

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996
s.113 application for variation

Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union
(C2005/4731)

METAL, ENGINEERING AND ASSOCIATED INDUSTRIES AWARD 1998
(ODN C No. 2568 of 1984)
[AW789529CRV Q0444]

Metal industry

SENIOR DEPUTY PRESIDENT MARSH

SYDNEY, 21 FEBRUARY 2006

Apprentices training.

DECISION

[1] This decision deals with an application by the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (AMWU) to vary the Metal, Engineering and Associated Industries Award 1998 (Metals Award) to provide for a more effective implementation of a competency based arrangement for progression through an apprenticeship.

[2] Arising out of discussions between the AMWU, the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) and The Australian Industry Group (AiG) which commenced in 2004, the AMWU has revised its draft order which includes an amended model for increased apprentice pay rates. The AiG accepts that the amended model is consistent with changes which have occurred elsewhere within the National Training and Workplace Relations systems, in particular, the approach taken within the National Training Wage Award 2000¹ and the Manufacturing and Associated Industries – Skills Development – Wages and Conditions Award 2004² and that it addresses issues of detail which were raised in relation to the unions' earlier model. During the course of discussions it was agreed between AiG and the unions that award variations are justified to reflect changes made to apprentices structures:

- “• *Emphasise competency-based progression through apprenticeships and de-emphasise progression on the basis of time- served;*
- *Provide multiple entry points to apprenticeships with recognition of skills, knowledge and qualifications acquired;*
- *Provide multiple points for persons to exit from apprenticeships with formal qualifications;*

¹ AW790899CAN

² AW837606CRV

- Create a new trade qualification at the AQF 5 level to complement the existing qualifications at the AQF3 and AQF 4 levels.³

[3] As such, the matters for arbitration are limited to the general issues of whether rates for apprentices should be increased⁴.

[4] The application seeks to increase wage rates for apprentices above the safety net. As such, in accordance with Principle 10 of the Statement of Principle in the *Safety Net Review Wages – June 2005* decision⁵, the matter was referred to Justice Giudice, the President⁶. In a decision dated 2 December 2005, the President decided that the matter should continue to be dealt with by the Commission as currently constituted.

[5] The AMWU, AiG and Australian Business Industrial (ABI) filed comprehensive written submissions. The CEPU notified the Commission by way of written correspondence dated 30 January 2006 that it supported the written submissions of the AMWU. The matter was heard on 3 February 2006. Mr G. Thompson with Mr T. McCauley appeared for AMWU, Mr S. Maxwell for the Construction, Forestry, Mining and Energy Union (CFMEU), Mr S. Smith for AiG and Ms J. Lee for ABI. ABI supported AiG's submissions.

AMWU SUBMISSIONS

[6] The AMWU written submissions summarised the following objectives which are best met by the model proposed in its draft order:

17. *Ensure that additional education and training which is relevant to employment is recognised in the classification and pay structure applicable to employees under the award. The current structure does not recognise the additional education and training of those who complete year 11 and/ or year 12 of schooling.*
18. *Achieve consistency with the principles established by the Commission which have supported competency based training and career and classification structures based upon skills and competency based qualifications.*
19. *Be consistent with the provisions of the Act and in particular clause 3(a), (aa), and (e), clause 88A(a), clause 88B(3) (b) which requires the Commission to have regard to the "need to support training arrangements through appropriate trainee wage provisions" and clause 89A. The provisions of the model are consistent with clause 89A(2) (a) and (c) and 89A(6). The provisions of the model are also consistent with Section 143(1)(B).*
20. *Assist in overcoming the situation where apprenticeship is seen by many young people, teachers and parents as a second best option.*

³ Exhibit AIGroup 1, written submissions dated 23 January 2006 at p.2, para. 3

⁴ Exhibit R3, AMWU written submissions dated 17 December 2005 – summary on p.1; Exhibit AIGroup 1 at para. 8; Exhibit ABI, written submissions at para.3

⁵ PR002005 at p.131

⁶ "10. MAKING AND VARYING AN AWARD ABOVE OR BELOW THE SAFETY NET

Any application to make or vary an award for wages or conditions above or below the safety net or for a date of operation of a safety net adjustment earlier than the date of the award may be dealt with by:

(a) a Full Bench; or

(b) a single member, provided the President has had an opportunity to consider whether the application should be dealt with by a Full Bench and has decided not to refer the application to a Full Bench."

21. *Encourage more young people to enter apprenticeships taking account of the other options now available to young people.*
22. *Address the situation where many young people fail to apply for an apprenticeship or drop out of apprenticeship in the first year and the issue of inadequate pay and/or leaving to a better paid job is the most commonly cited reason.*
23. *Improve the diversity and quality of applicants for apprenticeship. Many employers and their organisations have reported that the number and quality of applicants for apprenticeship vacancies does not meet their needs.*
24. *Ensure that the rates for apprentices are not more or less attractive than those available to trainees or to juniors not employed under a training contract (after allowing for training time).*
25. *Ensure consistency with the principles utilised in the establishment of the classification structure in the Award and in the National Training Wage Award and the Manufacturing and Associated Industries – Skills Development – Wages and Conditions Award 2004 (AW837606).*
26. *Preserve at this point the relativities established by the Commission between the apprentice rates and the rate for tradespersons under the Award where the apprentice commences after year 10 of schooling or at an earlier date.*
27. *Enable accelerated progression through an apprenticeship where competency is achieved subject to appropriate safeguards on quality and against conflict of interest.*
28. *Expand the options available to employers and to apprentices to complete higher level qualifications. This will better meet the needs for workers and employers who are increasingly required to use new technology, apply skills in a wider range of circumstances, and work within teams and new forms of work organisation.”⁷*

[7] The AMWU in its submissions asked the Commission to consider the merits of its application in the context of the current challenges that confront the economy and the industry including:

- *Significant and ongoing skill shortages, particularly in areas of traditional trades and in specific regional areas;*
- *Decreasing job security necessitating increased levels of job mobility leading to greater competition for skilled labour;*
- *Decline in apprenticeship applicants in the trade, post-trade and para-professional levels in key skill areas associated with the manufacturing and engineering industries;*
- *Declining relative attractiveness of apprenticeship as a career choice for young people due to factors associated with wages and conditions; and,*

⁷ Exhibit R3 at pp. 3-4, paras 17 to 28

- *Greater expectations on the target demographic as a consequence of policies designed to maximise school retention rates and rising industry expectations in relation to the quality of applicants.*⁸

Skills shortage

[8] The AMWU drew on a number of reports which highlighted the capacity constraint which was caused by the shortage of skills particularly in the traditional trades area.

"The following comments⁹ of Mr. Peter Hendy, CEO ACCI support the contention that Australian industry is suffering from a shortage of people taking up apprenticeships in Australia:

*... ACCI's 2004 Pre-Election Survey found that 79 percent of employers are concerned about their ability to recruit employees with appropriate skills and ACCI's quarterly Survey of Investor Confidence reported during the last year that the availability of suitably qualified employees was now the number one constraint on future business investment decisions."*¹⁰

[9] The AMWU also cited research on declining participation rates due to the ageing of the population. For example, the South Australian Training and Skills Commission estimate that the demand for working age people will outstrip supply by 2016¹¹.

[10] The AMWU relied on a Productivity Commission report¹² which detailed evidence of the expected decline in the participation rate in the economy, and relied on further research which demonstrates that education and training is the most effective counter measure to lift both participation and productivity in response to the ageing population. It submitted that competition for a declining number of young people entering the workforce will increase. It is anticipated that employment levels in trades and related occupations will be maintained, hence the importance in increasing the attractiveness of apprenticeship and the level of participation by young people.

Competency based training

[11] The AMWU submitted that apprenticeship training should be competency based. It supports flexibility in approaches to training and learning to facilitate gaining competencies within a framework of employment security for the normal duration of an apprentice's contract of training, subject to satisfactory assessment of competency.

[12] The AMWU stressed that assessment of competency must be based on a process which is more than mere completion of a qualification. The process of assessment must include:

- *Assessment under realistic working conditions and contingencies; and,*

⁸ Exhibit R3 at para. 29

⁹ Speech – Peter Hendy - Australia's skill shortages and the need for reform, Australian Mines and Metals Association National Conference 10 March 2005

¹⁰ Exhibit R3 at para.33; ACTU Executive expressed similar sentiments in its decision dated 22 March 2005

¹¹ The AMWU also relied on research from the Victorian and Queensland Governments (Queensland Green Paper on Skills and Victorian Enquiry into Vocational Education and Training) which produced similar results.

¹² Productivity Commission 2005 Economic Implications of an Ageing Population, Canberra

- *Supervision by State Training Authorities and the relevant Industry Skills Council of the quality of the processes to verify that competency, both on and off the job, has been achieved; and,*
- *Agreement between the employer, apprentice and the RTO; and,*
- *An effective appeals process in place to ensure that the interests of the parties to the Contract of Training are protected.*"¹³

Industry needs skilled labour

[13] The AMWU supported a number of conclusions drawn from AiG studies including the following:

*"Labour supply problems are being experienced in many industry sectors, but those that have heavily relied upon the traditional apprenticeship system as the major means of recruiting and skilling new entrants have experienced greater difficulties in sourcing skilled labour. The latest Ai Group survey has placed 'the availability of skilled labour' as the second highest issue impacting upon business."*¹⁴

*"Positions for machinists, boilermakers, electricians, engineers, fitter and turners, mechanics, plant managers, process workers, sheet metal workers, welders, wood machinists and so on remain unfilled because employers cannot find applicants with the right skills, qualifications and/or experience to meet the needs of industry."*¹⁵

[14] A third AiG report highlighted the depth of the skills shortage issue.

