

**FAIR WORK COMMISSION
MINIMUM WAGE PANEL
SUBMISSION – ANNUAL WAGE REVIEW 2020-2021**



**SOUTH AUSTRALIAN WINE INDUSTRY
ASSOCIATION INCORPORATED**

SUBMISSION OF: **SOUTH AUSTRALIAN WINE INDUSTRY
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South Australian Wine Industry Association

The South Australian Wine Industry Association (SAWIA) is an employer and industry association representing the interests of wine grape growers and wine producers throughout the state of South Australia. SAWIA (as it is known today) was established in 1840 as the *Society for the Introduction of Vines*.

SAWIA is a not for profit incorporated association, funded by voluntary member subscriptions, grants and fee for service activities, whose mission is to provide leadership to South Australian grape and wine businesses so they achieve great things that they couldn't by themselves.

SAWIA membership represents approximately 96% of the grapes crushed in South Australia and about 36% of the land under viticulture. Each major wine region within South Australia is represented on the board governing our activities.

SAWIA has a strong track record as an industry leader and innovator in many areas. SAWIA pro-actively represents members and the greater wine industry with government and related agencies in all aspects of business in the wine sector.

What SAWIA does for members is covered in four key areas:

- Representation and Leadership;
- Advice and Information;
- Products and Services; and
- Promotion and Opportunities.

SAWIA is a registered association of employers under the South Australian *Fair Work Act 1994* and is also a Recognised State-Registered Association under the *Fair Work (Registered Organisations) Act 2009*.

SAWIA has a long-standing interest in employment, immigration and related policy areas. SAWIA's policy positions in relation to employment are proposed and endorsed by our Employee Relations Committee, which comprises of HR Executives and Senior Managers, some with national responsibilities, drawn from the membership.

Basis of Submission

The Fair Work Commission (FWC) in its Statement of 17 September 2020 announced the timetable for the making of submissions in the Annual Wage Review. Submissions are invited from interested groups and individuals who wish to provide input into the 2020 –2021 Annual Wage Review (Wage Review).

In accordance with the Statement regarding updated timetable, [2020] FWC 5430, SAWIA makes the following submission.

Overview of the Wine Industry

The wine industry is both unique and complex in nature. It takes raw produce, wine grapes, and turns them into a value-added product, wine, that is sold throughout the world. Unlike other manufacturing sectors, the wine industry's viticultural foundations require long lead times to a produce a crop and based on the vagaries of nature each vintage make the balance of supply and demand a constant challenge.

The industry is 'vertically integrated', spanning agriculture (wine grapes), manufacturing (winemaking) and sales into a global marketplace. Sales growth is driven by exports through

the main channels of off-premise (supermarkets and wine retail) and on premise (restaurants, clubs, pubs) venues, often through company owned distribution channels.

Some businesses in the wine industry are extremely diverse, and employ persons in any number of the following occupations:

- agriculture (grape growing);
- manufacturing (winemaking);
- science (laboratory);
- retail (cellar door sales);
- horticulture (nursery);
- food and beverage (cellar door / café & restaurant);
- administration (clerks);
- barrel manufacturing (coopers);
- warehousing and packaging (store persons);
- transport of grapes & bottled wine (drivers);
- maintenance (mechanics & welders);
- planning & technical production / tasks (engineers); and
- other professionals (accountants, sales, marketing, export professionals)

Based on the most current statistical information Australia has 2,268¹ wine producers. At the last Census (2016) around 21,000 people stated that their primary industry of employment was either the grape growing or wine manufacturing industry in Australia². Best estimates at that time indicated that the wine industry workforce employs males and females in the ratio of 65% / 35% respectively.

1. The Wine Industry in Australia

The Australian wine Industry consists of 65 wine regions across the six states and one territory (ACT), see Figure 1. While wine grape growing and wine production occurs in the six States and the ACT, the crush data demonstrates that South Australia is the single largest State in terms of crush, with a total national crush of 1.52 million tonnes.

Figure 1: Crush by State and region³

State/Regions	% of total crush
South Australia	47%
New South Wales	32%
Victoria	17%
Western Australia	2%
Tasmania	1%
Queensland	<1%
TOTAL	100%

The crush data also reveals that the Australian wine industry comprise of a small number of large wineries and a large number of small wineries. The 20 largest producers account for at least 80% of the total crush.⁴

¹ Source: The Australian and New Zealand Wine Industry Directory 2021

² This excludes casual workers such as grape pickers and other seasonal workers not working in those industries in the week prior to the Census. It also excludes people who worked in the wine and grape production industry as a second job.

