

**2017 STATE WAGE ORDER PURSUANT TO SECTION 50A OF THE ACT  
WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**CITATION** : 2017 WAIRC 00330

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

**HEARD** : THURSDAY, 18 MAY 2017  
THURSDAY, 8 JUNE 2017

**DELIVERED** : WEDNESDAY, 14 JUNE 2017

**FILE NO.** : APPL 1 OF 2017

**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, s 50A(3), s 50A(3)(f)  
*Fair Work Act 2009* (Cth) s 134(1)(b)  
*Minimum Conditions of Employment Act 1993* (WA) s 12, s 13

**Result** : 2017 State Wage Order issued

**Representation:**

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

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

Dr T Dymond on behalf of UnionsWA

Mr C Twomey on behalf of the Western Australian Council of Social Service Inc

*Reasons for Decision*

- 1 The Commission is required by s 50A of the *Industrial Relations Act 1979* (the Act) to make a General Order (the State Wage Order) before 1 July each year. That Order sets out the minimum wage applicable under s 12 of the *Minimum Conditions of Employment Act 1993* (the

MCE Act) to employees 21 years of age and over, and to apprentices and trainees. The State Wage Order also adjusts rates of wages paid under awards and makes consequential changes to awards.

- 2 The State Wage Order also sets out a statement of principles to be applied and followed in relation to the exercise of jurisdiction under the Act to set wages, salaries, allowances and other remuneration of employees, or the prices to be paid in respect of their employment.

### **Submissions**

- 3 The Commission published notices inviting submissions. Written submissions were made by the Hon. Minister for Commerce and Industrial Relations (the Minister), the Chamber of Commerce and Industry of Western Australia (Inc) (CCIWA), UnionsWA, Western Australian Council of Social Service Inc (WACOSS), the Printing Industries Association of Australia and an individual, Conny Torney.
- 4 The Commission convened on Thursday, 18 May 2017 to hear oral submissions and received the considerable benefit of a presentation by Mr David Christmas, Director of the Economics and Revenue Forecasting Division of the Western Australian Department of Treasury. His presentation dealt with the state of the Western Australian and Australian economies. We are grateful for those submissions and acknowledge the research and effort taken by those who made submissions. The Commission reconvened on Thursday, 8 June 2017 after the Fair Work Commission issued its annual review of minimum wages because s 50A(3)(f) requires the Commission to consider relevant decisions of other industrial courts and tribunals.

### ***The Minister for Commerce and Industrial Relations***

- 5 In taking account of issues the Commission is required to consider, the Minister submits that a flat dollar increase of \$19.20 ought to be applied to the State minimum wage and adult award rates of pay. This represents an increase of 2.8% to the existing rate and would result in a minimum wage of \$712.10 per week. The Minister says this is a sustainable quantum that would help improve the living standards of employees without threatening business viability. It would constitute a real wage increase, and a flat dollar adjustment would ensure that the lowest paid receive the greatest benefit.
- 6 The Minister notes that the amount of increase proposed by UnionsWA represents a 6.5% increase to the minimum wage and between 5.7% and 6.5% to award wages. In the current economic climate, this represents a considerable wage cost increase for many smaller employers.
- 7 According to the Minister, the benefit of higher disposable incomes may be realised only if employees do not suffer a loss of employment or a significant reduction in working hours. While UnionsWA's model of increases has some merit, the Minister says that a flat dollar increase provides the greatest benefit to the lowest paid. Also, a single method of increase is less complex to administer and less likely to result in calculation errors.
- 8 The Minister also opposes CCIWA's proposal to maintain the current level of the minimum wage because it is higher than the national minimum wage on the basis that it would be unfair or inequitable to impose a wage freeze on many of the lowest paid in the community. The effect would be a reduction in real wages, adversely affecting the living standards of those employees. It would be contrary to the statutory criteria the Commission is required to consider. The Minister also notes that not all minimum wage rates in the State system are higher than those in the national system. The Minister refers to the differences between the

adult casual minimum wage for a State system casual of \$21.88 per hour compared with \$22.13 in the national system, and the same applies to some award-free trainees, apprentices and junior employee rates.

- 9 State system employers are not always at a comparative disadvantage with their national counterparts, according to the Minister.
- 10 The Minister acknowledges WACOSS's significant role in advocating for organisations and individuals in the community sector. The Minister agrees that elevated levels of underemployment and unemployment are of concern for minimum and award wage earners. He supports the Commission taking a considered and pragmatic approach so that there should be a real wage increase at the level that will not affect employment outcomes, which would negate the benefit it brings.

#### *The Western Australian economy*

- 11 The Department of Treasury's *Economic Outlook* provides a detailed description and analysis of the Western Australian economy. This includes Table 1 – Major Economic Aggregates, Annual Growth (%), which sets out the following significant indicators of economic activity:

	2015-16	2016-17	2017-18	2018-19	2019-20
	Actual	PFPS Revision <sup>(b)</sup>	Forward Estimate	Forward Estimate	Forward Estimate
State Final Demand	-3.9	-6.75	-1.25	2.25	3.5
Gross State Product	1.9	0.5	2.5	3.25	3.0
Employment	0.2	-1.5	0.25	1.5	2.25
Unemployment rate <sup>(a)</sup>	6.0	6.5	6.5	6.25	6.0
Consumer Price Index	1.0	1.0	1.75	2.25	2.5
Wage Price Index	1.9	1.5	1.75	2.5	3.0
Population	1.2	1.2	1.3	1.6	1.8

(a) Average rate over the year.

(b) **PFPS** means the Pre-election Financial Projections Statement issued by the Department of Treasury

- 12 This report recognises that 'Western Australia is currently experiencing challenging economic conditions. However, most indicators are projected to improve across the forward estimates, in line with a recovery of the State's domestic economy' (Minister's Submission, [13]).
- 13 Declines in business and dwelling investment have corresponded with a transition in the mining and resources industries from the construction to the production phase. Notably, business investment is forecast to fall by 32.5% in 2016-17 and a further 17% in 2017-18, before returning to positive growth in 2018-19. Dwelling investment is projected to decline by 10.25% in 2016-17, with modest growth of 1.5% predicted for 2017-18.
- 14 State Final Demand (SFD) has been affected by reduced household spending since 2012-13, which has had very modest growth in 2015-16, and 1.75% is expected in 2016-17.
- 15 Inflation is at a record low, with the Perth Consumer Price Index (CPI) being forecast to grow by 1% in annual average terms in 2016-17. The Minister says that the increase he proposes

may assist with increasing household consumption given that low income earners spend a larger proportion of their disposable income and are less able to save.

- 16 The Minister advocates the use of the CPI as a whole because this is the most reliable and effective measure of cost of living changes in WA.

#### *Labour market conditions*

- 17 The Minister says that increases in total employment in the last six consecutive months suggest that employment growth is recovering from a recent trough. The decline in full-time employment and in wages growth indicate that underlying labour market conditions are soft. However, data suggests that the decline in employment in 2016-17 will not be as severe as forecast. Some award-reliant industries, including Administrative and Support Services, Accommodation and Food Services experienced increases in total employment while other award-reliant industries, including the Retail Trade, Health Care and Social Assistance and Other Services experienced declines.
- 18 Western Australia's unemployment was 6.2% over the year to March 2017 and is above the national average. Seasonally adjusted, the March 2017 rate is 6.5%. It is the highest it has been for more than a decade.
- 19 Youth unemployment has increased from 6% in March 2007 to nearly 16% in 2017.
- 20 The Minister provided additional, updated information about the regional labour market for youth in Western Australia. This information, from the Australian Bureau of Statistics (ABS), is said to be susceptible to quite high error rates due to the small sample sizes. However, it shows a very significant increase in youth unemployment in some areas. The rates in regional WA in the past 10 years have fluctuated and vary from region to region. In the Wheatbelt, youth unemployment is currently 21% for 15 to 24 year olds, 8.2% for Bunbury and 7.2% for Outback. In the greater Perth region, the unemployment rate for youth ranges from 21% in Mandurah to 8.6% in the Inner-Perth area.

#### *Trends in wages*

- 21 The State Wage Price Index (WPI) in the December quarter 2016 was 1.7%, the lowest since the series commenced, and in year-end terms was 1.4%. WPI at a national level has also grown at its slowest pace on record, increasing by 2% in annual average terms in 2016.
- 22 Average Weekly Ordinary Time Earnings (AWOTE) fell, while Average Weekly Earnings remained largely unchanged.
- 23 The Minister shares UnionsWA's concerns that minimum wage earners should not be left behind, however, the minimum wage, in terms of its relativity to AWOTE, has fallen in recent times with the passing of the mining boom. However, the Minister says that the increase he proposes would immediately raise that bite from its current 40.7% to 41.8%.

#### *Equal remuneration for work of equal or comparable value*

- 24 The Minister says the AWOTE shows a marginal reduction in the gap between actual earnings of men and women at both State and national levels.
- 25 The gender pay gap in WA declined from 24.7% to 23.9% between November 2015 and November 2016. Nationally, the gap reduced from 17.3% to 16.1% in that time. This is said to reflect female earnings growing faster than male earnings.

- 26 WA currently has the largest gender pay gap of all of the jurisdictions. The Minister says that regular increases in the minimum and award wages can play an important part in helping to reduce that gap, and the increase he proposes of \$19.20 per week can provide a direct benefit to lower paid female workers and contribute to a reduction in the gender pay gap.

*Capacity of employers as a whole to bear the cost of increased wages, the likely effect of the decision on the economy and employment levels*

- 27 The aggregate measures of the Gross Operating Surplus (GOS) plus Gross Mixed Income (GMI), which measure business profitability, indicate that some industries face greater challenging circumstances than others. Some industries recorded an improvement in 2015-16, but almost half recorded a decline. Across all industries, GOS plus GMI declined by 6.3% in 2015-16 following a decline of 13.8% in 2014-15.

*Impact of the State Wage Order*

- 28 The State Wage Order will have an impact particularly on award-reliant employees but also on others who use the awards as a guide. Award reliance has increased in Western Australia in recent years, as well as in other jurisdictions, however, it is lowest in Western Australia.
- 29 The Minister suggests, in extrapolating from research undertaken for the Fair Work Commission at a national level in 2013, that the impact of the State Wage Order may extend beyond those employees directly affected by it.

*Fairness, living standards and the needs of the low paid*

- 30 By comparison with employees covered by collective and individual agreements, award-reliant employees in Western Australia have the third lowest hourly earnings by reference to average hourly earnings across the country. The State Wage Order can play an integral role in not only maintaining a safety net for award-reliant employees in WA, but in improving living standards for them.

*Protecting employees who are unable to bargain*

- 31 The Minister says that an analysis of industrial agreements registered pursuant to s 41 of the Act in recent years indicates that they are concentrated in the following sectors:
- The WA public sector;
  - The independent schools sector;
  - Some community, health and disability support organisations;
  - Some regional local government authorities;
  - Several registered political parties; and
  - Several union/labour organisations.
- 32 Those not included are the high award-reliant industries, such as Accommodation and Food Services, Retail Trade and smaller, unincorporated businesses. They are likely to either apply or be guided by award rates of pay.
- 33 The Minister says that the increase of \$19.20 will assist in protecting the needs of those employees who are unable to bargain for an industrial agreement, both in terms of increasing the award safety net and because it is used as a guide to negotiations.