*"After a sustained period of economic prosperity one of the urgent problems facing businesses is skills shortages. Skills shortages are now widespread and limiting productivity and profitability. In the manufacturing sector alone Ai Group research indicates that there are between 18,000 and 21,000 positions for skilled people that currently remain unfilled."*¹⁶

Then and now – the characteristics of apprentices

[15] The AMWU provided material which demonstrated the changed characteristics of the average apprentice in 1971 (when apprentices and wage provisions were determined) when compared with current times.

- The average age of commencement for trades apprentices has increased by 1.7 years over the period of 1982 – 2004.
- In 1981-82, 56.6% of apprentices commenced training at 16 years or under. In 2004, 80.2% of apprentices commenced at age 17 or older, compared with 43.4% in 1981-82¹⁷.

¹³ Exhibit R3 at para. 40

¹⁴ Exhibit R3 at para. 42; World Class Skills for World Class Industries – Accelerating Reforms to Vocational Education and Training AiGroup 2004

¹⁵ Exhibit R3 at para. 43; *Australia's Skills Gap – Costly, Wasteful and Widespread – AiGroup 2004*

¹⁶ Exhibit R3 at para. 44; *Contemporary Apprenticeships for the Twenty First Century – AiGroup July 2005*

¹⁷ Exhibit R3 at p. 9, para. 46

- The number of secondary school students participating in Vocational Education and Training in Schools (VET) programs has increased by over 300% in the period 1996-2003¹⁸. The percentage of students studying in VET programs was 48.3% in 2003, with the average student spending 211 hours engaged in the program¹⁹.

[16] The AMWU summarised the characteristics of an apprentice in 1971, compared with today, as follows:

“At the time of the establishment of the current wages structure it would be fair to say that the majority of apprentices were:

- *Likely to be aged 16 and under;*
- *Likely to have left school before completing the equivalent of year 10;*
- *Likely to be living with their parents;*
- *Not likely to have the expense of operating a motor vehicle or mobile phone which are considered necessities for a working person of today; and,*
- *Not likely to have been engaged in any form of structured vocational training at secondary school.*

Today the typical apprentice is:

- *Likely to be aged 17 or over;*
- *Likely to have completed year 11 or 12;*
- *More likely to be living independently;*
- *More likely to be operating a motor vehicle and mobile phone; and,*

More likely to have completed a vocational qualification or statement of attainment against a vocational qualification whilst attending secondary school.”²⁰

[17] The AMWU submitted that:

- The current wage structure for apprentices no longer reflects the diversity of entry points for young persons who commence apprenticeships.
- The rates of pay for apprentices are very low reflecting a time when apprentices commenced at 14 or 15 years of age rather than 17 or 18 years of age.
- The National Training Wage Award was based on the average student as follows:

“YEAR 10 –16 YEARS”

¹⁸ Exhibit R3 at p. 10, para. 47

¹⁹ Exhibit R3 at p. 9, para. 47; Australian Vocational Education and Training Statistics – VET in Schools 2003 NCVER

²⁰ Exhibit R3 at p. 11, paras. 50 and 51

YEAR 11- 17 YEARS
YEAR 12- 18 YEARS
YEAR 12 PLUS 1 -19 YEARS
YEAR 12 PLUS 2- 20 YEARS
YEAR 12 PLUS 3 – 21 YEARS²¹

- Apprenticeship rates when established were based on:

1 st year	42% for a 15 year old
2 nd year	55% for a 16 year old
- Both 15 and 16 year olds received higher rates than those received by unapprenticed juniors. However, today many apprentices who are more experienced and educated are paid less than the junior employees of the same age. The first year apprentice rate is \$100 per week less than the rate for an 18 year old worker in the metal industry. As noted above, 80.2% of first year apprentices are, or turn 18 years of age during their first year of apprenticeship.
- Apprentices should not be disadvantaged when compared to the rate which they would be paid if they were undertaking a traineeship at skill level A at a comparable age and educational level.
- Apprentices should never earn less than 80% of the junior rate which they would otherwise receive – the broad principle which underpinned the National Training Wage Award rates should apply.
- At a minimum the apprentices should receive a wage rate based on the adult classification rate at the same number of years out of school as they would if they were a trainee.
- Wage structures conceived for 14-16 year olds on commencement of their apprenticeship lacks the flexibility to cater for, and attract, the best and brightest of our youth to careers in manufacturing and engineering.

The application

[18] The AMWU describes its application as follows:

“(It) ... attempts to recognise the growing diversity of prospective applicants for apprenticeship by modernising the wages structure in order to accommodate the diversity of age, maturity, educational achievement and vocational experience of the demographic that will form the future of the industry.

The application also attempts to recognise the diversity of potential exit points in the qualification structure and the growing industry demand for higher level qualification outcomes through contract of training based arrangements.”²²

[19] The structure contemplates a range of entry points for apprentices:

- *Traditional youth entry with limited secondary education;*

²¹ Exhibit R3 at p. 11, para 53

²² Exhibit R3 at p.12, paras. 62 and 63

- *Entry with significant VETIS experience; and,*
- *More mature aged entry with higher levels of secondary education and vocational experience.*²³

[20] It also contemplates a range of exit points:

- “• *Traditional Certificate III trade exit*
- *Higher Engineering Trade exit at Certificate IV, and,*
- *Diploma level exit.*”²⁴

[21] The “*wage progression matrix*” provides flexibility which recognises the structure for entry and exit points based on the competency principle²⁵.

[22] The AMWU submitted that the impact of the application on wages for apprentices is balanced by the criteria which recognise a number of factors including:

- “• *The entry point of the apprentice;*
- *The vocational skill level and competence of the apprentice;*
- *The age and maturity of the apprentice; and,*
- *The progress, as measured by competency, of the apprentice toward completion of the contract of training.*”²⁶

[23] It relied on a recent survey of employers of apprentices which found:

*“The annual average apprentice training rate over the eleven years between 1982 and 1992 was 13%; between 1993 and 2003 it declined to 11%. This is a reduction of 16%. This implies that the current lift in the apprenticeship training rate (12% in 2004) will have to be maintained for around 10 years to compensate for the underinvestment in training that occurred in the previous decade.”*²⁷

[24] The report cites evidence of support for increasing apprentice wage rates generally:

“The current level of apprentice wages is not a disincentive to employ an apprentice. There was no support from employers for a reduction in apprentice wages. In fact a significant minority wanted higher apprentice wages on the basis that lower wages would deter more able applicants and lower wages were seen as inequitable.”

The most commonly requested change was higher government subsidies nominated by 18% of firms who answered the question. The second most cited change was higher

²³ Exhibit R3 at p.12, para. 64

²⁴ Exhibit R3 at p.12, para. 65

²⁵ Exhibit R3 at p. 13, para. 66

²⁶ Exhibit R3 at p.13, para. 67

²⁷ Exhibit R3 at p.13, para. 69; Dusseldorf Skills Forum: *Getting it Right – What employers and apprentices have to say about apprenticeships – Phillip Toner 2005*

*income for apprentices (either via higher wages or higher subsidies directly for apprentices) nominated by 13% of firms.*²⁸

[25] The AMWU also relied on an earlier study which found that making an apprenticeship a more attractive option for young people at school or leaving school was a key issue²⁹.

Award variation

[26] Three major variations to the award are sought.

- Proposed clause 4.2.6(c)(ii)4 in respect of higher engineering and advanced tradespersons apprenticeships and related variations.
- Proposed clause 4.2.6(j) in respect of duration of apprenticeship and completion of apprenticeship.
- Proposed clause 5.3.1(i) provides wage rates which recognise the completion of year 11 and/or year 12 of schooling.

[27] The employees consent to the first two set of variations. They oppose the increases in wage rates in proposed clause 5.3.1(i).

[28] The variations are set out in full at Attachment A³⁰. Turning to a consideration of the award variations sought:

First **Clause 4.2.6(c)(ii)4**

[29] The changes made by this variation are designed to:

- Remove the provisions with respect to duration and pay progression during the apprenticeship to clause 5.3.1, where they are dealt with consistent with the pay and progression provisions generally for apprenticeship. The nominal duration retained in clause 5.3.1 and rates of pay for each step of progression for a higher engineering tradesperson in clause 5.3.1 are unchanged from those previously provided for in this clause.
- Introduce an Advanced Engineering Tradesperson apprenticeship in new subclause D. This would extend the principle enshrined in the new Manufacturing, and Associated Industries – Skills Development Wages and Conditions Award 2004 to allow an apprentice to undertake a diploma (AQF5) qualification in the trades area.

[30] The AMWU submitted that the need for the option of higher level qualifications has been well established by the High Level Review of Training Packages which was conducted by the Australian National Training Authority in 2003 and 2004 and endorsed by; the ANTA Ministerial Council; ILO and OECD³¹ research and the existing practice of companies, such as Ford, where apprentice complete a diploma level qualification during their four year apprenticeship.

²⁸ Exhibit R3 at p. 14, Paras 70 and 71

²⁹ Declining Apprentice Training Rates: Causes, Consequences and Solutions – Phillip Toner 2003

³⁰ Exhibit R3, Schedule A at pp. 22 - 31 inclusive

³¹ Exhibit R3 at p.15, para. 76

[31] The rates of pay to attach to the Higher Engineering Tradesperson (in clause 5.3.1(a)) directly follow the rates of pay and progression steps for the Higher Engineering Tradesperson in the Metals Award. The first three stages equate to the rates applicable to apprentices undertaking lower level qualifications. The final stage provides for a percentage of the Advanced Engineering Tradesperson (C5) for a person who holds, and uses, the relevant qualification. This is exactly the same approach as taken for the Higher Engineering Tradesperson in the award.

