Annual Wage Review decision should be applied.’⁴⁹⁹

[449] ABI submitted that the rates in the relevant transitional instruments be increased consistent with any increase determined for modern award minimum wages and made no submissions about the variation of copied State awards arising from this Review.⁵⁰⁰

[450] On 29 March 2018 we published a question on notice noting that the ACTU had invited the Panel to confirm its provisional view and asking if any other party took a different view.

[451] No party took a contrary view to that expressed by the ACTU. ACCI observed that ‘[w]here there are concerns regarding ‘double dipping’ there should be scope for an employer or employer representative to raise this with the Commission.’⁵⁰¹ No employer or employer representative raised any concern regarding ‘double ‘dipping’ in the event that we varied copied State awards consistent with the increase determined for modern award minimum wages.

[452] We confirm the *provisional* view expressed in our decision of 4 January 2018. The adjustment to the rates in modern awards that we have determined in this Review will be applied to copied State awards.

[453] 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

[454] The Panel is required to review modern award minimum wages, including wages for junior employees, employees to whom training arrangements apply, employees with disability, and piece rates.⁵⁰²

[455] As noted by the ACTU, the practical effect of tying juniors, trainees and apprentices in modern awards to a percentage below the adult rate of pay, or by some other formula in the case of traineeship rates, makes them some of the ‘lowest paid workers in the country’ by definition.⁵⁰³

Juniors

[456] The ACTU,⁵⁰⁴ Ai Group,⁵⁰⁵ and ABI and NSWBC⁵⁰⁶ supported flowing on any Review decision to junior rates of pay in modern awards. No party contended otherwise. A number of submissions discussed the performance of youth labour market outcomes, which we reviewed as part of Chapter 2.

[457] We have decided that the adjustment to minimum wages will flow through to the operation of provisions for calculating junior rates in modern awards.

Apprentices and Trainees

[458] The ACTU,⁵⁰⁷ Ai Group,⁵⁰⁸ and ABI and NSWBC⁵⁰⁹ supported flowing on any Review decision to modern award minimum wage of pay for employees to whom training arrangements apply through the National Training Wage Schedule (NTWS) under the relevant awards. The ACTU also endorsed a similar adjustment for those modern awards that contain separate trainee rates outside of the NTWS.⁵¹⁰

[459] The ACTU referred to the plain language re-draft of the NTWS under the *Miscellaneous Award 2010* (the Miscellaneous Award), which has been updated as part of the 4 yearly review of modern awards. This process has led to the replacement of the NTWS under most modern awards with reference to the NTWS in the Miscellaneous Award. The ACTU submitted that the new NTWS ‘remains appropriate for adjustment in the manner we propose.’⁵¹¹

[460] The Panel notes that nine modern awards will retain their own award-specific NTWS to be finalised at a later date. The ACTU noted that it is ‘uncertain how the wages in them will be expressed.’⁵¹² As these awards have retained their existing schedules, the ACTU recommended that the wages in them should also be adjusted accordingly and accounted for in the process to finalise the NTWS in those awards.⁵¹³ A number of submissions referred to data on the commencement and completion rates of apprentices and trainees, which we reviewed as part of Chapter 2.

[461] We have decided that the adjustment to minimum wages will flow through to employees to whom training arrangements apply in modern awards, including the rates under the NTWS.

Employees with disability

[462] Ai Group⁵¹⁴ supported flow on of any Review decision to the modern award rates of pay for employees with a disability. No other party suggested otherwise.

[463] Several submissions provided data on the labour market outcomes for employees with a disability. Briefly, the Australian Government submitted that 52 per cent of persons aged 15 to 64 years with a disability were participating in the labour force in 2015, with an unemployment rate of 10 per cent.⁵¹⁵ The Victorian Government submitted that the median incomes of persons with a disability were less than half of those without a disability and that more than half lived in households in the lowest two quintiles of equivalised gross household income.⁵¹⁶

[464] We have decided that the adjustment granted in this Review will flow through to employees with a disability through the operation of the Supported Wage System Schedule (SWSS) and that the minimum payment in the SWSS will be adjusted consistent with the approach adopted in previous reviews.⁵¹⁷

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

[465] The Panel is required to review casual loadings in modern awards and to include a casual loading for award/agreement free employees in the NMW order. The casual loading for award/agreement free employees must be expressed as a percentage.⁵¹⁸

[466] The ACTU,⁵¹⁹ Ai Group,⁵²⁰ and ABI and NSWBC⁵²¹ submitted that the casual loading in modern awards and for award/agreement free employees should be maintained at 25 per cent and no other party contended otherwise.

[467] We have decided that the casual loading for award/agreement free employees should be maintained at 25 per cent. We have also decided that the casual loading in modern awards should remain at 25 per cent.

[468] In the 2014–15 Review decision, the Panel noted that the casual loading in the *Business Equipment Award 2010* (Business Equipment Award), at 20 per cent, was inconsistent with the standard 25 per cent casual loading across all other modern awards.⁵²²

[469] In proceedings before the 2015–16 Review, the Panel decided to increase the casual loading in the Business Equipment Award incrementally by 1 per cent from 1 July 2016 and each subsequent year until it reached 25 per cent.⁵²³

[470] In the current Review, the ACTU,⁵²⁴ Ai Group,⁵²⁵ and ABI and NSWBC⁵²⁶ submitted that the casual loading in the Business Equipment Award should be adjusted to 23 per cent, in line with the Panel's phasing-in approach.

[471] Consistent with the phasing approach outlined by the Panel in its 2015–16 Review decision,⁵²⁷ and with no submissions to the contrary, we have decided to increase the casual loading in the Business Equipment Award to 23 per cent.

Special National Minimum Wages

[472] In making a NMW order the Panel must set special NMWs for all award/agreement free employees in the following classes: junior employees, employees to whom training arrangements apply and employees with a disability.⁵²⁸

[473] Submissions specifically dealing with special NMWs for award/agreement free employees are set out below. We have also taken into account submissions by the ACTU⁵²⁹ and ACOSS⁵³⁰ regarding juniors, apprentices and trainees and employees with disability more generally on the basis that these submissions are relevant to (and are not expressed to exclude) award/agreement free employees in these categories.

Award/agreement free junior employees

[474] Ai Group⁵³¹ and ABI and NSWBC⁵³² supported the Panel's previous approach in using the junior wage percentage scale in the Miscellaneous Award to set the special NMW for award/agreement free junior employees.

[475] We have again decided that the special NMW for award/agreement free junior employees will be set by reference to the junior wage percentage scale in the Miscellaneous Award.

Award/agreement free apprentices and trainees

[476] Ai Group⁵³³ and ABI and NSWBC⁵³⁴ submitted that, consistent with the previous Review decision, the Panel should adopt the wage rates in the Miscellaneous Award for award/agreement free apprentices and trainees.

[477] We have decided to adopt the provisions of the Miscellaneous Award as the basis for the special NMWs for employees to whom training arrangements apply. The NMW order will incorporate, by reference, the apprentice and NTWS provisions of that award.

