2021 STATE WAGE ORDER PURSUANT TO SECTION 50A OF THE ACT

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

PARTIES	COMMISSION'S OWN MOTION
	APPLICANT
	-v-
	(NOT APPLICABLE)
	RESPONDENT
CORAM	CHIEF COMMISSIONER S J KENNER COMMISSIONER T EMMANUEL COMMISSIONER T B WALKINGTON
DATE	TUESDAY, 29 JUNE 2021
FILE NO/S	APPL 1 OF 2021
CITATION NO.	2021 WAIRC 00179

Result 2021 State Wage Order Issued

Representation:

Mr B Entrekin on behalf of the Hon. Minister for Industrial Relations

Mr P Moss on behalf of the Chamber of Commerce and Industry of Western Australia Limited

Dr T Dymond on behalf of UnionsWA

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

General Order

THE COMMISSION IN COURT SESSION in accordance with section 50A(1) of the *Industrial Relations Act 1979* hereby makes the following General Order to be known as the 2021 State Wage order and thereby orders as follows:

1. THAT the 2021 State Wage order takes effect on 1 July 2021.

2. THAT the General Order which issued in matter No. APPL 1 of 2020 ([2020] WAIRC 00363; (2020) 100 WAIG 432) is to be of no force and effect on and from the commencement of the first pay period on or after 1 July 2021.

3. THAT the minimum weekly rate of pay applicable under section 12 of the *Minimum Conditions of Employment Act 1993* to an employee who has reached 21 years of age and who is not an apprentice shall be $779.00 per week on and from the commencement of the first pay period on or after 1 July 2021.

Apprentices

4. THAT the minimum weekly rate of pay applicable under section 14 of the *Minimum Conditions of Employment Act 1993* to an apprentice whose training contract specifies they are undertaking an apprenticeship ("apprentice") shall be:

   (a) In relation to that class of apprentice to whom an award or a relevant order applies where an employer-employee agreement is in force, the minimum weekly rate of pay shall be the rate of pay that applies to that class of apprentice under the award where the award applies or the relevant order where an employer-employee agreement is in force.

   (b) In relation to that class of apprentice to whom an award does not apply and to whom there is no relevant order to apply if an employer-employee agreement is in force or is subsequently entered into, the minimum weekly rate of pay shall be the rate of pay determined by reference to apprentices' rates of pay in the *Metal Trades (General) Award* which operate on and from the commencement of the first pay period on or after 1 July 2021:

	Total Rate Per Week
	1 July 2021
Four Year Term	
First year	$372.70
Second year	$488.10
Third year	$665.60
Fourth year	$780.90
Three and a Half Year Term	
First six months	$372.70
Next year	$488.10
Next year	$665.60
Final year	$780.90
Three Year Term	
First year	$488.10
Second year	$665.60
Third year	$780.90
Two Year Term	
First year	$488.10
Second year	$665.60

5. THAT the minimum weekly rate of pay applicable under section 14 of the *Minimum Conditions of Employment Act 1993* to an apprentice who has reached

21 years of age shall be $665.60 per week on and from the commencement of the first pay period on or after 1 July 2021.

Trainees

6. THAT the minimum weekly rate of pay applicable under section 14 of the *Minimum Conditions of Employment Act 1993* to an apprentice whose training contract specifies they are undertaking a traineeship ("trainee") shall be:

(a) In relation to that class of trainee to whom an award applies or a relevant order applies where an employer-employee agreement is in force, the minimum weekly rate of pay shall be the rate of pay that applies to that class of trainee under the award where an award applies or the relevant order where an employer-employee agreement is in force.

(b) In relation to that class of trainee to whom an award does not apply and to whom there is no relevant order to apply if an employer-employee agreement is in force or is subsequently entered into, the minimum weekly rate of pay at the relevant Industry/Skill level as determined by reference to Attachment A hereunder, shall be the rate of pay based on the *Metal Trades (General) Award* contained in Table 1 as follows:

Table 1
The following rates of pay apply on and from the commencement of the first pay period on or after 1 July 2021:

Industry/Skill Level A			
School Leaver	**Year 10** **$**	**Year 11** **$**	**Year 12** **$**
	269.00	320.00	394.00
Plus 1 year out of school	320.00	394.00	456.00
Plus 2 years	394.00	456.00	534.00
Plus 3 years	456.00	534.00	610.00
Plus 4 years	534.00	610.00	
Plus 5 years or more	610.00		