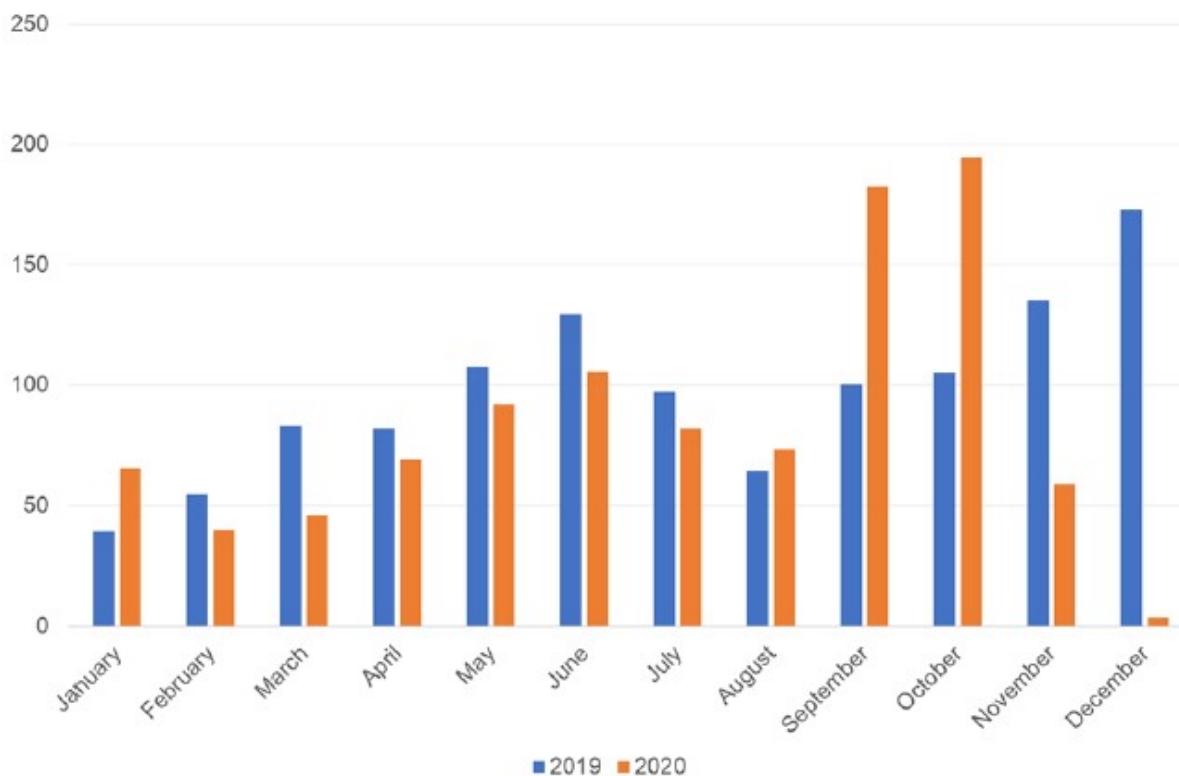
³ Wine Australia 2020, National Vintage Report 2020

⁴ The Australian and New Zealand Wine Industry Directory 2021

In 2020, Australian wine exports decreased by 1% in value to \$2.89 billion and increased by 0.5% in volume to 747 million litres. The average price per litre declined 1% to \$3.87 free on board (FOB).⁵

Exports recorded a steep decline in the final two months of the calendar year, predominately in exports to China, due to the significant increase in tariffs of up to almost 212%, which may remain in place for many years.

Figure 2: Value of exports to mainland China by month (A\$ million FOB)⁶



In South Australia, the value of wine exports fell 7.3% in the 12 months to January 2021.⁷

Up until 2007, the Australian Wine industry enjoyed considerable success. However, the global financial crisis (GFC) in August 2007 put the Australian wine industry under significant pressure. From 2007 to 2012 wine exports fell significantly, by 64 million litres (8% fall) in volume and by \$1.15 billion (38%) in value.