Award/agreement free employees with disability

[478] In its 2016–17 Review decision, and consistent with previous years' approaches, the Panel decided to set two special NMWs for award/agreement free employees with disability.⁵³⁵ The first, for employees with disability whose productivity is not affected (special NMW1), was set at the rate of the NMW. The second, for employees with disability whose productivity is affected, was to be paid in accordance with an assessment under the Supported Wage System (SWS) Schedule attached to the NMW order (special NMW2), with the minimum payment fixed in accordance with the disability support pension income-free threshold.

[479] The ACTU,⁵³⁶ Ai Group⁵³⁷ and ABI and NSWBC⁵³⁸ submitted that special NMW1 should continue to be set at the same level as the NMW. Ai Group⁵³⁹ and ABI and NSWBC⁵⁴⁰ submitted that special NMW2 should be adjusted in accordance with the same methodology as previous Reviews, and the ACTU supported this approach 'subject to any changes to the Supported Wage System Schedule.'⁵⁴¹

[480] In its 2016–17 Review decision, the Panel noted that conferences concerning the *Supported Employment Services Award 2010*⁵⁴² (SES Award) were continuing and that special NMW2 would have to be considered after the issues in the SES Award have been finalised.⁵⁴³

[481] On 10 October 2017, the Full Bench of the Commission issued a decision⁵⁴⁴ in relation to the SES Award as part of its 4 yearly review of modern awards. As a result of that decision, the SWS minimum wage assessment methodology set out in Schedule D to the SES Award was modified. This variation was consented to by the interested parties participating in the review.

[482] There was a hearing before the SES Award review Full Bench in relation to various claims to alter the wage assessment methodology in the SES Award conducted on 5-9 and 12-

16 February 2018. On 16 April 2018 the Full Bench issued a Statement⁵⁴⁵ in which it expressed a number of provisional conclusions about the matters in contest. In respect of the use of the SWS under the SES Award in Australian Disability Enterprises (ADEs), the Full Bench said:

‘(3) The SWS does not, by itself and in its current form, represent an appropriate method of determining the wage rates for supported employees in ADEs because it:

- does not take into account the proper range of work value considerations used to assess award wage rates, namely the nature of the work, the level of skill and responsibility involved in doing the work and the conditions under which the work is done (which, in the context of supported employment, would include the complexity of the task(s) performed, the range of tasks performed, and the level of support required in order for the task(s) to be performed);
- may not adequately measure non-productive time at work on the part of supported employees; and
- does not provide a sufficiently objective and relevant means of identifying the performance benchmark by which any SWS assessment is conducted.

We emphasise that we express no conclusion about the operation of the SWS in the context of open employment.’⁵⁴⁶

[483] The Full Bench proposed that interested parties and the Commonwealth participate in a conferral process to develop a new classification structure and wage assessment mechanism in line with a number of identified principles. The process envisaged would necessarily involve the modification or replacement of the SWS in the SES Award.

[484] ACOSS’s submission expressed interest in the recent SES Award matters, and submitted:

‘Recent court decisions confirmed that some of the existing instruments used for this purpose were unreliable, and that people with disability employed in ‘business services’ were underpaid. The assessment tools should be reviewed and standardized as far as possible, rather than leaving it to individual enterprises to develop and use their own.’⁵⁴⁷

[485] ACOSS reiterated their two concerns submitted to previous Reviews,⁵⁴⁸ namely that the system of disability wages was too complex and the minimum rate of pay for people whose productivity is affected by their disability was too low.⁵⁴⁹

[486] The Panel addressed this matter in the 2016–17 Review decision.⁵⁵⁰ These issues may be further considered in a subsequent Review, after the issues in the SES award are finalised. Although the consideration of the SWS in the review of the SES Award is conducted in the specific context of its use in ADEs, the modification or replacement of the SWS in that award has potential implications for the use of the SWS in other awards.

[487] Consistent with previous years’ approaches to these wages, we have decided to set 2 special NMWs for award/agreement free employees with disability. For award/agreement free

employees with disability whose productivity is not affected, the wage will be set at the rate of the NMW. For award/agreement free employees with disability whose productivity is affected, the wage will be paid in accordance with an assessment under the SWSS. The minimum payment will be fixed in accordance with the disability support pension income-free threshold.

6. Conclusion

[488] This Chapter sets out the outcome and other relevant matters to the Review.

[489] The national minimum wage order will contain:

(a) A national minimum wage of \$719.20 per week or \$18.93 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 \$719.20 per week or \$18.93 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 National Training Wage Schedule in the *Miscellaneous Award 2010* for award/agreement free employees to whom training arrangements apply, incorporated by reference, and a provision providing transitional arrangements for first year award/agreement free adult apprentices engaged before 1 July 2014; and

(e) A casual loading of 25 per cent for award/agreement free employees.

[490] The outcome of this Review in relation to modern award minimum wages is that from the first full pay period on or after 1 July 2018 minimum weekly wages are increased by 3.5 per cent, with commensurate increases in hourly rates on the basis of a 38-hour week.

[491] The increases to the NMW and modern award minimum wages are made to weekly wages. After the increase has been applied, the NMW or the modern award minimum weekly wage is rounded to the nearest 10 cents. To obtain an hourly wage, the weekly wage is divided by 38, on the basis of a 38-hour week for a full-time employee.

[492] The increase applies to modern award 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 increased by 3.5 per cent.

[493] The casual loading in modern awards will remain at 25 per cent. The casual loading in the *Business Equipment Award 2010* will be increased to 23 per cent, consistent with the phasing approach. As a general proposition, we would expect that the casual loading in this award will be increased by 1 per cent in subsequent Reviews, until it reaches 25 per cent, in accordance with the phasing schedule proposed by Ai Group.

[494] The adjustment will flow through to employees with disabilities through the operation of the Supported Wage System Schedule and that the minimum payment in the SWSS will be adjusted consistent with the approach adopted in previous reviews.

[495] In relation to transitional instruments, from the first full pay period on or after 1 July 2018, wages in those instruments will be varied by 3.5 per cent per week, with commensurate increases in hourly rates based on a 38-hour week. Copied State awards will be varied on the basis discussed in Chapter 5 of this decision.

[496] The determinations necessary to give effect to the increase in modern awards will be made available in draft form shortly after this decision. Weekly wages in the NMW order and modern awards will be rounded to the nearest 10 cents and hourly wages will be calculated by dividing the weekly rate by 38, on the basis of the 38-hour week for a full-time employee. 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.

[497] We also intend to give consideration to a research program for the 2018–19 Review and invite interested parties to lodge research proposals by 27 July 2018. In doing so parties are encouraged to consider the research papers by Borland (February 2018), Borland (May 2018)⁵⁵¹ and Richardson⁵⁵² (May 2018) in the Research Reference list.

[498] The timetable for the 2018–19 Review will be announced in the third quarter of 2018.

