



**GOVERNMENT OF
WESTERN AUSTRALIA**

Industrial Relations Act 1979

**IN THE WESTERN AUSTRALIAN
INDUSTRIAL RELATIONS COMMISSION
No. 1 of 2021
ON THE COMMISSION'S OWN MOTION**

**SUBMISSION IN REPLY OF THE MINISTER FOR
INDUSTRIAL RELATIONS**

Re: 2021 STATE WAGE ORDER

Filed by:
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on behalf of the Minister for Industrial Relations

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Introduction

1. In February 2021, the Western Australian Industrial Relations Commission (**WAIRC**) issued Application 1 of 2021 on its own motion. The application seeks to make a State Wage order pursuant to section 50A of the *Industrial Relations Act 1979 (IR Act)* to determine rates of pay for the purposes of the *Minimum Conditions of Employment Act 1993* and State awards.
2. On 11 May 2021, the Minister for Industrial Relations (**the Minister**) filed a submission on behalf of the Western Australian Government, supporting an increase of \$19.20 per week to the State Minimum Wage and adult award rates of pay, with a proportionate increase to junior employees, apprentices and trainees.
3. The Minister's initial submission canvassed a variety of economic and labour market data relevant to this year's proceedings, and addressed a variety of issues the WAIRC is required to consider when making a State Wage order.
4. This Submission in Reply responds to the submissions of the other parties participating in the 2021 State Wage Case proceedings.
5. Updated forecasts for national economic and labour market indices are also included at the end of this submission, following the release of the Federal Budget on 11 May 2021.

Position of other parties

6. The Minister notes the following positions have been advocated by parties participating in this year's State Wage Case:
 - (a) **UnionsWA** is advocating for an increase of 4.0 per cent or \$30.40, whichever is the greater, to the State Minimum Wage and State award wages.¹
 - (b) the **Chamber of Commerce and Industry of WA (CCIWA)** proposes the State Minimum Wage and award rates of pay be maintained at their current levels.
 - (c) the **Western Australian Council of Social Service (WACOSS)** is seeking a 4.0 per cent (\$30.40 per week) increase to the State Minimum Wage. It does not advocate a specific position regarding State award wages.
7. Professor **Alison Preston** also provided two pieces of research relevant to the Western Australian labour market to assist the WAIRC with its deliberations in this year's State Wage Case proceedings.
8. The following section responds to the submissions of the above parties in further detail.

¹ The Minister notes that 4.0 per cent is equal to, or greater than, \$30.40 in all cases, and as such, UnionsWA is effectively advocating for an increase of 4.0% to the State Minimum Wage and State award wages.

Consideration of other submissions

CCIWA

Position

9. In its submission, the CCIWA advocates the State Minimum Wage and State award rates of pay be maintained at their current levels, ostensibly on the grounds that many small businesses cannot sustain an increase at the present time.
10. The Minister acknowledges that many Western Australian businesses have faced challenging conditions over the past year, as a number of necessary measures have had to be implemented to prevent the spread of the COVID-19 virus in the community.
11. Small business has been at the front line of the COVID-19 response in many instances, and small business employers are to be congratulated for both their vital role in keeping Western Australia safe and their contribution to the State's economic recovery.
12. While not disputing the many challenges businesses and consumers have faced since the onset of the COVID-19 pandemic in early 2020, the Minister contends that current conditions do not warrant a wages freeze in this year's State Wage Case.
13. As noted in the Minister's primary submission, there has been a marked improvement in the Western Australian economy and labour market, something that is borne out in a wide variety of available data. The local jobs market has tightened considerably in recent months, with unemployment falling substantially and advertised vacancies rising markedly.
14. While this improvement in the Western Australian economy reflects the buoyant conditions in the mining industry, the State economy as a whole has benefited from the flow on impacts of this increased economic activity in the mining industry, including increased demand for goods and services from local businesses.
15. While the Minister acknowledges that particular sectors continue to be impacted by the effects of the pandemic, it would not be appropriate for the wages of all State system employees to be frozen in this year's State Wage Case, as is supported by the CCIWA.
16. A wages freeze would effectively result in a real wage reduction for many low paid workers, leading to reduced disposable income for Western Australia's lowest paid workers. A wages freeze would be also inconsistent with much of the criteria prescribed in s 50A(3) of the IR Act, in particular the need to -
 - ensure that Western Australians have a system of fair wages and conditions of employment;
 - meet the needs of the low paid;
 - provide fair wage standards in the context of living standards generally prevailing in the community; and
 - contribute to improved living standards for employees.

