

**2016 STATE WAGE ORDER PURSUANT TO SECTION 50A OF THE ACT
WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

CITATION : 2016 WAIRC 00358

CORAM : ACTING SENIOR COMMISSIONER P E SCOTT
COMMISSIONER S J KENNER
COMMISSIONER T EMMANUEL
COMMISSIONER D J MATTHEWS

HEARD : TUESDAY, 24 MAY 2016, FRIDAY, 3 JUNE 2016

DELIVERED : FRIDAY, 10 JUNE 2016

FILE NO. : APPL 1 OF 2016

BETWEEN : ON THE COMMISSION'S OWN MOTION

CatchWords : State Wage order - Commission's own motion - Minimum wage for employees under Minimum Conditions of Employment Act 1993 - Award rates of wage - Award minimum wage - State wage principles

Legislation : *Industrial Relations Act 1979 (WA) s 50A; Minimum Conditions of Employment Act 1993 (WA) s 12; Workplace Relations Amendment (WorkChoices Act 2006 (Cth)*

Result : 2016 State Wage order issued

Representation:

Mr B Entrekin and with him, Ms C Purcell on behalf of the Hon Minister for Commerce

Mr P Moss and with him, Ms K Dudgeon on behalf of the Chamber of Commerce and Industry of WA (Inc)

Dr T Dymond and with him, Ms N McCrae and later Mr S Dane on behalf of UnionsWA

Case(s) referred to in reasons:

Australian Rail, Tram and Bus Industry Union of Employees, Western Australian Branch v. Public Transport Authority of Western Australia [2015] WAIRC 00378; (2015) 95 WAIG 712

Equal Remuneration Case – *Australian Municipal, Administrative, Clerical and Services Union and others* [2012] FWAFB 5184, PR525485

Fair Work Commission Annual Wage Review 2014-15 [2015] FWCFB 3500

State Wage order Decision [2015] WAIRC 00435; (2015) 95 WAIG 679

State Wage order Decision [2014] WAIRC 00471; (2014) 94 WAIG 641

State Wage order Decision [2013] WAIRC 00347; (2013) 93 WAIG 467

State Wage order Decision [2012] WAIRC 00346; (2012) 92 WAIG 557

State Wage order Decision [2011] WAIRC 00399; (2011) 91 WAIG 1008

State Wage order Decision [2007] WAIRC 00517; (2007) 87 WAIG 1487

Western Australian Municipal, Administrative, Clerical and Services Union of Employees v. Aboriginal Alcohol and Drug Service (AADS) (Inc) & Others [2013] WAIRC 00795; (2013) 93 WAIG 1380

Reasons for Decision

INTRODUCTION

- 1 This is the unanimous decision of the Commission in Court Session. Section 50A of the *Industrial Relations Act 1979* (the Act) requires the Commission before 1 July in each year, of its own motion, to make a General Order –
 - setting the minimum weekly rate of pay applicable under s 12 of the *Minimum Conditions of Employment Act 1993* to employees who have reached 21 years of age and who are not apprentices;
 - setting the minimum weekly rates of pay applicable to apprentices;
 - adjusting rates of wages paid under awards;
 - varying each award affected by the General Order to ensure that the award is consistent with the order;
 - making other consequential changes to specified awards if appropriate, and
 - setting out a statement of principles to be applied and followed in relation to the exercise of jurisdiction under the Act to set the wages, salaries, allowances or other remuneration of employees or the prices to be paid in respect of their employment.
- 2 The Commission gave public notice of the hearing in local newspapers on 16 – 17 April 2016 and 20 April 2016, and on the Commission’s website on 6 April 2016 and in the WA Industrial Gazette on 27 April 2016 ([2016] WAIRC 00208; (2016) 96 WAIG 311) inviting submissions from interested persons.

SUBMISSIONS

- 3 Submissions were received from the Hon. Minister for Commerce, the Chamber of Commerce and Industry of WA (Inc) and UnionsWA, and each of these bodies made a submission in reply, and from the WA Council of Social Service and Mr George Williams, a member of the public.

The Hon. Minister for Commerce

- 4 The Minister provided detailed data and analysis of the current state of the Western Australian economy and projections for future years through the Economic Outlook 2006 based on economic aggregates published in the 2016-17 Budget, released on 12 May 2016 including some revisions. That information relates to the WA economy generally, exports, domestic demand, labour market conditions including employment and unemployment levels, the level of wages growth and how they compare nationally.
- 5 The Minister notes that economic conditions in Western Australia have worsened over the past year, which has flowed through to a softer labour market. Leading indicators suggest that employment growth will remain subdued in the near term.
- 6 The Minister submits that an adjustment to the state minimum wage in line with the Department of Treasury’s forecast for Consumer Price Index (CPI) growth for Perth in 2015-16, of 1.25%, will achieve a number of things. It will reflect the balance required in meeting the needs of the low paid while minimising the potential risks for employers and the business community. This would mean that the state minimum wage of \$679.90 would

increase by \$8.50, to \$688.40. The same flat dollar amount should be applied to adult award wages.

- 7 The CPI is said to be the best indicator of the adjustment needed to maintain the real value of the minimum wage, and the overall rate of CPI growth is the more rigorous and accurate means available of tracking increases in the cost of living.
- 8 The slowing of the growth in the CPI to 1.25% in 2015-16 from 1.8% in 2014-15 reflects weak household spending, modest wage growth, moderating house costs and a fall in automotive fuel prices. In 2014-15, household spending grew by 1.3%, and is expected to grow by 1.5% in 2015-16. The historical average growth rate is 4.1% per annum. Retailers' capacity to raise prices is limited due to weak household spending. The Perth CPI decreased by 0.6% in the March Quarter 2016, while average growth rose by 1.1% in the year to March 2016. This is the lowest annual average growth rate since 1998.
- 9 Domestic economic conditions have continued to ease. This is due mainly to declining business investment as the mining industry moves from construction to production. Household consumption remains weak. Dwelling investment growth has moderated.
- 10 Exports are a significant aspect of the current economy. Exports have risen strongly as the large resource projects in the State increase production.
- 11 Gross State Product is projected to ease from 3.5% in 2014-15 to 1.0% in 2015-16, the slowest growth rate since 1990-91.
- 12 Slower than expected growth in China is one of the potential risks to the State's growth prospects.

Labour market conditions

- 13 Total employment in WA grew by 0.7% over the year to March 2016, compared to 1.3% over the year to March 2015. It remains well below the historical average of 2.6% per annum.
- 14 Employment growth was mostly in part time employment, being an increase of 4.5%, compared with full time employment decreasing by 0.9%. This indicates that underlying labour market conditions are softer than headline growth suggests.
- 15 Job vacancy data indicates a 19.3% decline in online job vacancies in the year to March 2016.
- 16 WA's Unemployment Rate has increased to the same rate as the national average. It rose from an average of 5.3% over the year to March 2015 to 6.0% over the year to March 2016, the highest in nearly 13 years.

Wage rate movements

- 17 Growth in the Wage Price Index (WPI) was lower than CPI between June 2014 and March 2015, indicating a decline in real wages. Wages growth has slowed in almost every industry over the last year. The WPI is forecast to grow by 1.75% in 2015-16 and 1.75% in 2016-17. This compares with an average over the last decade of 3.9% per annum. It is also lower than the growth in WPI at the national level, of 2.2% in 2015.
- 18 Average Weekly Earnings data for November 2015 shows a total increase of 2.1% over the year with 1.9% for males and 3.2% for females, resulting in a slight decrease in the gap between male and female earnings at both state and national level. In WA, the gender pay gap decreased from 25.6% in November 2014 to 24.7% in November 2015. This compares with 18.8% and 17.4% respectively at the national level.

The economic environment facing WA businesses

- 19 The evidence is that the softening domestic economy is affecting WA businesses, including that total industry income from sales of goods and services in WA has declined for seven consecutive quarters to December 2015. This is the first such consecutive quarterly decline since 2009.
- 20 The results of Gross Operating Surplus (GOS) plus Gross Mixed Income (GMI) by industry show very varied results. They show:

Industry	Annual Increase (\$m)	Annual Increase (%)
Administrative and support services	57	16.40%
Arts and recreation services	54	11.40%
Other services	94	11.40%
Accommodation and food services	99	8.80%
Health care and social assistance	98	7.00%
Public administration and safety	59	5.00%
Electricity, gas, water and waste services	91	2.60%
Education and training	18	2.20%
Transport, postal and warehousing	41	0.80%
Manufacturing	-10	-0.20%
Financial and insurance services	-89	-1.50%
Information media and telecommunications	-50	-2.70%
Agriculture, forestry and fishing	-285	-5.80%
Wholesale trade	-214	-7.50%
Retail trade	-242	-7.60%
Construction	-1,734	-11.10%
Rental, hiring and real estate services	-329	-14.20%
Mining	-17,791	-26.30%
Professional, scientific and technical services	-783	-28.50%
Total all industries	-19,852	-13.80%

Submission of the Hon. Minister for Commerce,
page 10, Table 4

- 21 The Minister says that an increase in the minimum wage and to award wages of a flat dollar amount equivalent to the CPI increase will provide ‘an appropriately balanced approach to wage increases for employees while mitigating the potential risks for employers from a significant wage rise at the current time’ (Minister’s submission, [44]).

Meeting the needs of the low paid

- 22 The Minister says that the flat increase equal to the movement in CPI will ensure that the spending power of the minimum wage and award rates is maintained. A flat dollar increase ensures the greatest benefit is directed to the lowest paid.
- 23 If it is assumed, as suggested by Fair Work Commission (FWC) research in 2013, that a majority of award reliant employees are employed at the lower-paid classifications of awards,

paid at less than the C10 rate, then it is appropriate to focus the State Wage Case on the minimum wage and lower award classifications.

- 24 While a flat dollar increase results in a slight decline in the real value of some award rates above the minimum, the Minister says this is not inconsistent with wage trends in the broader labour market. Wage restraint is necessary to support employment in the current economic climate.

