



**GOVERNMENT OF
WESTERN AUSTRALIA**

Industrial Relations Act 1979

**IN THE WESTERN AUSTRALIAN
INDUSTRIAL RELATIONS COMMISSION
No. 1 of 2022
ON THE COMMISSION'S OWN MOTION**



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

Re: 2022 STATE WAGE ORDER

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Introduction

1. In February 2022, the Western Australian Industrial Relations Commission (**WAIRC**) issued Application 1 of 2022 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 13 May 2022, the Minister for Industrial Relations (**the Minister**) filed a submission on behalf of the Western Australian Government.
3. The Minister's initial submission canvassed a variety of economic and labour market data relevant to this year's proceedings, and addressed some of the key social criteria the WAIRC is required to consider.
4. While not recommending a specific position for minimum and award wage adjustments, the Minister's submission noted the resilience of the Western Australian economy, and submitted that the prevailing conditions should give the WAIRC confidence to award a fair increase in minimum rates of pay as part of this year's State Wage Case, taking into account current and emerging economic data and the statutory criteria outlined in section 50A of the IR Act.
5. This Submission in Reply responds to the submissions of the other parties participating in the 2022 State Wage Case proceedings.
6. The Minister notes that further key sources of data are set to be released in the coming days, and the Minister will provide further commentary on these in due course throughout the State Wage Case proceedings.

Position of other parties

7. 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 7.6 per cent to the State Minimum Wage and State award wages.
 - (b) the **Chamber of Commerce and Industry of WA (CCIWA)** advocates for a flat dollar wage increase that meets the needs of the low paid and promotes a fair system of wages and conditions of employment by not disadvantaging small business operators through a higher minimum wage.
 - (c) the **Western Australian Council of Social Service (WACOSS)** is seeking a 7.6 per cent (\$59.20 per week) increase to the State Minimum Wage. It does not advocate a specific position regarding State award wages.
 - (d) Professor **Alison Preston** also provided a submission 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.

Consideration of other submissions

CCIWA

Dominance of the resources sector

9. In paragraph 4.1 of its submission the CCIWA refers to the dominance of the resources sector in driving the State's economic growth, and states that this is not reflected within other sectors of the economy.
10. While the strength of the Western Australian economy is undoubtedly anchored by the buoyant conditions in the mining industry, the Minister notes that many other industries have also benefited significantly from the flow on impacts of the income generated from the mining industry, including increased demand for goods and services from local businesses.
11. As illustrated in the Minister's initial submission, most industries have experienced robust employment growth in Western Australia over the past 12 months. A majority of industries have also experienced an increase in aggregate income over this period (as measured through Gross Operating Surplus plus Gross Mixed Income).
12. The Minister contends this should give the WAIRC confidence to award a fair increase in minimum rates of pay as part of this year's State Wage Case proceedings.

Impact of amendments to the *Industrial Relations Act 1979* (IR Act)

13. The CCIWA's submission refers to the impact of amendments to the *Industrial Relations Act 1979* (IR Act) which will allow the scope of private sector awards to be extended. The CCIWA makes the following comments regarding this issue:
 74. *In considering the SWC, the Commission gives significant consideration to the reliance of award free employees on the SMW.*
 75. *As a result of the passage of the Industrial Relations Legislation Amendment Bill 2021 (WA), the Commission will have the capacity to, of its own motion, expand the scope of private sector awards to cover parts of an industry not previously covered.*
 76. *The operation of this new provision needs to be considered in the context of establishing a suitable safety net of terms and conditions of employment.*
 - 76.1. *In the first instance, it will substantially reduce the proportion of employees paid at the SMW, which will instead largely become a transitional rate that applies to new employees for a short period of time until they gain the relevant training and/or experience to operate at a higher level; and*
 - 76.2. *Secondly, it will significantly increase the employment costs of those parts of an industry that have previously been award free.*

14. In regard to the amendments contained within the *Industrial Relations Legislation Amendment Act 2021 (IRLA Act)*, the Minister notes that these provisions, which have yet to be proclaimed, will provide a discretionary power to the WAIRC to extend the scope of State private sector awards only after consultation with relevant stakeholders.
15. Any award variation matters relating to the extension of award scope in accordance with these provisions will necessarily take time to consider, and any potential impact on particular businesses that may become subject to award coverage at some point in the future cannot be quantified at this point in time.
16. As the potential amendments to the scope of state awards are a matter for future consideration by the WAIRC, the Minister contends that this issue should not impact on the quantum of any increase awarded in this year's State Wage Case.