Minimum wage rates in the State and national jurisdiction

17. In its submission the CCIWA raises the issue of the State Minimum Wage being \$6.20 per week higher than the National Minimum Wage, and contends that Western Australian small businesses face a comparative disadvantage with their national system counterparts. In particular, the CCIWA states that an employer in a local food court faces higher minimum wages than the multinational McDonald's.
18. With respect, the Minister contends this is not an accurate reflection of the differences between award wage obligations in the State and federal systems. While some rates of pay in State awards are marginally higher than equivalent classifications in corresponding national modern awards, there are many instances where the reverse is true and national modern awards contain higher minimum wages.
19. The Minister notes that the National Minimum Wage for adult casual employees is currently higher than the equivalent State Minimum Wage, as the relevant casual loading is higher in the national jurisdiction.² Many State awards also provide for a 20 per cent casual loading, whereas in the national system the casual loading is a minimum of 25 per cent in all national modern awards.
20. It is also relevant to note that many State awards contain wage rates that are only equal to, or lower than, the State Minimum Wage, and in many older awards, these rates are not introductory or transitional.³ A substantially higher proportion of workers are also award free in the State jurisdiction, and these employees are only protected by the State Minimum Wage.
21. In the national system only 45 out of the 122 national modern awards contain wage rates equal to the National Minimum Wage, and of these 45 awards, the National Minimum Wage is transitional in 39 of them, with employees progressing to higher wage rates after a particular (usually short) period of time. The other 77 national modern awards only provide for wage rates above the National Minimum Wage.
22. Regarding the example of the local food court and McDonald's, in Western Australia McDonald's franchises generally operate in the national industrial relations system, and its employees are currently paid under the *Fast Food Industry Award 2020*.
23. A number of the casual rates of pay for a level 1 employee working under the *Fast Food Industry Award 2020* are higher than the equivalent casual pay rates for a Level 2 employee working under the *State Restaurant, Tearoom and Catering Workers' Award*.⁴ The question of which award contains the higher rates will depend on the age of the employee concerned, whether they are employed on a casual or permanent basis, and the days and times they are working.

² The National Minimum Wage for casual employees includes a 25 per cent casual loading, whereas in the State jurisdiction the casual loading is 20 per cent for the State Minimum Wage.

³ A handful of State awards currently contain wage rates below the statutory minimum. Notwithstanding this, the State Minimum Wage is implied into such awards and takes precedence over any rates of pay that are below it.

⁴ Most non-supervisory employees working under the *State Restaurant, Tearoom and Catering Workers' Award* would be Level 1 or Level 2, although many would be classified as Level 2. In contrast, most non-supervisory employees working under the national *Fast Food Award 2020* would be Level 1.

24. The Minister submits a fair and sustainable increase in minimum and award wages in this year's State Wage Case will not place Western Australian employers at a competitive disadvantage with their federal system counterparts.
25. Western Australia also has the advantage of receiving the outcome of the Annual Wage Review (National Wage Case) prior to finalising the State Wage Case proceedings, which enables the WAIRC to assess the relative position of State system employers and employees with those in the national jurisdiction prior to making a final determination.

UnionsWA

Position

26. The Minister notes UnionsWA's contention that there should be a substantial real wage increase for award reliant workers to address the widening gap between low paid workers and the rest of the workforce. UnionsWA's submission also draws attention to the low levels of wages growth Western Australia workers have experienced in recent years, and suggests that a substantial real wage increase to minimum and award wages would help to counteract this.
27. While the Minister acknowledges the important role that minimum and award wages play in protecting the needs of the low paid and providing dignity and security for Western Australian workers, the Minister contends that any increase awarded in 2021 must still be affordable for business and not jeopardise the successful economic recovery currently underway.
28. Since March of last year State and Federal Governments have implemented extensive initiatives to protect vulnerable workers and help cushion the impact of a one-in-one-hundred year pandemic. While governments have the financial capacity to stimulate the economy, the Minister submits that some small business employers in the State industrial relations system may not have the means to meet a 4.0 per cent wage increase in the present climate.
29. The Minister would not wish to see any substantial improvement in wages come at the expense of jobs and working hours for Western Australian employees.
30. While business confidence has improved significantly in recent months, a number of businesses are still recovering from the impact of earlier measures implemented to control the spread of COVID, and this is a factor weighing in favour of a more moderate increase in this year's State Wage Case.
31. The Minister also notes that while the State Wage order is important for those individual employees who are subject to it, its macroeconomic impact on aggregate spending is somewhat limited by the jurisdictional coverage of the State industrial relations system and the number of employees who are paid minimum or award wages.

Vulnerable employees

32. The Minister agrees with UnionsWA that women are more likely to be engaged on minimum pay rates, and that vulnerable groups of employees, including female workers, are likely to be prevalent in the private sector of the State industrial relations system.
33. The fact that many low paid female employees are concentrated in the State industrial relations system reinforces the need for a fair and sustainable increase in minimum and award wages in this year's State Wage Case, as recommended by the Minister.