Promoting bargaining

- 25 The Minister says that a CPI based adjustment would protect the needs of the low paid but would not impact on the willingness of employers and employees to bargain for higher rates where appropriate.

Skills development

- 26 The Minister notes that a range of factors has led to a reduction in the numbers of apprenticeship and traineeship commencements in 2015 and in the total numbers of employees in apprenticeships and traineeships. They include ‘the combination of economic uncertainty, subdued labour market conditions and ... resource construction workers ‘returning’ to non-resource construction roles’. The impact of the half year cohort that entered school in 2002 is said to be another likely cause of lower numbers entering the vocational education and training sector.
- 27 Therefore, the Minister urges that the Commission consider the potential impact of any minimum wage increase on the willingness of employers to engage staff in training arrangements.

Industry/skill level list

- 28 The Minister points to a number of changes required to the Industry/Skills Level List which forms an appendix to the State Wage order. Neither CCIWA nor UnionsWA object to these changes.

Trainees under State Awards which reference the National Training Wage Award

- 29 Twenty-three state awards contain provisions which set rates of pay for trainees by reference to the National Training Wage Award (NTWA). This Award applied to non-constitutional corporations as a transitional award as a consequence of the *Workplace Relations Amendment (WorkChoices) Act 2006* (Cth). The Award ceased to be in force on 27 March 2011. Its rates have not been updated. The consequence for those state awards which reference it is that they have not had increases in their training wages for some years.
- 30 The Minister urges that the 2016 State Wage order continue to provide rates of pay for trainees covered by state awards, but suggests the addition of a proviso that trainees whose awards incorporate pay rates from the NTWA are not to be paid less than the rates payable to award-free trainees.

Evidence of Mr Christmas

- 31 Once again, the Commission has had the benefit of the evidence of the Director, Economic and Revenue Forecasting, Department of Treasury, Mr David Christmas.
- 32 Mr Christmas notes that the overall growth in some sectors is less than last year. State Final Demand continues to decline, particularly with business investment dragging it down, and soft

consumption not offsetting it to the extent that it did in the past. State Final Demand is expected to decline for five consecutive years. This is flowing through to the labour market.

- 33 Unemployment took a sharp upturn in 2013-14 and appears volatile, with 6.5% in November 2015 but 5.6% in April 2016. WA's unemployment rate now exceeds the national equivalent for the first time since July 2004.
- 34 Employment growth is soft, and underemployment is at record levels, with a growth in part time employment but a reduction in full time jobs. A continuing modest and gradual decline is anticipated for 2015-16 to 2016-17.
- 35 Youth unemployment is trending upwards over the past year compared with a slight fall nationally. However, youth unemployment is actually below the national level, as is the WA participation rate, although it has fallen from October 2015 to April 2016.
- 36 The Perth CPI has been subdued and declining in recent years. The fall in fuel prices and in new dwelling prices and rents has had 'a real effect on inflation'. The growth in the Perth CPI annual average rate is the weakest annual growth since 1998, even below the Reserve Bank's target range of between 2.00% and 3.00%.
- 37 There is overall very modest growth in employment, but domestic activity is soft as investment tapers off. Mr Christmas described the WA labour market as being very soft.
- 38 Mr Christmas says that savings in WA are positive. He says, though, that it demonstrates that people are trying to pay off debt and saving, which is a sign of caution given the softening of the current economic conditions. Household savings would fall if people felt more secure, that is, if there was improved consumer confidence, or if savings were for a major purchase and the purchase is made from those savings.
- 39 He says that non-discretionary spending is being maintained – that is, on health, rent and food, etc, but discretionary spending such as on vehicle purchases, recreational and cultural activities, hotels, cafes and restaurants is declining in annual growth as people are tightening their belts.
- 40 Population forecasts have been revised further downwards. While investment in housing has been quite robust in the last two years, as a leading indicator, this is now slowing, pointing to a significant drop in new dwelling construction.
- 41 Mr Christmas's evidence regarding household savings being at a high level, unemployment rising, underemployment rising, full time jobs declining and part time jobs increasing are reflected in the *WA Super – CCIWA Survey of Consumer Confidence*, indicating that consumers are pessimistic about their job prospects.

Chamber of Commerce and Industry of WA (Inc)

- 42 CCIWA notes the challenging business environment resulting from what it describes as a 'sharp decline in the State's economic performance'. The indicators of this are high unemployment; a decline in full time jobs; wages growth at historically low levels; an extremely low level of inflation; slowing economic growth and a decline in State Final Demand; and low levels of consumer and business confidence.
- 43 On this basis, CCIWA says that the focus of the State Wage Case ought to be on protecting and enhancing employment opportunities for WA employees.
- 44 CCIWA also focusses on the significant disparity between the state minimum wage and the national minimum wage, and says the national minimum wage 'strikes the right balance

between establishing a fair minimum wage for low paid employees, minimises the potential for negative impacts on employment, and is sustainable for most employers'. Given the current economic conditions and substantial decline in the State's situation, from being a leader in the national economy to falling below the national average in a number of key areas, the gap between the state minimum wage and the national minimum wage ought to be substantially reduced. This could be achieved by maintaining the state minimum wage and award rates at their current levels, or to grant a conservative increase which it describes as being one that sits below the current inflation level and any increase to be granted in the national minimum wage.

The state of the economy

- 45 CCIWA estimates that the value of business investment in WA has decreased by 12.3% after a number of years of growth. It forecasts that business investment will continue to decline by 10.9% over 2015-16 and 7% in 2016-17.
- 46 WA's State Final Demand is now expected to be below the national average after years of high growth which helped National Final Demand grow when other states were in decline.
- 47 WA was ranked as the leading state economy in October 2014 but is now sitting sixth, above South Australian and Tasmania.
- 48 The Chinese economy, the demands of which boosted WA's economy, is predicted to decline again this year.
- 49 The WA economy has also been affected by the ongoing decline in key commodities' prices, such as the Iron Ore Spot Reference Price and the Asia-Pacific Tapis Crude Reference Price.

Business expectations

- 50 CCIWA's Business Expectations Survey indicates short-term business confidence has fallen slightly in the March Quarter 2016, following consecutive quarterly increases in the second half of 2015. More WA businesses report economic conditions worsening, with expectations that conditions will soften next quarter. There is optimism regarding the State's medium-term economic future. Some large and medium sized businesses have experienced increased export activity. Sales turnover figures for large businesses have not increased.

Consumer expectations

- 51 According to the *WA Super – CCI Survey of Consumer Confidence, March Quarter 2016*, half of WA consumers expect the WA economy to remain relatively unchanged in the short term, with only 5% of respondents being optimistic about the short-term outlook.

Employment

- 52 Unemployment continues to trend upwards, at 5.5% as at March 2016, and for the last 12 months has been higher than the national average.
- 53 CCIWA's Employee Relations Advice Centre has continued to have increasing numbers of enquiries regarding redundancies over the last four consecutive years.
- 54 Full time jobs are declining, with part time and casual jobs replacing them, exemplified particularly in the retail industry where the total number of jobs increased by 11.57% in the 12 months to March 2016 with part time jobs increasing significantly but full time jobs falling by 2.97%.
- 55 In the accommodation and food services industries, jobs have increased by 0.33%, but full time jobs fell by 11.79%. WA workers are working fewer hours than this time last year. The

Australian Bureau of Statistics (ABS) reports indicate that 53.7% of award-reliant employees in the accommodation and food services industry and 41% of award-reliant retail employees would prefer to work more hours. This data indicates that a reduction in full time and an increase in part time employment is not due to employee preference but is due to the state of the economy.

- 56 CCIWA also refers to a 21.8% reduction in job vacancies in WA between February 2015 and February 2016, that is 18,300 job vacancies fewer than this time last year. This contrasts with the national situation where job vacancies continue to grow steadily.

Wages growth

- 57 Private sector wages growth, at 1.48% in December 2015, is the lowest since the data was first gathered. It is lower than the national level of 2%. CCIWA says this 'decline in the State's wage growth is reflective of the correction that is currently occurring'.
- 58 With increased unemployment and high levels of competition for job vacancies, wage expectations are now substantially lower than in recent years, and there is a significant reduction in market rates for many new employees.

Inflation

- 59 Perth CPI is now trending below the national average since June 2015.

Capacity of employers to increase wages

- 60 The most common strategies for employers managing or reducing their wages bill in the short term were referred to in research undertaken by the FWC in 2016, that:
- a. reducing the hours of casual staff in the case of 76.4 per cent of retailers and 84.7 per cent of hospitality employers;
 - b. reducing the number or length of shifts in the case of 59.8 per cent of retailers and 71.9 per cent of hospitality employers;
 - c. increasing the number of hours worked by the owners of the business in the case of 68.2 per cent of retailers and 77.5 per cent of hospitality employers;
 - d. increasing the number of hours worked by family members or volunteers in the case of 38.2 per cent of retailers and 47.2 per cent of hospitality employers; and
 - e. reducing the number of employees through natural attrition in the case of 67.4 per cent of retailers and 65.8 per cent of hospitality employers.

CCIWA submissions [5.3]

- 61 Data on business survival rates indicates that small businesses are in a more precarious position than larger businesses and that retail and hospitality employers are facing lower profit margins. This is particularly so in the current economic circumstances. The State industrial relations system covers mainly small businesses. Therefore, there would be a higher impact of the State Wage Decision on those smaller businesses, and their capacity to cover higher employment costs due to increased rates of pay is affected.

Equal remuneration

- 62 CCIWA refers to a number of causes for the gender pay gap, identified by the Department of Commerce, including lack of supportive working arrangements; sex segregation of the labour market, and over-representation of women in casual or non-career part time employment. Its view is that any correlation between increasing the minimum wage and a decrease in the

gender pay gap is arbitrary at best, with no connection between a minimum wage increase and a positive impact on the gender pay gap.