There is also widespread concern in the wine industry in relation to the dominance of the larger supermarket chains and their increased presence in the liquor retailing market. The supermarket giants' market share of the Australian alcohol retailing market is now close to 70%⁸, which gives them more bargaining power with wine producers to drive prices down, and results in tight net margins for wine producers.

Apart from contribution to the nation's overall export revenue, the wine industry also generates substantial revenue to the tourism industry. The AgEconPlus report Economic

⁵ Wine Australia 2021, Australian Wine Export Report, Moving Annual Total – December 2020.

⁶ Ibid

⁷ Department of Treasury and Finance, South Australian Government 2021, SA Overseas Goods Exports, January 2021

⁸ Roy Morgan 2018, Supermarkets continue to take alcohol market share from hotel bottle-shops, November 08 2018 Finding No. 7753

Contribution of the Australian Wine Sector⁹ found that international tourists identify ‘great food, wine, local cuisine and produce’ as a major reason for visiting Australia.

Since December 2019, the South Australian wine industry has been recovering from the summer bushfires. 2020 brought on further challenges with COVID-19 and associated public activity restrictions, including domestic and international closures. The China trade barriers on Australian wine have been widely reported and caused a sharp contraction in Australia’s main wine export market. SAWIA expect this to be further reflected in the March quarter export figures.

2. Minimum Wages Objective

The FWC must establish and maintain a safety net of fair minimum wages, taking into account the requirements of Section 284(1) of the *Fair Work Act 2009*.

In making this submission SAWIA takes into account these 5 objectives but with the specific knowledge it has of the wine industry in Australia. Whilst SAWIA is South Australia based, the industrial relations system has taken on a greater national significance with all wine industry employers and employees now operating in the federal industrial relations system. As a consequence, this submission is made with reference to the wine industry on a national basis.

3. Australia’s Economic situation for 2021 and the Outlook for 2022

According to the Reserve Bank of Australia (RBA), the Australian economy is estimated to have contracted by 2% during 2020. Over 2021, the economy is expected to grow around 3½%.¹⁰

RBA notes that more than 900,000 Australians remain unemployed, which is 220,000 more than at the onset of the COVID-19 pandemic. Particularly in industries where COVID-19 public health restrictions has had the greatest impact, employment is yet to fully recover.

This is evident in the wine industry where international and State border travel closures and restrictions have had a significant impact on tourism numbers, hospitality, accommodation and event bookings.

Overall, unemployment is expected to gradually decline to around 5¼% by mid-2023 and inflation is expected to be low, gradually increasing to 1¾% by mid-2023.¹¹

4. Effect of COVID-19 and trade issues

2020 has been an extraordinarily challenging year for the wine industry. Vintage conditions were very difficult. On the back of a long, harsh dry period, the year commenced with savage bushfires and some unfavourable weather events. Then COVID-19 struck and the economic impact was immediate, with different rules and reduced capacity forcing cellar doors to reduce opening hours and sell take away.

Challenges in servicing domestic and international markets, or to respond to export orders, has contributed to a significant drop in business confidence.

⁹ AgEconPlus and Gillespie Economics report Economic Contribution of the Australian Wine Sector (Dec 2015), prepared for the Australian Grape and Wine Authority (AGWA/Wine Australia).

¹⁰ RBA Statement on Monetary Policy – February 2021

¹¹ Ibid

Like most other industry sectors, the pandemic has had a significantly damaging impact on South Australia's wine industry. Most (88%) of South Australian wineries surveyed indicated that COVID-19 has had a negative impact on their business¹².

Seventy-one per cent of participants identified their 'ability to service domestic and international markets' to be the most negative impact of COVID-19. Export orders were also negatively impacted, with 64% of participants indicating they have been significantly or substantially reduced by the economic impacts of COVID-19.¹³

Wineries have expressed significant concern in relation to the current, medium and longer term impacts of COVID-19. COVID-19, and the associated compliance requirements, has had an immediate impact on businesses and their ability to sell product both overseas and domestically, to manage cash flow, and to forward plan. In addition, COVID-19 has also led to a lower level of profitability, a significant degree of stress, insecurity, and fatigue among business operators and their staff.