[32] A person who completes his apprenticeship will be placed on an exit step for twelve months (clause 5.3.2). The rate is 95% of the full rate and equates to that which would apply to a cadet under the Manufacturing and Associated Training - Skills Development - Wages and Conditions Award 2004 who completes a similar level qualification.

Second Clause 4.2.6(j)

[33] The changes made by this variation are to make competency the norm for progression rather than time based.

[34] The AMWU submitted that a departure from a fixed duration for an apprenticeship needs to be introduced with adequate safeguards. The variation proposed:

- Maintains the current restriction in which the nominal four year apprenticeship may be lengthened to circumstances where lost time has to be made up.
- Allows for extension of the nominal four year duration in the case of the advanced engineering tradesperson apprenticeship.
- More clearly allows for credits and a consequent shorter duration for pre apprenticeship programs, vocational education and training programs in schools and other relevant prior learning.
- Provides for shorter duration where the necessary practical experience to achieve the competencies and the qualifications have been achieved.
- Provides for the determination of the completion of the apprenticeship in a way which ensures proper assessment. As such:
 - the determination of completion will not be solely made by a registered training organisation (RTO) and the employer.
 - Agreement of the apprentice is required for early completion.
 - Given the potential vulnerability of an apprentice, the State Training Authority (STA) will be involved in cases in dispute, to ensure that any requirements of the STA are met, and to ensure that any requirements of the Manufacturing Skills Council which establish the qualification and competency requirements are met.

Third Clauses 5.3.1(i) and 5.3.2

Clause 5.3.1(i)

[35] The changes made to this variation introduce recognition of the achievement of years 11 and 12 schooling. The basis for this variation as set out in the AMWU submissions is summarised:

- Current rates of pay for apprentices were established at a time when apprentices had left school after year 9 compared with current hiring practices in which the apprentice reflect greater maturity and higher educational levels.
- Employers require higher generic skills such as communication, mathematics, team work and problem solving.
- Failure to have regards to levels of maturity and education in setting apprenticeship rates is at odds with the Structural Efficiency Principle, the basis of metals industry classification structure and the principle behind the establishment of the National Training Wage.
- Apprenticeship rates have been set with regard to rates for unapprenticed juniors and the rates of both process workers and qualified tradespeople. There will be a disincentive if training wages are set too low when compared with rates not involved in training.
- There is evidence that poor relative wages of apprentices are a significant cause of the rise in non-completion of apprenticeships over the last decade³².
- The objectives of the model cannot be met if rates of pay for apprentices which do not correspond to rates paid to trainees, or, where there is no directly comparable rate – 80% of the rate for comparable unapprenticed junior. The AMWU has applied the corresponding age and school level which was applied in setting the National Training Wage (see paragraph [17] above).
- The costs to the employer of introduction of change are not excessive.

“ • *The ACCI in a report Paying Apprentices –The Market Responds 2005 ... found following a survey that most apprentices are in receipt of overaward payments and benefits.*

- *There is no evidence of traineeship rates discouraging the take up of trainees – their number has increased very rapidly over the past decade and the rates proposed are not greater than traineeship rates.*
- *There is clear international evidence that workers with increased training and education are more productive. OECD and ILO reports constantly make this point. The extra pay proposed under this application is only applicable to those who have more education and maturity.*
- *There have been a number of studies cited which show that many employers recognise the case for increases for apprentice rates. The recent AiG/Toner report cited earlier supports this contention.*

³² S. Foster, *Apprentices/trainees Tracking Study- Pathways and Completions, CFMEU 10 point plan Apprentices Building Australia's Future* refers to a survey *Construction Training Queensland, Matching Supply and Demand with Results November 2004*

- *In regard to s. 143(B)(c) productivity is more complex than 'simply the question of labour costs. One cannot conclude, that changes in labour costs involve productivity changes in the opposite direction' (ASD Penalty Rates decision referenced in Print R7898, pp 11-12).*
- *Extract from SDP Marsh's decision in the Graphic Arts Award Classification case, Print PR964271:*

"The evidence of Mr Tchamkertenian was not in contention except for economic predictions of a more rosy nature relied on by Ms Taylor arising out of industry reports. The cost implications raised by Mr Tchamkertenian must be viewed in the context of criticism of the whole classification system not only the points system, and also the anticipated benefits accruing to employers arising out of attraction and retention of a more highly skilled workforce with attendant benefits of greater productivity, efficiency and flexibility."³³

The issue of productivity measurement was recognised by the Full Bench³⁴. It concluded that productivity is more complex than "simply the question of labour costs. One cannot conclude ... that changes in labour costs necessarily involve productivity changes in the opposite direction."³⁵

There is no evidence before me that the points system, even with potential attendant costs such as purchasing the training package or hiring a training assessor, would not have offsetting productivity benefits in the longer term via generally a better skilled workforce, overcoming skill shortages, minimising classification disputes, greater flexibility and efficiency."³⁶

- The proposed increase for any current first year apprentice who has completed year 12 will be phased in.
- The following principle has been applied:

Current rates should be disturbed where they are less than:

- *The rate an adult apprentice would earn where the apprentice is generally 21 years of age or more. OR*
- *The rate applicable to an apprentice under Skill level A of the National Training Wage Award for the relevant educational and maturity level. Higher level traineeships under the Metal Industry Award are at Skill level A (see 5.6.2) OR*
- *80% of the unapprenticed junior rate in the award where there is no directly applicable National Training Wage Award rate (ie year 11 school leaver). In the National Training Wage Award the rate for a year 11 school leaver is based upon additional time in training when compared to that applicable to*

³³ See *Award Simplification* decision relied on by Ms Taylor, Print P7500, Giudice J, Ross VP, McIntyre VP, MacBean SDP, McDonald C, 23 December 1997

³⁴ Print P9677 Giudice J, Ross VP, McIntyre VP, MacBean SDP, McDonald C, 27 March 1998

³⁵ Print P9677 at p.5

³⁶ Exhibit R3 at p.19-20, para. 95

an apprentice. The commencing rate proposed for apprentices who have completed year 11 should not be less than 80% of the rate for a comparable 18 year old process worker in the industry. A first year apprentice generally spends one day per week or 20% of their time in off the job training during TAFE term time and the award provides for this paid time."³⁷

[36] In summary, the changes made to clause 5.3.2 define the stages of progression for apprentices with agreements to complete qualifications at AQF Levels 3, 4 and 5. The variation creates more flexibility and opportunity for employers and young people to achieve higher level qualifications which meet industry needs.

AiG SUBMISSION

Impact of the Work Choices legislation

[37] The AiG traced the amendments to Work Choices legislation in respect of training/apprenticeship provisions and concluded:

- "16. Given the events outlined above and the final wording of the Work Choices Act, Ai Group anticipates that when the Regulations are made, each of the various state training laws will be prescribed for the purposes of s.7D(2) as "a law to which awards and workplace agreements are not subject". This will ensure that the apprenticeship provisions in the Metals Award, are able to have ongoing application and relevance.*
- 17. In the Metal Industry Award Simplification Case (P9311), SDP Marsh held that the apprenticeship provisions in the Award were a type of employment for the purposes of s.89A(2)(r) of the Workplace Relations Act. Accordingly, apprenticeship provisions (other than the rates of pay) are likely to remain allowable given that the wording in s.89A(2)(r) has been retained unamended in s.116 of the Work Choices Act.*
- 18. With regard to the apprentice rates of pay in the Metals Award, the Work Choices Act provides that from the date when the reforms commence (expected to be in March 2006), such rates will have no further effect as award provisions but will be deemed to be incorporated within a "preserved" Australian Pay and Classification Scale (s.90ZD). Accordingly, the rates will have ongoing application and relevance, although they will be adjusted in the future by the Australian Fair Pay Commission (AFPC) and could be subject to rationalisation."*³⁸

The need for a contemporary apprenticeship model

[38] In July 2005, AiG made a major policy announcement setting out its vision and strategies to achieve a contemporary apprenticeship model in Australia. The following requirements were identified for a system which meets the employer skills development needs of industry, both now and into the future.

- "• Genuinely competency-based apprenticeships;*

³⁷ Exhibit R3 at p.20, para. 97

³⁸ Exhibit AiGroup 1 at pp.7-8, paras. 16-18

- *Flexible entry and exit points;*
- *Opportunities for higher qualification level outcomes; and*
- *Training customised to enterprise needs.*³⁹

[39] The reasons given in AiG's policy documents for why a new apprenticeship model is needed include the following:

- *A perception amongst school leavers that the trades are an unattractive career option;*
- *The diverse needs of employers who employ apprentices;*
- *The diverse needs of people who become apprentices;*
- *The impacts of globalisation and a highly mobile workforce;*
- *The need to improve the quality of training;*
- *The need for national consistency; and*
- *The fact that Ai Group research indicates that there are between 18,000 and 21,000 positions for skilled people which remain unfilled.*⁴⁰

[40] AiG submitted that the amendments to the award agreed between AiG and the unions regarding the apprenticeship provisions in the award are elements of the contemporary apprenticeship model described by AiG.

Potential adverse effects of increasing apprentice rates of pay

[41] AiG submitted that there would be a number of potential adverse effects associated with increased pay rates sought by the unions. These include:

- Risk of reversal of recent positive trends which have seen the number of traditional apprentices in Australia rise significantly over the past two years.

Annual Traditional Apprenticeship Commencement 2002 – 2004⁴¹

	Year 2002	Year 2004
Mechanical and Fabrication	5,150	7,210
Electrical and Electronic Construction	5,340	8,480
	10,970	15,870

³⁹ at pp. 8-9, para.19

⁴⁰ At p. 9, para. 20

⁴¹ Source: Exhibit AiGroup 1, Table 1 at p. 10, para. 24

AiG submitted that increased wage rates for apprentices at this time could lead to a reversal of this positive trend.