Encouraging skill development

63 CCIWA says that one of the ways to ensure barriers to employers offering training opportunities is to ensure that apprentice and trainee wages remain competitive.

Meeting the needs of the low paid

64 CCIWA says that Australia has the highest minimum wage compared to any other OECD member country. The national minimum wage and the state minimum wage are comparatively fair.

65 CCIWA notes a number of components which have contributed to inflation being at a low level, being the actual decline in rental prices and the increased vacancy rate, as well as a decline in automotive fuel prices.

66 CCIWA also notes the benefits to employees of being in work, referred to in the Australian Government's 2015 Submission to the Fair Work Commission Annual Wage Review, p 61. These include that those who enter low paid work who leave within one to two years do so, in more than 75% of cases, to go to better paid employment. Of those leaving after two to five years, 98% leave for a higher paid job. Most see low paid work as temporary in nature while they acquire skills, training and experience. 'Consequently CCIWA submits that the adequacy of the [state minimum wage] should be perceived through the prism of a transitional rather than permanent wage for the overwhelming majority of low paid workers' (CCIWA submissions, [8.15]). Therefore, the minimum wage ought not to be a barrier to employment opportunities.

67 CCIWA refers to a study of financial wellbeing of the unemployed compared with those employed on the minimum wage. For the unemployed, paid employment at the minimum wage provides greater financial benefits than social security payments (Dockery, Seymour and Ong in 'Life on the Minimum Wage in Australia: An Empirical Investigation' 13(1) *Australian Journal of Labour Economics* 17-18).

68 CCIWA notes that many minimum wage workers live in middle income households.

69 CCIWA says the tax transfers system provides a more targeted means of improving living standards than does the minimum wage, as well as having an impact on maintaining living standards and on those households in receipt of support with children. Tax transfers allow for living standards of the low paid to be improved without the incumbent risk to employment levels, working hours and business viability. In the current economic climate, CCIWA says, this is particularly so.

70 CCIWA says that 'real wage increases awarded in previous State Wage Case decisions, in conjunction with the tax transfer system, provide low paid employees with a decent standard of living' (CCIWA submissions [8.36]). The focus in those circumstances, according to CCIWA, ought to be on promoting job opportunities for the low paid, which is best achieved by maintaining the state minimum wage at its current rate.

71 CCIWA provided its *CCI Survey of Business Expectations – March Quarter 2016* and the 'WA Super – CCI Survey of Consumer Confidence – March Quarter 2016'.

UnionsWA

72 UnionsWA urges the Commission to provide a substantial real increase in the minimum wage and in award rates up to C10 level of \$30.00 per week, and 3.9% above C10. It also says that the full increase ought to be applied to apprentices and juniors.

UnionsWA Fair Pay Survey results

73 UnionsWA undertook what it describes as an indicative survey of working people in WA. The 244 employees self-reported, 95% of whom did so online.

74 While it acknowledges the limitations of the survey, UnionsWA says in light of the lack of information on wages and the effects on the lives of the low paid, the survey results are of use to the Commission because they provide direct comment by employees of their experiences in low paid jobs and the needs of the low paid, and records that ‘a large number of respondents reported being paid at unlawfully low wage[s]’.

Broad impacts of minimum wages on employment

75 UnionsWA says that in its *Inquiry into the Workplace Relations Framework – December 2015*, the Productivity Commission found little or no evidence of negative employment effects from raising the minimum wage.

76 UnionsWA also refers to the 2009 article by Doucouliagos and Stanley, *Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis* in which the authors analysed 64 studies of the minimum wage in the United States of America. The results included a conclusion of zero elasticity of employment with respect to the minimum wage. This is said to mean that minimum wages have no discernible or very small adverse effects on employment.

77 UnionsWA also refers to the 2015 State Wage Decision where the Commission said that there was ‘no evidence suggesting that the increases in the WA minimum wage since 2006 have materially affected the industry sectors most likely to be affected by it’ ([2015] WAIRC 00435; (2015) 95 WAIG 679 [88])

Who is likely to be impacted by the State Wage Case?

78 UnionsWA contends that the increase it proposes is more likely to assist vulnerable employees and low income households, as well as households of varying incomes by providing more independence to lower income earners within those households.

A fair system of wages and conditions in WA

79 UnionsWA notes the continuing and increasing disparity between the minimum wage and Average Weekly Ordinary Time Earnings (AWOTE) at both state and national levels. The WA minimum wage has fallen from 49% of AWOTE in 2006 to 40.2% in 2015. The pay increase it proposes will help to redress that disparity, and assist in the achievement of a fair system of wages and conditions.

80 It would also help to address the inequalities reflected in the gender pay gap and in the Gini Coefficient of Equivalised Disposable Household Income.

81 In the context of those three measures, UnionsWA says its proposed increase is quite modest and is vital in maintaining a fair system of wages and conditions in WA.

The needs of the low paid, fair wage standards and improved living standards for employees

82 UnionsWA refers to the increased living costs arising particularly from the 2015-16 WA Budget. It says that these costs impact disproportionately on low wage workers as do particular components of the CPI.

83 The increase it proposes would deliver a real wage increase of around 2.4% to the lowest paid, which is needed to maintain fair wage standards, and is reasonable.

Employees who may be unable to reach an industrial agreement

84 UnionsWA says that it should not be assumed that increases to the minimum wage negate the need to bargain. It cites a number of factors referred to in the report by the Workplace Research Centre *Minimum Wages and Their Role in the Process and Incentive to Bargain*, which indicate that the minimum wage increases are more likely to encourage than discourage bargaining.

85 It also notes Professor Barrett's conclusions in evidence to the Commission in 2013 that small firms might bargain informally. It says that the minimum wage acts as an important signal as to acceptable wages in such bargaining. A strong minimum wage, accompanied by a policy of low wage audits by the State Government would be an encouragement for bargaining at the workplace level and discourage unlawful underpayments.

Encouraging ongoing skills development

86 UnionsWA argues that higher rates of pay are not the reason for declining numbers of trainees and apprentices. Rather, it refers to comments by the FWC in 2013 that increased wage rates may assist in improving apprenticeship and traineeship completion rates.

87 A substantial increase in apprentice and trainee wages would encourage increased participation in skills development. This is said to be particularly important given increases in TAFE course fees.

88 UnionsWA also says that supervision costs are the main cost to employers of apprentices rather than the apprentice wage costs. These costs are said to be neutralised by increasing apprentice productivity.

Providing equal remuneration for men and women for work of equal or comparable value

89 UnionsWA notes the gender pay gap of 24.7% in WA is larger than in any other state.

90 The aftermath of the construction phase of the resources boom in WA improved the situation only marginally, demonstrating that the main reason for such a large gender pay gap in WA is not the high wages in male-dominated industries such as mining. It notes that the gender pay gap constitutes a career long penalty for women in respect of their prospective lifetime earnings.

91 UnionsWA says that the minimum wage has a role to play in ensuring future remuneration of women does not slip further behind average weekly earnings.

The state of the economy of WA and Australia

92 UnionsWA notes that in April 2016, Commonwealth Securities (CommSec) argued that:

- Although the WA economy no longer leads the country in terms of State Final Demand, 'if exports were considered, Western Australia would have been amongst the strongest growing economies rather than in fifth place';

- WA retail spending was up 12.8% on its decade average, and that unemployment rates in Victoria, WA and ACT have all eased in trend terms in the past three months.

- 93 It also notes that Federal Treasury refers to income tax receipts being ‘weighed down’ by, amongst other things, weaker wages growth. Therefore, there is an economic case for raising the minimum wage as a tool for economic growth.
- 94 UnionsWA also notes that in those industry sectors where the minimum wage has its greatest effect, there is no evidence of businesses being adversely affected by having a higher minimum wage.

The capacity of employers as a whole to bear costs of increased wages

- 95 UnionsWA refers to the tax benefits to flow to small businesses from the 2016 Federal Budget.
- 96 It again refers to the lack of evidence of adverse effects of previous minimum wage increases, and contends that there is no reason to assume that its proposed level of increases is outside of the employers’ capacity to pay.
- 97 UnionsWA refers to the industries most likely to be in the state industrial relations system. These are accommodation and food services; administration and support services; other services; rental, hiring and real estate establishments and services; and the retail trade. It notes that the first three of these have had increases of 8.8%, 16.4% and 11.4% respectively in their GOS plus GMI between June 2014 and June 2015. There is no uniform deterioration in the capacity of businesses to pay for a minimum wage increase.
- 98 UnionsWA points out the disparity between CCIWA’s *Survey of Business Expectations* argument that ‘businesses remain uncertain about the medium term Western Australian economic outlook’ and the ACCI *Small Business Survey (March Quarter 2016)* which provides a far more positive outlook.

The need to ensure that the WA award framework represents a system of fair wages and conditions

- 99 UnionsWA presents data regarding rates of pay in the *Metal Trades (General) Award* which it says demonstrates a small but noticeable compression of wage rates between 2010 and 2014, that is most pronounced at the higher levels than the lower levels. The increases it proposes would best balance the range of factors the Commission needs to take into account. UnionsWA also refers to the decision of the Commission in the *Australian Rail, Tram and Bus Industry Union of Employees, Western Australian Branch v Public Transport Authority of Western Australia* [2015] WAIRC 00378; (2015) 95 WAIG 712 [83], in which Kenner C found that:

... there has been some erosion of relativities to the key classification REA level 4 rate. I therefore accept that on this basis, those in higher skilled positions may be seen to have had the value of their work, relative to the established skills related career paths, in award terms at least, diminished. Correspondingly, for those in the lower level award classifications, in REA level 3A and below, their relative position has improved somewhat.

- 100 UnionsWA submits that its proposed increases provide the benefits of a flat dollar increase, but also provide for a higher increase to rates higher than the C10 rate such as to preserve the real value of award rates above the minimum wage.