- 34 The Minister says that the Fair Work Commission's review of penalty rates should have no bearing on the State Wage Case, particularly given:
- (1) the different statutory underpinnings of the respective systems;
  - (2) it covered only a small number of national modern awards and was not a test case; and
  - (3) the decision is under challenge to the Federal Court on grounds of jurisdictional error.
- 35 The Minister opposed the reduction in penalty rates applied in the national system covering retail and hospitality workers, and says that employees who work unsociable and non-standard hours ought to be properly compensated.

#### *Public Sector Wages Policy*

- 36 The Minister notes that the State Government's new Public Sector Wages Policy, released on 12 May 2017, provides for a \$19.20 increase, which is the same amount as he proposes for the State minimum wage and award wage increases in the private sector covered by the State Wage Case.

#### *Skills development*

- 37 Data from the Department of Training and Workforce Development shows that since 2010, apprenticeship commencements have fallen by almost 38%. There have been very significant declines in some industries in the last year, particularly in the Building and Construction Trades of 35.8%, Electrical Trades of 25.2% and Metals, Manufacturing and Services Trades of 13.5%.
- 38 Traineeship commencements have also declined, by more than 20% since 2015 and more than 40% since their peak in 2012.
- 39 The total number of apprentices and trainees currently undertaking training has declined by 9.4% and 13.4% respectively.
- 40 The likely factors influencing the take-up of apprenticeships and traineeships in WA is said to be the composition of the State's labour market, with its falling full-time employment, however, the particular causes are said to be difficult to identify. The National Centre for Vocational Education Research (NCVER) suggests that employers anticipated a more severe downturn than actually occurred. It is also suggested that limited population growth in the State's youth cohort, between 15 and 24 years of age, may be another factor.
- 41 In relation to WACOSS's proposal that the increase to adult rates be flowed on to juniors, apprentices and trainees, the Minister says that this is contrary to the statutory framework for rates of pay set out in the MCE Act.
- 42 Similarly, many State awards contain specific formulae for determining those rates, some based on percentages of the adult wage classification. To achieve the outcome WACOSS proposes, the Commission would need to vary or override award clauses.

#### *The Chamber of Commerce and Industry of Western Australia (Inc)*

##### *Achieving a system of fair wages*

- 43 CCIWA draws attention to the challenges currently faced by both employers and employees in slowing economic growth and the declining SFD; declining levels of business investment; high

levels of both unemployment and underemployment; and in a contraction in the total number of jobs, with displaced workers spending longer out of work. It says that on the basis of the current circumstances, the strategies currently being used by businesses are aimed at minimising risks of job losses, with wage freezes and reductions in working hours commonly being negotiated as alternatives to redundancies.

- 44 CCIWA says there is a need for restraint when reviewing wages at both state and national level in order to help employees maintain their living standards by retaining their employment and working hours, along with reducing the barriers for job creation.
- 45 By comparison with its position before the Fair Work Commission's Annual Wage Review where it proposed a 1.2% increase, CCIWA notes that Western Australia is now in a far more challenging situation than it has been for some time, as well as by comparison with the national situation. It says that for the past decade, State award wages have increased at a faster rate than at the national level, largely due to Western Australia's previous economic fortunes. The State's economic performance at that time justified a premium on rates of pay, but this no longer holds true. CCIWA says that the interests of employees are best served through consolidating their gains by maintaining the award rates and the State minimum wage at their current levels.
- 46 CCIWA believes that this approach will alleviate the competitive disadvantage placed on small business owners who are required to pay a higher minimum wage than their incorporated competitors. It would minimise the risk to employees of loss of employment or loss of working hours that might result in the benefits of previous State Wage Case increases being 'undone'.
- 47 CCIWA says that the increases proposed by the Minister, UnionsWA and WACOSS are unsustainable in the current environment and will adversely affect employment. It says that none of those submissions provides any basis for the quanta proposed. The quantum of increase proposed by UnionsWA has no particular rationale. It merely reflects the amount sought by the Australian Council of Trade Unions (ACTU), and is clearly an ambit amount.

#### *State of the WA economy*

- 48 CCIWA notes that the WA economy continues to underperform compared to other states and territories, with WA's SFD falling by 4% in the period 2015-16 compared with a growth of 3.9% for New South Wales and 3.8% for Victoria.
- 49 The Department of Treasury predicts that SFD will 'continue to contract', that it will fall by 6.75% in 2016-17 with a further decline of 1.25% in 2017-18. CCIWA also notes that the decline in SFD is reflected in declining levels of private business investment within WA, which fell by 16.7% in 2015-16.
- 50 Business investment will fall by 32.5% for 2016-17 and dwelling investment by 10.25% over the same period. This will be only partially offset by a projected 7.5% increase in government investment for 2016-17.
- 51 The value of exports is expected to grow, allowing Gross State Product (GSP) to remain in positive territory, at 1.9% in the year to June 2016. This, however, is substantially below the 3.6% growth in the year to June 2015, and 5.8% in the year to June 2014.
- 52 CCIWA referred extensively to its March quarter *Survey of Business Expectations*. It says that this shows that confidence continues to remain subdued, with 31.5% of businesses expecting the WA economy to be weaker in the next 12 months than the last year, 39.6% expecting it to

remain the same, 28.2% predicting that it will be somewhat stronger, and 0.7% expecting the economy to be much stronger. Consequently, 71.1% of businesses surveyed expect conditions to remain the same or become worse in the next 12 months. This also has negative implications for the labour market.

53 CCIWA says that the Minister's submission provides an overly optimistic perspective on the state of the WA economy, in stark contrast to the assessment provided by Treasury, which is more closely aligned with CCIWA's own analysis.

54 CCIWA says (footnotes omitted):

WA Treasury identifies that:

- a) The WA domestic economy is expected to contract by 6.75 per cent in 2016-17, being the fourth consecutive year that domestic activity has fallen;
- b) Inflation is subdued, increasing by an annual average of only 0.6 per cent in the March quarter 2017, being the weakest annual growth to the March quarter since 1998 and has "*not been this for below the notional rate since 1992*";
- c) Employment growth is expected to decline by 1.5 per cent in 2016-17 to be partially offset by a slight increase of 0.25 per cent in 2017-18;
- d) The unemployment rate is expected to remain high at 6.5 per cent for 2016-17 and 2017-18 to be accompanied by a fall in the participation rate as people leave the labour market;
- e) Accompanying the rise in unemployment has been an increase in the underemployment rate suggesting that the "*degree of spare capacity in the labour market is higher than the unemployment rate indicates*".
- f) Wage growth in WA fell to "*a record low in 2016*" which is "*consistent with continued weakness in the State's domestic economy and labour market*" with wage growth in WA expected to remain below national growth rates over the medium term.

CCIWA Submissions in reply, [2.14]

### *The impact on employment*

55 The State's unemployment rate continues to rise and has been consistently above the national average since March 2016, with an upward trend since June 2012. WA trend unemployment rate as at March 2017 is 6.4%, compared with the national rate of 5.9%. WA currently has the second highest unemployment rate, with only South Australia recording higher at 6.7%.

56 Youth unemployment is 14.7% as at March 2017. This is particularly concerning given the high proportion of young people engaged in the retail and hospitality industries.

57 CCIWA disputes WACOSS's arguments regarding youth unemployment and that juniors should receive the same increase as adults. CCIWA says that passing on the full adult increase to junior employees will not assist in reducing youth unemployment.

58 For those who are unemployed, the period of unemployment continues to grow and the proportion of employees who return to work within 13 weeks has fallen.

59 The high unemployment rate and increased duration of unemployment may also negatively impact upon the participation rate as those unable to find work leave the labour market, with WA Treasury predicting that it will fall from 68.3% for 2015-16 to 66.8% for 2016-17. The oversupply of labour places low skilled workers at a comparative disadvantage as skilled workers are increasingly vying for limited employment opportunities.



- 60 CCIWA notes the age range of many in the retail and hospitality sectors, and that work in these sectors provides many young people with entry-level employment, which equips them with skills and experience to progress to more highly paid jobs.
- 61 CCIWA says that some of the reports and research on the impact of a minimum wage relied on by UnionsWA are not reflective of the labour market in Western Australia as they are based on United States of America or international papers. Their circumstances do not reflect the structural or historical circumstances, nor the levels of minimum or actual wages paid, in Western Australia.
- 62 The downturn in job vacancies in WA is in stark contrast to the situation nationally, where the number of job vacancies is rapidly increasing. This is reinforced by the low business expectations.
- 63 CCIWA is concerned that any significant increase in award wages may have a detrimental impact on the take home pay of employees given the need for many WA businesses to focus on managing their cost base in response to the State's reduced economic performance. Businesses are focussing on reducing the cost of doing business, including reducing employment costs by reducing the number of employees through redundancy or natural attrition. However, CCIWA says that for many businesses, lower operational costs have also been achieved through strategies aimed at preserving employment by freezing wage rates or negotiating reductions in pay. 9.1% of businesses expected their total labour costs to decline in the March 2017 quarter, while 71.6% expected their labour costs to remain the same.
- 64 CCIWA disagrees with UnionsWA's submission that a substantial increase will have a stimulatory effect on the economy. It says that the only sustainable increase comes from increased economic growth, not the other way around. It refers to the Reserve Bank of Australia's comment to the effect that ongoing spare capacity reflected in the unemployment and underemployment rates needs to be addressed first. An arbitrary increase in wages beyond what the market can bear will not stimulate the economy, but will make employment of award-reliant employees more precarious.
- 65 CCIWA says UnionsWA's submission does not take into account that employees do not realise the full benefit of an increase in rates of pay due to taxation of the amount of the increase and other deductions. Employers, on the other hand, have greater costs than the increase taken alone reflects, due to the impact of increases on costs such as superannuation, workers' compensation premiums, payroll tax and penalty rates and allowances. CCIWA provided a comparison of the relative benefits to employees and costs to employers of the current situation compared with the Minister's and UnionsWA's proposed increases. It says that the effect of the Minister's position is a net benefit to the employee of \$15.09 compared with a net cost to the employer of \$21.32. The effect of UnionsWA's position is a net benefit of \$31.99 to the employee and a net cost to the employer of \$49.96. These calculations included only the actual wage increase, income tax, Medicare levy (2%), superannuation and workers' compensation but did not include their effect on penalty rates, overtime costs, leave loading or variations to allowances.
- 66 CCIWA says that while the retail and hospitality sectors may be the primary beneficiaries of the increased spending arising from the State Wage increase, those industries would still be paying a significant premium for a relatively small proportion of the employees affected by the decision.