- The average age of people entering apprenticeship is higher than in 1996. Today, a much higher proportion of apprentices have completed year 12 before commencing their apprenticeship.
- In 2005, the federal government extended the youth allowance to apprentices and this resulted in a significant increase in income for any apprentices. A substantial proportion of apprentices have access to the youth allowance and granting a wage increase could nullify the benefits and shift the burden from the Commonwealth to employers. This, in turn, could have negative employment affects.
- There may be negative impacts on people undertaking apprenticeships, some of whom could lose their jobs as a result. There could also be negative impacts upon those wishing to undertake apprenticeships with fewer job opportunities arising than would otherwise be the case.
- Some small employers are more likely to pay award rates of pay than larger employers, increasing award wages for apprentices will have a relatively greater impact on small business. Typically the wage of an apprentice engaged by small business represents a higher proportion of the employer's wage costs than the cost of apprentice wages in a larger business. In the manufacturing sector, small business dominate the number of enterprises (47% of manufacturing sector enterprise are non-employing business and a further 46% employ less than 20 persons).⁴²
- An increase in apprentices rates could have a negative impact upon small business and reduce their capacity to engage new apprentices and/or retain existing apprentices.
- Employers in regional areas are more likely to pay award rates of pay than employers in metropolitan areas, therefore increasing the award rate for apprentices will have a relatively greater impact on regional business and regional employment.
- If pay rates for apprentice are increased, the group training schemes which currently operate successfully would need to pass on the increased costs to their clients. This could lead to job losses amongst existing apprentices engaged by group training schemes and to fewer new apprentices being engaged by the scheme in the future.

ABI SUBMISSIONS

[42] ABI supports the written submissions of AiG filed on 24 January 2006. It further submitted that:

- The increases in apprenticeship rates are significant, they exceed the level of the 2005 Safety Net adjustment. If the AMWU application was granted the consequent rates may no longer represent a safety net of minimum wages and

⁴² Exhibit AiGroup 1 at p. 13, para. 34

conditions in line with one of the principle objects of the *Workplace Relations Act 1996* (the Act).

- ABI supported the AiG submission with respect to the disincentive to engage or retain apprentices, particularly for small employers, regional employers and those who participate in group training schemes.

Conclusion

[43] I have carefully weighed the submissions made by the parties and have formed the view that the parties have made out a case which supports the consent variations to clauses 4.2.6(c)(ii)4 and 4.2.6(j) of the Metals Award. These variations will meet the agreed objectives of the parties of the need for a more contemporary apprenticeship model based on competency principles, flexible entry and exit points and opportunities for achieving a higher qualification. The ability to undertake a qualification at AQF 5 Level should attract high calibre apprentices. The model enshrined in the variations should increase the relative attractiveness of apprenticeships to school leavers, help address industry competitive pressure for increased levels of productivity and efficiency and assist in addressing the lack of skilled workers. The ability for an apprentice to accelerate through the training, subject to appropriate safeguards, will also contribute to making the agreed objectives of the model.

[44] I have also formed the view that the AMWU application to vary clause 5.3.1 and 5.3.2 of the Metals Award with respect to wage rate increases for apprentices who have completed year 11 or year 12 should be granted. The agreed advantages arising from the adoption of the model may not be achieved in the absence of appropriate wage rates. In reaching my decision, I have had particular regard to the following considerations:

- The AMWU seeks to increase apprentice rates for school leavers who have completed year 11 and year 12 - not all apprentice rates.
- Increased apprentice wage rates for school leavers who have completed year 11 or year 12 should alleviate the shortage of skilled labour as the relative attractiveness of apprenticeships compared with other training options or other employment opportunities is improved.
- There has been a significant increase in the school leaving age and in VET school initiatives which have resulted in increases in both the age at commencement of apprentices and their entry level skills.
- The decline in the relative value of apprenticeship wages means that the pool of apprentices is falling due to competition from other employment opportunities and traineeships under the National Training Wage Award.
- The Full Bench in determining the National Training Wage recognised relative age, life experience and maturity as underpinning the appropriate rate to be paid (with a 20% discount for training). It is equitable that a similar approach be adopted with respect to recognising these factors for year 11 and year 12 school leavers who wish to enter an apprenticeship.
- The variation sought provides phasing in for year 12 school leavers' first year of entry into an apprenticeship.

[45] I have weighed the employers' arguments that higher wage rates, especially for year 12 school leavers will impact negatively on employment opportunities for potential apprentices given the higher cost impact for employers. This outcome if realised could be detrimental to achieving agreed outcomes for the industry. However against this I have balanced the following factors:

- The higher rates for year 11 and year 12 reflect higher competency levels as measured by experience, maturity and skills acquired at higher levels of schooling. These apprentices should perform at a higher level of productivity and efficiency. The rates are commensurate with features of the agreed model.
- The rates sought are to upgrade the year 11 and year 12 school leaver entry points commensurate with the National Training Wage Award. It is not aimed at putting apprentices at a higher relative cost structure.
- Industry reports⁴³ found no evidence to suggest that the recent positive trends in apprenticeship numbers were at risk if apprentices' wages were increased. Indeed many employers identified the need to increase apprenticeship wages and cited low wages as one of the reasons why insufficient young people were being attracted to the industry.
- The youth allowance paid by the Commonwealth Government to apprentices would be phased out in accordance with particular circumstances but, importantly, no apprentice would be worse off if the AMWU variation was granted. It is not appropriate in the circumstances of this matter that a government payment should intrude on the merit of granting a wage increase based on the competency principle.
- There is no evidence before me to support the submissions made by AiG and ABI with respect to the relative cost impact on small or regional businesses. The need for skilled tradespeople is not confined to large business. Neither is there any specific evidence on which I could make a finding that the higher wage rates will have an adverse effect on group apprentice schemes.

[46] I have given consideration to ABI's submissions that the increase sought in the year 11 and year 12 school leavers apprenticeship rates are higher than the safety net adjustment awarded by the Full Bench *Safety Net Review Wages June 2005 decision*⁴⁴. I simply note that the matter has been properly processed in accordance with Principle 10 – Making and Varying an Award above or below the safety net which contemplates that an application can be pursued which is for increased wages and conditions above the existing safety net.

[47] Finally, I am satisfied that granting the application is consistent with the proper application of the objects of the *Workplace Relations Act 1996*, in particular ss. 3(a), (aa) and (e), ss. 88A(a) and 88B(3)(b). The variations fall within the parameters of s.89A(2) and (6) and are consistent with s.143(1B).

[48] In conclusion, for the reasons given the AMWU application is granted. The AMWU is directed to file an order in terms of the revised draft order found as an attachment to Exhibit R3 within 7 days. The order will come into effect from the first pay period on or after 6 March 2006.

⁴³ See footnotes 27 and 29 above

⁴⁴ PR002005, 7 June 2005 per Giudice J, Ross VP, Lawler VP, Marsh SDP, Kaufman SDP, Hingley C, and Grainger C

BY THE COMMISSION:

SENIOR DEPUTY PRESIDENT

Appearances:

G. Thompson with *T. McCauley* appeared for the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union.

S. Maxwell for the Construction, Forestry, Mining and Energy Union.

S. Smith for The Australian Industry Group.

J. Lee for Australian Business Industrial.

Hearing details

2006.

Sydney:

February 3.

Printed by authority of the Commonwealth Government Printer

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ATTACHMENT A

METAL, ENGINEERING AND ASSOCIATED INDUSTRIES AWARD, 1998

(as varied)

1. Delete 4.2.6(c)(ii)4 and insert the following in lieu thereof:

Higher Engineering Tradesperson and Advanced Engineering Tradesperson

- (A) The duration and pay for these apprenticeships are dealt with in clause 5.3.1.
- (B) The classification on completion of a Higher Engineering Tradesperson apprenticeship will be as a minimum C10. Where the apprentice is offered employment at the completion of their apprenticeship and such employment is in the area of the apprenticeship training, such that they are exercising or will be required to exercise the skills and knowledge gained during their apprenticeship necessary for a C7 level of work they shall be classified at C7.
- (C) The training program for each Higher Engineering Tradesperson apprentice is to be consistent with the minimum training requirement for the classification of C7 Special Class Tradesperson, as determined from time to time by the Manufacturing Industry Skills Council (MISC), and as endorsed by the National Training Quality Council. Each apprentice shall also complete the requirements for a trade certificate as defined in 4.2.6(c) (i), as part of the training program leading to the completion of the "Certificate IV in Engineering.
- (D) The training program for each Advanced Engineering Tradesperson apprentice is to be consistent with the minimum training requirement for the classification of C5 Advanced Engineering Tradesperson, as determined from time to time by the, Manufacturing Industry Skills Council (MISC), and as endorsed by the National Training Quality Council. Each apprentice shall also complete the requirements for a trade certificate as defined in 4.2.6(c)(i), and a Certificate IV in Engineering as part of the training program leading to the completion of the Diploma of Engineering.

2. Delete 4.2.6 (j) and insert the following in lieu thereof:

- 4.2.6(j)(1) Apprenticeships under this award are competency based. The actual time taken to complete an apprenticeship will therefore vary depending upon factors such as the intensity of training and the variety of work experience.
- (2) The nominal period of the apprenticeship shall be four years however this period may be varied as follows:
- To make up for lost time as set out in 4.2.6(m); and/or

- With the approval of the relevant State/Territory Apprenticeship Authority, to recognise prior learning including vocational education and training in school, pre-apprenticeship programs and other prior learning, the nominal period of the contact may be shortened to reflect the proportion of the competencies already acquired.
- It may be extended by up to 6 months in stage 3 and 12 months in stage 4 in the advanced engineering tradesperson apprenticeship where required to complete the competencies.