- 101 It says that while the WPI indicates a decline in real wages, the requirements on the Commission under the Act include improvement of living standards. An increase equivalent to the (declining) WPI would still constitute an increase greater than is proposed by the Minister and CCIWA.
- 102 As to the use of CPI as a measure of increases in the costs of living, UnionsWA refers to WACOSS's submission that the CPI is not the most rigorous or accurate measure of living costs of a typical Perth household, and cannot be taken as the sole guiding measure, and it refers to utility cost increases having an increased burden on low income earners.
- 103 It also notes that WA's average weekly earnings growth in November 2015 was the second highest of all jurisdictions, and significantly higher than the national average. However, minimum wages in WA have fallen more sharply and faster than the national fall.
- 104 Finally, UnionsWA points to Western Australia being the most unequal state in the Commonwealth in terms of income distribution, and says that this is a relevant factor in the Commission's consideration of the size of the increase to the WA minimum wage.

WA Council of Social Service

- 105 WACOSS represents organisations in the community services sector in Western Australia and has an interest in ensuring that the wages of all low paid employees, including those in the community sector, are adequate and keep pace with the cost of living and with community standards.
- 106 In that context, its submission focusses on four particular aspects of the considerations the Commission is required to have in respect of setting minimum rates of pay, being:
- (i) ensuring that Western Australians have a fair system of wages and conditions;
 - (ii) meeting the needs of the low paid;
 - (iii) providing fair wage standards in the context of living standards generally prevailing in the community; and
 - (iv) contributing to improved living standards for employees.
- 107 WACOSS submits that an increase of \$30.00 per week in the minimum wage and in minimum award wages and for junior employees, apprentices and trainees is consistent with maintaining a fair system of wages and conditions in the current WA context and is very reasonable, taking account of current economic conditions.
- 108 In November 2015, the minimum wage was 39.78% of AWOTE whereas in November 2006 it was 46.4%. This demonstrates that the gap between the minimum wage and average wages and community standards has increased over that period. The increase of \$30.00 per week in the minimum wage will not bridge that gap but will aid in preventing its expansion.
- 109 The cost of living in Western Australia, particularly for low income households, has been affected by, in particular, the 2015-16 State Budget, with household fees and charges adding \$198.15 to a representative household's costs.
- 110 Housing costs constitute a larger part of household expenditure for low income households and are the biggest contributor to financial hardship. Private rental costs combined with the low supply of public and community housing relative to demand is a most pressing issue for low income individuals and households.

- 111 WACOSS notes that many non-discretionary living costs, particularly housing costs and availability, which have increased during the recent mining boom, create difficulties for low income households. The benefits of significant salary increases during that period have not been spread equally and many households have fallen further behind.
- 112 The increase proposed will also result in increased spending because low paid workers tend to spend any increase in income, as opposed to those on higher incomes who might save it. Such increased spending will increase retail spending, improve consumer confidence and help drive the economy. WACOSS notes that the Gini Coefficient for WA is the highest in Australia.
- 113 The no-fault insurance scheme to come into operation from 1 July 2016 will add \$99 per year to vehicle registration costs, with no allowances made regarding capacity to pay.
- 114 Utility costs increases are an increased burden on low income earners, according to WACOSS's modelling of three hypothetical households of single parent, working family and unemployed single.
- 115 Because of the nature of the community sector and its funding, community sector workers tend to have lower rates than other sectors. It is generally accepted that women are more likely than men to be reliant on the minimum wage, and the community sector workforce comprises approximately 85% of women. WACOSS notes that Fair Work Australia granted equal pay remuneration orders to community sector workers ([2012] FWAFB 5184, PR525485) and that this Commission passed on that increase. WACOSS says that some of the benefit of these orders will be lost if a minimum wage increase of the order sought by it is not granted.
- 116 WACOSS refers to the gender pay gap of 24.7% in WA compared to 17.2% nationally and says that an increase in the minimum wage would assist in addressing this gap. It also notes that the increase would address cost of living pressures on women, in particular relating to childcare costs and those who are in unpaid work caring for family members who cannot afford to work because of those costs. It is essential to promoting equal remuneration for men and women for work of equal value.
- 117 WACOSS says that junior rates are an anachronism. In some industries, qualifications and experience of young workers is being recognised as justifying adult rates, and in this case the full \$30.00 increase in the minimum wage is appropriate.
- 118 Insecure working arrangements and underemployment make for uncertainty and insecurity of work and income. The end of the mining boom has seen a significant rise in the rate of underemployment and underutilisation of employees and of increasing casualization. Women are disproportionately represented in casual work. Single parents, many of whom are also women, tend to be highly dependent on casual and part time work.
- 119 WACOSS refers to United Kingdom research which found that where the low paid received higher than average increases over the period since 1999 'there was little adverse effect on aggregate employment, and individual employment or employment differences' (WACOSS submissions, 17).

Submission by Mr George Williams

- 120 Mr Williams made a submission regarding apprentice wage rates. He says the starting wage for an apprentice is low compared with the wage for a young person of the same age at a fast food outlet. He gave as an example the circumstances of his grandson undertaking a plumbing apprenticeship, and the circumstances involved in that work. His grandson is now nearing the

end of his apprenticeship and is still receiving the minimum wage, but also has use of a work car.

SUBMISSIONS IN REPLY

The Hon. Minister for Commerce

- 121 The Minister notes that an increase in the state minimum wage of \$30.00 per week, suggested by UnionsWA and WACOSS, amounts to a 4.4% rise which would be more than three times the forecast rate of inflation. Such a large increase in the current economic environment would not be prudent.
- 122 The economic and fiscal outlook has deteriorated further since the 2015 State Wage order. An increase of the magnitude sought by UnionsWA and WACOSS may provide a significant disincentive for employers to engage junior employees and to enter into training arrangements were that increase to be provided to those junior employees and trainees, as well as to adults.
- 123 The Minister also says that to provide such an increase to the minimum rates of pay prescribed under the *Minimum Conditions of Employment Act* for employees under 21 years of age and in many state awards would significantly disturb existing payment arrangements.

Consumer Price Index

- 124 The Minister urges against reliance on an individual component or components of the CPI, that it ought not be disaggregated. The overall CPI figure for Perth is the most reliable and effective measure of cost of living.

Chamber of Commerce and Industry WA

- 125 CCIWA says there is no explanation of the basis of UnionsWA's proposed increase to the minimum wage and award rates up to C10 of \$30 per week, and 3.9% for award rates in excess of C10. It says that in the current economic environment, it would be unsustainable and would have a significant negative impact on those employees it seeks to benefit. The application of the full increase to apprentices and juniors would significantly disadvantage young workers already disadvantaged in the labour market.
- 126 As to UnionsWA's suggestion that increases in the minimum wage have no adverse effects on employment, CCIWA says that the study relied on by UnionsWA relates to the USA, where an entirely different minimum wage and wage system generally apply. CCIWA refers to the Productivity Commission's *Workplace Relations Framework* Volume 1, page 191, which comments on the effect of minimum wage increases being negative, particularly on younger workers. It also refers to the Productivity Commission's concern that increases to the minimum wage for low skilled workers constitutes an incentive for businesses to reduce employment of such workers and to use other means of achieving their purpose. The Productivity Commission said:
- a) While not definitive, the Productivity Commission's assessment is that modest increases in Australia's minimum wage are unlikely to measurably affect employment, but that large increases in minimum wages would reduce employment. How, and at what rate, such effects manifest will vary depending on economic conditions and other policy settings;
- and
- b) The wage regulator should systematically consider the risks of variations in economic circumstances on employment and on the living standards of the low paid. To safeguard and expand job opportunities, it should moderate the growth in minimum wages whenever

the employment outlook is weakening. In improved circumstances, minimum wages could rise at a faster pace.

Productivity Commission, (2015) *Workplace Relations Framework*, Vol 1, 177

- 127 CCIWA also referred to the positive benefits achieved by young workers of employment in part time work in the retail industry, beyond the wages received for that work.
- 128 As to UnionsWA's concerns regarding increased costs to workers and households arising from increases in the State Budget, in particular utility costs, CCIWA notes that businesses also incur these increased costs and with larger impact given their higher usage.

State of the economy

- 129 CCIWA disagrees with UnionsWA's contention that a substantial increase in the minimum wage will help stimulate the economy. It says that the WA economic downturn could not be reversed by increased spending of approximately 2.2% of the WA workforce which is directly affected by the State Wage decision.
- 130 Further, the additional cost burden on employers will not directly transfer to the employees because some would be taken in tax and superannuation contributions.

Capacity of employers to bear costs of increased wages

- 131 Where UnionsWA contends that tax benefits to small businesses will lower the cost of increased wages, CCIWA points out that these tax benefits are capped at \$1,000 per business. The cost to the business of a \$30.00 per week increase in the minimum wage would be \$1,560 for one employee alone.

Submission of Mr George Williams

- 132 CCIWA notes that Mr Williams' grandson is undertaking an apprenticeship. By doing so, he can expect to earn significantly more in the years to come than if he had remained in his low-skilled position.

UnionsWA

- 133 UnionsWA says that an increase of the magnitude proposed by the Minister would be inadequate for WA minimum wage earners and award reliant employees. CPI is not an adequate measure of real cost increases. It refers to the requirement for the Commission to consider the need to contribute to improved living standards for employees. Average weekly earnings in WA are significantly higher than the national level, and the low paid are falling further behind in WA.
- 134 UnionsWA notes that a number of industries where the low paid are concentrated in WA have shown increases in their profitability. No uniform conclusion can be drawn as to their capacity to bear the costs of increased wages.

CONSIDERATION AND CONCLUSIONS

Coverage of the State Wage Order

- 135 There is ongoing debate about the coverage of the State Wage order and consequentially its likely impact on the economy.
- 136 In 2008, we noted that based on the ABS figures, it was open to us to conclude that approximately 30% of the state's workforce is in the state jurisdiction. In 2009, we concluded that this remained valid, and that the State Wage order directly affected approximately 2.2% of

WA employees and a further 1.8% indirectly. In 2010, we considered that based on the evidence at that point, there were 22,383 unincorporated businesses in WA. They employed approximately 26.9% of the WA workforce and the WA State Government employed approximately 11.6%. Relying on Professor Plowman's analysis in 2006, the Commission concluded that a maximum of 38.5% of WA employees would be subject to the General Order.