- 67 CCIWA also says that consumers have a propensity to pay down debt rather than spend, particularly in uncertain economic times. This is as opposed to the Minister and UnionsWA, who argue that the employees would have an increased propensity to spend any increase and thus boost the economy.
- 68 CCIWA also says that unless increased household spending is underpinned by other economic activity, it will not provide an increase in the demand for labour suggested by UnionsWA.

#### *Public sector wages*

- 69 CCIWA notes that the State Government, as an employer, has recently announced that it is seeking wage restraint within the public sector, and that the previous Public Sector Wages Policy of 1.5% was seen by the Treasurer in the current climate as being generous and that wage freezes could occur. CCIWA says that the increase proposed by the Minister represents a 2.8% increase in the State minimum wage, which appears at odds with the State Government's decision for managing its own labour costs. CCIWA refers to the current Public Sector Wages Policy, which restricts increases to public servants and government officers to a maximum of \$1,000. This represents increases ranging from 2.2% at level 1 through to 0.5% at class 4. The same level of increase in the *Metal Trades (General) Award* would result in significantly higher increases of 2.8% at C14 to 2.1% at C5.
- 70 The Public Sector Wages Policy requires that any arbitrated outcome above those prescribed amounts will have to be met from within the particular agency's approved salary budgets. Therefore, CCIWA says that the State Government seeks to reduce its own costs but proposes that the State's small business owners, directly affected by the decline in the State's economic position, should provide substantial increases in wages to their employees.

#### *Enterprise agreements*

- 71 CCIWA notes that there has been a significant decline in private sector wage growth, which fell to 1.2% in December 2016, below the national average of 1.8%. Wages growth in the private sector in WA has been declining rapidly since June 2012, and has been below the national average since March 2014. Many workplaces are reducing wages growth through freezing wage rates or negotiated reductions in pay. CCIWA cites the example of Griffin Coal Mining Company Pty Ltd, which applied to the Fair Work Commission to decrease the existing rates of pay in its enterprise agreements or terminate an enterprise agreement because the rates of pay are no longer sustainable in the current market (*The Griffin Coal Mining Company Pty Ltd* [2016] FWCA 2312 [171]).
- 72 CCIWA notes that in many workplaces, employers and employees are actively working together to address challenges arising out of the economic circumstances to protect both businesses and jobs.
- 73 CCIWA takes a different view to that of the Minister in respect of the distinction between the causes of movement away from enterprise agreements at the national level. It says that it reflects 'a number of issues, not least the increased level of prescription applied by the Fair Work Commission in applying the approval requirements prescribed by the *Fair Work Act 2009* (Cth)'. It says that the same circumstances do not apply in WA, where a relatively small percentage of the private sector businesses are covered by the State system.
- 74 CCIWA says that the need to increase the minimum wage relative to AWOTE does not have the beneficial impacts suggested by UnionsWA. This is because of the limited effect of the

State minimum wage. AWOTE is also a more volatile measure than WPI. Therefore, AWOTE is a poor indicator for SWC purposes.

*Cost of living and living standards*

- 75 Perth CPI has grown by 1.0% in the 12 months to March 2017, significantly below the national average of 2.1% for the same period. Therefore, there has been little real change in the cost of living over the course of the past year. CCIWA says this means that purchasing power of award wages remains strong given the real wage increase granted in last year's State Wage Case decision. That decision awarded a 1.9% increase to the State minimum wage compared to the 1.0% inflation rate for 2015-16.
- 76 CCIWA also notes the effect of significantly low levels of overseas migration, negative growth in interstate migration and the effects on the housing market including reduced rental costs. Unlike the decline in rental costs for residential housing, average gross rental costs for the commercial market have not declined. This is a cost on business that has not declined.

*Challenges for employers*

- 77 CCIWA says that overall, businesses in WA are pessimistic about business conditions, even though UnionsWA refers to signs of recovery, such as the number of exploration licences. It says that this measure of confidence is uncertain, and even when it leads to business activity, it is a long-term not immediate indicator and is not a good predictor of jobs growth.
- 78 CCIWA refers to the fact that most employers covered by the State system are small businesses with owner-operators investing their own assets in the hope of establishing a viable business. The median annual income of a small business owner in Australia is significantly below the AWOTE for WA.
- 79 CCIWA notes that there has been a decline in the number of businesses still in operation since 2012, and says the lower survival rate of small business has a direct effect on the employment security of their employees.
- 80 CCIWA also refers to the 2016 State Wage Case decision where the Commission noted the evidence of Professor Barratt about employers absorbing costs and looking at measures to deal with increased costs. It also refers to the Productivity Commission's conclusions in its 2015 inquiry into *Workplace Relations Framework* that when faced with higher costs for lower skilled workers, businesses have an incentive to reduce the employment of those workers. CCIWA also notes the FWC's industry report, referred to in the 2016 State Wage Case decision, that in respect of how employers manage potential short term and long term increases in labour costs if demand for their products or services has not changed. Those methods include reducing working hours for employees, and owners taking on more hours.
- 81 CCIWA notes that the situation has deteriorated since that time, with a continual decline in the number of jobs available both due to increased unemployment and high levels of underemployment as the total number of available working hours contracts.
- 82 CCIWA also notes references in the State Wage Case decision in 2016 to the late Professor Plowman's 2006 report (Professor David Plowman, *Report Prepared for the Western Australian Industrial Relations Commission: State Minimum Wage Review, May 2006*, 30; 2016 State Wage Case [2016] WAIRC 00358 at [179]) in concluding that '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'.

- 83 Reduced levels of discretionary spending and very low levels of inflation reduce the ability of employers to pass on increased costs to consumers. Consequently, these costs need to be absorbed through other means. In service-based industries, this is mostly achieved by adjusting the overall cost of labour.

*Meeting the needs of the low paid*

- 84 CCIWA says that paid employment is the best way for people to improve their standard of living, and that maintaining that employment is a very significant benefit over unemployment. It refers to the National Annual Wage Review submission by the Australian Government in that respect, and to the WACOSS 2016 Cost of Living report, both of which lead it to a conclusion that if an employed person earns the State minimum wage then their financial position is significantly better compared with being unemployed. This is particularly so in respect of low skilled workers whose jobs are more vulnerable to substitution through the use of existing skilled workers or technology.
- 85 CCIWA notes that in last year's decision, the Commission referred to Mr Christmas's evidence that '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 labour by more than that of higher paid labour' ([2016] WAIRC 00358 at [157]). CCIWA notes the significant under-utilisation of skilled labour which can be readily substituted into lower skilled roles.
- 86 CCIWA also says that WA's WPI should be broken down for the purposes of consideration in this case because the private sector is that which is affected. The WPI for private sector employees in WA is 1.2%, which is less than half of the 2.8% increase proposed by the Minister.
- 87 CCIWA says that UnionsWA's focus on particular cost increases ignores the other areas of cost applicable to the community and to the low paid, and that it is unhelpful to disaggregate the CPI which currently reflects very low levels of inflation.
- 88 In respect of financial resilience and financial stress referred to by WACOSS, CCIWA notes that it is a subjective measure. Where WACOSS had referred to ex-FIFO workers being in financial stress, CCIWA says that FIFO workers and other beneficiaries of the resources boom now struggle, and that this is partly attributable to them having come off high levels of earnings, not because of a high reliance on a minimum safety net.
- 89 CCIWA challenges the data relating to cost of living raised by WACOSS, in particular rental affordability and says that its data is from limited sources.
- 90 CCIWA says that the circumstances affecting community sector workers referred to by WACOSS do not reflect the circumstances of most private sector businesses which are subject to changes in labour markets and economic circumstances, rather than funding arrangements.
- 91 According to CCIWA, underemployment of women is due to women undertaking a high proportion of unpaid domestic work, as well as high childcare costs. Underemployment of women workers is not a matter that can be addressed through the minimum wage setting. In any event, increases in the wages of childcare workers, in an award-reliant industry, are likely to result in higher childcare fees. Measures other than the minimum wage are better at addressing these issues.

*Improving living standards*

- 92 CCIWA refers to successive SWC decisions which have significantly improved the living standard of employees by providing substantial real wage growth. It says the cumulative effect of these increases means that State system employees continue to benefit from higher minimum wages compared to their national system counterparts, and that this is carried forward into a far more subdued economic environment than previously when such higher minimum wages were seen as sustainable.
- 93 In those circumstances, CCIWA says that significantly less weight should be given to improving living standards in the current circumstances, and more weight ought to be given to protecting existing jobs.

*Impact of the penalty rates decision*

- 94 CCIWA refers to the Fair Work Commission decision on Sunday and public holiday penalty rates for retail and hospitality sectors ([2017] FWCFB 1001). It says that once implemented, the lowered penalty rates of national system employers covered by this decision will increase the disadvantage faced by small business owners in the State system who pay higher minimum wage rates.

*Encouraging skills development*

- 95 CCIWA notes that apprenticeships and traineeships are particularly vulnerable to increases in minimum wages given the reduced productivity level of these employees. This reduced productivity is only partially offset by discounted wage rates. It is important to ensure that apprenticeships and traineeships are accessible to the predominantly young people seeking these opportunities by moderating wages growth.
- 96 CCIWA notes that the Minister identifies the significant reduction in the numbers of traineeships and apprenticeships being entered into in Western Australia. CCIWA submits that the factors contributing to this include that economic circumstances affect employers' willingness to take on new apprentices and trainees, and their preparedness to establish formal training arrangements.
- 97 CCIWA denies that there is a shortage of applicants seeking opportunities for apprenticeships or traineeships, particularly given the high level of youth unemployment.
- 98 CCIWA disputes UnionsWA's assertion that the low numbers of those taking up apprenticeships and traineeships is due to their lack of attractiveness to employees and says that the costs of both apprentice and trainee wages, as well as supervision and administrative costs, as reflected in the NCVER Report, play an important part in employers' decisions to take on apprentices. This report included that the wages structure for apprentices is an accurate reflection of their productivity and that 'the high cost of apprenticeships will constrain the number of employers willing to take on apprentices, especially in a downturn' (NCVER Report, 3).

*Equal remuneration*

- 99 CCIWA says that it actively promotes gender equity, however, increases in the minimum wage have no substantive positive impact on gender equity, the gender pay gap or equal remuneration. It says that the conclusions of the *Gender Equity Insights 2017: Inside Australia's Gender Pay Gap Report* (Rebecca Cassells, Alan Duncan, Rachel Ong, *Gender Equity Insights 2017: Inside Australia's Gender Pay Gap*, Bankwest Curtin Economics Centre,

March 2017) affirms that in the case of award-reliant occupations, there is little work left for the State Wage Case in addressing the gender pay gap, and that focus is best placed on other strategies that can address this important issue.