(3)

Notwithstanding the nominal period, the apprenticeship shall be completed in a shorter period when:

- the qualification specified in the Training Agreement is successfully completed; and
- the apprentice has the necessary practical experience to achieve competency in the skills covered by the Training Agreement. The determination as to whether this condition has been met shall be by agreement between the Registered Training Organisation, the employer and the apprentice. Where there is a disagreement concerning this matter the matter may be referred to the relevant State/Territory Apprenticeship Authority for determination; and
- the requirements of the relevant State/Territory Apprenticeship Authority and any requirements of the Manufacturing Industry Skills Council in respect to demonstration of competency and any minimum necessary work experience requirements are met and
- In respect to trades where there are additional licensing or regulatory requirements under State legislation, when these requirements are met.

(4)

The wage rates applying to apprenticeships based on competency based training progression are dealt with in Clause 5.3.1 and 5.3.2.

3. Delete the table at 5.3.1 and insert the following in lieu thereof:

5.3.1 APPRENTICE RATES OF PAY

Except as provided for in clause 5.4 adult apprentices the minimum weekly and hourly wage rates for apprentices shall be set out in the following tables. Progression through the stages set out in this table shall be in accordance with clause 5.3.2.

5.3.1(a)

Stage of apprenticeship	Relevant attribute of person at the time of entering into an indenture or contract of training as an apprentice							
	Column 1 Completed Year 10 or less	Hourly rate	Column 2 Completed Year 11	Hourly rate	Column 3 Completed Year 12	Hourly rate	Column 4 Adult (ie. over 21 years of age)	Hourly rate
Stage 1	242.80	6.39	273.80	7.21	293.00	7.71	455.00	11.97
Stage 2	318.00	8.37	318.00	8.37	340.00	8.95	484.40	12.75
Stage 3	433.70	11.41	433.70	11.41	433.70	11.41	501.10	13.19
Stage 4	508.80	13.39	508.80	13.39	523.60	13.78	523.60	13.78

This table shall apply to higher engineering trade apprentices and advanced engineering trade apprentices except that in stage 4 higher engineering trade apprentices shall receive a minimum rate of 88% of C7 and advanced engineering trade apprentices shall receive a minimum of 88% of C5 in stage 4.

5.3.1(b)

The rates in the table in 5.3.1(a) are established on the following basis.

	Column 1 Completed Year 10 or less	Column 2 Completed Year 11	Column 3 Completed Year 12	Column 4 Adult (ie. over 21 years of age)
Stage 1	42% of the C10 trades rate	80% of the unapprenticed junior rate under this award for an 18 year old	The relevant rate applicable to a trainee commencing after year 12 under the National Training Wage Award Skill Level A.	Clause 5.4 of this award.
Stage 2	55% of the C10 trades rate	55% of the C10 trades rate	The relevant rate applicable to a trainee commencing at year 12 plus one year under the National Training Wage Award Skill Level A.	Clause 5.4 of this award.
Stage 3	75% of the C10 trades rate	75% of the C10 trades rate	75% of the C10 rate	Clause 5.4 of this award
Stage 4	88% of the C10 trades rate	88% of the C10 trades rate	The relevant adult apprentice rate under clause 5.4 of this award	Clause 5.4 of this award.

5.3.1(c)

Phasing in of New Wage Rates for 1st Year Apprentices who have Completed Year 12

First Year apprentices who were employed as at (insert date of award variation) and who have completed Year 12 shall be entitled to the following rates of pay in lieu of the rate set out in Column 3 for Stage 1:

- i. From (date of award variation) to (six months after date of award variation) \$273.80
- ii. From (six months after date of award variation) to completion of stage 1 \$293.00.

The above rates shall only apply while the person remains a first year apprentice.

4. Insert a new heading and table as follows:

5.3.2 Apprentice Rates – Competency Based Progression

The wage rates for each stage of the apprenticeship are set out in clause 5.3.1 above. The conditions for progression to each stage are set out in the following table.

5.3.2(a) Engineering Trades Person

Where the training plan provides for the completion of a relevant AQF 3 qualification:

Stage of Apprenticeship	<i>Entry, Exit and Progression Requirements</i>
Stage 1	<p>Entry Nil entry requirements</p> <p>Exit There is no exit point at this stage.</p>
Stage 2	<p>Entry An apprentice enters Stage 2:</p> <ul style="list-style-type: none"> • on attainment of 25% of the total competency points for the relevant AQF Certificate III qualification specified in the training plan ; or • 12 months* after commencing the apprenticeship; <p>whichever is earlier.</p> <p>Exit There is no exit point at this stage *See note below.</p>
Stage 3	<p>Entry An apprentice enters Stage 3:</p> <ul style="list-style-type: none"> • on attainment of 50% of the total competency points for the relevant AQF Certificate III qualification specified in the training plan; or • 12 months* after commencing Stage 2; <p>whichever is earlier.</p> <p>Exit There is no exit point at this stage</p>
Stage 4	<p>Entry An apprentice enters Stage 4:</p> <ul style="list-style-type: none"> • on attainment of 75% of the total competency points for the relevant AQF Certificate III qualification specified in the training plan; or • 12 months * after commencing Stage 3; <p>whichever is earlier.</p> <p>Exit Upon the attainment of 100% of the total competency points for the relevant AQF Certificate III qualification specified in the training plan and subject to 4.2.6 (j) and 4.2.6 (m) an apprentice will exit with the relevant AQF Certificate III qualification</p>

5.3.2(b) Higher Engineering Tradesperson

Where the training plan provides for the completion of a relevant AQF 4 qualification:

Stage of Apprenticeship	<i>Entry, Exit and Progression Requirements</i>
Stage 1	<p>Entry Nil entry requirements</p> <p>Exit There is no exit point at this stage.</p>
Stage 2	<p>Entry An apprentice enters Stage 2:</p> <ul style="list-style-type: none"> • on attainment of 25% of the total competency points for the relevant AQF Certificate IV qualification specified in the training plan ; or • 12 months* after commencing the apprenticeship; <p>whichever is earlier.</p> <p>Exit There is no exit point at this stage.</p>
Stage 3	<p>Entry An apprentice enters Stage 3:</p> <ul style="list-style-type: none"> • on attainment of 50% of the total competency points for the relevant AQF Certificate IV qualification specified in the training plan; or • 12 months* after commencing Stage 2; <p>whichever is earlier.</p> <p>Exit Upon the attainment of 75% of the total competency points for the relevant AQF Certificate IV qualification specified in the training plan and subject to 4.2.6 (j) and 4.2.6 (m) an apprentice will exit with the relevant AQF Certificate III qualification.</p>
Stage 4	<p>Entry An apprentice enters Stage 4:</p> <ul style="list-style-type: none"> • on attainment of 75% of the total competency points for the relevant AQF Certificate IV qualification specified in the training plan or • 12 months* after commencing Stage 3 <p>whichever is earlier.</p> <p>Exit Upon the attainment of 100% of the total competency points for the relevant AQF Certificate IV qualification specified in the training plan and subject to 4.2.6 (j) and 4.2.6 (m) an apprentice will exit with the relevant AQF Certificate IV qualification</p>

5.3.2(c) Advanced Engineering Tradesperson

Where the training plan provides for the completion of a relevant AQF 5 qualification:

Stage of Apprenticeship	<i>Entry, Exit and Progression Requirements</i>
Stage 1	<p>Entry Nil entry requirements.</p> <p>Exit There is no exit point at this stage.</p>
Stage 2	<p>Entry An apprentice enters Stage 2:</p> <ul style="list-style-type: none"> • on attainment of 25% of the total competency points for the relevant Diploma of Engineering qualification specified in the training plan ; or • 12 months* after commencing the apprenticeship; whichever is earlier. <p>Exit There is no exit point at this stage.</p>
Stage 3	<p>Entry An apprentice enters Stage 3:</p> <ul style="list-style-type: none"> • on attainment of 50% of the total competency points for the relevant Diploma of Engineering qualification specified in the training plan; or • 12 months* after commencing Stage 2; whichever is earlier. <p>Exit Upon the attainment of 75% of the total competency points for the relevant AQF Diploma qualification specified in the training plan and subject to 4.2.6 (j) and 4.2.6 (m) an apprentice may exit with the relevant AQF Certificate III and/or AQF Certificate IV qualification.</p>
Stage 4	<p>Entry An apprentice enters Stage 4</p> <ul style="list-style-type: none"> • On the attainment of 75% of the total competency points for the relevant AQF Diploma specified in the training plan; or • 12 months * after commencing Stage 3, subject to 4.2.6 (j) (2); whichever is earlier. <p>Exit Upon the attainment of 100% of the total competency points for the relevant AQF Diploma qualification specified in the training plan and subject to 4.2.6 (j) and 4.2.6 (m), an apprentice will exit with a relevant AQF Diploma Qualification.</p>

* Subject to paragraph 4.2.6(m) – Lost Time, of the Award.

An apprentice who completes a Diploma of Engineering Qualification and where the qualification is relevant to the employment he or she shall be paid 95% of the C5 rate in the first year after completion of the apprenticeship and subsequently at the C5 rate.

4. Renumber subclauses 5.3.2 and 5.3.3 as 5.3.3 and 5.3.4 respectively.
5. Delete subclause 5.4.3 and replace with the following wording:

5.4.3 Subject to subclause 5.4.1 and 5.4.2, the minimum rate of pay of an adult apprentice shall be as set out in Column 4 of the table in 5.3.1(a).