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

PRESIDENT

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Appendix 1—Research for Annual Wage Reviews

Date	Title	Research report no.
February 2018	Overview of research to inform the Annual Wage Review 2017–18	
February 2018	Employee and employer characteristics and collective agreement coverage	1/2018
February 2018	The characteristics of the underemployed and unemployed	2/2018
February 2018	Characteristics of workers earning the national minimum wage rate and of the low paid	3/2018
February 2018	Part I: Methods and limitations to undertaking analysis of the employment effects of minimum wage increases	4/2018
March 2018	Part II: Prospects for research on employment effects of minimum wages in Australia.	4/2018
March 2018	The UK evaluation of the impacts of increases in their minimum wage	
February 2017	Overview of research to inform the Annual Wage Review 2016–17	
February 2017	Explaining recent trends in collective bargaining	4/2017
February 2017	Factors affecting apprentices and trainees	3/2017
February 2017	The youth labour market	2/2017
	Award-reliant workers in the household income distribution	1/2017
February 2016	An international comparison of minimum wages and labour market outcomes	1/2016
February 2015	Award reliance and business size: a data profile using the Australian Workplace Relations Study	1/2015
December 2013	Minimum wages and their role in the process and incentives to bargain	7/2013
December 2013	Award reliance	6/2013
February 2013	Accommodation and food services industry profile	5/2013
February 2013	Retail trade industry profile	4/2013
February 2013	Manufacturing industry profile	3/2013
February 2013	Labour supply responses to an increase in minimum wages: An overview of the literature	2/2013
February 2013	Higher classification/professional employee award reliance qualitative research: Consolidated report	1/2013
February 2012	Higher classification/professional employee award reliance qualitative research: Interim report	4/2012
February 2012	Award reliance and differences in earnings by gender	3/2012
February 2012	Analysing modern award coverage using the Australian and New Zealand Standard Industrial Classification 2006: Phase 1 report	2/2012
January 2012	Award-reliant small businesses	1/2012

Date	Title	Research report no.
February 2011	Australian apprentice minimum wages in the national system	6/2011
February 2011	Review of equal remuneration principles	5/2011
January 2011	Research framework and data strategy	4/2011
January 2011	Employees earning below the Federal Minimum Wage: Review of data, characteristics and potential explanatory factors	3/2011
January 2011	Relative living standards and needs of low-paid employees: definition and measurement	2/2011
January 2011	An overview of productivity, business competitiveness and viability	1/2011
June 2010	Consolidated Social Research Report	10/2010
June 2010	Administrative and Support Services Industry	9/2010
June 2010	Other Services Industry	8/2010
February 2011	Enterprise Case Studies: Effects of minimum wage-setting at an enterprise level	7/2010
June 2010	Minimum wage transitional instruments under the <i>Fair Work Act 2009</i> and the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	6/2010
February 2010	Employees with disability: Open employment and the Supported Wage System	5/2010
February 2010	Earnings of employees who are reliant on minimum rates of pay	4/2010
February 2010	Social research—Phase one	3/2010
February 2010	Literature review on social inclusion and its relationship to minimum wages and workforce participation	2/2010
February 2010	An overview of compositional change in the Australian labour market and award reliance	1/2010

Appendix 2—Proposed Minimum Wages Adjustments

Submission	Proposal		
	National minimum wage	Modern award minimum wages	Exemption/ deferral sought
Australian Government	No quantum specified		
New South Wales Government	No quantum specified		
Queensland Government	\$27.10 pw	No quantum specified	
Victorian Government	\$27.10 pw	No quantum specified	
Government of South Australia	No quantum specified		
Western Australian Government	No quantum specified		
Federal opposition	No quantum specified, however proposes a real increase		
Australian Council of Trade Unions	7.2 per cent, applicable to all		
Australian Industry Group	1.8 per cent, applicable to all		
Australian Chamber of Commerce and Industry	Not exceed 1.9 per cent, applicable to all		
Australian Council of Social Service	No quantum specified		
Australian Catholic Council for Employment Relations	\$40.10 pw	C10 and below: \$32.00 pw Above C10: 3.9 per cent	
Australian Business Industrial and the New South Wales Business Chamber	Not more than 1.9 per cent		
Australian Federation of Employers and Industries	No more than 1.9 per cent, applicable to all		
Australian Hotels Association	Not more than 1.9 per cent, applicable to all		
Australian Retailers Association	1.9 per cent	No quantum specified	Requests increases to be considered on an award-by-award basis
Chamber of Commerce and Industry Queensland	Not more than 1.9 per cent	No quantum specified	Exemption for businesses subject to natural disasters
Chamber of Commerce and Industry of Western Australia	No quantum specified		
Housing Industry Association	No quantum specified		
Master Grocers of Australia	Not in excess of 1.1 per cent, applicable to all		
National Retail Association	No increase		
Restaurant & Catering Industrial	No increase		
South Australian Wine Industry Association Incorporated	A flat dollar increase no higher than inflation		
Lee, Walter	No quantum specified		

Appendix 3—Index of Material

Organisation	Document	Date
Australian Business Industrial and the NSW Business Chamber Ltd	Initial submission	13 March 2018
	Post-budget submission	
Australian Catholic Council for Employment Relations	Submission to preliminary hearing	8 September 2017
	Submission in reply to preliminary hearing	15 September 2017
	Initial submission	13 March 2018
	Submission in reply	9 April 2018
	Post-budget submission	10 May 2018
	Response to questions on notice	10 May 2018
	Response to questions for consultation	10 May 2018
Australian Chamber of Commerce and Industry	Submission to preliminary hearing	11 September 2017
	Initial submission	13 March 2018
	Submission in reply	9 April 2018
	Response to questions on notice	9 April 2018
	Response to questions for consultations	14 May 2018
Australian Council of Social Service	Initial submission	16 March 2018
Australian Council of Trade Unions	Submission to preliminary hearing	8 September 2017
	Submission in reply to preliminary hearing	15 September 2017
	Initial submission	13 March 2018
	Submission in reply	9 April 2018
	Response to questions on notice	9 April 2018
	Post-budget submission	11 May 2018
	Response to questions for consultations	11 May 2018
Australian Federation of Employers and Industries	Initial submission	13 March 2018
Australian Government	Initial submission	13 March 2018
	Response to questions on notice	9 April 2018

Organisation	Document	Date
	Post-budget submission	11 May 2018
	Response to questions for consultations	11 May 2018
Australian Hotels Association	Initial submission	20 March 2018
Australian Industry Group	Submission to preliminary hearing	8 September 2017
	Initial submission	13 March 2018
	Submission in reply	9 April 2018
	Response to questions on notice	9 April 2018
	Post-budget submission	11 May 2018
	Response to questions for consultations	11 May 2018
Australian Retailers Association	Initial submission	13 March 2018
Chamber of Commerce and Industry of Western Australia	Initial submission	12 March 2018
	Post-budget submission	20 April 2018
Chamber of Commerce and Industry Queensland	Initial submission	13 March 2018
Community and Public Sector Union	Initial submission	24 April 2018
Federal opposition	Initial submission	13 March 2018
Government of South Australia	Post-budget submission	11 May 2018
Government of Western Australia	Initial submission	13 March 2018
Housing Industry Association	Initial submission	13 March 2018
Master Grocers Australia	Initial submission	13 March 2018
National Retail Association	Initial submission	12 March 2018
New South Wales Government	Initial submission	20 March 2018
Queensland Government	Initial submission	19 March 2018
Restaurant and Catering Industrial	Initial submission	13 March 2018
	Response to questions on notice	13 April 2018
	Response to questions for consultation	7 May 2018
South Australian Wine Industry Association	Initial submission	13 March 2018
United Voice	Submission to preliminary hearing	7 September 2018
Victorian Government	Initial submission	9 March 2018
Lee, W	Initial submission	14 March 2018

Appendix 4—List of appearances

Appearances:

A Durbin, L Wang, N Stoney, L Berger-Thompson and T Begbie for the Australian Government

A Matheson, S Barklamb and A Carr and for the Australian Chamber of Commerce and Industry

T Clarke, M McKenzie and D Kyaloh for the Australian Council of Trade Unions

Hearing details:

2018.