- 100 CCIWA says that the increase proposed by the Minister will have no meaningful impact on the gender pay gap because changes in the economy and in those industries where the gender pay gap is most significant.
- 101 CCIWA notes that the gender pay gap is at its lowest or is non-existent in predominantly female industries. It reiterates the Commission's comment from last year's State Wage Case that the gender pay gap is not the same as equal remuneration.
- 102 CCIWA notes that Ms Torney's description of her circumstances suggests she is covered by the national industrial relations system where there is a modern award for her industry. This award covers many of the issues she raises. Other issues of concern to her are a matter of compliance with those conditions, rather than issues relating to the setting of minimum or award rates of pay. CCIWA disputes Ms Torney's suggestion that being on unemployment benefits is more beneficial than being employed on the minimum wage and sets out various reasons for this.
- 103 CCIWA says that the Printing Industries Association of Australia's submission reflects the economic circumstances it has described in its own submission, and highlights the need for businesses to remain internationally competitive. Some of those businesses use a range of measures to achieve this, including displacing low-skilled workers.

### ***UnionsWA***

- 104 UnionsWA says that an increase in the statutory minimum wage and award wages of \$45 per week for C14 to C10 equivalent classification levels and 5.7% for higher rates would achieve a number of the criteria the Commission is required to address. It would assist in addressing the widening gap between the low paid and the rest of the workforce in WA.
- 105 The low paid in the workforce are more likely to be in precarious employment arrangements and are more likely to be in the service industries such as retail, accommodation and food service. These groups have not benefitted from WA's recent high economic growth as demonstrated by several measures of inequality such as the gender pay gap, the disparity between the minimum wage and Average Weekly Earnings, and household income inequality.
- 106 UnionsWA refers to the statutory requirements and to comments made by the Commission in previous years to support its contention that the Commission must provide a real increase in the State minimum wage and award rates that improves living standards and addresses the growing disparity between the minimum wage and average weekly earnings. Therefore, any submissions which do not achieve those things need to be rejected.
- 107 UnionsWA also relies on various commentary to support its submission that the significant increase it seeks will assist in restoring growth to the WA economy.
- 108 UnionsWA welcomes the Minister's submission that there should be an increase above the CPI, but says that the Minister's proposed increase is too conservative given the persistent measures of inequality in WA such as the gender pay gap.
- 109 UnionsWA sees importance in ensuring that award relativities maintain their 'margin for skill' at the same time as addressing the needs of the lowest paid. The structure of the increases it proposes will address both of those things.

- 110 UnionsWA submits that the zero increase in the minimum wage urged by CCIWA is not appropriate given the Commission's comments in 2015 and 2016.
- 111 UnionsWA also notes that cost increases have a disproportionate impact on the low paid.
- 112 Relative to AWOTE, minimum wage increases that closely follow increases in the CPI are leading to a decline in real wages.

*Increasing aggregate demand*

- 113 UnionsWA notes that low wages growth is seen by major economic institutions as the biggest threat to the Australian economy. This can be alleviated by the increases it proposes.
- 114 The main thrust of UnionsWA's submission is that the increase in the minimum wage and award wages proposed by it will have a stimulatory effect on the WA economy. It will raise household spending and demand for goods and services in the WA economy, particularly as low-income households tend to spend any additional income. This will increase profits and employment.
- 115 UnionsWA's figure of \$45 per week below C10 results in a higher percentage for lower classifications (6.5% versus 5.7% at C10 and above) where a greater proportion of the award-dependant workforce is likely to be found. Between 21.7% and 36.2% of WA employees are in the State industrial relations system, that is between 292,000 and 488,000 employees. UnionsWA has used a midpoint, of 390,000 employees, for the purposes of calculating the impact on demand in the State. An increase of the magnitude proposed by UnionsWA is estimated to be \$2,360 per award employee. Therefore, the total increase in annual income for those employees is \$921.7 million to the benefit of the State's economy.
- 116 UnionsWA recognises that this increase will attract increased taxation and therefore reduce a net increase in demand in WA. However, the needs of those in the lower income groups represented by the lower award rate groups and those on the minimum wage, dictate that they tend to spend any increase rather than save it. Therefore, the increase proposed by UnionsWA would feed directly into the WA economy. Increased demand for goods and services will lead to job creation, increased overtime or increased hours for part-timers, casuals and the underemployed.
- 117 UnionsWA calculates the increased benefit to the economy by using a range of multipliers:
- The Commonwealth Treasury's multiplier of 0.4 leads to \$368.7 million in increased spending and an employment boost of around 6,000.
  - The ACTU's multiplier of 0.7 leads to increased spending of \$645.2 million and 10,400 jobs.
  - At a multiplier of 1.0, there would be \$921.7 million in spending and around 14,900 jobs.
- 118 These effects are similar to the effects of the Stimulus Package applied after the Global Financial Crisis (GFC). Business profits and sales revenue would both increase from the additional expenditure.

*The state of the economy of Western Australia and nationally*

- 119 In spite of the recent difficult economic times, UnionsWA points to signs of recovery. They include increased mineral exploration applications; improved business conditions and growing confidence; improvement, in particular, in transport and retail and predictions of 'further

moderate growth in employment over the next couple of quarters' (Reserve Bank of Australia 'Statement on Monetary Policy', 5 May 2017).

- 120 However, there are concerns about household consumption due to weakened expectations for the prospects of income growth. In this context, and particularly given the high input of household consumption into SFD, UnionsWA says that a substantial increase in the WA minimum wage will constitute a stimulus to the WA economy.
- 121 UnionsWA notes the ABS Labour Force April 2017 data (Australian Bureau of Statistics, *6202.0 Labour Force - Australia, April 2017*, released 18 May 2017) which was released on the day of the hearing of the State Wage Case, demonstrates a positive start to 2017. WA's unemployment rate of 5.9% is below 6% for the first time since June 2016. The reduction from 6.5% in March 2017 is the largest improvement of all the states and territories.
- 122 UnionsWA also notes that WA was shown to have had the lowest wages growth of any state in the year to March 2017, at 1.2%, compared with 1.9% nationally (ABS Wage Price Index, March 2017). This reinforces the need for wages growth to stimulate the economy, and this can be achieved by the increases proposed by UnionsWA.

#### *Impact of minimum wage on employment*

- 123 UnionsWA, by reference to research and theory regarding the labour market, says that a higher minimum wage does not have a potentially negative effect on employment. It refers, amongst others, to Professor Alan Krueger's 'The Rigged Labor Market' (2017) (second quarter *The Milken Institute Review* 34, 41) and Alan Manning's 'The Elusive Employment Effect of the Minimum Wage' (Washington Centre for Equitable Growth, June 2016) papers regarding the single employer, the 'monopsony (a monopoly of a buyer rather than a seller of labour)'. It says that their research demonstrates that in a labour market that operates as a monopsony, a minimum wage will not increase unemployment but decrease it. UnionsWA says that employers in the WA labour market have some of the characteristics of monopsony.
- 124 It also says that the predictions and warnings of increases in wages leading to reduced employment, made year after year by employers, have not come to pass, and those warnings are based on an outdated economic theory.
- 125 Therefore, UnionsWA says that increases in the minimum wage of the amount that it proposes are likely to have a stimulatory and significant beneficial effect on the WA economy in excess of the actual cost to employers.

#### *A fair system of wages and conditions*

- 126 UnionsWA refers to the decline in the minimum wage proportion of annual full-time earnings by reference to AWOTE. In 2006, the WA minimum wage was 49% of AWOTE, and the national minimum wage was 49.9% of the national AWOTE. In 2016, that had declined to 40.79% and 44.37% respectively.
- 127 The Gini Coefficient of Equivalised Disposable Household Income measures the degree of inequality between households across Australia. The higher the figure, the greater the level of inequality of household incomes. In WA, this has grown from 0.307 in 2005-06 to 0.371 in 2013-14, and 0.314 to 0.333 nationally. UnionsWA says that reflects a decline in relative living standards for the low paid.
- 128 The gender pay gap is also a measure of inequality. UnionsWA challenges the regular attribution of the gender pay gap to high wages paid in the male-dominated industries such as



mining, and that this was particularly the case during the most recent resource boom. It notes the findings of the Bankwest Curtin Economics Centre's *Gender Equity Insights 2016: Inside Australia's Gender Pay Gap Report* (Rebecca Cassells, Alan Duncan, Rachel Ong, 'Gender Equity Insights 2016: Inside Australia's Gender Pay Gap' Bankwest Curtin Economics Centre, March 2016), that male-dominated organisations have the lowest gender pay gap at base salary levels but the highest gender pay gap when comparing total remuneration.

129 It suggests that the gender pay gap is not simply due to 'men in the high paying jobs in the high paying industries', but takes account of men receiving performance pay and other additional remuneration which is less likely to occur in female-dominated organisations.

130 The Gender Equity Insights 2016 Report (at page 33) also finds that:

'In general, female-dominated organisations tend to have lower pays (both base and total remuneration) compared to male-dominated organisations. ... Female-dominated organisations include those that primarily exist in Health Care and Social Assistance; Education and Training; and Arts and Recreation sectors.'

131 From this, UnionsWA reinforces its position that addressing the decline in the minimum wage 'bite' will assist in addressing the gender pay gap and other measures of inequality including the Gini Co-efficient. While significantly increasing the minimum wage is only one measure that can be taken, UnionsWA says that without it, no other policy measure is likely to succeed.

132 UnionsWA refers to Professor Peter Whiteford's finding that the Australian system of relatively high minimum wages and targeted family benefits is both generous to families and makes work pay (Peter Whiteford, 'Family Joblessness in Australia', January 2009, pp 51 – 52). It says that the minimum wage will cease to fulfil that role if the disparity between the minimum wage and AWE continues to increase. This is why a \$45 per week increase at the lowest level is necessary.

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

133 UnionsWA refers to increases in State government charges in the 2016-2017 budget which were well above CPI. It says that CPI is an incomplete measure of the financial needs of the low paid and their families. Also, focus on the CPI precludes any real improvement in the living standards of the low paid. It refers to studies of the social, health and wellbeing impact of being low paid. It identifies particular cost increases which affect the low paid including the financial and time costs of travel to work.

134 UnionsWA refers to the information provided by WACOSS regarding low-income household rental and housing costs, which result in low income households moving to the outer and fringe areas of Perth. This has a consequential travel cost or the need to take up alternative employment, also involving additional cost. UnionsWA refers back to its argument regarding the monopsony model, where a strong minimum wage increase is said to be necessary to counterbalance the power of employers.

*Employees who may be unable to bargain to reach an industrial agreement*

135 Based on a range of data and research, UnionsWA notes that vulnerable groups of employees are over-represented within the private sector of the State industrial relations system. They are less likely to negotiate their own agreements and more likely to be award-reliant. They are more likely to be in low-income households.

136 UnionsWA refers to research that demonstrates that, taken with other factors:

1. increases in the minimum wage are more likely to encourage than discourage bargaining, particularly in the low wage sectors;
2. there is a positive association between wage increases in enterprise agreements and the national Annual Wage Review increases;
3. the industries included in these findings include the Retail Trade and Accommodation and Food Services, the industries more likely to be in the private sector state industrial relations system;
4. increases in the minimum and award wages have a signalling effect on small businesses which will use them to determine what are acceptable wages in their individual negotiations.

137 Therefore, the minimum wage has a significant effect on protecting employees who are unable to bargain to reach an industrial agreement.