- 137 The Department of Commerce estimates that between 22% and 36% of WA employees are covered by the state industrial relations system.
- 138 In 2013, we noted that Professor Plowman's 2006 report estimated that about 2.2% of the WA workforce would be directly affected by the state Minimum Wage Order; possibly 4% of the WA workforce would be affected in differing degrees by the adjustment to other wages to maintain established relativities ([2013] WAIRC 00347; (2013) 93 WAIG 467 [26] – [28]).
- 139 The ABS estimates that the rates of pay for 13.8% of Western Australian employees are determined by either a state or national modern award. In 2014, according to ABS data, the percentage of WA employees who were award reliant rose from 12% to 14%.
- 140 Employees in some particular industries have a high degree of award reliance, the accommodation and food services and retail trade make up a significant portion of award reliant industries.
- 141 The Minister previously identified the main industries, as grouped by the ABS, as being:
- rental, hiring and real estate services;
 - other services;
 - accommodation and food services;
 - administration and support services; and
 - the retail trade.
- 142 FWC research in 2013 estimated that more than 50% of private sector national jurisdiction employers used awards to either set or guide pay decisions. Whilst there is no state equivalent information, it is reasonable to deduce that a similar approach is taken by employers at the state level.
- 143 UnionsWA refers to a number of sources which identify the types of industries, employers and employees who are most likely to be affected by the minimum wage and the employees least likely to have the power to negotiate their pay and conditions, being more likely to be award reliant. It concludes that 'vulnerable groups of employees are over represented within the private sector of the state industrial relations system' (UnionsWA submission [5.11]). This is at least partly due to them being employed in small private sector businesses.
- 144 There are varying views on the basis for calculating the number of employees and employers covered by the State industrial relations system and affected by the State Wage order. In the private sector, they are employees of sole traders, partnerships, some trusts and incorporated businesses which are not trading or financial corporations. In addition, there are State public sector employees.
- 145 We note that the State Wage Order deals not merely with the minimum wage for award free employees but also award covered employees and also award rates. It will directly affect some and will have indirect effects on others. It covers the rates for juniors, apprentices and trainees, and sets out the Principles to be applied to a range of types of claims which might come before

the Commission, so as to guide the parties in pursuing, and the Commission in deciding, those claims.

- 146 While the State Wage order deals with more than the minimum wage, this is its most direct effect, along with setting the increase for award rates. Therefore, its most direct effect is on award free and award covered employees and their employers. It also provides a floor and, what some have described as, a signalling effect to those not directly covered, for their wage setting. So while the numbers actually covered or directly affected by the minimum wage is difficult to determine, it is clearly of significance to many employers and employees, either directly or indirectly.
- 147 Those employees dependent on the minimum wage are more likely to be employed in small businesses.
- 148 As UnionsWA submits, it is likely that vulnerable groups of employees are overrepresented within the private sector of the state industrial relations system, partly due to them being employed in small private sector businesses.
- 149 In terms of low income households, UnionsWA refers to the Productivity Commission's report, noting that:

Employees in the lowest income groups are more likely to be on the minimum wage than those in higher income groups (and by more than a fivefold factor) (figure 4.8). So, while most people in the lowest quintile are not in work (and therefore do not receive any wages), almost half of those who are in work are paid at a minimum rate.

UnionsWA submission [5.15]

The Statutory Criteria

- 150 The Act in s 50A(3) obliges the Commission, when making the State Wage order, to take into consideration:
- (a) the need to —
 - (i) ensure that Western Australians have a system of fair wages and conditions of employment; and
 - (ii) meet the needs of the low paid; and
 - (iii) provide fair wage standards in the context of living standards generally prevailing in the community; and
 - (iv) contribute to improved living standards for employees; and
 - (v) protect employees who may be unable to reach an industrial agreement; and
 - (vi) encourage ongoing skills development; and
 - (vii) provide equal remuneration for men and women for work of equal or comparable value;
 - and
 - (b) the state of the economy of Western Australia and the likely effect of its decision on that economy and, in particular, on the level of employment, inflation and productivity in Western Australia ; and
 - (c) to the extent that it is relevant, the state of the national economy; and

- (d) to the extent that it is relevant, the capacity of employers as a whole to bear the costs of increased wages, salaries, allowances and other remuneration; and
- (e) for the purposes of subsection (1)(b) and (c), the need to ensure that the Western Australian award framework represents a system of fair wages and conditions of employment; and
- (f) relevant decisions of other industrial courts and tribunals; and
- (g) any other matters the Commission considers relevant.

- 151 The criteria set out in s 50A(3) deal with a broad range of considerations. None is to take precedence over or to dominate others. It is necessary that they be weighed and balanced according to the circumstances prevailing at the time.
- 152 The concept of fairness referred to in s 50A(3)(a) and (e), in particular of ‘a system of fair wages and conditions of employment’, ‘meet[ing] the needs of the low paid’, and ‘provid[ing] fair wage standards in the context of living standards generally prevailing in the community’, is also to be balanced by the other considerations set out in s 50A.
- 153 As we have noted previously, fairness is a relative concept. In this context, and particularly in the context of the current economic circumstances prevailing in Western Australia, it would be futile and, in fact, counterproductive to provide increases in the minimum wage and in award wages which exceed the economy’s and employers’ ability to absorb those costs.
- 154 The Minister provided a useful summary of the State’s economic circumstances in Table 1: Economic forecasts – major economic aggregates, WA, from the 2016-17 State Budget:

Indicator	2014-15 Actual (%)	2015-16 Mid-year revision (%)	2016-17 Forward Estimate (%)	2017-18 Forward Estimate (%)	2018-19 Forward Estimate (%)
Gross State Product	3.5	1.5	2.0	2.75	3.0
State Final Demand	-3.5	-2.25	-2.5	-0.5	1.25
Employment	1.5	1.25	1.25	1.5	1.5
Unemployment Rate	5.4	6.5	6.5	6.25	5.75
Wage Price Index	2.2	2.0	2.25	2.5	2.75
Consumer Price Index	1.8	1.5	2.0	2.5	2.5

- 155 The State’s domestic economy is contracting, with State Final Demand contracting by 3.4% in 2015, whereas Gross State Product grew by 3.5% in 2014-15.
- 156 As Professor Barratt’s evidence before us in 2013 ([2013] WAIRC 00347; (2013) 93 WAIG 467 [17] – [19]) has shown, where those costs increase beyond the employers’ capacity to absorb them, employers will look to ways to reduce their costs. These include, particularly in the case of small business, increasing the number of hours the owners work, generally increasing the capital to labour ratio, reducing staff numbers or hours, and what Professor Barratt described as less diligent compliance with award provisions such as penalty rates and overtime.
- 157 Mr Christmas says a real increase in the state minimum wage by more than the WPI would improve the relative attractiveness of higher paid labour relative to low paid labour because it increases the price of low paid labour by more than that of higher paid labour.

- 158 This corresponds with the view of the Productivity Commission in its *2015 Workplace Relations Framework – Inquiry Report*, Volume 1, p 185, that:
- Faced with higher wages for lower skilled workers, businesses have an incentive to reduce employment of such workers, and/or to invest in labour displacing capital, hire (or make more intensive use of existing) higher skilled workers, and seek to pass on costs.
- 159 It also accords with CCIWA’s submission, that the adoption of the strategy of passing on the costs to consumers may further impact on employment because ‘price rises prompt a shift in demand away from domestically produced labour intensive goods and services’ (CCIWA submissions [5.2]).
- 160 The FWC has published profiles of a number of industries as part of its 2016 Penalty Rates Case. It gathered data from the ABS; its own *Australian Workplace Relations Study* and its *Award Reliance Survey*; the *Household, Income and Labour Dynamics in Australia Survey*; and the *Department of Employment’s Workplace Agreements Database*. In each of the Industry Profiles for the retail trade and the accommodation and food services industry, it provided the responses of employers as to how they would manage potential short-term and long-term increases in labour costs if demand for their major products and/or services had not changed. In the retail trade, the most common short-term responses were to ‘reduce hours of casual staff’, ‘more hours worked by proprietors/owners’ and ‘reduce number of employees via attrition’. The long-term strategies were most commonly to ‘reduce workforce/hours’ or ‘increase profitability/efficiencies’ (page 58-59). In the accommodation and food services, in the short-term, the response would be to ‘reduce hours of casual staff’, ‘more hours worked by proprietors/owners’ and ‘reduce number or length of shifts’. The longer term response would be to ‘increase profitability/efficiencies’ in award reliant enterprises, and in other enterprises ‘reduce workforce/hours’ (pages 47-48).
- 161 The material before us in this case suggests that employers are taking measures to reduce employees’ working hours, either by reduced hours or reduced jobs. There is currently a reduction in fulltime employment by 0.9% and an increase in parttime employment of 4.5% in Western Australia.
- 162 Job vacancies are down significantly, with online vacancies in March 2016 being down 19.3%. Labour availability is at a relatively high level (*CCI Survey of Business Expectations, March Quarter 2016*). WA’s unemployment rate is now 6%, the highest for many years.
- 163 Therefore, in considering fairness in terms of wage rates and living standards, it is essential to weigh both the increases in costs to employees and their impact on living standards and the likely impact of increasing wage rates to unsustainable levels in the current climate.
- 164 It also requires consideration of wage movement in the community generally. It is clear that wage movements have moderated significantly. The state WPI is the weakest since the series commenced in 1998-99. It was lower than the CPI between June 2014 and March 2015, indicating a decline in real wages. The WPI in the year to March 2016 was 2.0% and is forecast to grow by 1.75% in 2015-16 and 1.75% in 2016-17, compared with an average of 3.9% per annum over the last decade, that is less than half the growth of the last 10 years. It is also lower than the national WPI of 2015, of 2.2%.
- 165 UnionsWA and WACOSS urge greater weight to be accorded to AWOTE, noting the growing gap between the minimum wage and average earnings. In 2012 and 2013, we noted the submissions regarding the use of AWOTE as a measure of wages growth. We noted in 2012 that:

AWOTE represent gross earnings and provide an average of earnings in WA. However, an average of earnings is not the same thing as the earnings of the average person. There is evidence before us which suggests that since 2005, mining wages have increased by 50% and the average of earnings will undoubtedly be affected by that. The average of earnings is affected by compositional shifts which can result in fluctuations in earnings growth even though rates of pay have not changed...