Melbourne, and Canberra (by video):

May 15.

Appearances:

S Smith and J Toth for the Australian Industry Group

B Lawrence, M Savage and J Ferguson for the Australian Catholic Council for Employment Relations

S McIntosh and M Hill for the Transport Workers' Union

Hearing details:

2018.

Sydney, and Melbourne (by video):

May 16.

¹ The NMW order sets both the NMW and special NMWs for employees who are juniors, to whom training arrangements apply, or who have disabilities; and applies to award/agreement free employees. An award/agreement free employee cannot be paid less than the rate of pay specified in the NMW order (see ss 294-299). Further, if an enterprise agreement applies to an employee and the employee is not covered by a modern award, then the employee's base rate of pay under the enterprise agreement must not be less than the rate specified in the NMW order (s.206(3)).

² Including classification rates, junior rates and casual loadings.

³ ABS, *Employee Earnings and Hours, Australia, May 2016*, Catalogue No. 6306.0.

⁴ *Fair Work Act 2009*, s.284(2)(a).

⁵ *Fair Work Act 2009*, s.134(2).

⁶ *Fair Work Act 2009*, s.134(2)(b).

⁷ *Minister for Aboriginal Affairs and Another v Peko-Wallsend Limited and Others* (1986) 162 CLR 24.

⁸ *R v Hunt; Ex parte Sean Investments Pty Ltd* (1979) 180 CLR 322 at [329] per Mason J; *R v Toohey and Another: Ex parte Meneling Station Pty Ltd* (1982) 158 CLR 327 at [333] per Gibbs CJ; *Friends of Hinchinbrook Society Inc. v Minister for Environment (No. 3)* (1997) 77 FCR 153; *Australian Competition and Consumer Commission v Leelee Pty Ltd* [1999] FCA 1121; *Edwards v Giudice* [1999] FCA 1836; *National Retail Association v Fair Work Commission and Another* [2014] FCAFC 118 at [56].

⁹ See [\[2015\] FWCFB 3500](#) at [88]–[91].

¹⁰ *Fair Work Act 2009*, s.284(1)(b) and s.134(1)(c).

¹¹ *Fair Work Act 2009*, s.284(1)(c) and s.134(1)(a).

¹² *Fair Work Act 2009*, s.284(1)(d) and s.134(1)(e).

¹³ *Fair Work Act 2009*, s.284(1)(a) and s.134(1)(d), (f) and (h).

¹⁴ For example, employment growth and inflation are mentioned as separate considerations under the modern awards objective (s.134(1)(h)), but in the minimum wages objective these factors appear to be subsidiary to the performance and competitiveness of the national economy (s.284(1)(a)) and the modern awards objective requires the Panel to take into account 'the likely impact of any exercise of modern award powers on ... the sustainability, performance and competitiveness of the national economy' (s.134(1)(h)), whereas the 'sustainability' of the national economy is not mentioned in the minimum wages objective: [\[2015\] FWCFB 3500](#) at [88].

¹⁵ *Fair Work Act 2009*, s.134(1)(b).

¹⁶ [\[2015\] FWCFB 3500](#) at [134]–[135].

¹⁷ *Minister for Aboriginal Affairs and Another v Peko-Wallsend Limited and Others* (1986) 162 CLR 24 at [39]–[40]; *Penalty Rates Review Decision* [\[2017\] FCAFC 161](#) at [48].

¹⁸ *Ibid* at [109]; albeit the Court was considering a different statutory context, the observation at [109] is applicable to the Commission's task in the Review.

¹⁹ *Fair Work Act 2009*, s.43(2)(a).

²⁰ [\[2017\] FWCFB 3500](#) at [124]; [127].

²¹ [\[2017\] FWCFB 3500](#) at [141]–[142].

²² See ACCER's [submission](#) dated 13 March 2018 at paras 214; 234–237; 240; 249; 253.

²³ See ACCER's [submission](#) dated 13 March 2018 at para. 249.

²⁴ See ACCER's [submission](#) dated 13 March 2018 at para. 42.

²⁵ See ACCER's [submission](#) dated 13 March 2018 at para. 215.

²⁶ See ACCER's [submission](#) dated 13 March 2018 at para. 231.

²⁷ *Penalty Rates decision* [\[2017\] FWCFB 1001](#) at [128]–[132].

²⁸ *Penalty Rates Review decision* (2017) 350 ALR 592.

²⁹ *Penalty Rates Review decision* (2017) 350 ALR 592 at [49] and [53].

³⁰ *Penalty Rates Review decision* (2017) 350 ALR 592 at [33].

³¹ [\[2010\] FWAFB 4000](#) at [244]–[245]; [\[2011\] FWAFB 3400](#) at [228]; [\[2012\] FWAFB 5000](#) at [4], [14]–[15], [41], [149]; [\[2013\] FWCFB 4000](#) at [9]; [\[2014\] FWCFB 3500](#) at [8]; [\[2015\] FWCFB 3500](#) at [10]–[11]; [\[2016\] FWCFB](#) at [151]–[152].

³² [\[2013\] FWCFB 4000](#) at [424].

³³ [2014] FWCFB 3500 at [396].

³⁴ [2016] FWCFB 3500 at [371].

³⁵ *Ibid* at [55].

³⁶ *Ibid* at [449]; [2015] FWCFB 3500 at [315]; [2014] FWCFB 3500 at [310].

³⁷ [2014] FWCFB 3500 at [323].

³⁸ *Allianz Australia Insurance Limited v GSF Australia Pty Ltd* (2005) 221 CLR 568, 574-575 [12]-[13] per McHugh J.

³⁹ [2015] FWCFB 8200.

⁴⁰ *Ibid* at [280].

⁴¹ [2015] FWCFB 8200 at [290].

⁴² [2017] FWCFB 3500 at [643].

⁴³ [2016] FWCFB 3500 at [545].

⁴⁴ [2016] FWCFB 3500 at [546].

⁴⁵ See [2015] FWCFB 3500 at [88]–[91]; [2016] FWCFB 3500 at [116]; [2017] FWCFB 3500 at [115]; [129].

⁴⁶ See *4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues* [2014] FWCFB 1788 at [32].

⁴⁷ [2017] FWCFB 3500 at [129].

⁴⁸ *Fair Work Act 2009*, s.285(3).