138 In response to CCIWA's submission regarding the downwards movement in bargaining outcomes, UnionsWA notes that the reduction in income due to the Fair Work Commission decision in *Griffin Coal Company Pty Ltd* [2016] FWCA 2312, has had a devastating impact on families and households.

139 UnionsWA also says that the Fair Work Commission's decision on penalty rates, referred to by CCIWA, ought to have no bearing on the Commission's decision in this matter. Both the penalty rates case and agreement terminations are threats to wages growth that both the WA and the national economy both require. Further, they are inconsistent with the considerations the Commission is required to have in the State Wage Case.

#### *Encouraging ongoing skills development*

140 UnionsWA refers to the decline in the numbers of people taking up apprenticeships and traineeships. This demonstrates a real decline in skills development. Those who take up such arrangements need to survive on low wages and they pay the opportunity cost while they do so. UnionsWA also notes that substantial increases in TAFE fees have made entering into and sustaining apprenticeships even more difficult. A real and significant, full adult increase to apprentice rates would make apprenticeships more attractive, encouraging greater skills development and, at the same time, contribute to stimulating demand in the WA economy.

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

141 UnionsWA says that an increase in the minimum wage at, or below, CPI inflation will make WA's large gender pay gap worse rather than contribute to its improvement.

142 It refers to various studies and commentary regarding the gender pay gap and its causes and to research which indicates that without increases in the minimum wage, given its application to the low paid where many women are placed, the gender pay gap would be greater.

143 It says that:

Given the continuing gender pay gaps in Western Australia, and nationally, the WA Commission needs to make a bold increase in the minimum wage.

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

144 UnionsWA says that WA's employers' monopsony position in the labour market has provided them with substantial power to hold labour costs down and that they cannot credibly argue that they are currently operating in a high labour cost environment. UnionsWA refers to the

Reserve Bank of Australia's 'Statement of Monetary Policy' observation that Australia has had historically low wage growth since 2011.

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

- 145 UnionsWA examined the wage relativities of the *Metal Trades (General) Award C14* classification rate from 2014, pointing to the 'small but noticeable' compression in those relativities after the 2016 flat increase. UnionsWA says that the increases it proposes 'deliver[s] the largest proportionate increase to the lowest paid, while preserving the existing skill-based relativities for award classifications above C10'.
- 146 UnionsWA contends that the Printing Industries Association of Australia's submission demonstrates the extreme restraint already operating in wages growth in WA. It also says that Ms Torney's submission ought to be considered by the Commission as part of its requirements to meet the needs of the low paid.

***Western Australian Council of Social Service Inc***

- 147 WACOSS has previously made written submissions to the State Wage Case but has not previously appeared and made oral submissions. It did so this year, and provided the Commission with valuable information. We welcome its participation.
- 148 One of its particular concerns, as an advocate for low income and disadvantaged people, is with the adequacy of living standards and quality of life for Western Australians on low incomes.
- 149 WACOSS submits that the minimum wage is a vital means of protecting low income workers from poverty and contributes to the delivery of economic benefits to the wider community.
- 150 In the context of that particular concern, its submission focussed on the requirements within s 50A(3)(a) of the Act of the considerations of:
- (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.
- 151 Therefore, WACOSS submits that the State minimum wage rate and the minimum award rates should be increased by \$45 per week up to the C10 classification level and 5.7% beyond that level. It says that this is a very reasonable increase which takes account of the current economic conditions.
- 152 WACOSS notes that, whilst minimum wage increases in recent years have been welcomed, increases have not delivered a demonstrable *improvement* in living standards for low wage employees. The minimum wage decisions have consistently fallen short of what is necessary for low wage employees to keep up with cost of living increases and therefore their living standards have fallen further behind community expectations and standards.
- 153 WACOSS refers to the changing nature of work in the last two decades. Increased short term and insecure employment, increased uncertainty in hours worked and income received from week to week, and increased levels of underemployment have developed.

- 154 There has been a shift away from full-time to part-time employment. This is particularly so with Western Australia's female labour force where the growth in part-time work is outpacing the rest of Australia.
- 155 WACOSS gives a number of examples of the consequences of unemployment, underemployment and financial stress.
- 156 WACOSS points to the findings of the Low Pay Commission in the United Kingdom (WACOSS Submission, 8; UK Low Pay Commission, *Low Pay Commission Report Autumn 2016* (November 2016) [2.135]), that increases in the minimum wage in the last 15 years have been shown to have no significant effect on employment or hours at an aggregate level.
- 157 WACOSS points to the relationship between income and wealth, and the gap between State minimum wage rates and median pay levels represented by WA's AWOTE figures. In particular, it notes that '[t]he relationship between income and (largely non-discretionary) expenditure means that every extra dollar a low-wage worker earns is more than likely to end up boosting demand for goods and services, with those on the lowest incomes spending a proportionally higher amount of their earnings'.
- 158 It also refers to research by the International Monetary Fund showing that 'lower net inequality is robustly correlated with faster and more durable growth, for a given level of redistribution' (Jonathan Ostry, Andrew Berg, Charalambos Tsangarides, *Redistribution, Inequality, and Growth*, (April 2014) *IMF Staff Discussion Note* (SDN/14/02) at 25). It says that lower levels of inequality deliver stronger economic growth and income distribution remains 'one of the most robust and important factors associated with growth duration'.
- 159 WACOSS also notes that Australia is failing to meet its international commitment, reflected in the United Nations Sustainable Development Goals, with inequality increasing, with those at the bottom 40% of income earners falling further behind.
- 160 According to WACOSS, \$45 per week is a modest increase which would make an important contribution to mitigating further growth in the level of inequality and thus contribute to the delivery of stronger economic and social outcomes in Western Australia.
- 161 WACOSS gives particular focus to questions of poverty and financial resilience, referring to the Social Policy Research Centre at UNSW finding that nearly 240,000 Western Australians are in poverty (WACOSS Submission, 15; unpublished figures produced for WACOSS by the Social Policy Research Centre at UNSW and ACOSS). It says that this is an underestimate because of a number of factors it has identified.
- 162 It also refers to research published by ACOSS and the Social Policy Research Centre that 'across Australia almost one third of people living in poverty in 2014 were in households where wages were the main source of income'. It says poverty is a well-established social determinant of health, including psychological health.
- 163 WACOSS expresses concern for those lacking financial resilience. Financial resilience is the ability to access and draw on internal capabilities and appropriate, acceptable and accessible external resources and supports in times of financial adversity (Centre for Social Impact, *Financial Resilience in Australia* August 2016). Western Australia has the second lowest level of financial resilience within Australia.
- 164 Poor financial resilience for low income households means that one emergency or crisis can lead to severe financial shock and to becoming over-indebted. WACOSS says that those who are unable to draw upon resources and supports in a time of financial adversity have a lower

capacity to weather periods of unemployment or underemployment, or to have enough financial independence to be able to effectively seek a new job.

#### *Cost of Living in WA*

- 165 WACOSS refers to the 2016-17 WA Budget, where rising household fees and charges imposed an additional \$257 or 4.76% on representative WA households. An increase in the minimum wage as proposed by WACOSS would assist in preventing those earning the minimum wage from further struggle with the cost of living and to avoid falling into financial hardship.
- 166 One of the major cost of living pressures in Western Australia is the unaffordability of the private rental market and a low supply of public and community housing relative to demand. As housing constitutes the largest percentage of household expenditure, the unaffordability of housing in WA must be a key consideration for the Commission in providing fair wage standards in the context of living standards generally prevailing in the community, and to meet the needs of the low paid. WACOSS refers to data regarding rent affordability and examines median rental rates compared with the State minimum wage.
- 167 Whilst its data shows that the proportion of overall median rent as to the State minimum wage had declined since 2013, it says that those median rental prices relate to new rental contracts rather than ongoing ones. It says that many lower income earners lack experience or confidence to negotiate their rents down and fear that attempting to do so may create further difficulties for them.
- 168 WACOSS provides comparisons of the numbers of affordable and appropriate accommodation available in greater metropolitan Perth and the South West, the Great Southern, and the North West, and says that while this data shows that there has been a clear reduction in the median price of accommodation, those on the lowest incomes are still facing very significant challenges in the rental market.

#### *Transportation*

- 169 Because of rental affordability pushing minimum wage earners to the outer suburbs of Perth, this requires them to take longer commutes by public transport or, in areas where there is little option other than driving, then transportation costs take a proportionally larger bite of their earnings. WACOSS notes that the 2016-17 State Budget imposed increases in motor vehicle fees and charges of \$104.13 or 14.91%. Public transport fees for those not on a concession rose by \$18.20 or 2.07%.
- 170 It also notes research that found that those on lower incomes were forced to buy cheap, older, higher fuel consumption cars and might drive rather than walk in order to take advantage of lower priced food, even when a closer but more expensive option is available.

#### *Utilities*

- 171 WACOSS notes the significant increase in electricity and gas customers seeking assistance from their energy retailer and the rise in direct debit terminations due to default.
- 172 The Economic Regulation Authority directly quoted Synergy as explaining that:
- 2015-16 was a difficult year for residential customers, with increasing demands on their disposable income due to a decline in economic conditions.
- 173 The *Energy Poverty in Western Australia: A Comparative Analysis of Drivers and Effects* Report (Antonia Cordwell et al, *Energy Poverty in Western Australia*, Bankwest Curtin Economics Centre, June 2016) reported that rental accommodation is dramatically less likely to

be insulated, meaning that those on low incomes were more likely to be using more power to regulate the temperatures in their dwellings. It also notes that an average of 55 people per day applied for Hardship Utility Grant Scheme benefits over the last financial year.

- 174 Financial counselling and emergency relief sectors indicate that 99% of households in extreme financial hardship will be unable to repay their electricity debts.

*The impact on specific cohorts*

- 175 WACOSS refers to the particular circumstances of community services sector workers as being significantly underpaid compared to public sector employees undertaking similar work, and the increase WACOSS proposes will make a positive contribution to those employees. At the same time, it will have a stimulatory effect on the state of the Western Australia economy.
- 176 Another cohort of particular concern is women, who are overrepresented among those earning below or just above the minimum wage.
- 177 WACOSS also refers to the gender pay gap and says that its impact cannot be understated. It can depress economic growth and productivity at a macroeconomic level. At an individual level, it slows down the rate of wealth accumulation by women relative to men. That impact continues across the life course, with women more greatly exposed to poverty and disadvantage at every stage in life.
- 178 It notes that women comprise 75% of the part-time workforce in Australia and around 56% of all casual workers, and they continue to experience underemployment at a higher rate than men in Western Australia. There are also the social aspects of women providing unpaid care for the elderly, children and adults with disabilities, and grandchildren.
- 179 WACOSS disputes CCIWA's submission that employee preference is a significant factor in the rise in part-time work, underemployment and precarious employment. It says that the data on underemployment is that employees cannot secure the hours of employment they desire.
- 180 The cost of childcare is another concern for WACOSS given the steep increase since 2013.
- 181 Young people are another cohort affected by the minimum wage and of concern to WACOSS. The payment of junior rates to employees under the age of 21, rather than payment for competence regardless of age, is an anachronism. Competency, levels of education and qualifications ought to be more significant than age in setting wage rates.
- 182 It says there is no evident correlation between youth unemployment rates and minimum wage rises in Australia, and that the minimum wage has no significant impact on youth employment.
- 183 On this basis, WACOSS submits that the full rate of increase to the minimum wage should be applied to both junior and adult wage rates.