[2012] WAIRC 00346; (2012) 92 WAIG 557 [51]

166 In 2013, we noted:

In relation to the primary submission of UnionsWA and WACOSS, in our 2012 minimum wage decision we stated that we considered UnionsWA's submission that the setting of the WA minimum wage should be significantly influenced by its past or present relativity to AWOTE not to be appropriate. UnionsWA urges us to revisit this conclusion. It presents material based upon disaggregating the data to exclude any bias from high wages earned in the mining sector. We note the result. It is important to appreciate that AWOTE, even disaggregated is merely another source of helpful information. We recognise that growth in the State minimum wage is not keeping pace with the growth in wages generally in WA whether measured according to the WPI or to AWOTE. That is, nevertheless only one consideration. To significantly influence setting of the WA minimum wage by reference to AWOTE to the exclusion of the requirements of s 50A(3) would not properly give effect to the Act.

[2013] WAIRC 00347; (2013) 93 WAIG 1380 [76]

- 167 Therefore, we reiterate the need to consider a range of measures of cost and wages growth. The WPI is a less volatile measure of wages growth.
- 168 WA business profitability as measured by GOS plus GMI for 2014 and 2015, indicates an overall average decrease of 13.8%. That varies from industry to industry. Those industries most likely to be affected by the minimum wage and award reliant employees have widely divergent results, from 'other services' at 11.4% to 'rental, hiring and real estate services' to -14.2%.
- 169 Business trading conditions were 'satisfactory' for only 22% of small businesses and 52% of medium businesses (*CCI Survey of Business Expectations, March Quarter 2016*). Only 14% of businesses expected an increase in profit in the next quarter.
- 170 We also note that while submissions referred to particular components of the CPI as supporting their respective views, it is unhelpful to disaggregate the CPI. What it demonstrates is that the increase in the cost of living is low and continues to decline. The CPI for Perth was 1.8% in 2014-15 and predicted to decrease to 1.25% in 2015-16 and 1.75% and 2.25% respectively for the next two periods.
- 171 We do, however, note that rental costs in proportion to the state minimum wage reached their peak in early-2012, although there is still a real shortage of available, affordable rentals for low income households. WACOSS says this particularly affects single parents and single wage earner families.
- 172 Therefore, in considering the need to ensure the fairness of the system of wages and conditions, and providing for fair living standards in the context of living standards generally and the needs of the low paid, it is necessary to also consider the state of the economy of Western Australia generally and the likely effects of any increase on levels of employment, inflation and productivity, as well as the capacity of employers to pay, and all of the criteria set out in s 50A(3).

- 173 In the current climate, the needs of the low paid are best served by awarding increases that will maintain and improve their living standards and retain their income by keeping them in employment and not subject to reduced hours.
- 174 The same applies to those who are unable to reach an industrial agreement. We take note of, in particular, UnionsWA's submissions regarding employees' incentives to bargain and the study of the *Workplace Agreements Database* of the Commonwealth Department of Employment that increases in the minimum wage are likely to encourage bargaining in lower wage sectors.
- 175 We have previously awarded increases in the minimum wage above increases in the cost of living where economic circumstances were more positive than they are currently, that is when the economy and employers were most likely to be able to bear those additional costs without adverse effects on employment, living standards and the needs of the low paid.
- 176 We note the material before us from UnionsWA and WACOSS in particular, which suggests that there is either no or negligible discernible impact on the economy from increases in the minimum wage. However, it has been many years since WA has faced the economic circumstances as they are now. The minimum wage in WA has been higher than the national minimum wage for some years due, mostly, to the WA economy being in a better position to manage those increases than the national economy. That is no longer necessarily the case.
- 177 The national economy is stronger than the WA economy, which is the reverse of the situation over a number of years. Even the national economy has seen a marked decline in a number of important measures, including as recently as after the FWC received submissions for its 2016 Annual Wage Review.
- 178 Wages growth has been at its lowest pace since at least the late 1990s, according to the WPI.
- 179 We have noted on a number of occasions that Professor Plowman's 2006 report concluded that 'the State's economic growth moderates, perhaps to a considerable extent, any minimum wage effects' and that this was confirmed on a number of occasions by the evidence before us. Therefore, where the State does not experience economic growth, this finding suggests that the effect of the increases in the minimum wage will be greater than in times of growth.
- 180 What those effects are likely to be can be assessed from what has been said by Professor Barrett, the Productivity Commission and the FWC about the measures employers may take to reduce their costs, and accordingly this will further affect employment and wages growth.
- 181 Although CCIWA urges that we award no increase as a means of reducing the gap between the minimum wage for employers covered by the state industrial relations system and those national system employers and employees, we maintain the view that we have expressed on a number of occasions that other criteria in the statutory scheme do not support the application of that one measure over others. Many of those other measures mean that increase in the minimum wage ought to be awarded on this occasion. The question is to what extent.

The state of the national economy

- 182 The state of the national economy is a relevant consideration because, whilst the Western Australian economy has a significant impact upon industry and employment within this State, it is part of the overall national economy, and national economic considerations have an impact.
- 183 The Australian economy as measured by Gross Domestic Product (seasonally adjusted) grew by 3.1% in the year to March 2016, strengthening slightly from 2.2% in 2014-15, although

below the historical average of 3.2%. It is forecast to grow by 2.5% in each of 2015-16 and 2016-17, with 3.00% in 2017-18.

184 There has been modest wages growth.

185 The CPI of 1.5% in 2014-15 and 1.25% forecast for 2015-16, with 2% for 2016-17 and 2.25% for 2017-18, is higher than the comparative rates for Western Australia. The CPI for the year to March 2016 was 1.3%.

186 Employment growth increased nationally by 2.0% to April 2016, up from 1.2% in 2014-15. Employment growth to December 2015 was 2.6%. Unemployment fell from 6.2% in 2014-15 to 5.7% as at April 2016, and is projected to decline further, to 5.75% in 2015-16 and to 5.5% from 2016-17.

187 Inflationary pressure is lower than expected. AWOTE between November 2014 and November 2015 grew by 1.6% overall, with 1% for males and 2.7% for females. The WPI for Australia has increased at a higher rate than for Western Australia, overtaking Western Australia after over 10 years of this State having a higher WPI. The WPI to December 2015 stood at 2.2%.

188 Interest rates are historically low, with lower exchange rates supporting export growth. There is a likely transition to broader based growth in the national labour market, where a shift to more labour intensive service industries is underpinning strong employment growth supported by modest wage growth.

Flat rate and compression of relativities

189 UnionsWA provided the rates of pay for *Metal Trade (General) Award* classifications, comparing increases to each with the rate for the C14 classification to demonstrate the compression of relativities from 2010 to 2014. The compression was less than 1% for those classifications between C13 and C11 but increased to between 1.1% and 1.8% between C10 and C5. Last year's State Wage order, which provided a percentage increase, is described as holding the line.

Encouraging ongoing skills development

190 In considering the need to encourage ongoing skills development, the material before us suggests that while wages in the resources and construction sectors drove higher wage rates overall, there was an attraction away from apprenticeships and traineeships into those industries. The reduction in apprenticeship and traineeship numbers may reflect either the unattractiveness of the wage rates to employees or the lack of attractiveness to employers of engaging and paying apprentices and trainees in times when business confidence and future expectations are lower.

191 Therefore, a substantial increase in trainee and apprentice rates is less likely to encourage employers to engage in training. This is particularly so when business confidence is not positive.

Equal remuneration for men and women for work of equal value and the gender pay gap

192 We note that there has been a focus on the gender pay gap as part of the submissions presented to us.

193 Section 50A(3)(vii) requires the Commission to consider the need to provide equal remuneration for men and women for work of equal or comparable value. This requirement relates to the broad issue of women not being paid the same as men for work of the same value.

This Commission has not yet had a claim pressed for any particular industry, award or calling to be the subject of an equal remuneration order under Principle 10.

194 In the 2007 State Wage Case decision, the Commission dealt with the issue of gender equity and the gender pay gap, and whether there ought to be a dedicated principle relating to equal remuneration for men and women for work of equal or comparable value. It said:

126 We have had particular regard for the issue of gender equity given the most recent data from the ABS demonstrates the gender pay gap in Western Australia continues to deteriorate relative to women nationally, a downturn that commenced in 1993. We are grateful to WACOSS for including this up to date material in its written submissions to the Commission in Court Session. We consider that the principles should permit an application to be made for equal remuneration for men and women for work of equal or comparable value. Given that a principal object of the Act in section 6(ac) is to promote equal remuneration for men and women for work of equal value, it is fundamental, in the context of the principles, to recognise that such a claim is able to be made. We note that even the position of AMMA and the CCIWA in opposition to a discrete principle for this purpose recognises that such a claim in any event may well be brought under Principle 10.

127 We do not consider that it is necessary to create a separate principle for this purpose. Such a claim may be brought under Principle 10. This Commission has yet to receive such an application. We do not think it advisable to set out the criteria by which such a claim is to be assessed given specific criteria might restrict or confine a particular claim in this jurisdiction which may not be appropriate. In addition we have had insufficient material and submissions put before us to assess how the parameters of assessing a claim in a manner proposed on behalf of the Minister would work.