⁴⁹ See [2015] FWCFB 3500 at [87]; [2016] FWCFB 3500 at [5]; [2017] FWCFB 3500 at [108].

⁵⁰ See [2013] FWCFB 4000 at [10].

⁵¹ [2017] FWCFB 1931.

⁵² [2017] FWCFB 3500 at [143]–[145].

⁵³ We note that actual indicators may themselves be subject to revision.

⁵⁴ [2013] FWCFB 4000 at [8].

⁵⁵ *Penalty Rates Review Decision* (2017) 350 ALR 592 at [95].

⁵⁶ RCI submission, 13 March 2018 at p. 11.

⁵⁷ Queensland Government submission, 19 March 2018 at p. 14; Victorian Government submission, 9 March 2018 at para. 28.

⁵⁸ ACOSS submission, 16 March 2018 at para. 7.

⁵⁹ Federal opposition, 13 March 2018 at para. 2.

⁶⁰ [2015] FWCFB 3500 at [7].

⁶¹ *Gala v Preston* (1991) 172 CLR 243 at [12].

⁶² Australian Government post-budget submission, 11 May 2018.

⁶³ RBA (2018), *Statement on Monetary Policy*, May, p. 30.

⁶⁴ RBA (2018), *Statement on Monetary Policy*, May, p. 31.

⁶⁵ RBA (2018), *Statement on Monetary Policy*, May, p. 22.

⁶⁶ Lowe P (2018), *Remarks at Reserve Bank Board Dinner*, Adelaide, 1 May.

⁶⁷ RBA (2018), *Statement on Monetary Policy*, May, pp. 57–58; 60.

⁶⁸ Statistical report, Table 12.4; RBA (2018), *Statement on Monetary Policy*, May, p. 58, Table 5.1.

⁶⁹ [2017] FWCFB 3500 at [342].

⁷⁰ RBA, *Statement on Monetary Policy*, May 2018, p. 60.

⁷¹ Ai Group submission, 13 March 2018 at pp. 4; 47; RCHI submission, 13 March 2018 at paras 16–20; AFEI submission, 13 March 2018 at para. 7; ABI and NSWBC submission, 13 March 2018 at p. 3.

⁷² Australian Government submission, 13 March 2018 at para. 273.

⁷³ See *Penalty Rates* decision [2017] FWCFB 1001 and [2017] FWCFB 2955.

⁷⁴ See generally [2017] FWCFB 3500 at [18]–[30].

⁷⁵ CCIQ submission, 13 March 2018 paras 26–31.

⁷⁶ [2017] FWCFB 3500 at [182].

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- ⁷⁷ [2017] FWCFB 3500 at [181].
- ⁷⁸ [2017] FWCFB 3500 at [170]–[177].
- ⁷⁹ ARA Submission 13 March 2018 at p. 12.
- ⁸⁰ [\[2017\] FWCFB 3500](#) at [172]–[177]; [\[2016\] FWCFB 3500](#) at [134]–[140]; [\[2015\] FWCFB 3500](#) at [106]–[116]; [\[2014\] FWCFB 3500](#) at [493]–[515]; [\[2013\] FWCFB 4000](#) at [98]; citing [\[2012\] FWAFFB 5000](#) at [28].
- ⁸¹ ACCER submission, 13 March 2018 at paras 255–257.
- ⁸² [\[2017\] FWCFB 3500](#) at [461]; [\[2016\] FWCFB 3500](#) at [429]; [\[2015\] FWCFB 3500](#) at [383]; [\[2014\] FWCFB 3500](#) at [323], [370]; [\[2013\] FWCFB 4000](#) at [33], [367].
- ⁸³ [2017] FWCFB 3500 at [146]–[155].
- ⁸⁴ ABI and NSWBC submission, 13 March 2018 at p. 6.
- ⁸⁵ ACCI submission, 13 March 2018 at para. 3.
- ⁸⁶ Statistical report, Table 7.1.
- ⁸⁷ The ARA submitted that ‘[t]he Panel should consider any increase on an award-by-award basis and provide an interim decision or statement prior to handing down a final decision...’ and proposed a 1.9 per cent increase to the NMW; ARA submission, 13 March 2018 at pp. 12; 18.
- ⁸⁸ *Edwards v Guidice* [1999] FCR 1836, 94 FCR 561 at [5].
- ⁸⁹ Statistical report, Overview.
- ⁹⁰ [2017] FWCFB 3500 at [217].
- ⁹¹ ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.
- ⁹² For a definition, see [2013] FWCFB 4000 at [150].
- ⁹³ [2016] FWCFB 3500 at [218].
- ⁹⁴ Ai Group submission, 13 March 2018 at p. 17.
- ⁹⁵ Such as ACCI submission, 13 March 2018 at paras 22; 63; 67; ABI submission, 13 March 2018 at pp. 20–21.
- ⁹⁶ RBA, *Statement on Monetary Policy*, May 2018, p. 59.
- ⁹⁷ RBA, *Statement on Monetary Policy*, May 2018, p. 57; Australian Government, *Budget Paper No. 1: Budget Strategy and Outlook 2018–19*, Canberra, p. 2-16.
- ⁹⁸ RBA, *Statement on Monetary Policy*, May 2018, p. 2.
- ⁹⁹ [\[2017\] FWCFB 3500](#) at [225]–[226].
- ¹⁰⁰ [\[2017\] FWCFB 3500](#) at [227].
- ¹⁰¹ Australian Government submission, 13 March 2018 at para. 196.
- ¹⁰² ACCER submission in reply, 9 April 2018 at para. 62.
- ¹⁰³ [2016] FWCFB 3500 at [225].
- ¹⁰⁴ RBA (2018), *Statement of Monetary Policy*, May, p. 31.
- ¹⁰⁵ [\[2017\] FWCFB 3500](#) at [228].
- ¹⁰⁶ Australian Government submission, 13 March 2018 at para. 196; ACTU response to questions on notice, 9 April 2018 at p. 21; Ai Group response to questions on notice, 9 April 2018 at p. 11; RCI response to questions on notice, 13 April 2018 at p. 6; ACCI submissions in reply, 9 April 2018, at para. 65.
- ¹⁰⁷ Ai Group submission, 13 March 2018 at p. 5.
- ¹⁰⁸ Australian Government submission, 13 March 2018 at para. 88.
- ¹⁰⁹ Campbell S & Withers H (2017), *Australian productivity trends and the effect of structural change*, Commonwealth Treasury, August; ACTU submission, 13 March 2018 at para. 67.
- ¹¹⁰ Campbell S & Withers H (2017), *Australian productivity trends and the effect of structural change*, Commonwealth Treasury, August, p. 9.
- ¹¹¹ Productivity Commission (2017), *Productivity and income – the Australian story*, Shifting the dial: 5 year productivity review, Supporting Paper No. 1, Canberra, August.
- ¹¹² Australian Government submission, 13 March 2018 at para. 201.
- ¹¹³ Victorian Government submission, 13 March 2018 at para. 61.
- ¹¹⁴ [2017] FWCFB 3500 at [243].

