



# DECISION

*Fair Work Act 2009*

s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective

## **Annual Wage Review 2019-20—National Training Wage** (AM2020/96)

Various industries

JUSTICE ROSS, PRESIDENT  
VICE PRESIDENT CATANZARITI  
COMMISSIONER HAMPTON

MELBOURNE, 27 JANUARY 2021

*Annual Wage Review 2019-20 – consequential variations – National Training Wage – reference to Miscellaneous Award 2020 – Group 3 awards.*

[1] This decision deals with consequential variations to modern awards in Group 3, arising from the 2019-20 Annual Wage Review decision<sup>1</sup>. The variations deal with an issue that relates to the operative dates for wage increases for employees covered by the National Training Wage (NTW).

[2] The *Fair Work Act 2009* (Cth) requires the Fair Work Commission, constituted by an Expert Panel for annual wage reviews (the Panel), to conduct and complete a review of the national minimum wage and modern award minimum wages in each financial year. The Panel must make a national minimum wage order and may set, vary or revoke modern award minimum wages.

[3] In the 2019–20 Annual Wage Review decision<sup>2</sup> the Panel decided it was appropriate to increase modern award minimum wages by 1.75 per cent, but determined that different operative dates would apply to three groups of awards as follows:

<b>Award Group</b>	<b>Operative Date</b>
Group 1 Awards	1 July 2020
Group 2 Awards	1 November 2020
Group 3 Awards	1 February 2021

[4] The majority of the Panel set out the reasons for the different operative dates at [162] – [164] and [166] of their decision<sup>3</sup>, noting that modern awards in Group 1 cover industries which

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<sup>1</sup> [2020] FWCFB 3500

<sup>2</sup> [2020] FWCFB 3500

<sup>3</sup> [2020] FWCFB 3500

have been less affected by the COVID-19 global pandemic than those covered in Groups 2 and 3. The modern awards in Group 2 cover industry sectors adversely impacted by the pandemic, but not to the same extent as the sectors covered by the Group 3 awards. The modern awards in Group 3 cover the industry sectors which have been most adversely affected by the pandemic.

[5] The modern awards allocated to each group are set out in the *2019-20 Annual Wage Review decision*<sup>4</sup> at paragraph [466].

[6] The NTW Schedule was standardised across modern awards in 2017<sup>5</sup> and is currently incorporated into the majority of modern awards by a reference to the NTW Schedule in the *Miscellaneous Award 2020*<sup>6</sup> (the Miscellaneous Award). The Miscellaneous Award was a Group 2 award for the purposes of the 2019-20 Annual Wage Review, and the rates were increased on 1 November 2020.

[7] Due to the different operative dates in the 2019-20 Annual Wage Review decision, an issue arose regarding the timing of the increases to the NTW rates. The issue (as it relates to the Group 3 Awards) was that the wage rates for these awards (including the rates for employees covered by the NTW provision) were not set to increase until 1 February 2021; however, the NTW rates in Schedule E to the Miscellaneous Award increased on 1 November 2020. The effect of this being that the NTW employees would receive an increase in rates before non-NTW employees under the same award.

[8] To address the issue, in a decision dated 27 October 2020<sup>7</sup> we inserted a temporary note into the NTW incorporation clause in Group 3 awards to direct users to the rates in Schedule E to the Miscellaneous Award as at 1 July 2019. The temporary note is set out below:

“NOTE: The minimum rates from 1 July 2019 for employees covered by this award undertaking traineeships are published on the Commission’s website. These rates will increase on 1 February 2021.”

[9] The rates in the Group 3 awards will increase from 1 February 2021. Therefore the temporary note is no longer relevant. We have decided to remove the note from the Group 3 awards. A list of effected Group 3 awards and the relevant clause numbers is at Attachment A to this decision

[10] A variation determination will be issued in conjunction with this decision.

## PRESIDENT

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<sup>4</sup> [2020] FWCFB 3500

<sup>5</sup> See [\[2017\] FWCFB 3176](#).

<sup>6</sup> Previously the *Miscellaneous Award 2010*.

<sup>7</sup> See [2020] FWCFB 5676; PR723827 and PR723829

## Attachment A – Group 3 awards

<b>Award Title</b>	<b>Award code</b>	<b>Clause</b>
<i>Alpine Resorts Award 2020</i>	<a href="#">MA000092</a>	18.8(b)
<i>Amusement, Events and Recreation Award 2020</i>	<a href="#">MA000080</a>	16.6(b)
<i>Commercial Sales Award 2020</i>	<a href="#">MA000083</a>	15.2(b)(ii)
<i>Dry Cleaning and Laundry Industry Award 2020</i>	<a href="#">MA000096</a>	18.9(b)
<i>Fast Food Industry Award 2010</i>	<a href="#">MA000003</a>	24.2
<i>Fitness Industry Award 2020</i>	<a href="#">MA000094</a>	15.5(b)
<i>General Retail Industry Award 2020</i>	<a href="#">MA000004</a>	17.7(b)
<i>Hair and Beauty Industry Award 2010</i>	<a href="#">MA000005</a>	27.2
<i>Horse and Greyhound Training Award 2020</i>	<a href="#">MA000008</a>	13.9(b)
<i>Hospitality Industry (General) Award 2020</i>	<a href="#">MA000009</a>	21.2
<i>Live Performance Award 2020</i>	<a href="#">MA000081</a>	11.6(b)
<i>Marine Tourism and Charter Vessels Award 2020</i>	<a href="#">MA000093</a>	15.6(b)
<i>Nursery Award 2020</i>	<a href="#">MA000033</a>	15.6(b)
<i>Professional Diving Industry (Recreational) Award 2020</i>	<a href="#">MA000109</a>	15.4(b)
<i>Racing Clubs Events Award 2020</i>	<a href="#">MA000013</a>	17.5(b)
<i>Racing Industry Ground Maintenance Award 2020</i>	<a href="#">MA000014</a>	15.7(b)
<i>Registered and Licensed Clubs Award 2020</i>	<a href="#">MA000058</a>	18.8(b)
<i>Restaurant Industry Award 2020</i>	<a href="#">MA000119</a>	18.7(b)
<i>Sporting Organisations Award 2020</i>	<a href="#">MA000082</a>	15.4(b)
<i>Travelling Shows Award 2020</i>	<a href="#">MA000102</a>	16.5(b)
<i>Vehicle Repair, Services and Retail Award 2020</i>	<a href="#">MA000089</a>	16.13(b)
<i>Wine Industry Award 2020</i>	<a href="#">MA000090</a>	15.9(b)