

IN THE FAIR WORK COMMISSION
ANNUAL WAGE REVIEW 2021-22

28 MARCH 2022

Restaurant
& Catering

The Restaurant and Catering Industry Association

1. Restaurant & Catering Industry Association (the “**R&CA**”) is pleased to provide a submission for the Annual Wage Review 2021-22 (the “**Review**”). The R&CA is the national industry association representing the interests of more than 55,000 restaurants, cafés and catering businesses across Australia. The café, restaurant and catering sector are vitally important to the national economy, generating over \$37 billion in retail turnover each year as well as employing 350,000 people.
2. The R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector’s operating environment. The R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.

The 2020-21 Annual Wage Review

3. The R&CA welcomes the opportunity to provide a submission into the Review under section 289 of the *Fair Work Act 2009* (the “**Act**”).
4. Pursuant to section 285 of the Act, the Minimum Wage Panel (the “**Panel**”) is required to conduct an Annual Review of the national minimum wage order and the modern award minimum wages each financial year.
5. When conducting the review, the Panel is required consider several economic and social factors as outlined in section 284(1) (the “**minimum wages objective**”) and section 134(1) (the “**modern awards objective**”).
6. The minimum wages objective provides:

“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*.

7. The modern awards objectives provides:

“134 The modern awards objective

What is the modern awards objective?

- (1) The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:
 - (a) relative living standards and the needs of the low paid; and
 - (b) the need to encourage collective bargaining; and
 - (c) the need to promote social inclusion through increased workforce participation; and
 - (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and
 - (e) the principle of equal remuneration for work of equal or comparable value; and
 - (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and

- (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
- (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

This is the *modern awards objective*.”

Previous Annual Minimum Wage Decision

8. In 2020 during the early onset of the COVID-19 pandemic, the modern award minimum wages were increased by 1.75% percent following the Annual Wage Review 2019-20 Decision [2020] FWCFB 3500 (the “**2020 Review**”). Critically, this increase to the minimum wage were staggered separately on three different dates for three different categories of awards, as set out below:
 - a. Group One Awards (increase applied from the first full pay period starting on or after **1 July 2020**);
 - b. Group Two Awards (increase applied from the first full pay period starting on or after **1 November 2020**); and
 - c. Group Three Awards (increase applied from the first full pay period starting on or after **1 February 2021**).
9. For businesses covered under the Group Three Awards, including the *Restaurant Industry Award 2020* and *Hospitality Industry (General) Award 2020*, this staggered approach was largely attributed to the devastating economic impacts of COVID-19 on hospitality.
10. In 2021, the modern award wages were increased by 2.5% following the Annual Wage Review 2020-2021 Decision [2021] FWCFB 3500 (the “**2021 Review**”). This increase was staggered with the effective date for the *Restaurant Industry Award 2020* and *Hospitality Industry (General) Award 2020* delayed until 1 November 2021. Again, this can be attributed to the ongoing impact of shutdowns during 2021 including the Delta Variant of COVID-19.
11. It should also be noted that on 1 July 2021, employees were given a 0.5% increase to the superannuation guarantee. When considered in conjunction with the annual wage review increase of 1.75% from 1 February 2021, 2.5% from 1 November 2021 and

the 0.5% superannuation guarantee from 1 July 2021, this was effectively a 4.75% increase in employee expenses paid by employers during 2021.

12. In the *Restaurant Industry Award 2020*, a Level 1 Grade 1 Casual Employee working on a public holiday is currently being paid \$52.30 per hour, when compared to the 2010 rate \$36.80 per hour, effectively a 42% increase.¹
13. As a point of comparison, the base rate for a Cook Grade 5 which is paid at a Level 6 rate of \$25.83 in the *Restaurant Industry Award 2020*, while a Level 6 Law Clerk in the *Legal Services Award 2020* is paid a minimum hourly rate of \$28.96 and an Intern medical practitioner in the first postgraduate year of clinical experience in the *Medical Practitioners Award 2020* is paid a base rate of \$27.02. These examples demonstrate that in its current form, hospitality jobs and qualified chefs continue to receive competitive pay rates that are comparable to jobs traditionally considered as high-paying.

The Industry and Employment Costs

14. The R&CA 2021 Industry Benchmarking Report (the “**Industry Report**”) provides a definitive snapshot on the Australian hospitality industry coming out of the COVID-19 lockdowns in 2021 and the outlook from 2022 onwards.
15. In the Industry Report, wage costs and skill shortages were ranked the two biggest issues in the industry, which is in stark contrast to the COVID-19 restrictions that was a significant concern in 2020. The industry is growing increasingly concerned about wage costs and business expenses during this crucial post-COVID economic recovery.
16. 71.5% of respondents in the Industry Report indicated that menu and meal prices are to rise over the next 12 months which can be attributed to the soaring inflationary expenses and costs of running a business.
17. Respondents to the Industry Report stated that 23.6% of their businesses did not turn a profit, 8.67% broke even and only 27.4% respondents made up to 5% of their yearly turnover for 2020-21 financial year. Furthermore, 52.57% of businesses over the past 3 years either decreased or remained the same, with only 31.98% of businesses increasing their net profit. As a result, almost 2 in 3 of business owners in the

¹ <https://www.fwc.gov.au/documents/awardsandorders/html/pr991086.htm>

hospitality industry underpay themselves to make ends meet with over 80% of owners working unpaid hours.

18. As a consequence, more businesses are choosing to close on Sunday and public holidays with only 53.6% of businesses open during these times in accordance with the Industry Report.
19. More recently, the current trial paid by the Victorian Government to implement a casual sick pay is a trojan horse that will eventually be borne by small business for casual staff to double dip on casual loading entitlements.
20. Separately, R&CA notes that the superannuation guarantee will again rise in July 2022 from 10% to 10.5%. R&CA submits that this increase will be required to be paid by employers and should be considered as a factor for the purposes of this review.
21. The R&CA respectfully requests that the Panel take into consideration the above key factors when arriving at their final determination.

The R&CA's Position

22. Consultation with R&CA Members found that an overwhelming majority of Members seek no change to the current minimum wage. It is R&CA's submission on behalf of this responses from R&CA Members, that there be no change to the minimum wage in the 2021-22 Annual Wage Review decision.
23. During this consultation, R&CA also discussed the operative date with members in light of the last two annual wage reviews that adopted a staggered approach. 59% of R&CA Members requested that a staggered approach be taken with 1 November 2022 and 1 February 2023 as the two most popular options for the operative date. Members expressed their concerns about the superannuation guarantee increase on 1 July 2022, the recent minimum wage increase on 1 November 2021 and ongoing struggles within the industry that is emerging from the impact of the Omnicron variant of COVID-19 as the reasons for their views.
24. With consideration to above factors, it is the R&CA's view that in the current circumstances, any increase made by the Annual Wage Review Decision for 2022 should take effect from twelve (12) months after the date within which the previous increase took effect.

We thank the Commission for considering our submission.

Regards



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Chief Executive Officer

Restaurant and Catering Australia



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