- ¹¹⁵ Australian Government submission, 13 March 2018 at para. 211.
- ¹¹⁶ Australian Government submission, 13 March 2018 at para. 209.
- ¹¹⁷ Grant A & Moore A (2017), 'Recent trends in wage growth', *Analysis of wage growth*, Chapter 1, Commonwealth Treasury, November, p. 8.
- ¹¹⁸ Australian Government submission, 13 March 2018 at para. 67.
- ¹¹⁹ Australian Government submissions, 13 March 2018 at paras 209, 211; ABI submission, 13 March 2018 at p. 15; ACCI submission, 13 March 2018 at para. 83.
- ¹²⁰ ACCI submission, 13 March 2018 at paras 148–151.
- ¹²¹ Ai Group submission, 13 March 2018 at p. 25.
- ¹²² Ai Group submission, 13 March 2018 at pp. 25–26.
- ¹²³ Fair Work Act, s.3(g).
- ¹²⁴ Australian Government submission, 13 March 2018 at para. 161.
- ¹²⁵ Australian Government submission, 13 March 2018 at para. 162.
- ¹²⁶ Australian Government submission, 13 March 2018 at para. 163.
- ¹²⁷ Australian Government submission, 13 March 2018 at paras 165–166.
- ¹²⁸ Australian Government response to questions on notice, 9 April 2018 at p. 7.
- ¹²⁹ Statistical report, Chart 3.2.
- ¹³⁰ [2016] FWCFB 3500 at para. 298; [2017] FWCFB 3500 at [260].
- ¹³¹ Australian Government submission, 13 March 2018 at para. 68.
- ¹³² Ai Group submission, 13 March 2018 at p. 7.
- ¹³³ Federal opposition, 13 March 2018 at para. 38.
- ¹³⁴ NAB, *NAB Quarterly Business Survey: December 2017*.
- ¹³⁵ NAB, *NAB Quarterly Business Survey: December 2017*, pp. 7–8.
- ¹³⁶ Australian Government submission, 13 March 2018 at para. 185.
- ¹³⁷ Australian Government submission, 13 March 2018 at p. 45, Chart 5.3.
- ¹³⁸ Australian Government submission, 13 March 2018 at p. 49, Chart 5.8.
- ¹³⁹ Sensis (2018), *Sensis Business Index March 2018*, p. 5.
- ¹⁴⁰ RBA (2018), *Statement on Monetary Policy*, May, p. 22.
- ¹⁴¹ Such as Australian Government submission, 13 March 2018 at paras 85; 207; ACCI submission, 13 March 2018 at paras 47; 94.
- ¹⁴² ACCI submission, 13 March 2018 at para. 98.
- ¹⁴³ Ai Group submission, 13 March 2018 at p. 5.
- ¹⁴⁴ [2017] FWCFB 3500 at [280].
- ¹⁴⁵ Statistical report, Overview.
- ¹⁴⁶ Statistical report, Table 5.2.
- ¹⁴⁷ [2017] FWCFB 3500 at [289]; Bishop J & Cassidy N (2017), *Insights into Low Wage Growth in Australia*, RBA Bulletin, March.
- ¹⁴⁸ Australian Government submission, 13 March 2018 at para. 190; Victorian Government submission, 13 March 2018 at para. 51; Ai Group submission, 13 March 2018 at p. 30; ACCI submission, 13 March 2018 at paras 52; 94; 107; ACROSS submission, 16 March 2018 at p. 14; AFEI submission, 13 March 2018 at paras 45–46.
- ¹⁴⁹ ACTU submission, 13 March 2018 at para. 341.
- ¹⁵⁰ ACCI submission, 13 March 2018 at para. 55.
- ¹⁵¹ ACCI response to questions for consultations, 14 May 2018, p. 1.
- ¹⁵² ABS, *Australian National Accounts: National Income, Expenditure and Product, Dec 2017*, Catalogue No. 5206.0.
- ¹⁵³ International Monetary Fund (2017), *Seeking sustainable growth: short-term recovery, long-term challenges*, World Economic Outlook, Chapter 2, October.

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- ¹⁵⁴ Grant A & Moore A (2017), 'Recent trends in wage growth', *Analysis of wage growth*, Chapter 1, Commonwealth Treasury, November, p. 2.
- ¹⁵⁵ Grant A & Moore A (2017), 'Recent trends in wage growth', *Analysis of wage growth*, Chapter 1, Commonwealth Treasury, November, p. 7.
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- ³⁹⁹ Note that the collective agreements from the Employee Earnings and Hours survey include registered federal and state agreements, and non-registered agreements, while the WAD only contains registered federal agreements. That said, federal enterprise agreements account for around four in five collective agreements.
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- ⁴¹⁰ Federal opposition, submission 13 March 2018 at paras 77–87.
- ⁴¹¹ Queensland Government submission, 19 March 2018 at p. 13.
- ⁴¹² AFEI submission, 13 March 2018 at paras 72–73.
- ⁴¹³ Ai Group submission, 13 March 2018 at p. 43.
- ⁴¹⁴ Ai Group submission, 13 March 2018 at p. 43.
- ⁴¹⁵ [2017] FWCFB 3500 at [658].
- ⁴¹⁶ Ai Group submission, 13 March 2018 at pp. 44–45.
- ⁴¹⁷ ACCI submission, 13 March 2018 at paras 220; 222.
- ⁴¹⁸ [2017] FWCFB 3500 at [636].
- ⁴¹⁹ ACTU submission, 13 March 2018 at para. 481.
- ⁴²⁰ ACTU submission, 13 March 2018 at para. 483.
- ⁴²¹ ACCER submission in-reply and response to questions on notice, 9 April 2018 at para. 67.
- ⁴²² ACCER submission in-reply and response to questions on notice, 9 April 2018 at para. 68.
- ⁴²³ ACCI submission in-reply, 9 April 2018 at para. 111.
- ⁴²⁴ ACCI submission in-reply, 9 April 2018 at para. 32.
- ⁴²⁵ ACCI submission in-reply, 9 April 2018 at paras 111–112.
- ⁴²⁶ *Allianz Insurance Limited v GSF Australia Ltd* (2005) 221 CLR 568 at [12]-[13] per McHugh J.
- ⁴²⁷ [2015] FWCFB 8200.
- ⁴²⁸ *Ibid* at [280].
- ⁴²⁹ [2015] FWCFB 8200 at [290].
- ⁴³⁰ *Penalty Rates* decision [2017] FWCFB 1001 at [216].
- ⁴³¹ [2016] FWCFB 3500 at [545].
- ⁴³² Statistical report, Table 11.1.
- ⁴³³ Peetz D & Yu S (2018), *Employee and employer characteristics and collective agreement coverage*, Fair Work Commission, Research Report 1/2018, February, p. 10.
- ⁴³⁴ Rozenbes D & Farmakis-Gamboni S (2015), *Earnings and characteristics of employees by gender and industrial arrangement*, report for the Pay Equity Unit of the Fair Work Commission, December; and Broadway B & Wilkins R (Melbourne Institute of Applied Economic and Social Research) (2015), *Low-paid women’s workforce participation decisions and pay equity*, report for the Pay Equity Unit of the Fair Work Commission, December.
- ⁴³⁵ Australian Government submission, 13 March 2018 at para 276.
- ⁴³⁶ Australian Government submission, 13 March 2018 at para 276, Table 8.7.
- ⁴³⁷ Broadway B & Wilkins R (2017), *Probing the effects of the Australian system of minimum wages on the gender wage gap*, Melbourne Institute of Applied Economics and Social Research, Working Paper No. 31/17, p. 12.
- ⁴³⁸ Broadway B & Wilkins R (2017), *Probing the effects of the Australian system of minimum wages on the gender wage gap*, Melbourne Institute of Applied Economics and Social Research, Working Paper No. 31/17, p. 13.
- ⁴³⁹ Broadway B & Wilkins R (2017), *Probing the effects of the Australian system of minimum wages on the gender wage gap*, Melbourne Institute of Applied Economics and Social Research, Working Paper No. 31/17, pp. 16–17.
- ⁴⁴⁰ Broadway B & Wilkins R (2017), *Probing the effects of the Australian system of minimum wages on the gender wage gap*, Melbourne Institute of Applied Economics and Social Research, Working Paper No. 31/17, pp. 14–15.
- ⁴⁴¹ Broadway B & Wilkins R (2017), *Probing the effects of the Australian system of minimum wages on the gender wage gap*, Melbourne Institute of Applied Economics and Social Research, Working Paper No. 31/17, p. 22.
- ⁴⁴² Broadway B & Wilkins R (2017), *Probing the effects of the Australian system of minimum wages on the gender wage gap*, Melbourne Institute of Applied Economics and Social Research, Working Paper No. 31/17, p. 24.