[2007] WAIRC 00517; (2007) 87 WAIG 1487

195 The Commission subsequently amended Principle 10 of the Statement of Principles to make specific reference to the capacity to bring claims related to the issue of equal remuneration under that Principle. [2008] WAIRC 00347; (2008) 88 WAIG 773.

196 In the 2011 State Wage Case decision, the Commission considered the issue of equal remuneration for work of equal or comparable value and how it relates to the gender pay gap, and noted:

38 The obligation on us to take into consideration the need to provide equal remuneration for men and women for work of equal or comparable value (s 50A(3)(a)(vii)) was also emphasised in these proceedings. We have found it helpful to distinguish between that need and the gender pay gap, as the TLC did in its oral submission. As recognised by TLC, there is no attempt to put any evidence before us of a significant change between the relative numbers of men and women who are receiving the minimum wage. We recognise that in the private sector in Australia, women are much more likely than men to be dependent on the award rate and therefore annual increases to the minimum wage (T. Jefferson and A. Preston (2010) *Labour Markets and Wages in Australia in 2009*, Journal of Industrial Relations Vol 52 p.347).

39 In relation to the gender pay gap, there is no question that the gender pay gap in WA is greater than any other State, and indeed for the nation as a whole. The reasons for this are complex, and there are inherent limitations to the role which the minimum wage can play in reducing the overall gender pay gap, as has been recognised in the FWA Research Report 5/2011 at page 69 to which we were referred. That report further reflects (at p 49) on the causes and dimensions of the gender pay gap identified by the International Labour Organisation (table 3.1) such as:

- years of education;
- fields of specialisation;
- seniority in the job;
- size of the enterprise;
- women underrepresented in higher paid jobs;
- women and men concentrated in different segments of the same broad occupations;
- women over-represented in part-time work;
- differences in the number of hours devoted to paid work (men work longer hours (in paid work) than women);
- different job titles (and pay) for the same or similar occupations;
- undervaluation of the skills, competencies and responsibilities associated with 'female' jobs;
- gender biases in job evaluation methods; and
- gender biases in job remuneration systems.

40 The scope for us to address these issues in State Wage Order proceedings is necessarily limited and it prompts us to again draw attention to the capacity, as yet unexplored, within Principle 10.1 of the State Wage Principles to allow the Commission to enquire into the issue subject to an application being referred to the Commission. Nevertheless, we consider it is more likely that women are more reliant on the minimum wage than men.

[2011] WAIRC 00399; (2011) 91 WAIG 1008

197 In the *2012 State Wage Case decision*, the Commission noted:

54 The evidence shows the gender pay gap in WA is greater than the gender pay gap nationally. An issue arises whether the restricted coverage of the order to issue from these proceedings can be effective to address the issue. The gender pay gap is calculated by reference to all industries in WA, however we do not set a minimum wage which applies across all industries in WA. The State Wage order can apply only to the small minority of the private sector workforce in WA. The lack of any measurable reduction in the gender pay gap in WA following the \$29.00 per week increase to the minimum wage we ordered in 2008 leads inevitably to the conclusion that the gender pay gap in WA is unlikely to be reduced by any order which can issue from these proceedings: the overriding effect of the FW Act makes it likely that the coverage of the State Wage order is insignificant for this purpose. There is nothing to suggest that the gender pay gap for the small minority of employees in WA who are covered by the State industrial relations system is significantly different from the gender pay gap for the majority of employees in WA who are covered by the national industrial relations system.

55 Further, a significant increase to the WA minimum wage will correspondingly significantly increase the price of labour for WA businesses in the State jurisdiction when, in the absence of a corresponding increase to the national minimum wage, there will be no significant cost increase of the price of labour for WA businesses in the national jurisdiction. Given that the jurisdiction is determined by reference only to whether or not the business is undertaken by a trading or financial corporation, this is not a result which sits comfortably with the requirement on the Commission in ss 26(1)(a) and (c) of the Act to decide matters according to equity, good conscience and substantial merit, having regard for the interests

of the persons immediately concerned whether directly affected or not and, where appropriate, for the interests of the community as a whole.

56 Moreover, the evidence before us also establishes that gender pay ratios differ significantly by industry or industry sector. In particular, in a low pay sector where there is not a lot of difference in the earnings between male and female employees such as accommodation, cafes and restaurants, there is a consequent reduction in the gender pay gap. In that context, significantly increasing the WA minimum wage with the object of reducing the gender pay gap in WA necessarily will mean that that significant increase will apply to an industry or sector of the State where it is not necessary because the gender pay gap is significantly less than elsewhere.

57 We stated in the 2011 State Wage order decision (op cit) at 39 and 40 that the reasons for the gender pay gap in WA are complex and that the scope in State Wage order proceedings for us to address those reasons is limited. We repeat that conclusion here.

58 We accept the evidence that a significant proportion of minimum wage employees is female and correspondingly increases to the minimum wage will be of benefit to female employees. We recognise that increases to the minimum wage assist in reducing the gender pay gap for those female employees within the State jurisdiction. Given that the WA minimum wage is higher than the national minimum wage it will, for that reason, be of greater benefit to female employees than will be the national minimum wage. However s 50A(3)(a) as a whole means that these issues also need to be balanced against competing considerations.

[2012] WAIRC 00346; (2012) 92 WAIG 557

198 In the 2013 *State Wage Case decision*, the Commission in Court Session noted:

50 The distinction between this consideration and the gender pay gap has been recognised in previous State wage proceedings. There is no evidence before us of any significant change between the relative numbers of men and women who are receiving the minimum wage. We have recognised that in the private sector in Australia, women are much more likely than men to be dependent on the award rate and therefore annual increases to the minimum wage.

51 We have noted also that the reasons for the gender pay gap in WA being greater than any other State, and indeed for the nation as a whole, are complex and we reiterate there are inherent limitations to the role which the minimum wage can play in reducing the overall gender pay gap. This does not mean that we disregard the issue as a matter of relevance. We repeat the conclusion we stated in our 2012 minimum wage decision that an increase to the minimum wage has the potential to assist in providing equal remuneration for men and women for work of equal or comparable value.

[2013] WAIRC 00347; (2013) 93 WAIG 467

199 In the 2014 *State Wage Case decision*, the Commission said:

77 We consider that an increase to the minimum wage has the potential to assist in providing equal remuneration for men and women for work of equal or comparable value. The distinction between this consideration and the gender pay gap has been recognised in previous State wage proceedings. We have recognised that in the private sector in Australia, women are much more likely than men to be dependent on the award rate and therefore annual increases to the minimum wage. The gender pay gap in WA has been estimated at 23.6 per cent, higher than the national average of 17.1 per cent. CCIWA submits that the gender pay gap has fallen by 2.8 per cent in the past 12 months.

78 We stated in the 2011 State Wage Order decision at 39 and 40 that the reasons for the gender pay gap in WA are complex and that the scope in State Wage Order proceedings for us to address those reasons is limited. We repeat that conclusion here. We nevertheless accept the evidence that a significant proportion of minimum wage employees is female, and correspondingly increases to the minimum wage will be of benefit to female employees.

79 Section 50A(3)(a) as a whole means that the requirement on us in s 50A(3)(a)(vii) of the Act, the need to ensure equal remuneration for men and women for work of equal or comparable value, also needs to be balanced with the other considerations in s 50A(3). In principle, an increase to the minimum wage will assist, at least to some extent, in reducing the gender pay gap for those female employees within the State jurisdiction.

[2014] WAIRC 00471; (2014) 94 WAIG 641

200 Also, the Commission noted that an increase in the WA minimum wage ‘assists in a limited way to lessen the gender pay gap in WA’ [2014] WAIRC 00471; (2014) 94 WAIG 641 [98].

201 In the 2015 State Wage Case decision, the Commission again noted that it recognised that increasing the WA minimum wage assists, in a limited way, to lessen the gender pay gap in WA and ‘contributes to providing equal remuneration for men and women for work of equal or comparable value (s 50A(3)(a)(vii)) and have noted the distinction between this consideration and the gender pay gap. We have recognised that in the private sector in Australia, women are much more likely than men to be dependent on the award rate and dependent on annual increases to the minimum wage’ [2015] WAIRC 00435; (2015) 95 WAIG 679 [91].

202 The FWC, in its *Equal Remuneration Decision 2015* [2015] FWCFB 8200, set out the history of equal pay, pay equity and comparable value, in the Commonwealth jurisdiction. It noted the relationship between the issue of ‘equal remuneration for work of equal or comparable value’ and ‘work value’ issues. In the latter, the nature of the work; the level of skill or responsibility involved in doing the work; and the conditions under which the work is done, are the considerations. The FWC noted:

In summary, in order for the jurisdictional prerequisite for the making of an equal remuneration order in s.302(5) to be met, the Commission must be satisfied that an employee or group of employees of a particular gender to whom an equal remuneration order would apply do not enjoy remuneration equal to that of another employee or group of employees of the opposite gender who perform work of equal or comparable value. This is essentially a comparative exercise in which the remuneration and the value of the work of a female employee or group of female employees is required to be compared to that of a male employee or group of male employees. We do not accept that s.302(5) could be satisfied without such a comparison being made. Section 302(5) could not be satisfied on the basis that an employee or group of employees of a particular gender are considered not to be remunerated in accordance with what might be considered to be the intrinsic or true value of their work. In this respect, we accept the submission made by the Victorian Government (and broadly supported by the Commonwealth and NSW Government and the various employer groups) concerning the first step in the process of analysis required by s.302, and we do not accept the submissions of the various unions to the contrary. We emphasise that in adopting this approach, we are not, as United Voice and AEU put it in their submissions, ‘confin[ing] the evidentiary means by which the jurisdictional fact may be demonstrated’, but determining what the jurisdictional prerequisite or fact actually is on the basis of the text of the statute. In reaching this conclusion, we respectfully depart from the decision in the *SACS Case No 1*, in which the issue was not treated as one primarily of statutory construction. We consider that there are cogent reasons for doing so.