Decision Summary

Award – variation – rates of pay – apprentices – metal industry – satisfied entry rates for apprentices who have completed year 11 or 12 should be upgraded commensurate with *National Training Wage Award* – no evidence increase will put apprentice numbers at risk or adversely affect small/regional business – variation consistent with Act and Safety Net Principles – order effective 6 March 2006.

Metal, Engineering and Associated Industries Award 1998

C2005/4731

PR968890

Marsh SDP

Sydney

21 February 2006

Citation: *Metal, Engineering and Associated Industries Award 1998*, Marsh SDP, 21 February 2006 [PR968890]

ATTACHMENT F

Draft order to vary the *National Training Wage Award 2000*

Please turn over the page.

AW7900899CR PR#####

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

s.113 application for variation

Shop Distributive and Allied Employees Association
(C2006/#####)

NATIONAL TRAINING WAGE AWARD 2000

(ODN C No. 22542 of 1994)

[AW7900899CR PR#####]

Trainees

Industries not otherwise assigned

COMMISSIONER _____

CITY, Day MONTH 2006

Variation to include Training Packages and certificate levels.

DRAFT ORDER

A. The above award is varied as follows:

1. Deleting clause 8.12 and inserting the following:

8.12 Relevant State or Territory legislation means the following:

Western Australia:	<i>Vocational Education and Training Act 1996</i>
Northern Territory:	<i>Northern Territory Employment and Training Act</i>
Victoria:	<i>Vocational Education and Training Act 1990</i>
New South Wales:	<i>Apprenticeship and Traineeship Act 2001</i>
Australian Capital Territory:	<i>Vocational Education and Training Act 2003</i>
Queensland:	<i>Vocational Education, Training and Employment Act 2000</i>
South Australia:	<i>Training and Skills Development Act 2003</i>
Tasmania:	<i>Vocational Education and Training Act 1994</i>

or any successor legislation.

Adult trainees

2. Inserting the following definition at Clause 8. **Definitions**

8.14 Adult trainee is a trainee who would qualify for the highest wage rate in Wage Level A, B or C if covered by that wage level.

3. Renumbering clause 11.8.2(b) to 11.8.2
4. Deleting clause 11.14 and inserting the following:

11.14 Where a person was employed by an employer immediately prior to becoming an adult trainee with that employer, such person shall not suffer a reduction in the rate of pay by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether a person has suffered a reduction in the rate of pay.

5. Deleting the following text from sub clause 14.2.1:

(as defined under subclause 11.8.2(b))

6. Deleting clause 14.3.4 and inserting the following:

Where a person was employed part time by an employer immediately prior to becoming a part time adult trainee with that employer, such person shall not suffer a reduction in the hourly rate of pay by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether a person has suffered a reduction in the rate of pay.

Inserting wage rates for school leavers

7. Deleting clauses 11.4, 11.5 and 1.16 and inserting the following:

11.4 Wage Level A

Where the accredited training course and work performed are for the purpose of generating skills which have defined for work at Wage Level A.

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$	\$	\$
School leaver	173.00 (50%)*	216.00 (33%)	
	202.00 (33%)	243.00 (25%)	
	221.00	243.00	293.00
Plus 1 year out of school	243.00	293.00	340.00
Plus 2 years	293.00	340.00	396.00
Plus 3 years	340.00	396.00	453.00
Plus 4 years	396.00	453.00	
Plus 5 or more years	453.00		

11.5 Wage Level B

Where the accredited training course and work performed are for the purpose of generating skills which have defined for work at Wage Level B.

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$	\$	\$
School leaver	173.00 (50%)*	216.00 (33%)	
	202.00 (33%)	243.00 (25%)	
	221.00	243.00	283.00
Plus 1 year out of school	243.00	283.00	325.00
Plus 2 years	283.00	325.00	382.00
Plus 3 years	325.00	382.00	435.00
Plus 4 years	382.00	435.00	
Plus 5 or more years	435.00		

11.6 Wage Level C

Where the accredited training course and work performed are for the purpose of generating skills which have defined for work at Wage Level C.

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$	\$	\$
School leaver	173.00 (50%)*	216.00 (33%)	
	202.00 (33%)	243.00 (25%)	
	221.00	243.00	278.00
Plus 1 year out of school	243.00	278.00	312.00
Plus 2 years	278.00	312.00	349.00
Plus 3 years	312.00	349.00	390.00
Plus 4 years	349.00	390.00	
Plus 5 or more years	390.00		

Amending the Training Packages

8. Deleting the table titled WAGE LEVEL A in Part A, Schedule C, and inserting the following:

WAGE LEVEL A

Training Package	Certificate Level
Beauty	III
Business Services	I
	II
	III
Chemical, Hydrocarbons and Oil Refining	III
Civil Construction – This Award does not apply to these traineeships where another Award already provides for the traineeship	III
Community Pharmacy	III
Community Services	II

	III
Correctional Services	III
Financial Services	II
	III
Floristry	III
Food Processing Industry	III
Gas Industry (Utilities)	III
Hospitality	III
Information Technology	II
	III
Laboratory Operations	III
Local Government (Environmental Health and Regulation)	II
	III
Local Government (General Construction)	III
Local Government (Governance and Administration)	I
	II
	III
Local Government (Government)	II
	III
Manufactured Mineral Products	III
Metal and Engineering Industry	
- Engineering Production Certificate	III
- Technician Traineeship	III
Museum, Library and Information Services	II
	III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II
	III
Pulp and Paper Manufacturing Industries	III
Retail	III
Telecommunications	II
	III
Textiles, Clothing and Footwear	III
Tourism	I
	II
	III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III
Wholesale	III

9. By deleting the table titled WAGE LEVEL B in Part A, Schedule C, and inserting the following:

WAGE LEVEL B

Training Package	Certificate Level
-------------------------	--------------------------

Aeroskills – This Award does not apply to these traineeships where another Award already provides for the traineeship	II
Animal Care and Management	I II III
Asset Maintenance	II III
Asset Security	I II III
Australian Meat Industry	I II III
Automotive Industry Manufacturing	II
Automotive Industry Retail, Service and Repair	II III*
Beauty	II
Caravan Industry	I II III
Civil Construction – This Award does not apply to these traineeships where another Award already provides for the traineeship	I II
Community Pharmacy	II
Community Recreation Industry	II III
Entertainment Industry	I II III
Film, TV, Radio and Multimedia	II III
Fitness Industry	II III
Floristry	II
Food Processing Industry	I II
Forest & Forest Products Industry	I II III
Gas Industry (Utilities)	II
Hospitality	I II
Local Government (General Construction)	I II
Manufactured Mineral Products	I II
Metal and Engineering Industry	I

	II
Outdoor Recreation Industry	II
	III
Plastics, Rubber and Cablemaking	I
	II
Printing and Graphic Arts	II
Public Safety	II
Pulp and Paper Manufacturing Industries	I
	II
Retail	II
Sport Industry	I
	II
	III
Textiles, Clothing and Footwear	I
	II
Transport and Distribution	I
	II
Water Industry (Utilities)	II
Wholesale	II

*In keeping with the application of the National Training Wage Award, this allocation is not to apply to apprenticeships available under this Training Package.

10. By deleting the table titled WAGE LEVEL C in Part A, Schedule C, and inserting the following:

WAGE LEVEL C

Training Package	Certificate Level
Amenity Horticulture	I
	II
	III
Conservation and Land Management	II
	III
Music	I
	II
	III
Racing Industry	II
	III
Rural Production	I
	II
	III
Seafood Industry	I
	II

- B. This order shall come into force from the beginning of the first pay period commencing on or after Date Month 2006 and shall remain in force for a period of three months.

BY THE COMMISSION

COMMISSIONER

ATTACHMENT G

PR969102: *National Training Wage Award 2000*

Please turn over the page.

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996
s.113 application to vary an award

Shop, Distributive and Allied Employees Association
(C2006/1447)

NATIONAL TRAINING WAGE AWARD 2000
(ODN C No. 22542 of 1994)
[AW790899CAN PR903981]

Industries not otherwise assigned

COMMISSIONER MANSFIELD

MELBOURNE, 27 FEBRUARY 2006

Wages and conditions.

ORDER

A. The above award is varied as follows:

1. By deleting clause 8.12 and inserting the following;

8.12 Relevant State or Territory legislation means the following:

Western Australia:	Vocational Education and Training Act 1996
Northern Territory:	<i>Northern Territory Employment and Training Act 1991</i>
Victoria:	Vocational Education and Training Act 1990
New South Wales:	<i>Apprenticeship and Traineeship Act 2001</i>
Australian Capital Territory:	<i>Vocational Education and Training Act 2003</i>
Queensland:	<i>Vocational Education, Training and Employment Act 2000</i>
South Australia:	<i>Training and Skills Development Act 2003</i>
Tasmania:	<i>Vocational Education and Training Act 1994</i>

or any successor legislation.

2. By inserting a new clause as follows;

8.14 Adult trainee is a trainee who would qualify for the highest wage rate in Wage Level A, B or C if covered by that wage level.

3. By renumbering clause 11.8.2(b) to 11.8.2

4. By deleting clause 11.14 and inserting the following;

11.14 Where a person was employed by an employer immediately prior to becoming an adult trainee with that employer, such person shall not suffer a reduction in the rate of pay by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether a person has suffered a reduction in the rate of pay.

5. By deleting the last paragraph in clause 14.2.1 and inserting the following;

An adult trainee who is undertaking a part time traineeship for an AQF IV qualification shall receive the following hourly rate as applicable based on the allocation of AQF III qualifications:

6. By deleting clause 14.3.4 and inserting the following:

14.3.4 Where a person was employed part time by an employer immediately prior to becoming a part time adult trainee with that employer, such person shall not suffer a reduction in the hourly rate of pay by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether a person has suffered a reduction in the rate of pay.