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- ⁴⁴³ Broadway B & Wilkins R (2017), *Probing the effects of the Australian system of minimum wages on the gender wage gap*, Melbourne Institute of Applied Economics and Social Research, Working Paper No. 31/17, p. 24.
- ⁴⁴⁴ Victorian Government submission, 13 March 2018 at para 103.
- ⁴⁴⁵ Western Australian Government submission, 13 March 2018 at para 63.
- ⁴⁴⁶ Victorian Government submission, 13 March 2018 at para. 103; Broadway B & Wilkins R (2017), *Probing the Effects of the Australian System of Minimum Wages on the Gender Wage Gap*, Melbourne Institute of Applied Economic & Social Research, Working Paper No. 31/17, December, p. 25.
- ⁴⁴⁷ Queensland Government submission, 19 March 2018 at p. 13.
- ⁴⁴⁸ Federal Opposition submission, 13 March 2018 at para. 69.
- ⁴⁴⁹ ACTU submission, 13 March 2018 at para. 484.
- ⁴⁵⁰ ACTU submission, 13 March 2018 at para. 487.
- ⁴⁵¹ ACTU submission in-reply, 13 April 2018 at p. 19.
- ⁴⁵² ACTU submission in-reply, 13 April 2018 at p. 19.
- ⁴⁵³ ACCER submission, 13 March 2018 at para. 280.
- ⁴⁵⁴ ACCER submission, 13 March 2018 at para. 276.
- ⁴⁵⁵ ACCER submission, 13 March 2018 at para. 281.
- ⁴⁵⁶ ACCER submission, 13 March 2018 at paras 278; 280.
- ⁴⁵⁷ ACCI submission in-reply, 9 April at para. 28.
- ⁴⁵⁸ ACCI submission in-reply, 9 April at paras 28–29.
- ⁴⁵⁹ ACCI submission in-reply, 9 April at para. 33.
- ⁴⁶⁰ [2016] FWCFB 3500 at [546].
- ⁴⁶¹ [2017] FWCFB 3500 at [654].
- ⁴⁶² Broadway B. and Wilkins R. (2007) *Probing the Effects of the Australian System Minimum Wages on the Gender Wage Gap*, Working Paper No. 31/17, p. 13.
- ⁴⁶³ *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, s.22. Note 2012–13 decision [\[2013\] FWAFB 4000](#) at [550]–[553] clarifies these are different categories of transitional instrument.
- ⁴⁶⁴ Some Division 2A State reference transitional awards may still operate such as where they are related to awards that have not been terminated under the termination of instruments process.
- ⁴⁶⁵ Some Division 2B State reference transitional awards may still operate such as where they are related to awards that have not been terminated under the termination of instruments process.
- ⁴⁶⁶ Some Division 2B State awards may still operate such as where they cover: employees also covered by enterprise instruments; or State reference public sector awards.
- ⁴⁶⁷ Two transitional pay equity orders currently operate, created under item 43 of Sch. 3, and item 30A of Sch. 3A, of the Transitional Act respectively. The Panel must review and may make a determination varying the transitional pay equity order created under sub item 30D(1) of Sch. 3A, to the extent that it is derived from the *Queensland Community Services and Crisis Assistance Award – State 2008* (Regs 3A.01B).
- ⁴⁶⁸ See discussion further for whom these instruments apply [\[2013\] FWCFB 4000](#) at [550]–[561].
- ⁴⁶⁹ [\[2010\] FWAFB 4000](#) at [370]–[396].
- ⁴⁷⁰ Dunn A & Bray G (2010), *Minimum wage transitional instruments under the Fair Work Act 2009 and the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, Research Report 06/2010, Fair Work Australia, June 2010.
- ⁴⁷¹ Fair Work Commission (2017), *Background Paper: Annual Wage Review 2016–17 — Transitional Instruments*, 19 September.
- ⁴⁷² [2018] FWCFB 2 at [8]–[20].
- ⁴⁷³ *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, items 5(1)–(5) and 9(4) of Sch. 6.
- ⁴⁷⁴ *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, items 5(3), 6 and 10(1) of Sch. 6A.
- ⁴⁷⁵ For example, certain instruments that covered employees who were also covered by the *Social, Community, Home Care and Disability Industry Award 2010* were preserved by the *Award Modernisation – Termination of Modernisable Instruments* decision [\[2010\] FWAFB 9916](#) at [44]. As at the date of this decision, they have not been terminated.