Industry/Skill Level B			
School Leaver	**Year 10** **$**	**Year 11** **$**	**Year 12** **$**
	269.00	320.00	385.00
Plus 1 year out of school	320.00	385.00	439.00
Plus 2 years	385.00	439.00	517.00
Plus 3 years	439.00	517.00	590.00
Plus 4 years	517.00	590.00	
Plus 5 years or more	590.00		

Industry/Skill Level C			
School Leaver	**Year 10** **$**	**Year 11** **$**	**Year 12** **$**
	269.00	320.00	382.00
Plus 1 year out of school	320.00	382.00	429.00
Plus 2 years	382.00	429.00	482.00
Plus 3 years	429.00	482.00	541.00
Plus 4 years	482.00	541.00	
Plus 5 years or more	541.00		

(c) For any class of trainees under this subclause undertaking a traineeship that is not provided for in Attachment A, the minimum weekly rate of pay shall be the rate of pay in Industry/Skill Level C.

Australian Qualification Framework (AQF)

(d) For a trainee in this class undertaking an AQF4 traineeship the minimum weekly rate of pay shall be the weekly wage rate for an AQF3 trainee at Industry/Skill Levels A, B or C as applicable with the addition of 3.8% of that wage rate.

Part-time and School-Based Trainees

(e) This provision shall apply to trainees who undertake a traineeship on a part-time basis, or as a school-based trainee, by working less than full-time hours and by undertaking the approved training at the same or lesser training time than a full-time trainee.

(i) School-based trainees will receive the following minimum hourly rates of pay, as for school leavers:

	Current year of schooling	
Wage levels	Year 11 or lower	Year 12
A	$8.42	$10.37
B	$8.42	$10.13
C	$8.42	$10.05

(ii) The minimum hourly rate of pay for part-time trainees shall be calculated by taking the full-time rates expressed in Clause 6(b) Table 1 and dividing that rate by 38 in accordance with section 10 of the *Minimum Conditions of Employment Act 1993*.

(iii) As per the requirement under 60E(1)(iv) of the *Vocational Education and Training Act 1996* (WA), any time spent by a trainee in performing his or her obligations under the training contract and in being trained and assessed under the contract, whether at the employer's workplace or not, is to be taken for all purposes (including the payment of remuneration) to be time spent working for the employer.

(f) In relation to that class of trainee to whom an award applies or a relevant order applies where an employer-employee agreement is in force and who has reached 21 years of age, the minimum weekly rate of pay is the rate of pay that applies to that class of trainee determined by reference to the highest weekly wage rate for the skill level relevant to the traineeship under the award or under the relevant order where an employer-employee agreement is in force.

(g) In relation to that class of trainee to whom an award does not apply and to whom there is no relevant order to apply if an employer-employee agreement is in force or is entered into and who has reached 21 years of age, the minimum weekly rate of pay shall be that determined by reference to the highest weekly wage rate for the skill level relevant to the traineeship set out below:

On and from the commencement of the first pay period on or after 1 July 2021:

Industry/Skill Level A	$610.00 per week
Industry/Skill Level B	$591.00 per week
Industry/Skill Level C	$542.00 per week

7. THAT

(a) The rates of pay applicable to trainees under the following awards be adjusted in accordance with the formula outlined in sub-clause (b).

(i) AWU National Training Wage (Agriculture) Award 1994;

(ii) Food Industry (Food Manufacturing or Processing) Award;

(iii) Furniture Trades Industry Award;

(iv) Licensed Establishments (Retail and Wholesale) Award 1979;

(v) Metal Trades (General) Award;

(vi) Motor Vehicle (Service Station, Sales Establishments, Rust Prevention and Paint Protection) Industry Award No. 29 of 1980;

(vii) Printing Award;

(viii) Sheet Metal Workers' Award No. 10 of 1973;

(ix) The Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977;

(x) Soft Furnishings Award; and

(xi) Vehicle Builders' Award 1971.

(b) Trainee rates be adjusted as follows:

(i) Industry/Skill Level A, B and C top rates are increased by 80% of the arbitrated safety net adjustment. Each result is then rounded to the nearest dollar.

(ii) All other Industry/Skill Level A, B and C rates are increased by a percentage of the unrounded result of the first step. Each result is then rounded to the nearest dollar.

(iii) However, if an existing rate in Industry/Skill Level B or C is the same as an existing rate in Industry/Skill Level A or B, the former is adjusted in line with the latter rate in order to maintain consistency.