7. By deleting clauses 11.4, 11.5 and 11.6 and inserting the following:

11.4 Wage Level A

Where the accredited training course and work performed are for the purpose of generating skills which have defined for work at Wage Level A.

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$	\$	\$
School leaver	173.00 (50%)*	216.00 (33%)	
	202.00 (33%)	243.00 (25%)	
	221.00	243.00	293.00
Plus 1 year out of school	243.00	293.00	340.00
Plus 2 years	293.00	340.00	396.00
Plus 3 years	340.00	396.00	453.00
Plus 4 years	396.00	453.00	
Plus 5 or more years	453.00		

11.5 Wage Level B

Where the accredited training course and work performed are for the purpose of generating skills which have defined for work at Wage Level B.

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$	\$	\$
School leaver	173.00 (50%)*	216.00 (33%)	
	202.00 (33%)	243.00 (25%)	
	221.00	243.00	283.00
Plus 1 year out of school	243.00	283.00	325.00
Plus 2 years	283.00	325.00	382.00
Plus 3 years	325.00	382.00	435.00
Plus 4 years	382.00	435.00	
Plus 5 or more years	435.00		

11.6 Wage Level C

Where the accredited training course and work performed are for the purpose of generating skills which have defined for work at Wage Level C.

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	\$	\$	\$
School leaver	173.00 (50%)*	216.00 (33%)	
	202.00 (33%)	243.00 (25%)	
	221.00	243.00	278.00
Plus 1 year out of school	243.00	278.00	312.00
Plus 2 years	278.00	312.00	349.00
Plus 3 years	312.00	349.00	390.00
Plus 4 years	349.00	390.00	
Plus 5 or more years	390.00		

8. By deleting the table titled – WAGE LEVEL A in Part A, Schedule C, and inserting the following:

WAGE LEVEL A

Training Package	Certificate Level
Beauty	III
Business Services	I II III
Chemical, Hydrocarbons and Oil Refining	III
Civil Construction – This Award does not apply to these traineeships where another Award already provides for the traineeship	III
Community Pharmacy	III
Community Services	II III
Correctional Services	III
Financial Services	II III
Floristry	III
Food Processing Industry	III
Gas Industry (Utilities)	III
Hospitality	III
Information Technology	II III
Laboratory Operations	III
Local Government (Environmental Health and Regulation)	II III
Local Government (General Construction)	III
Local Government (Governance and Administration)	I II III
Local Government (Government)	II III
Manufactured Mineral Products	III
Metal and Engineering Industry	
- Engineering Production Certificate	III
- Technician Traineeship	III
Museum, Library and Information Services	II III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II III
Pulp and Paper Manufacturing Industries	III
Retail	III
Telecommunications	II III

Textiles, Clothing and Footwear	III
Tourism	I II III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III
Wholesale	III

9. By deleting the table titled WAGE LEVEL B in Part A, Schedule C, and inserting the following:

WAGE LEVEL B

Training Package	Certificate Level
Aeroskills – This Award does not apply to these traineeships where another Award already provides for the traineeship	II
Animal Care and Management	I II III
Asset Maintenance	II III
Asset Security	I II III
Australian Meat Industry	I II III
Automotive Industry Manufacturing	II
Automotive Industry Retail, Service and Repair	II III*
Beauty	II
Caravan Industry	I II III
Civil Construction – This Award does not apply to these traineeships where another Award already provides for the traineeship	I II
Community Pharmacy	II
Community Recreation Industry	II III
Entertainment Industry	I II III
Extractive Industry	II III
Film, TV, Radio and Multimedia	II III

Fitness Industry	II III
Floristry	II
Food Processing Industry	I II
Forest & Forest Products Industry	I II III
Gas Industry (Utilities)	II
Hospitality	I II
Local Government (General Construction)	I II
Manufactured Mineral Products	I II
Metal and Engineering Industry	I II
Outdoor Recreation Industry	II III
Plastics, Rubber and Cablemaking	I II
Printing and Graphic Arts	II
Public Safety	II
Pulp and Paper Manufacturing Industries	I II
Retail	II
Sport Industry	I II III
TEXTILES, CLOTHING AND FOOTWEAR	I II
Transport and Distribution	I II
Water Industry (Utilities)	II
Wholesale	II

*In keeping with the application of the National Training Wage Award, this allocation is not to apply to apprenticeships available under this Training Package.

10. By deleting the table titled WAGE LEVEL C in Part A, Schedule C, and inserting the following:

WAGE LEVEL C

Training Package	Certificate Level
Amenity Horticulture	I
	II
	III
Conservation and Land Management	II
	III
Music	I
	II
	III
Racing Industry	II
	III
Rural Production	I
	II
	III
Seafood Industry	I
	II

B. This order shall come into force from the first pay period to commence on or after 24 February 2006 and shall remain in force for a period of three months.

BY THE COMMISSION:

COMMISSIONER

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ATTACHMENT H

Guide to the National Training Wage Award

Please turn over the page, or for an ACCI branded version of the document, go to http://www.acci.asn.au/text_files/education_employment_training/Guide%20to%20National%20Training%20Award.pdf

**Guide to the
National Training Wage Award**

December 2005

This guide was developed by Industry Training Australia under the direction of the National Training Wage Working Group (NTWWG). The NTWWG comprises of representatives from the Australian Chamber of Commerce and Industry, the Australian Council of Trade Unions, the Department of Education, Science and Training, and the Department of Employment and Workplace Relations.

Disclaimer

This publication is designed to assist you, but it is a guide only. The information is current at the time of printing and mainly refers to federal industrial awards and legislation. State/Territory awards and legislation may differ. You can get further information and advice from the agencies listed at the end of this booklet.

Guide to the National Training Wage Award

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Introduction

About the NTW Award

Who is covered by the NTW Award

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Dispute Settlement

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Introduction

This Guide has been developed to enhance the understanding of the concepts and more complex clauses of the *National Training Wage Award 2000* (NTW Award). The Guide does not cover everything in the award and is not designed to replace the award. It is strongly recommended that the Guide be read in conjunction with an up to date copy of the Award. The Guide is primarily targeted at employers but is a useful source of information for trainees and other parties involved with the training system.

Traineeships

Traineeships were introduced in 1985 to complement the traditional apprenticeship system, by extending the system of training and employment to a much wider range of occupations (usually in the non trade occupations). Certificate II traineeships are of a maximum of one year's duration (full time). Certificate III and IV traineeships may extend for up to two years (full time). New Apprenticeships is the term used to cover both traditional apprenticeships and traineeships.

About the NTW Award

The NTW Award is the major award covering traineeships in Australia. The NTW Award covers employers and trainees whose employment conditions are governed by the federal workplace relations system.

The NTW Award needs to be read in conjunction with the relevant industry award as trainees are entitled to all other conditions of the industry award that are not contained in the NTW Award. The NTW Award ceases to apply at the end of the traineeship, at which point the employment conditions of the former trainee will be covered by the relevant industry award or other industrial arrangements (eg. certified agreement).

The Award provides wage rates and training conditions for trainees employed under a training contract or agreement registered with the appropriate State or Territory Training Authority.

Employment as a trainee does not commence until the training contract has been signed by the parties and lodged with the relevant State/Territory Training Authority.

The underlying concept of the NTW Award is that the trainee gets paid for work and training hours but the wage is discounted to account for time spent in approved training. The Award contains three wage levels for trainees. Training package qualifications have been allocated to a wage level based on the level of wages payable in the relevant industry for work classifications that cover similar work to trainees. The actual wage rate for a trainee is based on the wage level of the training package qualification, the highest year of schooling completed by the trainee and the number of years the trainee has been out of school.

It should be noted that:

- The NTW Award only applies to *traineeship* wages and conditions.
- Other workers, including those training for qualifications normally associated with an *apprenticeship* cannot be paid under the NTW Award.
- The Award can also apply to employees covered by State and other federal awards that adopt the provisions of the NTW Award.
- The Award is common rule in most industries in the ACT and the Northern Territory.

Guide to the National Training Wage Award (December 2005)

Who is covered by the NTW Award?

The NTW Award applies in all States and Territories and covers people undertaking a traineeship whose employer is listed in the award or belongs to an organisation that is respondent to the award. (See **Schedule A and B of the Award** for lists of respondents to the Award).

Employer responsibilities

The award states that, in accordance with the training agreement, employers are to:

- ensure the trainee is permitted to attend the training program;
- ensure the trainee receives appropriate on-the-job training;
- provide the trainee with the appropriate level of supervision; and
- keep appropriate records for monitoring purposes

These training conditions are contained in **Clause 9 of the Award**.

How to determine wage rates using the Award

Firstly for the traineeship selected and the trainee being employed, you need to determine;

- **Wage Levels for specific Qualifications**

Determine the appropriate wage level for the selected traineeship by referring to the list of Traineeship qualifications listed with the appropriate wage level (A, B or C) in the award at **Schedule C**.

- **Year of Schooling Completed**

Simply this is the highest year level of schooling (Year 10, 11 or 12) that the trainee has completed. A trainee who leaves school before completing year 10 will be deemed to have completed year 10 for the purposes of calculating the training wage rate.