- ⁴⁷⁶ A more detailed outline of these instruments can be found at [\[2013\] FWCFB 4000](#) at [553]–[559]; and [\[2017\] FWCFB 1931](#) at [81].
- ⁴⁷⁷ *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, items 10 and 20 of Sch. 9, items 7 and 12A(5) of Sch. 3.
- ⁴⁷⁸ *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, items 7-8 of Sch. 9, and item 3(2) of Sch. 5.
- ⁴⁷⁹ For example, *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, item 20(1) of Sch. 3.
- ⁴⁸⁰ [\[2017\] FWCFB 3500](#) at [687]–[689].
- ⁴⁸¹ *All Trades Queensland Pty Limited* [\[2016\] FWC 2832](#).
- ⁴⁸² *All Trades Queensland Pty Ltd v Construction, Forestry, Mining and Energy Union, Communications, Electrical, Energy, Information, Postal, Plumbing and Allied Services Union and Australian Manufacturing Workers' Union* [\[2017\] FWCFB 132](#).
- ⁴⁸³ [\[2017\] FCAFC 189](#) at [58].
- ⁴⁸⁴ *All Trades Queensland Pty Limited v Construction, Forestry, Mining and Energy Union* [\[2017\] FCAFC 189](#) at [58].
- ⁴⁸⁵ *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, item 2(5) of Sch. 3.
- ⁴⁸⁶ NAPSAs were established by Sch. 8 of the *Workplace Relations Act 1996*, as amended by the *Workplace Relations Amendment (Work Choices) Act 2005*. They are transitional instruments applicable to employees who previously had their terms of employment determined by a State award, but who have been brought into the federal industrial relations system.
- ⁴⁸⁷ [\[2017\] FCAFC 189](#) at [40]; *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, item 20(1) of Sch. 3.
- ⁴⁸⁸ [\[2017\] FCAFC 189](#) at [26].
- ⁴⁸⁹ [\[2010\] FWAFB 9916](#) at [41]–[44].
- ⁴⁹⁰ *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, item 10(1) of Sch. 9 and item 12A of Sch. 3.
- ⁴⁹¹ [\[2017\] FWCFB 1931](#).
- ⁴⁹² [\[2017\] FWCFB 1931](#) at [142]–[155].
- ⁴⁹³ The *Fair Work (Transfer of Business) Amendment Act 2012*, which commenced on 4-5 December 2012, introduced 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 s.768AO of the *Fair Work Act 2009*.
- ⁴⁹⁴ The provisions of the *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009* dealing with the variation of Division 2B State awards in annual wage reviews also apply to copied State awards. Sections 768BY and 768AW(b) of the *Fair Work Act 2009*.
- ⁴⁹⁵ [\[2018\] FWCFB 2](#).
- ⁴⁹⁶ [\[2018\] FWCFB 2](#) at [43].
- ⁴⁹⁷ ACTU submission, 13 March 2018 at para 503.
- ⁴⁹⁸ ACTU submission, 13 March 2018 at para 504; ACTU submission in reply, 9 April 2018 at p. 19.
- ⁴⁹⁹ CPSU submission, 24 April 2018 at para 2.
- ⁵⁰⁰ ABI and NSWBC submission, 13 March 2018 at p. 37.
- ⁵⁰¹ ACCI response to questions on notice, 9 April 2018 at para. 37; RCI made a similar submission in its response to questions on notice, 9 April 2018 at p. 5.
- ⁵⁰² *Fair Work Act 2009*, s.284(3).
- ⁵⁰³ ACTU submission, 13 March 2018 at para 492.
- ⁵⁰⁴ ACTU submission, 13 March 2018 at paras 493–494.
- ⁵⁰⁵ Ai Group submission, 13 March 2018 at p. 48.
- ⁵⁰⁶ ABI and NSWBC submission, 13 March 2018 at p. 36.
- ⁵⁰⁷ ACTU submission, 13 March 2018 at paras 493–495.
- ⁵⁰⁸ Ai Group submission, 13 March 2018 at p. 48.
- ⁵⁰⁹ ABI and NSWBC submission, 13 March 2018 at p. 36.
- ⁵¹⁰ ACTU submission, 13 March 2018 at para. 496.

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- ⁵¹¹ ACTU submission, 13 March 2018 at para. 495.
- ⁵¹² ACTU submission, 13 March 2018 at para. 495.
- ⁵¹³ ACTU submission, 13 March 2018 at para. 495.
- ⁵¹⁴ Ai Group submission, 13 March 2018 at p. 48.
- ⁵¹⁵ Australian Government submission, 13 March 2018 at para. 138.
- ⁵¹⁶ Victorian Government submission, 13 March 2018 at para. 136.
- ⁵¹⁷ [2016] FWCFB 3500 at paras 608; 650.
- ⁵¹⁸ *Fair Work Act 2009*, s.295(1)(b).
- ⁵¹⁹ ACTU submission, 13 March 2018 at para. 498.
- ⁵²⁰ Ai Group submission, 13 March 2018 at p. 50.
- ⁵²¹ ABI and NSWBC submission, 13 March 2018 at p. 36.
- ⁵²² [2015] FWCFB 3500 at [560].
- ⁵²³ [2016] FWCFB 3500 at [640].
- ⁵²⁴ ACTU submission, 13 March 2018 at para. 499.
- ⁵²⁵ Ai Group submission, 13 March 2018 at p. 50.
- ⁵²⁶ ABI and NSWBC submission, 13 March 2018, at p. 36.
- ⁵²⁷ [2018] FWCFB 3500 at [665].
- ⁵²⁸ *Fair Work Act 2009*, s.294(1)(b).
- ⁵²⁹ ACTU submission, 13 March 2018 at para. 493.
- ⁵³⁰ ACOSS submission, 16 March 2018 at p. 18.
- ⁵³¹ Ai Group submission, 13 March 2018 at p. 50.
- ⁵³² ABI and NSWBC submission, 13 March 2018 at p. 35.
- ⁵³³ Ai Group submission, 13 March 2018 at p.50.
- ⁵³⁴ ABI and NSWBC submission, 13 March 2018 at pp. 35–36.
- ⁵³⁵ [2017] FWCFB 3500 at [739].
- ⁵³⁶ ACTU submission, 13 March 2018 at para. 497.
- ⁵³⁷ Ai Group submission, 13 March 2018 at p. 48.
- ⁵³⁸ ABI and NSWBC submission, 13 March 2018 at p. 35.
- ⁵³⁹ Ai Group submission, 13 March 2018 at p. 48.
- ⁵⁴⁰ ABI and NSWBC submission, 13 March 2018 at p. 35.
- ⁵⁴¹ ACTU submission, 13 March 2018 at para. 497.
- ⁵⁴² [MA000103](#).
- ⁵⁴³ [2017] FWCFB 3500 at [740].
- ⁵⁴⁴ [2017] FWCFB 5073.
- ⁵⁴⁵ [2018] FWCFB 2196.
- ⁵⁴⁶ [2018] FWCFB 2196 at [15].
- ⁵⁴⁷ ACOSS submission, 16 March 2018 at pp. 46–47.
- ⁵⁴⁸ ACOSS submission to 2016–17 Review at p. 37; ACOSS submission to 2015–16 Review at pp. 38–39; ACOSS submission to 2014–15 Review at pp. 52–53; ACOSS submission to 2013–14 Review at pp. 59–60; ACOSS submission to 2012–13 Review at pp. 58–59; ACOSS submission to 2011–12 Review at p. 57; ACOSS submission to 2010–11 Review at pp. 45–46 and ACOSS submission to 2009–10 Review at p. 46.
- ⁵⁴⁹ ACOSS submission, 16 March 2018 at p. 47.
- ⁵⁵⁰ [2017] FWCFB 3500 at [737].
- ⁵⁵¹ Borland, J (2018), *Part II: Prospects for research on employment effects of minimum wages in Australia*, Outcomes from the Fair Work Commission research roundtable, Fair Work Commission, Research report 4/2018, March.
- ⁵⁵² Richardson, S (2018), *The UK evaluation of the impacts of increases in their minimum wage*, Discussion paper prepared for the Fair Work Commission research roundtable, Fair Work Commission, March.