[2015] FWCFB 8200 [290]

203 Therefore, the issue of the gender pay gap as it applies across the whole of industry in this State, or nationally, is not the same as, or a proxy for, equal remuneration for work of equal or comparable value.

204 We again note that an increase in the minimum wage will have a limited effect on the gender pay gap, but may assist in some industries where women are more likely to be dependent on minimum and award rates.

205 In its submission, WACOSS referred to it having supported applications in both federal and state jurisdictions for an equal remuneration order and that the state and federal Commissions each issued orders which required employers to pay equal remuneration in addition to the minimum wage set out in the award.

206 We noted earlier that no claim has been pursued for equal remuneration under Principle 10. The state case referred to by WACOSS was *Western Australian Municipal, Administrative, Clerical and Services Union of Employees v Aboriginal Alcohol and Drug Service (AADS) (Inc) & Others* [2013] WAIRC 00795; (2013) 93 WAIG 1380, where the Commission amended the *Crisis Assistance, Supported Housing Industry – Western Australia Interim Award 2011* and the *Social and Community Services (Western Australia) Interim Award 2011* to increase rates of pay. Those amendments reflected changes in the *Social, Community Homecare Disability Services Industry Award 2010*, a national system modern award which had been amended to deal with the issue of equal remuneration. The applicant originally brought the applications under Principle 10. However, the Commission in Court Session noted that by the time the matter came to hearing:

14 ... the applicant does not bring these applications to the Commission in Court Session as an equal remuneration matter; rather, the applicant points to the Commission's award making powers in s 40 of the Act, and to the objects to the Act in s 6 and the general exercise of the Commission's jurisdiction in s 26, to support the applications.

207 Rather, the Commission considered:

15 ... that fairness and equity, and the substantial merits of the case, support restoring the alignment in wages between social and community services employees in the WA industrial relations jurisdiction, and social and community services employees in Western Australia in the national system. They are undertaking identical work: the only difference between national system and non-national system employees in the social and community services sector in Western Australia is the business structure of their employer: those who are national system employers are so because they are trading corporations, and those who are not are either incorporated businesses which are not trading corporations or are unincorporated entities.

16 In the context of these two awards which were made by consent to maintain the same employment conditions across the social and community services sector in Western Australia irrespective of whether the employer is or is not a national system employer, we consider the applications should be granted. To conclude otherwise would be to leave social and community services employees in Western Australia, and their non-national system employers, faced with a growing disparity in wages compared to their colleagues in Western Australia performing identical work employed by national system employers.

208 It went on to note:

22 The orders that issued in these applications on 29 August 2013 contain the same wording as far as possible as the wording used in the *Social, Community and Disability Services Industry Equal Remuneration Order 2012* (PR525485, 22 June 2012). This includes

describing the additional payment to be made as an 'Equal Remuneration Payment' although we have not varied the awards as a result of a consideration of the merits or otherwise of equal remuneration; we have used the same wording because we accept the applicant's submission that the Commonwealth Government intends to use the same funding model which was used to roll out the funding to national system employers following the Equal Remuneration Case. For that reason we consider that on this occasion using the same wording will assist in maintaining consistency between the application of Commonwealth funding to an employer bound by either of the awards with the application of that funding to an employer who is a national system employer.

[2013] WAIRC 00795; (2013) 93 WAIG 1380

- 209 Therefore, while there has been the capacity to bring a claim under Principle 10 based on equal pay for work of equal or comparable value, in this state none has actually been pursued on that basis.

Relevant decisions of other industrial courts and tribunals – the Fair Work Commission Annual Wage Review 2015-16

- 210 The Minister notes the strength of the national economy compared with the WA economy, which is the reverse of the situation over a number of years. Even the national economy has seen a marked decline in the number of measures including wages growth represented by the WPI.
- 211 CCIWA notes that even with the national minimum wage increase, in a better economic environment than in WA, the current state minimum wage is still above the new national minimum wage. It also notes the compositional factors of the national economy in terms of the distinction between the various states whereby New South Wales' and Victoria's economies are growing at a healthy rate compared with those in particular in the mining states of Queensland and the Northern Territory.
- 212 While all measures in the national employment market are at historically low levels, WA's employment market is lower.
- 213 The FWC noted that a significant percentage of the low paid do not transition quickly to a higher-paid job and some remain low paid, move back to unemployment or leave the labour market all together. Low paid work is more precarious.
- 214 CCIWA notes that the differences in the FWC's and this Commission's jurisdiction mean that the FWC's decision will apply to large, medium and smaller businesses. This Commission's decision's greatest effect will be on small businesses in the private sector, these being less resilient or flexible than larger businesses.
- 215 UnionsWA focused on the impact of the FWC's decision on the low paid and on the economic environment. It also notes while SFD and GSP are at low levels, there is no prediction of a recession, rather there is an expectation of growth in the medium term, albeit at relatively low levels. Business bankruptcies are going down, not up.
- 216 It also notes the difficulty in obtaining material about WA businesses employing between one and 19 employees.
- 217 UnionsWA notes the comments of the FWC that many parttime employees surveyed about their working hours preferences want fewer hours, and 'that if everyone worked the hours they say they want, total hours of labour supply would fall by around 5.5 per cent' (Annual Wage Review 2015-16 [2016] FWCFB 3500 [278]).

- 218 UnionsWA endorses the FWC's comments that the needs of the low paid include to be able to 'purchase the essentials for a "decent standard of living" and to engage in community life, assessed in the context of contemporary norms' ([352]).
- 219 In its Annual Wage Review 2015-16 [2016] FWCFB 3500, the FWC noted the key changes in the economic environment for Australia, which included that the national economy has grown at close to trend; stronger labour market conditions over the past year are evident across all measures apart from the fall in hours worked in early 2016. All measures of inflation and wages growth are at historically low levels; labour productivity growth was higher than the previous five years and, most importantly, company gross operating profits grew by 2.8% for non-mining industries over the year to the December Quarter of 2015, above the average for the past five years and greater than the 1.4% growth over the year to the December Quarter 2014 ([91]).
- 220 The FWC concluded that 'economic data does not suggest that the most award-reliant industries have faced a relatively difficult economic environment over the past year or that recent minimum wage increases have adversely impacted on the relative economic performance of the award-reliant industries' ([92]).
- 221 It noted that 'the outlook for the Australian economy remains generally positive' ([94]).
- 222 It decided to increase the national minimum wage by 2.4%, to \$672.70 per week which is an increase of \$15.80 per week. As to the compression of award relativities, it has decided to increase modern award minimum wages by 2.4%.

The State Wage Principles

- 223 None of the persons who have made submissions suggested any need to vary the Principles. We see no need in those circumstances to make any changes.

Trainees under State Awards which reference the National Training Wage Award

- 224 The Minister, CCIWA and UnionsWA have reached agreement that a number of private sector awards should be amended to identify that trainees are to be paid no less than the rates in paragraph 6(b) of the State Wage order. We agree that this is an appropriate way of addressing the situation of the NTWA no longer setting the rates.

THE DECISION

- 225 We thank those who have made submissions for the thought and work they have devoted to that task, and we have taken account of those submissions.
- 226 In coming to a decision about the appropriate minimum weekly rate of pay to be set this year, we have taken account of all of the evidence and submissions and the statutory considerations. We have weighed those matters as they exist in the current economic and social circumstances, noting how those circumstances have changed in the last two years and we have taken account of the longer-term projections.
- 227 In this decision, we have noted a number of conclusions reached by the Commission in previous State Wage Case decisions. Where the evidence and submissions before us do not provide sufficient justification to take a different view, we adopt the approaches we have consistently taken.
- 228 We conclude that an increase of \$13.00 per week for the state minimum wage and for award rates is appropriate. This will bring the state minimum wage to \$692.90. It provides a modest increase above the cost of living, as measured by the CPI.

- 229 This increase is less than the increase granted in the FWC's Annual Wage Review, taking account of the different economic conditions applying currently. It has the effect of reducing the gap between the national and state minimum wage rates by a small amount, from the WA minimum wage being \$23.00 per week higher to being \$20.20 higher, a reduction in that difference of nearly \$5.00 over two years.
- 230 We are cognisant that a flat increase will have a slight impact on the compression of relativities. We granted a percentage increase last year. Only one case has been brought to us for relief of the compression of relativities.
- 231 We have decided to focus on needs of the lower paid at this time, and a flat increase reduces the effect on labour costs that a percentage increase would otherwise impose on employers.
- 232 In granting this increase, we point out that is it able to be absorbed into any over-award payment such that it will only apply to employees who are paid the award wage. Any wage paid above the award wage is able to be used to offset the increase.
- 233 Appropriate percentage increases are to be applied to junior rates, once again to maintain the attractiveness of juniors, apprentices and trainees to employers and thereby encourage ongoing skills development.
- 234 It will also encourage ongoing skills development by providing an appropriate increase for apprentice and trainee wage rates, to encourage both commencement and completion. We recognise that apprentice and trainee rates are lower than junior rates generally. However, that takes account of the need for apprentices and trainees to be supervised in their training when their productivity might not offset the cost of training and supervision. We also note that the apprentices and trainees make a sacrifice to develop their skills for their future earning capacity.
- 235 It is also important that the increase should not discourage employers from fulfilling their obligation to provide opportunities for training, at the same time as investing in the future of their industries by providing for a skilled workforce for the future.
- 236 Based on the material before us, we consider that the increases in the minimum wage and award wages we have determined are sustainable in the current economic climate and meet the social considerations of fairness required by the statutory direction.
- 237 This increase will protect those employees who may be unable to reach an industrial agreement by providing a signalling effect for bargaining, but is not so high as to discourage bargaining in appropriate circumstances.

MINUTE OF PROPOSED GENERAL ORDER

- 238 A minute of proposed General Order now issues. The Commission should be advised by 4:00pm on Monday, 13 June 2016 whether or not a speaking to the minutes is requested. If a speaking to the minutes is requested, it will be dealt with on the papers and written submissions should be received by 4:00pm on Tuesday, 14 June 2016.