During 2020, a number of wineries closed their cellar doors and restaurants or reduced their opening hours. Many market development events, such as tasting events and festivals were cancelled and private functions at wineries, including weddings and birthdays cancelled or postponed. Whilst COVID-19 public activity restrictions have gradually be relaxed, wineries are still not able to able to operate at pre-COVID-19 levels and continue to bear costs of increased cleaning, monitoring and supervision of COVID-19 restrictions.

Australia's trading relationship with China was also recognised as having a negative impact on business confidence. Some participants were particularly concerned about the prospect of export opportunities diminishing or ceasing, and stock flooding the domestic market, sending local prices down, and putting significant pressure on smaller players. More generally, it was recognised that Australia's relationship with China will have a widespread impact on all wine businesses in South Australia, whether they deal directly with China or not. It should be noted that this survey was conducted prior to the implementation of tariffs on Australian wine by China, and the full effect of the China trade barriers are now starting to be felt.

The Chinese Ministry of Commerce (MOFCOM) announced temporary tariffs from 28 November 2020 of between 107.1% and 212.2% of Australian wine in containers of up to 2 litres prior to finalising its ongoing anti-dumping investigation. In addition, MOFCOM announced interim countervailing duties from 11 December 2020 of between 6.3% to 6.4% ahead of finalising its countervailing investigation.

Unsurprisingly, exports to mainland China fell following the imposition of interim tariffs in November. Value declined 14 per cent to \$1.01 billion and volume by 29 per cent to 96 million litres (10.7 million 9-litre case equivalents).¹⁴ It is expected that exports to China will further diminish in the next couple of months.

The circumstances facing the wine industry continue to be exceptional and must in SAWIA's submission be taken into account by the Expert Panel.

SAWIA support employees getting a reasonable wage increase and has supported a wage increase in line with CPI in previous Annual Wage Reviews. However, wine businesses continue to be in survival mode and any wage increase decision in the range of the average 2.79% over the last 5 years would be devastating to wine businesses doing their outmost to retain their workforce and continue operating.

¹² Bentleys SA and SAWIA 2020, <https://www.winesa.asn.au/public/86/files/Industry%20%26%20Govt/SA%20Wine%20Industry%202020%20Snapshot.pdf>

¹³ Ibid

¹⁴ Wine Australia 2021, Australian Wine Export Report, Moving Annual Total – December 2020.

5. Water restrictions and electricity costs

Individual irrigators have continued to face some restrictions on their water allocation in various wine growing regions in South Australia and whilst somewhat the pressure has eased the water cost and access continues to have a negative impact on South Australian wineries¹⁵.

Two thirds of South Australian wineries expect to use relatively low levels of water to irrigate their vineyards until 2023. Water access and costs has been rated by close to 70% of wineries as having a negative impact.¹⁶

Electricity costs, particularly in South Australia are also of concern to the wine industry. Close to 60% of South Australian wineries surveyed nominate energy costs as having a negative impact on their business.¹⁷

6. Impact of global markets for product and the domestic labour markets regulating employment

Global factors have had a significant effect on the Australian wine industry due mainly to the high Australian dollar over the 5 years to mid-2014. The flow on effect of the high Australian dollar over those years has meant that some domestic businesses decreased or ceased exporting products (due to the increased cost). This led to countries such as New Zealand and Chile taking the opportunity to take advantage of lower costs and increase their presence in major wine-consuming markets.

The total value of imported wine has increased from \$431 million in 2008 to \$808 million in 2020¹⁸.

Minimising fixed costs continues to be a priority for businesses in the wine industry as they look to the long-term viability of their existence. One or more of the above factors have contributed to businesses looking for ways to be sustainable, including restructuring and downsizing workforce numbers, adoption of automation and new technology, reviewing distribution arrangements domestically and internationally, and diversifying interests with the acquisition of other wine brands.

This restructuring is evident in the total number of employees directly employed in the South Australian and Australian wine industry. Since 2006, the number of employees directly engaged in the South Australian wine industry has declined with 21.5% or 2,300 employees, compared to 25% in the overall Australian wine industry.

7. Industry arrangements in the wine industry

The most common industrial arrangement for Australia's wine producers is to pay their employees minimum award wages in accordance with the Wine Industry Award 2020. Therefore, any movements in award wages will be felt across the wine industry.