Fairness and equity

17. In its submission, the CCIWA encourages the WAIRC to take into account the fairness already delivered by the WA and National minimum wage when compared to other OECD nations.
18. Whilst Australia (and WA) may have a relatively high minimum wage by international standards, the Minister submits this should not have a significant bearing on the level of any increases awarded in the State Wage Case. Various OECD countries have significantly different tax and transfer systems, different workplace laws, and different social welfare initiatives, making international comparisons of limited utility for Australian wage setting purposes.
19. The Minister contends that the relevant criteria concerning fairness, living standards and the needs of the low paid in section 50A(3) of the IR Act are best assessed using domestic measures of social and economic progress, including through the use of State level data (where available).

A reduction in the fuel excise

20. In paragraph 79 of its submission, the CCIWA references the temporary reduction in fuel excise recently announced in the federal budget, which has resulted in a halving of the fuel excise from 44.2 cents per litre to 22.1 cents per litre between March and September 2022. The CCIWA notes that this measure is anticipated to provide a household with at least one vehicle with an average benefit of around \$300 over a 6-month period.
21. While the Minister concurs that the temporary halving of the fuel excise should indeed provide financial relief for motorists, including many workers, it is noted that this initiative will also benefit many employers, particularly those in the transport industry, and will provide some cost relief when it comes to the supply of goods and services in many sectors.

Minimum wage rates in the State and national jurisdiction

22. In its submission the CCIWA states that:

Following the 2021 SWC decision, the gap between the state and national minimum wage rose to \$6.40 per week, increasing the level of disadvantage between state and national system employers.

23. In relation to this issue, the Minister notes that while some minimum and award rates of pay in the State jurisdiction are marginally higher than in the national system, there are many instances where the reverse is true. For instance, a comparison of the equivalent classifications in the State *Metal Trades (General) Award* with the national *Manufacturing and Associated Industries and Occupations Award 2020* reveals the following differences in pay rates:

Wage Group	Metal Trades General Award (State Award)	Manufacturing and Associated Industries and Occupations Award (national award)	Difference
	\$ per week	\$ per week	\$ per week
Level C14	\$779.00	\$772.60	\$6.40
Level C13	\$797.90	\$794.80	\$3.10
Level C12	\$823.30	\$825.20	-\$1.90
Level C11	\$847.00	\$853.60	-\$6.60
Level C10	\$887.40	\$899.50	-\$12.10
Level C9	\$911.60	\$927.70	-\$16.10
Level C8	\$935.60	\$955.90	-\$20.30
Level C7	\$957.70	\$981.50	-\$23.80
Level C6	\$1,005.80	\$1,031.30	-\$25.50
Level C5	\$1,030.00	\$1,052.40	-\$22.40

24. 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.¹ 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.

25. 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 as noted by the CCIWA, in many older awards, these rates are not introductory or transitional.² 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.

¹ 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.

² Several 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.

Impact of minimum wage increases on participation

26. In paragraph 97 of its submission the CCIWA notes that the current labour shortages facing WA businesses are unlikely to be addressed by increases to the minimum wage, with the primary driver being low levels of population growth arising from restrictions in domestic and international travel.
27. While the Minister acknowledges that low population growth in the last two years associated with border restrictions has impacted on the supply of labour, fair and equitable increases in minimum wage rates can nonetheless help to entice greater participation in the labour market. This is particularly relevant with the opening of the State and national borders in recent months, which is expected to increase labour supply.³

UnionsWA

CPI

28. The Minister notes that UnionsWA is seeking an increase in minimum and award wages that is equal to the current headline rate of inflation for the year to March 2022 (7.6 per cent).
29. The 7.6 per cent figure measures the rate of change in the headline CPI between the March quarter 2021 and the March quarter 2022. This method of measuring annual change can be volatile as one-off factors that impact the CPI in either the start or end quarters can result in growth that does not reflect underlying trends.
30. Whilst not disputing that inflation has been elevated in recent times, as the Minister's initial submission articulates, the current headline rate is distorted by the electricity component of the CPI and the way it is treated by the Australian Bureau of Statistics for statistical purposes.
31. To illustrate this distortion, the sub-component of the Perth CPI records the cost of electricity to consumers as being 116.7 per cent higher in the March quarter 2022 than in the March quarter 2021. Using the same comparison, the cost of electricity to Perth consumers was recorded as being 206.9 per cent higher in the 12 months to December 2021. These increases are almost entirely the result of the WA Government's \$600 electricity credit having been used up by customers (which lowered the cost of electricity to consumers in the December quarter 2020 and March quarter 2021), and passing through the system.