Encouraging ongoing skills development

34. As also discussed in UnionsWA's submission, a number of State and Federal Government incentives and subsidies have been made available to facilitate the uptake of training opportunities and to enable employers to retain Western Australian apprentices and trainees.
35. The Minister notes that apprentice and training numbers increased appreciably in Western Australia during 2020, and contends that the many generous financial initiatives available to incentivise training should give the WAIRC confidence that a fair and sustainable increase in minimum and award wages will not jeopardise ongoing skills development.

WACOSS

Position

36. In its submission, WACOSS considers a 4.0 per cent increase "to be essential in meeting the needs of the low paid and to contribute to improved living standards for employees".
37. As the quantum proposed by WACOSS is the same as that of UnionsWA, the Minister's earlier comments regarding UnionsWA's position are also relevant to WACOSS.

Social equity considerations

38. The Minister acknowledges the detailed information provided by WACOSS regarding living costs, inequality and poverty, including issues concerning access to affordable housing, food and energy amongst marginalised and vulnerable members of the community. This information provides valuable background for the WAIRC's consideration of the s 50A criteria for the State Wage Case.
39. As WACOSS notes, not all employees were eligible for the Federal Government's JobKeeper program, particularly casual employees with less than 12 months service and international students and other migrant workers. Many of these workers would be concentrated in low paid industries.

40. The Minister concurs with WACOSS that women are more likely to be minimum and award wage earners, and are therefore more affected by the State Wage Case. As WACOSS notes, Western Australia has a higher gender pay gap than other states and territories, in part due to the gender segregated nature of the workforce and the fact that males are concentrated in higher numbers in certain highly paid segments of the labour force.
41. WACOSS also notes that women were disproportionately impacted by the exclusions from the JobKeeper program, due to their greater concentration in insecure and casualised jobs in the industries most affected by the COVID-19 pandemic.
42. The Minister submits that these social and gender equity considerations raised by WACOSS provide support for an appropriate and sustainable increase in minimum and award wages in this year's State Wage Case. An increase in real wages is important to help overcome income hardship, reduce housing stress and improve gender wage equality and female workforce participation.

Professor Preston

43. The Minister acknowledges the labour market research contributed by Professor Alison Preston from the University of Western Australia and notes that the research reports provide valuable background information to assist the WAIRC's consideration of the s 50A criteria for the State Wage Case.

Updated economic forecasts

2021-22 Commonwealth Budget

44. The Commonwealth Government released its 2021-22 Budget on 11 May 2021.
45. The Commonwealth notes that the Australian economy is recovering strongly from the impact of the COVID-19 pandemic, which saw the economy fall into recession for the first time in almost 30 years. The output of the Australian economy is now expected to exceed pre-pandemic levels in the March quarter 2021, with robust growth expected over the forecast period, supported by ongoing momentum, the vaccine roll-out, continued fiscal support, and strengthening private sector activity.
46. The Budget's assessment is that 'the global economic recovery is also gathering pace, with stronger-than-expected activity in the December quarter of 2020 for most of Australia's major trading partners'. At the same time, 'the recent strength in key commodity prices, particularly iron ore, has supported activity in the mining sector, which will flow through to benefit the broader economy'.
47. The Commonwealth also notes that employment has more than recovered the job losses seen during the pandemic, which together with the participation rate has reached a record high. Further, the unemployment rate appears to have passed its peak, notwithstanding the ending of JobKeeper. Indeed, based on continued growth in employment through two transitions in JobKeeper (September to December and December to March), 'the unwinding of the JobKeeper payment (in March) is not expected to impede the broader recovery.'
48. The Commonwealth's assessment is that overall, the economic outlook remains positive, with robust growth over the forecast period expected to drive continued improvement in labour market conditions. However, there are still considerable risks to the outlook. In particular, the outlook is predicated on the effective containment of the COVID-19 virus outbreaks, including those which arise from new strains. Experience in other countries highlights that further outbreaks remain a real risk.
49. Table 1 summarises the key economic forecasts from the 2021-22 Budget.

Table 1: Major Economic Parameters ^(a)

	Outcomes	Forecasts				
	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
Real GDP	-0.2	1.25	4.25	2.5	2.25	2.5
Employment	-4.2	6.5	1.0	1.0	1.25	1.25
Unemployment rate	6.9	5.5	5.0	4.75	4.5	4.5
Consumer Price Index	-0.3	3.5	1.75	2.25	2.5	2.5
Wage Price Index	1.8	1.25	1.5	2.25	2.5	2.75

(a) Real GDP and Nominal GDP are percentage change on preceding year. The consumer price index, employment, and the wage price index are through-the-year growth to the June quarter. The unemployment rate is the rate for the June quarter

Source: 2021-22 Budget, Commonwealth Department of Treasury