For small and medium sized wineries, labour costs are often the single largest expense. There is often very little scope for small and medium sized wineries to reduce other costs by for example obtaining more favourable terms and conditions in relation to utilities.

¹⁵ Bentleys SA and SAWIA 2020, <https://www.winesa.asn.au/public/86/files/Industry%20%26%20Govt/SA%20Wine%20Industry%202020%20Snapshot.pdf>

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Wine Australia 2020, Australian Wine Imports Monitor, November 2020

The cost of labour, taking penalty rates and overtime rates into account are constantly assessed to determine the most optimum staffing levels and operations, including cellar door trading hours. This also includes owner-operators working longer hours and shifts attracting penalties and overtime, including weekends and public holidays, as an alternative to engaging external staff.

Close to 70 percent of South Australian wineries surveyed nominate labour costs as having a negative business impact¹⁹.

Whilst there are approximately 60 current Enterprise Agreements in the wine industry, they almost exclusively apply to Australia's 15 largest wine companies. The majority of these enterprise agreements were negotiated with an employee association.

The average term for enterprise agreements in the wine industry is 3 years. Agreements that have been negotiated and approved have seen wages increases of around 2%-3.0% for the life of the agreement. Such increases have been negotiated in exchange for operational efficiencies and flexibility. This is broadly in line with the average annual wage increases for all current private sector enterprise agreements of 2.7%²⁰. Compared to the relevant industry divisions (ANZSIC), the average increases for grape growing and winemaking enterprise agreements are 2.5% and 2.2 respectively²¹.

In relation to the wine industry, the reduced percentage increases within these relevant industry divisions demonstrates that employees and employers understand the need to contain labour costs and reflects the current challenges the industry is facing.

The planned increase to the superannuation guarantee from 9.5% to 10% for July 2021 will be cost burden for business and applies to all employees and will based on employees actual wage.

8. Exceptional circumstances

In its June 2020 Decision [2020] FWCFB 3500, the Expert Panel discussed the fact that certain industries, including tourism, hospitality, including wine industry, accommodation and entertainment and transport, had been most affected by the COVID-19 pandemic.

The Expert Panel found that:

[69] It is plain that some businesses and employees within the Transport, postal and warehousing industry (in the 'central cluster') have been substantially impacted by the restrictions imposed in response to the COVID-19 pandemic. The government enforced measures to reduce the spread of the virus have had a substantial impact on the aviation sector with restrictions likely to be maintained for some time. Unfortunately, the impact on both jobs and wages within this sector cannot be identified from the available data at the ANZSIC 1-digit level. However, it is abundantly clear that the restrictions imposed have caused significant hardship for these businesses and their employees. The same observation may be made in relation to the tourism and events sectors and in some other services, such as dry cleaning and beauty therapy. Accordingly, these sectors along with Accommodation and food services and Arts and recreation services may be characterised as the 'most affected'

¹⁹ Bentleys SA and SAWIA 2020, <https://www.winesa.asn.au/public/86/files/Industry%20%26%20Govt/SA%20Wine%20Industry%202020%20Snapshot.pdf>

²⁰ Attorney-General's Department, Trends in Federal Enterprise Bargaining Report September Quarter 2020

²¹ Ibid

by the COVID-19 pandemic.
[Emphasis added]

For industries reliant on tourism and subject to specific social distancing and density requirements, the Expert Panel found that the impact will be long lasting:

[505] Economic restrictions are now being gradually eased and lifted and thus it follows that the recovery process has already begun. Nevertheless, a return to “normality” would still appear to be a long way off.

[506] Unrestricted international travel is not yet being seriously considered (except to New Zealand), with obvious implications for all businesses servicing travel and tourism related activity.

[507] Ongoing concerns about the fear of infection and the need for social distancing will likely continue to impact negatively on many types of business activities, from restaurants, to retail trade, to entertainment and major events.

In relation to the capacity of the Expert Panel to vary the operative date of the minimum wage increase, the decision at [234] held that:

the Commission may make multiple variation determinations that operate from 1 July 2020 or (to the extent justified by exceptional circumstances) from a later date or various later dates (with any such determination taking effect in relation to a particular employee at the start of the employee’s first full pay period that starts on or after the day it comes into operation)

The Expert Panel found that there were exceptional circumstances in the wine industry, justifying a variation of the operative date of the wage increase, to 1 February. SAWIA submits that these findings are as relevant today and to the Expert Panel’s consideration in the 2020/21 wage decision as it was 12 months ago.