- **Out of School**

To calculate the number of years out of school, trainees have a common anniversary date of 1 January each year. This means that the number of years out of school does not include any period during the calendar year in which the year of schooling is completed. For example, a trainee is considered a school leaver from the time they finish school until the end of the next full calendar year.
(Clause 11.12)

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Then secondly, determine the Wage Rates using the rate tables in the Award;

When the wage level of the traineeship being completed is determined along with the trainees highest level of schooling completed and the number of full years since the trainee left school (Out of school), then;

- **Full time rates**

A full-time trainee is paid a weekly wage for the hours of work and training. The weekly wage rates in the NTW Award have been 'discounted' by 20% to account for the time that is spent in approved training. The rates of pay for full time trainees completing Certificate I, II and III traineeships are provided in the tables at **clause 11.4** (wage level A), **11.5** (wage level B) and **11.6** (wage level C) of the award.

- **Certificate IV rates**

Certificate IV rates are calculated by adding 3.8 per cent to the appropriate Certificate III traineeship rate (**clause 11.8**) The award only applies to Certificate IV qualifications where the Certificate III qualification is listed in **schedule C**.
NOTE not all Certificate IV qualifications are payable under the NTW Award – the relevant industry Award may apply

- **Adult rate**

The adult wage rate is the highest wage rate at the appropriate level (in the tables at **clauses 11.4, 11.5 & 11.6**). Note an existing adult employee who takes up a traineeship with the same employer shall not have their pay reduced.

- **Part Time rates**

The hourly rates (**Clause 14.2.1 Table 1**) for part-time trainees have not been 'discounted' to account for time in training so the mix of training and work has to be considered when calculating the wage rates. A different calculation is used to calculate the wages of a part-time trainee depending on the type of training that is undertaken:

- i) If training is provided fully off the job, the *total hours worked* by the part time trainee on the job should be multiplied by the appropriate hourly rate. Payment shall not be made for the time spent in *off the job* training (**Clause 14.3.1**).
- ii) If training is provided fully on the job or in a combination of on the job and off the job, the number of hours spent in approved training *and* work should be multiplied by the appropriate hourly rate. Where the average proportion of time spent in approved training is 20%, this figure should then be multiplied by 0.8 – this reduces the wage by 20 per cent to account for the time spent in training (**Clause 14.3.2**).

The NTW Award has been designed this way to ensure that part-time trainees get paid pro rata what a full-time trainee would be paid.

Guide to the National Training Wage Award (December 2005)

- **School Based Trainee rates**

The hourly rates of pay for school based trainees are contained at **Clause 14.2.1 Table 2**. The hourly rate is determined by the year of school the trainee is in. School based trainees in Year 10 should be paid at the appropriate Year 11 rate.

There are two sets of hourly rates:

- i) the standard rate for all traineeships (ie Wage Levels A, B & C); and
- ii) the '20% Loading' rates. With the agreement of the trainee, an additional loading can be paid in lieu of annual leave, sick leave, personal leave and public holidays. However where a trainee is called upon to work on a public holiday the provisions of the relevant award shall apply. (See **Clause 14.6.2**).

Once the hourly rate has been selected, the wage should be calculated using the same method that is used for part-time trainees (explained above). This means that that the wage for school based trainees needs to be reduced by 20% to account for *any paid work time* spent in structured training on or off the job or a combination of both.

If required, the Award also contains weekly wages for full-time school based traineeships – see **Clause 11.7**

Dispute Settlement

The NTW Award does not contain dispute settlement procedures relating to the wages and conditions of the trainee. Dispute settlement procedures in the relevant industry award apply to trainees. However, disputes over the training agreement are dealt with in the State/Territory training legislation. State/Territory training authorities should be contacted for more information.

Other Award Provisions users should be familiar with

- Definitions (See Clause 8 of the Award)
- Employment Conditions, including Overtime (See Clause 10 of the Award)

Where to go for Information and Advice

Where to get an up to date copy of the National Training Wage Award 2000

The easiest way to get a copy of the Award (reference AW790899) is to download it from the Australian Industrial Relations Commission web site at:
http://www.airc.gov.au/looseleaf/list/AW790899_intro.htm

Advice in relation to the NTW Award 2000, Federal Awards, State Training Wage Awards, State Awards, Agreements and Australian Workplace Agreements

- Federal Department of Employment and Workplace Relations – Wageline
- Australian Industrial Relations Commission
- Unions
- Employer Organisations
- State and Territory government industrial relations departments
- Office of the Employment Advocate

Advice on the availability of Traineeships, Employer Incentives and Training Agreements

- New Apprenticeships Centres
- State and Territory Training Authorities

Contact Details

Wageline - Federal Department of Employment and Workplace Relations

Phone: 1300 363 264 (National Office)

Web site: <http://www.wagenet.gov.au>

Web site <http://www.dewr.gov.au>

Australian Industrial Relations Commission

Phone: 03 8661 7777 (Principal Registry)

Web site <http://www.airc.gov.au>

Office of the Employment Advocate

Phone 1300 662 871 (local call)

Web site <http://www.oea.gov.au>

New Apprenticeships Centres (listed by postcode)

Web site <http://www.newapprenticeships.gov.au/locationsearch/NACSearch.asp>

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State and Territory Industrial Relations Departments

New South Wales

Phone: 13 16 28

Web site <http://www.industrialrelations.nsw.gov.au/>

Queensland

Phone: 1300 369 945

Web site <http://www.ir.qld.gov.au/>

South Australia

Phone: 1300 365 255

Web site <http://www.eric.sa.gov.au>

Victoria

In Victoria, employers and employees are covered by the federal system

Phone Wageline 1300 363 264

Web site: <http://www.wagenet.gov.au>

Web site <http://www.ir.vic.gov.au>

Telephone: 03 9651 9200

Western Australia

Phone 1300 655 266

Web site <http://www.docep.wa.gov.au/ir/default.html>

Tasmania

Phone 1300 366 322

Web site <http://www.wsa.tas.gov.au>

Australian Capital Territory

In the ACT, employers and employees are covered by the federal system

Phone Wageline 1300 363 264

Web site: <http://www.wagenet.gov.au>

Northern Territory

In the NT, employers and employees are covered by the federal system

Phone Wageline 1300 363 264

Web site <http://www.wagenet.gov.au>

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State and Territory Training Authorities

New South Wales

Phone 13 28 11

Web site <http://apprenticeship.det.nsw.edu.au/>

Queensland

Phone 1300 369 935

Web site <http://www.det.qld.gov.au>

Victoria

Phone 03 9637 2000

Web site <http://www.otte.vic.gov.au>

South Australia

Phone 1800 637 097

Web site <http://www.employment.sa.gov.au/employ/pages/default/tas/>

Western Australia

Phone 13 19 54

Web site <http://www.apprenticeships.training.wa.gov.au>

Tasmania

Phone 1800 655 846

Web site <http://www.ovet.tas.gov.au/>

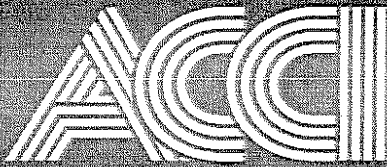
Australian Capital Territory

Phone 02 6205 8469 Web site <http://www.decs.act.gov.au/services/training.htm>

Northern Territory

Phone 08 8901 1357

Web site <http://www.deet.nt.gov.au/training/index.shtml>



CAPITAL GAINS TAX - IN NEED OF REFORM

Ongoing tax reform is vital to business and reforms to Capital Gains Tax (CGT) are an important part of this process. Notwithstanding the important changes made to the CGT system in 1999, business has strong concerns with aspects of how it currently operates and believes that improvements can and should be made.

The Australian Government introduced a system for taxing capital gains on 19 September 1985, as part of a sweeping range of tax changes that also included personal tax cuts, the introduction of a Fringe Benefits Tax (FBT) and dividend imputation.

Before the introduction of the CGT, only a small number of capital gains were taxed and as a result, substantial tax benefit could be obtained by taking income as capital gains.

CGT Revenue

At the time of its introduction, it was estimated that CGT would only raise \$5 million in its first full year of operation and \$25 million in the fifth year.

However, CGT has subsequently become an important revenue source for the Government, at its height raising \$5.3 billion in 1999-2000 (or 3.5 per cent of total revenue).

This figure has fallen after the significant reforms to CGT that occurred as part of the *Review of Business Taxation* (chaired by John Ralph) in 1999. These reforms, which were supported by ACCI, included:

- reducing CGT on assets that have been held for over a year by 50 per cent;
- removing averaging and the indexation of the CGT cost base; and
- a simplification and broadening of small business CGT concessions.

These changes were expected to increase revenue by \$160 million in 2000-01, mainly because the removal of averaging and indexation raised more revenue than the 50 per cent concession. The revenue impact was forecast to fall gradually until it became negative (i.e. it was forecast to have a net cost to the budget) in 2004-05, with a forecast cost of \$30 million. However, the Ralph Review noted that it is notoriously difficult to make forecasts of CGT revenue.

The most recent data available has CGT raising \$3.2 billion in 2002-03 or 2.0 per cent of revenue (see Figure 1 on page 2).

INSIDE

Intellectual Property Rights and Geographical Indications

Intellectual property, and the associated legal intellectual property rights (IPRs), is a vital element of entrepreneurship and an engine for the economic development and growth of nations. However, proposals to create a multilateral register of certain forms of IPRs risks granting some countries and producers monopoly rights over commonly used product names and would seriously prejudice international competitiveness and market opportunities for Australian processed food exporters.

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Export Market Development Grants Scheme Should Continue

The Australian Government has finally released the long awaited Jolie Review of the Export Market Development Grants Scheme. The report recommended the Scheme be continued for another 5 years – a conclusion ACCI wholeheartedly supports.

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Training Wage Reform Good for Apprentices

Australia's federal system of government is currently preventing many Australians from undertaking apprenticeships and traineeships. ACCI is advocating a policy approach that seeks to remove these workplace relations and training barriers and get more skilled workers into the labour market.

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