***Printing Industries Association of Australia***

- 184 The Printing Industries Association of Australia says that, apart from the car industry, the print and allied industries form the biggest employer in Australia's manufacturing sector. The overwhelming majority of businesses employ less than 20 employees, many of whom fall within the State jurisdiction.
- 185 The industry experienced economic difficulties in the last five years, with a decline of 2.1% in 2016, and revenue is predicted to decline further over the next five years. A high level of competition, both domestically and internationally, is driving prices and profit margins down.

186 The Association notes that the Western Australian economy generally is expected to grow at or below trend rates for the next 12 months.

187 In light of the difficulties faced by the economy generally and the printing industry specifically, the Association urges the Commission to ‘show extreme restraint in its consideration of the WA State minimum wage’.

### ***Conny Torney***

188 Ms Torney’s submission relates mostly to the Community Services and Home Care sector where she says that there are significant levels of non-compliance with minimum conditions.

189 Ms Torney drew attention to:

- The high proportion of employees who take part-time work because of the lack of suitable full-time work;
- The high rate of taxation on income from second jobs;
- Casual employees not receiving conditions applicable to permanent employees;
- The costs borne by employees to maintain their employment, such as travel, telephone, internet, printing, uniforms and other costs.

190 She points out that, as an employee working in a variety of locations throughout the metropolitan area, she faces additional challenges relating to travel and moving from job to job.

191 Ms Torney compared the income and costs of working with being unemployed and receiving social security benefits, and says that the circumstances of the low paid in paid employment often provided a disincentive to work, as ‘it doesn’t make financial sense’.

### **The Statement of Principles**

192 No changes to the existing Principles were suggested by any of those who made submissions, and the Commission sees no particular need for change at this stage.

### **Consideration**

193 The current minimum wage in Western Australia is \$692.90. The Minister proposes that it be increased by a flat \$19.20, or by approximately 2.8%, to \$712.10. CCIWA proposes that there be no increase or, as an alternative, no more than inflation. UnionsWA and WACOSS propose a \$45.00 increase, to \$737.90, and that this increase be applied to award wages below C10, and that there be an increase of 5.7% for rates above C10 level.

194 The Commission is required to decide on the appropriate minimum wage by considering the matters set out in s 50A(3) of the Act:

In making an order under this section, the Commission shall 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.

195 Section 50A(3)(a) contains a number of issues relating to fairness and equity in the system of wages and conditions; in wage standards by reference to community standards generally; to contribute to improved living standards; concern for the needs of the low paid and for those who are unable to reach an industrial agreement. It is to encourage ongoing skills development and look to equality of remuneration for work of equal value.

196 Consideration must be given to the economic circumstances prevailing in the State and nationally, with particular reference to economic indicators that relate to employment, the cost of living and productivity. The capacity of employers as a whole to bear any increase must be considered.

197 As the Minister notes, there is no definitive data on how many Western Australian employees rely directly on State Wage Case decisions. The Department of Commerce estimate in 2016 was that between 22% and 36% of WA employees are covered by the State system. That would need to be broken down into those covered by the minimum wage under the MCE Act and those covered by awards and industrial agreements.

198 Award reliance amongst WA employees is said to be around 16%, being approximately 172,500 employees, compared with around 24.5%, being 2,276,100, nationally.

199 There is a high degree of award reliance in the private sector industries of Accommodation and Food Services and Retail Trade.

200 The evidence also suggests, and we conclude, that in particular industries and industrial pay negotiations, the increases awarded through the State Wage Case are used as guides or signals for increases in rates of pay to significant numbers of employees beyond those directly covered by the State Wage Order. In many industries, the award is not merely the safety net above which actual rates of pay are negotiated, but may constitute the actual rates paid.

201 Therefore, a State Wage Order will have an effect on a significant number of employers and employees. Questions arise about how the effect will be felt, by the low paid, by award-reliant employees who receive wages at rates higher than the minimum wage, by apprentices, trainees



and junior employees. Its effect is also on employers and their use of labour arrangements, as well as their overall capacity to bear the increase, and on the economy generally. Perhaps above all, in weighing and balancing all of those issues, is consideration of what is fair in the broad range of circumstances.

- 202 The Commission must consider the current state of the Western Australian economy and to the extent that it is relevant, the national economy.
- 203 Firstly, we note that the Western Australian economy is performing poorly in comparison to its relatively recent performance and by comparison with other states and territories and nationally. This is in stark contrast to the days where the ‘two speed economy’ was referred to, where Western Australia’s economy was moving at a significantly faster pace than the remainder of the country. That has been reversed due to a number of causes, including the end of the construction and resources boom.
- 204 The data provided by the Minister and explained further by Mr Christmas shows that the circumstances prevailing in 2015 have not yet shown any real improvement in a number of measures. However, the forward estimates reflect a degree of improvement in the next two to three years. Western Australia’s domestic economy is forecast to contract by 6.75% in 2016-17. Gross State Product was 1.9% in 2015-16 and is forecast to be 0.5% in 2016-17. It is likely to rise to 2.5% in 2017-18 and 3.25% in 2018-19.
- 205 SFD was -3.9% in 2015-16, is predicted to be -6.75% in 2016-17, -1.25% in 2017-18 and 2.25% in 2018-19.
- 206 Investment in business and dwellings has declined. Dwelling investment increased moderately in 2015-16, but to December 2016 was -13.5% compared with 7.9% nationally. Population growth at 1.1% for 2015-16 is almost half the historical average of 2%, and modest growth is forecast over the next three years. Even then, it is not expected to return to the average within that time.
- 207 The labour market for Western Australia is weak. The ABS Labour Force data for April 2017 shows WA having a seasonally adjusted unemployment rate of 5.9%. While this is a slight improvement from March when it was 6.5%, it is also slightly higher than in April 2016 at 5.8%. This compares with a national unemployment rate of 5.7% for April 2017, seasonally adjusted. The WA female unemployment rate is 6.3%, marginally down on recent months, but still higher than the 5.7% a year ago.
- 208 Western Australia’s underemployment rate is 10.4% (seasonally adjusted), compared with the national rate of 8.7% (seasonally adjusted). For women in Western Australia, this was 12.9% (seasonally adjusted), compared with the national rate of 10.8% (seasonally adjusted).
- 209 The ABS April 2017 Labour Force data for employed full-time in Western Australia shows an increase from 915,400 in April 2016 to 935,000, in seasonally adjusted terms. Total employment in that period has increased from 1,348,500 to 1,357,400 in seasonally adjusted terms.
- 210 The Participation Rate has gone from 67.9% in April 2016 to 67.7% in April 2017 (seasonally adjusted) amongst a slight increase in population from 2,108,600 to 2,130,800.
- 211 CPI in Perth was 1.0% in 2015-16, and the same level of increase is expected in 2016-17. In the next three years, it is expected to grow by 1.75%, 2.25% and 2.5%. Nationally, the CPI actual rate for 2015-16 was 1.0%, but it is expected to rise by 1.75% in 2016-17 and 2.0%, 2.5% and 2.5% over coming years.

- 212 Both Western Australia's and the nation's youth unemployment rates are around the same level at approximately 12%.
- 213 The Department of Treasury expects subdued demand considerations 'to result in wage growth remaining weak in coming years'.
- 214 The Commission has, for a number of years, held the view that the WPI is the best measure of wages growth, it is to be preferred to the AWOTE as it is a less volatile measure, and we remain of that view. Western Australia's WPI increase of 1.2% from the corresponding quarter in 2016 was the lowest of all the jurisdictions. In the private sector, the WPI: Total Hourly Rates of Pay Excluding Bonuses was 1.0%, the lowest of all jurisdictions, compared with 2.1% for the public sector, which was the third lowest.
- 215 For the December Quarter 2016, in WA, it was 1.7%, the lowest recorded since the series commenced, and has slowed considerably since the end of the mining-led investment boom. It was more than 2% higher than the Perth CPI. Treasury expects the WPI to remain subdued in the near-term and to grow by an annual average of 1.5% in 2016-17 and 1.75% in 2017-18. At a national level, the WPI has also grown at its slowest pace on record at 2.0% in annual average terms for 2016.
- 216 The WPI for the March Quarter 2017 records that the public sector WPI rose by 0.6% seasonally adjusted in the December Quarter 2016 to March Quarter 2017, compared with the private sector which rose 0.5%.
- 217 Average Weekly Ordinary Time Earnings in WA fell from \$1,708.70 to \$1,703.20 in the year to November 2016. Average Weekly Earnings remained largely unchanged rising from \$1,326.80 to \$1,327.60.
- 218 The Gender Pay Gap is 23.9% in Western Australia compared with 16.1% nationally.
- 219 Business Operating Conditions in Western Australia show some industries face a more challenging trading environments than others. GOS and GMI for 2015 and 2016 shows mixed results:

<b>Industry</b>	<b>GOS + GMI June 2015 (\$m)</b>	<b>GOS + GMI June 2016 (\$m)</b>	<b>Annual Increase (\$m)</b>	<b>Annual Increase (%)</b>
Public administration and safety	1,256	1,398	142	11.3%
Construction	13,185	14,475	1,290	9.8%
Transport, postal and warehousing	5,669	6,120	451	8.0%
Financial and insurance services	6,067	6,399	332	5.5%
Health care and social assistance	1,510	1,571	61	4.0%
Retail trade	2,738	2,802	64	2.3%
Rental, hiring and real estate services	2,069	2,117	48	2.3%
Wholesale trade	2,501	2,542	41	1.6%

Industry	GOS + GMI June 2015 (\$m)	GOS + GMI June 2016 (\$m)	Annual Increase (\$m)	Annual Increase (%)
Education and training	809	819	10	1.2%
Manufacturing	4,555	4,596	41	0.9%
Other services	840	829	-11	-1.3%
Arts and recreation services	533	524	-9	-1.7%
Accommodation and food services	1,114	1,062	-52	-4.7%
Administrative and support services	395	367	-28	-7.1%
Information media and telecommunications	1,955	1,794	-161	-8.2%
Professional, scientific and technical services	2,318	2,126	-192	-8.3%
Electricity, gas, water and waste services	3,935	3,489	-446	-11.3%
Mining	50,625	42,093	-8,532	-16.9%
Agriculture, forestry and fishing	5,552	4,575	-977	-17.6%
<b>Total all industries</b>	<b>125,234</b>	<b>117,328</b>	<b>-7,906</b>	<b>-6.3%</b>

Minister's submissions, Table 6

- 220 The table shows two sectors which employ significant numbers of employees who are award-reliant having very different results – the Accommodation and food services, show a reduction of \$52 million or -4.7%, compared with an increase of \$64 million or 2.3% for the Retail trade sector. Taken across all industries, business profitability has declined by more than 20% in the years 2014-15 and 2015-16.
- 221 It is clear from the economic data that Western Australia's economy is in the poorest state it has been for many years compared to the national circumstances.
- 222 Business investment is forecast to fall by 32.5% in 2016-17 and a further 17% in 2017-18, before returning to positive growth in 2018-19. This means that Western Australia will see a 50% reduction in business investment this year and next.
- 223 Household spending makes up more than 50% of SFD. Non-discretionary spending on items such as food, rent, utilities, fuel, health, vehicle operating costs, transport services and education services have grown over the last two years, whereas discretionary spending has become negative in that time. Household consumption is about half the historical average of 4%, and is expected to grow to around 3%, still below that average, by 2019-20.