³ The 2022-23 State Budget is projecting the working age population (aged 15 and over) to increase by 1.4 per cent in 2022-23, up from 1.0 growth in 2021-22.

32. Similarly, the cost of electricity to Perth consumers declined by 53.3 per cent between the March quarter 2020 and the March quarter 2021, and by 67.0 per cent between the December quarter 2020 and the December quarter 2021. Reflecting this, at the time of last year's State Wage Case hearings, the Minister submitted that the headline rate of inflation in Perth was being weighed down artificially by the WA Government's \$600 electricity credit, applicable from November 2020.
33. Clearly, electricity prices are not increasing or decreasing by anything resembling the amounts outlined above. Indeed, the residential electricity tariff was unchanged in 2020-21 and increased by 1.75 per cent in 2021-22. The 2022-23 State Budget shows an increase of just 2.5 per cent in the tariff in 2022-23.
34. The Minister notes the \$400 electricity credit announced as part of the most recent State Budget will notionally reduce the headline rate of Perth CPI in 2022-23, the same way the \$600 credit did in early 2021. The Minister contends this too will not accurately reflect the rate of inflation in Perth in the coming quarters, as this year's electricity credit will artificially deflate the Perth CPI.
35. As outlined in the Minister's initial submission, the Perth CPI rose by 5.2 per cent in annual average terms in the March quarter 2022, and by 4.4 per cent when the electricity component is excluded. The Minister contends the methodology for the Perth CPI used by the Department of Treasury in the 2022-23 State Budget provides a more accurate reflection of the current rate of inflation applicable to households.

Household fees and charges

36. At paragraph 4.9 of its submission, UnionsWA reproduces the State Budget figures for Government tariffs, fees and charges concerning a representative household, which indicates that once the \$400 electricity credit is applied household tariffs, fees and charges actually decline by 3.8 per cent (or \$243.59) in 2022-23.
37. While it is readily acknowledged that government fees and charges are by no means the sole expense item for Western Australian households, the Minister notes the State Budget contains important initiatives to help low income households meet their everyday living costs, including the abovementioned electricity credit.

Discretionary inflation v non-discretionary inflation

38. The Minister concurs with UnionsWA that inflation for discretionary items are increasing at a faster rate than non-discretionary items, which impacts on low paid employee households. The Minister submits a fair wage increase in this year's State Wage Case will help meet the needs of the low paid.

Vulnerable employees

39. In paragraph 8.4 of its submission, UnionsWA states that:

“vulnerable groups of employees such as female workers are likely over-represented within the private sector of the state industrial relations system. Workers with this profile are less likely to negotiate their own Agreements, and more likely to be award reliant in the state industrial relations system. The minimum wages are important for ensuring those workers get decent pay outcomes.”

40. The Minister agrees that female workers are more likely to be concentrated within the private sector of the State industrial relations system, when consideration is given to the industry composition of employers in the State jurisdiction. The Minister also agrees that minimum wages are important for ensuring those workers get decent pay outcomes.
41. The fact that many low paid female employees are concentrated in the State industrial relations system reinforces the need for a fair and equitable increase in minimum and award wages in this year’s State Wage Case.

Encouraging ongoing skills development

42. As 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.
43. The Minister notes that apprentice and trainee numbers increased substantially in Western Australia during 2021, and contends that the many generous financial initiatives available to incentivise training should give the WAIRC confidence that a fair and considered increase in minimum and award wages will not jeopardise ongoing skills development.

WACOSS

Social equity considerations

44. 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 section 50A criteria for the State Wage Case.

45. The Minister concurs with WACOSS that lower female wages are a contributor to gender wealth gaps, including the gender gap in retirement savings. As WACOSS notes at page 42, *“As women continue to earn less than men and are more likely to be engaged in casual and part-time work, these combined factors can have a negative impact on their overall financial security, with less accumulated superannuation and fewer savings for retirement. Wage rates directly affect super contributions, and with women disproportionately represented in minimum-wage and award-reliant jobs, they are more reliant on such instruments to set their wages than men.”*
46. The Minister submits that these social and gender equity considerations raised by WACOSS provide support for a fair and equitable increase in minimum and award wages in this year’s State Wage Case proceedings.

Professor Preston

47. The Minister concurs with the comments in the submission made by Professor Alison Preston from the University of Western Australia regarding the important role the State Minimum Wage provides as a safety net for low paid workers in the private sector, particularly in industries that have a high proportion of female workers and young workers.
48. The Minister also notes that the overall gender pay gap in Western Australia has decreased in the year to November 2021, as a result of female earnings rising by more than male earnings.