Whilst COVID-19 restrictions are gradually being relaxed across the wine producing States, wine industry businesses are still under significant restrictions, reducing the number of customers and patrons and adding additional compliance costs, as set out below:

Figure 3: COVID-19 restrictions

Jurisdiction	Restriction	Comment
Commonwealth	International border closure	Not expected to re-open until late early 2022 at the earliest ²²
South Australia ²³	<ul style="list-style-type: none"> * 1 person per 2sqm density requirement * No communal food or beverage service * No food preparation conducted or adjacent to patrons at a bar area * 1.5m social distancing 	Density requirement to be relaxed to 3 people per 4 sqm by 30 March 2021

²² Department of Health Secretary, Professor Brendan Murphy interview on Sunday Agenda on 21 March 2021; <https://www.health.gov.au/news/department-of-health-secretary-professor-brendan-murphy-interview-on-sunday-agenda-on-21-march-2021>

²³ SA GOV, COVID-19, Public Activities, Current Direction details; <https://www.covid-19.sa.gov.au/emergency-declarations/public-activities>

	<p>requirement</p> <ul style="list-style-type: none"> * COVID Marshal * Mandatory COVID Safe Plan * COVID-19 check in app or manual record for each visitor 	
New South Wales ²⁴	<ul style="list-style-type: none"> * 1 person per 2sqm density requirement, up to 25 people before this rule applies * 1.5m physical distancing requirement * COVID-19 Safety Plan required * COVID-19 Safe Hygiene Marshal * COVID Safe Check-in 	
Victoria ²⁵	<ul style="list-style-type: none"> * 1 person per 2 sqm density requirement, up to 25 people before restriction applies. * 1.5m physical distancing * COVIDSafe plan * QR Code or manual record check-in * Communal food, beverage and condiment stations discouraged * Cleaning and disinfection schedule 	
Western Australia	<ul style="list-style-type: none"> * 1 person per 2 sqm density requirement * 1.5m physical distancing * Industry-specific COVID Safety Guidelines and Plan available for food businesses and licensed premises * Contact register is required 	
Tasmania	<ul style="list-style-type: none"> * 1 person per 2 sqm density requirement * 1.5m physical distancing * Standing and drinking alcohol and/or dancing is permitted in premises with a liquor licence or liquor permit up to a maximum of 100 people in indoor spaces and 250 people in outdoor spaces, within current density requirements. * Plan to manage the associated risks * Contact details to be collected of patrons 	
Queensland ²⁶	<ul style="list-style-type: none"> * 1 person per 2 sqm density requirement, up to 25 people before restriction applies. * 1.5m physical distancing * Electronic contact information collection 	

²⁴ NSW Government, COVID-19, Restrictions for regional and rural NSW, <https://www.nsw.gov.au/covid-19/what-you-can-and-cant-do-under-rules/regional-and-rural-nsw#hospitality-venues-events-and-musical-activities>

²⁵ Victorian Government, Coronavirus, <https://www.coronavirus.vic.gov.au/how-we-work>

²⁶ Queensland Government, Roadmap to easing restrictions, <https://www.covid19.qld.gov.au/government-actions/roadmap-to-easing-queenslands-restrictions>

	* COVID Safe management plan * COVID Safe Checklist or COVID Safe Industry Plan	
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The wine industry is not expected to be allowed to operate at pre-COVID-19 level in the foreseeable future.

9. Conclusion

The Expert Panel is established under the Fair Work Act 2009. The Panel is required to review modern award minimum wages and to make a national minimum wage order.

The minimum wages objective requires the Panel to establish and maintain a safety net of fair minimum wages. The modern awards objective requires the Expert Panel to ensure that modern awards, together with the National Employment Standards (NES), provide a fair and relevant minimum safety net of terms and conditions.

If after taking these exceptional circumstances into account, FWC is of a mind to increase minimum wages, SAWIA submits that the Expert Panel should:

- consider awarding an increase **no higher than the rate of inflation in Australia:**
and
- provide for an **operative date** for any wage increase applying to **the Wine Industry Award 2020** from the **first full pay period on or after 1 February 2022.**

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