- 224 Wage growth is very low but it is the same or higher than the growth of the cost of living as measured by the CPI over the forward estimates period. In the private sector covered by the State industrial relations system, growth in wages is slower than the public sector.
- 225 We maintain our view that it is not appropriate to disaggregate the CPI. We do, however, note the costs borne particularly by the low paid in low income households, who face challenging rental costs and, alternatively or additionally, travel costs to attend work or for interviews if they are seeking employment.
- 226 The Fair Work Commission in its Annual Wage Review 2016-17 ([2017] FWCFB 3500) examined in some detail the issues of the needs of the low paid, relative measures of poverty and the tax transfer system. It noted that the tax transfer system and the composition and levels of employment of households moderated inequality in household disposable income. However, the last two Commonwealth Budgets have reduced the financial assistance that is provided for low income families with children. It also notes that '[a] majority of low-wage workers are single without children and the many who work full-time are not assisted by the social welfare system; indeed they have their disposable incomes reduced by income tax' ([65]).
- 227 It also made the following comments:

The level of the [National Minimum Wage] and modern award rates of pay have a significant role to play in seeking to reduce the financial stresses on families. But this role does not extend to a requirement to set the NMW at a level that ensures that a single-earner couple family with children on the NMW has an equivalent disposable income that exceeds the 60 per cent poverty line.

[2017] FWCFB 3500 at [67]

- 228 It also noted that those living in poverty are unable to meet their needs and that full-time employees can reasonably expect a living standard that exceeds poverty levels ([461]).
- 229 The *Fair Work Act* does not direct the Fair Work Commission to target poverty among those in employment, but it does direct them to consider the needs of the low paid, balanced against other considerations ([462]).
- 230 In respect of income levels in selected households compared with the 60% median income poverty line, the Fair Work Commission noted:

**[464]** We draw out 3 insights from the table. The first is that all categories of family type and minimum wage rate have had some small increase in their income relative to the selected measure of poverty over the period from 2011 to 2016. Table 8.6 in the Statistical report confirms that this was true also for the year to December 2016. The second is that most family types have incomes above the relative poverty line even if they are on the NMW, with the greatest margin being for a single parent with one child. The third is that the family types that have an income that is below the 60 per cent poverty line are those that have an adult who is not in the labour force (i.e., does not receive a wage or the Newstart Allowance). This applies whether or not there are children in the household. Indeed, the family with the biggest gap between their income and the poverty line is the single-earner couple with no children and one partner not in the labour force or actively seeking employment. No party contended that the NMW should be at a level which would enable a couple without dependent children to have sufficient income such that one able-bodied partner neither has to work nor seek work.

...

[467] The tax-transfer system plays a major role in raising the living standards of minimum wage families that have children. It does not, however, support them to the point where they can have an adult not in the workforce and still have an income above the 60 per cent poverty line.

...

[469] The level of minimum wages has some role to play in seeking to reduce the financial stresses on families. But this role does not extend to a requirement to set the NMW at a level that ensures that a single-earner couple family with children on the NMW has an equivalent disposable income that exceeds the 60 per cent poverty line. The 60 per cent poverty line is arbitrary, and a fair and relevant safety net must take account of the full range of statutory considerations, be fair to employers as well as to employees, and be alert to the likelihood that at some level of increase, it will probably reduce employment opportunities for lower-skilled people.

- 231 We respectfully endorse those observations.
- 232 In the circumstances before us, meeting the needs of the low paid and providing for improved living standards can be assisted by increases in the minimum wage and award wages that recognise increases in costs of living and, where the economic circumstances are favourable, to improve living standards. The issue comes back to the balancing of the competing forces and the level of the increase.
- 233 The Commission has taken the view in more prosperous economic times that an increase in the minimum wage and award wages above the increase in the cost of living is appropriate and sustainable. However, we note that the current times are far from prosperous in some sectors, as shown by GOS plus GMI.
- 234 Although Western Australia's economy is in a trough, most likely at the bottom of that trough before improvements eventuate in a range of indicia, there are some, although limited signs, which may lead to optimism toward improvement in a year or two. Minerals exploration applications and motor vehicle sales are two examples. However, minerals exploration has a long gestation period and positive results in employment is unlikely to flow for some time.
- 235 Section 50A(3)(b) requires us to consider the state of the Western Australian economy and the likely effect of this decision on that economy and, in particular, on the levels of employment, inflation and productivity. Those circumstances indicate that a moderate increase, to reflect the increase in the cost of living and to provide for some wages growth, may be appropriate. It would have the effect of providing a fair wage in the context of living standards generally prevailing in the community. It will assist in ensuring that Western Australians have a fair system of wages. It will contribute, along with other measures, to meeting the needs of the low paid.
- 236 While the submissions presented to us do not address directly the issue of increasing productivity, a modest increase in the minimum wage is likely to prompt employers to focus on measures to improve productivity. Some of those measures may have negative impacts on employment while others may have stimulatory effects, such as increasing skill levels.
- 237 CCIWA advocates for no increase to the minimum wage. The statutory requirement is that the Commission consider the need to contribute to *improved* living standards for the low paid. That is not to say that the Commission is obliged to actually contribute to improved living standards, but it is required to consider the need to do so. Whether in any given year, or in any particular circumstance, that the need can be met is a matter to be determined.

- 238 In the circumstances of the current economic environment, the needs of the low paid and the improvement in living standards need to be considered in the light of employers' likely responses to increased rates of pay.
- 239 We noted in last year's decision, at [156] – [162], Professor Barrett's evidence, Mr Christmas's comments regarding the substitution of low paid labour, the Productivity Commission's 2015 Workplace Relations Framework – Inquiry Report, Volume 1, p 185, and the Fair Work Commission's data. At that time, we commented that:
- 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.
- 240 We have also considered UnionsWA's thoughtful submission about the stimulatory effect on the WA economy of a substantial wage increase for the low paid. This notes the dampening effect of slow wages growth and low household expenditure on the economy.
- 241 While that submission may have some elements to commend it, there are competing submissions that the increased cost to the employer far outweighs the money in hand received by the employee which could add to the economy. The remainder goes in tax, superannuation, workers' compensation and other costs; and the multiplier effects of any increase have broader beneficial results for the economy. There is also the impact of lesser capital available to employers for business investment, which is already at very low levels.
- 242 UnionsWA puts to us the same argument put to the Fair Work Commission by the ACTU regarding the stimulatory effect a significant increase could bring to the economy. In that regard, the Fair Work Commission said ([528]):
- We accept the submissions of [Australian Industry Group] and [Australian Business Industrial and NSW Business Chamber Ltd] that the ACTU modelling has not taken into account these offsetting effects, and that the multiplier effect of a minimum wage increase is not likely to be comparable to that of a public sector macroeconomic stimulus. Nonetheless, the ACTU submission makes the important point that increases to the NMW and award wages are likely to have some effect on consumer demand that needs to be taken into account.
- 243 This observation concurs with our view that the State minimum wage and award wage increases assist in raising household income, and as such, may have some effect on stimulating consumer demand and, consequentially, the economy. However, the effect of each dollar increase paid by the employer is discounted in the hands of the employee. The model used for the multiplier effect has some limitations, as noted by the Fair Work Commission. The effect of the increase on the economy can be beneficial. It again comes down to the level of the increase.

*The monopsonist power of employers*

- 244 UnionsWA also refers to the workings of the labour market and the effects of the minimum wage on employers' hiring and pay intentions. Particular reference was made to Professor Krueger's and Alan Manning's papers dealing with monopsonist employer responses.
- 245 Monopsony power refers to a situation in which there is one dominant buyer who is able to set the price to maximise profits. In the case of the labour market, it is one major employer who sets low wages as there is no competition from other employers offering higher wages. The model demonstrates that the imposition of a minimum wage does not increase unemployment but will decrease it.
- 246 UnionsWA says Western Australian employers have 'monopsonistic characteristics'. This would have the consequence of supporting a conclusion that increases in the minimum wage have very little impact on employment. However, there is very little by way of evidence which would enable us to reach the conclusion that the Western Australian employment market has those monopsonistic characteristics.
- 247 Further, Professor Krueger's article, 'The Rigged Labor Market', relates to anti-competitive practices by employers in the United States of America, mainly through collusion by agreements amongst employers not to poach each other's employees, to prevent escalation of rates of pay. It also notes other limitations on employees changing employment to obtain higher rates of pay.
- 248 In his final paragraphs, Professor Krueger's refers to President Trump addressing the 'rigged economy' by doing three things:
- (a) raising the federal minimum wage, which has remained at [US]\$7.25 an hour since 2009 and which Mr. Trump pledged to raise to \$10 an hour during the campaign; (b) reining in the excessive use of noncompete clauses; (c) vigorously enforcing antitrust laws to prohibit employer anticompetitive practices; and (d) increasing worker bargaining power.
- Professor Alan Krueger, 'The Rigged Labor Market' (2017)  
second quarter *The Milken Institute Review* 34, 45.
- 249 We note the low level of the US minimum wage and that there is no evidence before us of such employer collusion.
- 250 Without a full examination and proper comparison of the US labour market and minimum wage and employment arrangements, the relevance of this article to the employment arrangements in Western Australia is difficult to determine.
- 251 We also note that Professor Krueger is referring to a labour market where there is no binding minimum wage and the effects after the introduction of a binding minimum wage. He draws conclusions about what the monopsonist firm could do in terms of filling vacancies 'provided the minimum wage wasn't set too high'.
- 252 This comes back to the same issue raised by Professor Plowman in 2006 (Professor David Plowman, *Report Prepared for the Western Australian Industrial Relations Commission: State Minimum Wage Review, May 2006*), that the effects of minimum wage increases are moderated by the State's economic growth. As we noted in last year's State Wage Case decision, 'where the State does not experience economic growth, this finding suggests that the effects of the increases in the minimum wage will be greater than in times of growth' ([175]).

253 Alan Manning's article, 'The Elusive Employment Effect of the Minimum Wage', relates mainly to the situation prevailing in the United States of America. However, it also contains brief paragraphs on the international evidence. In respect of Australia, it refers to the federal minimum wage but says that the situation is complicated by the system of modern awards:

... which sets minimum wages by industry, occupation, and seniority. As a result there are over 1500 different minimum wages in total, and the federal minimum wage is simply an absolute floor. But even the federal minimum is at a relatively high level relative to average earnings- around 16% of workers are currently paid the minimum wage (Plunkett and Borland, 2014). In fact, the OECD statistics suggested that in the late 1990s they were higher than those in France and [sic]. But, unlike France, the Australian labour market has not been plagued by persistently high unemployment rates (it is currently 6.1%).

Like France, the nature of the minimum wage variation in Australia does not lend itself to a high quality research design when it comes to investigating the impact of minimum wages on employment and the literature is small. But it is a useful counterpoint to the argument that all the countries with the highest minimum wages have a very clear unemployment problem.

Alan Manning, *'The Elusive Employment Effect of the Minimum Wage'*  
(2016) June *Washington Centre for Equitable Growth*, 14 – 15.

254 In the conclusion, Manning says that:

Much of the literature on the employment minimum wage focuses on the question of 'what is the employment effect of the minimum wage' using an empirical specification in which the effect is always negative, zero or positive, and focusing heavily on the evidence for American teens. We have reached the point of diminishing returns to this. A balanced view of the evidence on teen employment makes it clear that any evidence of a negative employment effect is not robust to reasonable variation in specification, even when the wage effect is robust. This might mean that the labor demand elasticity is very small (and this paper has discussed some reasons why that might be the case) but it might mean that the effect is not negative at all. The claim that the employment effect might not be negative continues to be met with incredulity in some quarters, or euphemistically described as 'non-conventional'. But the 'conventional' view is based on a model of the labor market in which all unemployment is voluntary leisure.

...

Of course there is some level of the minimum wage at which employment will decline significantly. The literature should re-orient itself towards trying to find that point. One cannot when the observed range of minimum wages does not include the turning-point but recent initiatives suggest we may be about to observe the impact of much higher minimum wages in the near future. Together with, hopefully, an increased use of high-quality payroll data, we may be about to learn more.

Alan Manning, *'The Elusive Employment Effect of the Minimum Wage'*  
(2016) June *Washington Centre for Equitable Growth*, 15 – 16.

255 Therefore, international research, insofar as it is relevant, confirms the conclusions reached by us in previous years. The effect of modest and regular increases in the minimum wage do not result in adverse employment effects. The Fair Work Commission says, in that context, that the research suggests its previous approach to what constitutes 'modest' may have been overly cautious. We note that in more prosperous times, the minimum wage and award wages in WA have been increased by more than the increases applied to the national minimum wage. This has recognised the relative strength of the Western Australian economy in comparison to the national economy, but also in the capacity of the economy to bear additional costs to assist in improving living standards.



- 256 Therefore, to provide the benefits to employees, the increase in the State minimum wage and award wages must be affordable by businesses, particularly the smaller businesses covered by the State system and should act as a stimulant rather than a further burden on businesses.
- 257 This is particularly important given the current and predicted relatively high level of unemployment. Award reliance in WA is the lowest of all jurisdictions.
- 258 In protecting employees who are unable to reach an industrial agreement, the Commission notes that this is made up of three groups:
- (a) award-free employees.
  - (b) those who are paid according to awards;
  - (c) those for whom an agreement was previously reached but the agreement has now expired and will not be replaced, and the parties will continue to apply the rates from that expired agreement;

Our decision takes account of the needs of these groups.

***Equal remuneration for men and women for work of equal value***

- 259 In the 2016 State Wage Case decision [2016] WAIRC 00358, we dealt in some detail with this matter. We noted that the Wage Principles enable a claim to be brought where award wages do not reflect equal remuneration for work of equal value. Such claims have particular industries and callings as their focus.
- 260 We also noted that this issue is not the same as the gender pay gap. Having said that, we recognise the importance of the gender pay gap as a social and economic matter of equity. Its causes are historical and well documented. They will not, in our view, be addressed solely, or even substantially, by reference to wage fixing mechanisms within the industrial relations system, but require a broader focus.
- 261 However, we are conscious of the significant gap between the pay of men and women. The submissions and research put to us this year indicate that very little has changed except that the gender pay gap in Western Australia has reduced very marginally. It is still the greatest in Australia.
- 262 We reiterate our view that the Western Australian minimum wage ‘assists in a limited way to lessen the gender pay gap in WA’ ([2014] WAIRC 00471; (2014) 94 WAIG 641 at [98]).
- 263 UnionsWA also deals with pay equity and the effect of the minimum wage increase by reference to Australian literature. Under the heading of ‘Broad impact of minimum wages on employment’, UnionsWA quotes Assistant Governor (Economic) of the Reserve Bank of Australia, Luci Ellis (‘Women in the Economy and in Economics’, 20 March 2017) that:
- It is common to assume that if wages are lifted by the powers of the state, rather than by the forces of supply and demand, employment of the affected group will fall. That is not what happened to women in the 1970s. As the graph above shows, female employment increased, participation increased, and a wider range of occupations opened to women.
- 264 However, Dr Ellis went on to note:
- That outcome should be seen in the context of the substantial increase in educational attainment for both males and females in the post-war period. Much of that increase had already occurred before the equal pay decisions.

- 265 Dr Ellis proceeds to look at the social and educational changes which occurred particularly in respect of women now being more likely than men to have a tertiary education.
- 266 Therefore, while on its face, the extract quoted by UnionsWA might appear to support its general thesis about the effect of increases in the minimum wage on employment, taken in context, the paper is more about societal change than about minimum wages.
- 267 In considering the need to ensure that the award framework represents a system of fair wages and conditions of employment, we take account of the slight compression in relativities that has occurred over the years due to flat dollar wage increases. We are also conscious of the competing needs to ensure that the needs of the low paid are dealt with and to maintain the margins for skills. The margin for skill reflects the effort and investment employees make in their skills development and that makes their work more valuable to their employers and the economy. In that context, we are of the view that a percentage increase for the level C10 and above is appropriate.

### ***Fair Work Commission Annual Wage Review***

- 268 In accordance with s 50A(3)(f), the Commission is required to consider relevant decisions of other industrial courts and tribunals. The Fair Work Commission's Annual Wage Review 2016-17 ([2017] FWAFB 3500). This is a relevant decision for a number of reasons, not least of which is that the number of employees and employers covered by that decision is significant, many of them in Western Australia. Those employers are engaged in the same industries as those covered by the State system and their respective workforces are significantly interchangeable. Businesses are competing in the same market and will therefore have wages costs which will make a difference to their competitiveness and profitability.
- 269 The FWC decision relies on a different, though not significantly different, statutory criteria for its consideration.
- 270 The FWC took into account the circumstances applying across all jurisdictions. The FWC noted that it 'takes into account the circumstances of different regions, industries and sectors as part of its broader consideration of the national economy' ([170]). However, given its national coverage, it is the national economy which is its focus, as it ought to be.
- 271 The national minimum wage decision takes account of aggregate economic conditions, across all states and territories. The national levels of economic activity at this time are 'pulled up' by the strength of the New South Wales and Victorian economies, particularly given the size of those economies relative to the remainder. For the purposes of that decision, the circumstances in WA are thereby overshadowed by that aggregation. The more buoyant, confident and prosperous situation faced by the aggregate has resulted in the FWC concluding that it is able to award a more substantial increase than it might otherwise.
- 272 The FWC notes that at a national level, 'business conditions are at their most positive since the GFC' ([263]). It also notes that for three of the four most award-reliant industries, business entry rates of new businesses exceeded exit rates in 2016. Retail was the exception to this ([253]). The Fair Work Commission notes that the WPI for the private sector was more relevant than for the whole economy given the nature of those covered by the Annual Wage Review ([283]).
- 273 As noted in respect of a number of very important economic indicia, Western Australia's economy is not as soundly placed nor growing at the same rate as the rest of the nation.

- 274 The FWC has increased the national minimum wage by 3.3% to \$694.90 or \$18.29 for a 38 hour week.
- 275 We note the Fair Work Commission's conclusion regarding the influence of the national minimum wage increase on collective and individual bargaining. However, we note that the *Fair Work Act* s 134(1)(b) requires the Fair Work Commission to take account of 'the need to encourage collective bargaining'. That is a different focus to the consideration we are required to have in the need to protect employees who may be unable to reach an industrial agreement.
- 276 The total difference between the national minimum wage and the State minimum wage has been up to \$25 per week. That difference declined in 2016 when WA's economic circumstances were less favourable than they had been, and the difference at this point is \$20.20 per week.

### **Conclusion**

- 277 In coming to a decision in this matter, we have taken account of and attempted to balance the various statutory components set out in s 50A(3) of the Act.
- 278 We conclude that it is appropriate to increase the State minimum wage by \$16 per week, taking it to \$708.90. The same increase will apply to award rates below the C10 classification level, and 2.3% to C10 and above. These increases are fair and equitable, and affordable in the circumstances facing Western Australian employers covered by this decision. This is in the context of the needs of both employees and employers. It is in excess of that necessary to cover the increase in the cost of living but ought to be affordable to employers as a whole. It will assist by contributing to improved living standards.
- 279 The structure of the increases focusses mostly on the low paid but also recognises the need to prevent the further but slight compression of relativities and will recognise and encourage skills development.
- 280 The increase is again less than the increase granted in the FWC's Annual Wage Review, however, it takes account of the quite significant difference in economic conditions applying in Western Australia to the aggregate national situation. It reduces the gap between the national and State minimum wage rates by a further amount, from WA having a minimum wage of \$20.20 higher than the national minimum wage to it being \$14, a reduction in that difference three years in a row. We note, however, that this is not the main consideration to be had in State Wage decisions and reject any suggestion that it ought to be our focus.
- 281 This increase it is able to be absorbed into any over-award payment and applies only to those employees who are paid the minimum wage or award wages. Any wage paid above the award wage is able to be used to offset the increase.
- 282 Percentage increases are to be applied to the junior rates, once again to maintain the attractiveness of juniors, apprentices and trainees to employers and also to encourage skills development. It is not appropriate to have junior employees, including apprentices and trainees, paid at the adult rate. For at least some of their training, apprentices and trainees need to be supervised and employers need to be encouraged to take on apprentices and trainees. This is particularly so given the significant reduction in the number of new starts to trainee and apprenticeships in recent years.
- 283 Percentage rates of the minimum wage for juniors are set out in the *Minimum Conditions of Employment Act 1993* (s 13) and are not altered by this decision.

284 The increase will also take into account that some employees are not able to reach industrial agreements. However, it should not deter employers from bargaining.

**Minutes of proposed general order**

285 A minute of proposed general order now issues. The Commission should be advised by 4.00 pm on Friday, 16 June 2017 whether or not a speaking to the minutes is required. If a speaking to the minutes is required, it will be dealt with on the papers, and written submissions should be received by 4.00 pm on Monday, 19 June 2017.

*EDITOR'S NOTE:*

*[104] and [280] edited in accordance with Corrigendum 19 June 2017 [2017] WAIRC 00354)*