Award Rates of Pay

8. THAT weekly rates of pay for adults in each award of the Commission, other than those set out in Schedule 1, be increased by 2.5% on and from the commencement of the first pay period on or after 1 July 2021 and that this increase shall be subject to absorption in the same terms as previous State Wage orders.

9. THAT where an award rate other than an adult rate is determined by reference to a percentage of the adult rate or some other formula, those award rates shall be varied on the basis of that percentage or formula to take into account the application of this State Wage order increase of 2.5% to the adult award wage on and from the commencement of the first pay period on or after 1 July 2021.

10. THAT increases under previous State Wage Case orders prior to 1 July 2021, except those resulting from enterprise agreements, are not to be used to offset the State Wage order increases herein.

11. THAT on and from the commencement of the first pay period on or after 1 July 2021 all awards which contain a Minimum Adult Award Wage Clause or provision be varied by deleting the text of that provision and replacing with the following:

MINIMUM ADULT AWARD WAGE

No employee aged 21 or more shall be paid less than the minimum adult award wage unless otherwise provided by this clause.

The minimum adult award wage for full-time employees aged 21 or more working under an award that provides for a 38 hour week is $779.00 per week.

The minimum adult award wage for full-time employees aged 21 or more working under awards that provide for other than a 38 hour week is calculated as follows: divide $779.00 by 38 and multiply by the number of ordinary hours prescribed for a full time employee under the award.

The minimum adult award wage is payable on and from the commencement of the first pay period on or after 1 July 2021.

The minimum adult award wage is deemed to include all State Wage order adjustments from State Wage Case Decisions.

Unless otherwise provided in this clause adults aged 21 or more employed as casuals, part-time employees or piece workers or employees who are remunerated wholly on the basis of payment by result, shall not be paid less than pro rata the minimum adult award wage according to the hours worked.

Employees under the age of 21 shall be paid no less than the wage determined by applying the percentage prescribed in the junior rates provision in this award (if applicable) to the minimum adult award wage, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.

The minimum adult award wage shall not apply to apprentices, employees engaged on traineeships or government approved work placement programs or employed under the Commonwealth Government Supported Wage System or to other categories of employees who by prescription are paid less than the minimum award rate, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.

Liberty to apply is reserved in relation to any special category of employees not included here or otherwise in relation to the application of the minimum adult award wage.

Subject to this clause the minimum adult award wage shall –

> Apply to all work in ordinary hours.
>
> Apply to the calculation of overtime and all other penalty rates, superannuation, payments during any period of paid leave and for all purposes of this award.

Minimum Adult Award Wage

> The rates of pay in this award include the minimum weekly wage for employees aged 21 or more payable under the 2021 State Wage order decision. Any increase arising from the insertion of the minimum wage will be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such above award payments include wages payable pursuant to enterprise agreements, consent awards or award variations to give effect to enterprise agreements and over award arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases under previous State Wage Case Principles or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset the minimum wage.

Adult Apprentices

Notwithstanding the provisions of this clause, the minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for a 38 hour week is $665.60 per week.

The minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for other than a 38 hour week is calculated as follows: divide $665.60 by 38 and multiply by the number of ordinary hours prescribed for a full time apprentice under the award.

The minimum adult apprentice wage is payable on and from the commencement of the first pay period on or after 1 July 2021.

Adult apprentices aged 21 years or more employed on a part-time basis shall not be paid less than pro rata the minimum adult apprentice wage according to the hours worked.

The rates paid in the paragraphs above to an apprentice 21 years of age or more are payable on superannuation and during any period of paid leave prescribed by this award.

Where in this award an additional rate is expressed as a percentage, fraction or multiple of the ordinary rate of pay, it shall be calculated upon the rate prescribed in this award for the actual year of apprenticeship.

Statement of Principles

12. THAT the Statement of Principles – July 2020 under the General Order in matter No. APPL 1 of 2020 ([2020] WAIRC 00363; (2020) 100 WAIG 432) be replaced by the Statement of Principles – July 2021 in Schedule 2.

Publication

13. THAT the Registrar publish in the Western Australian Industrial Gazette and on the Commission's website the clauses of the awards varied by Clauses 8 - 10 of this State Wage order incorporating the amendments made.

CHIEF COMMISSIONER S J KENNER
FOR AND ON BEHALF OF
THE COMMISSION IN COURT SESSION

ATTACHMENT A

INDUSTRY / SKILL LIST (2021)

SKILL LEVEL A		
CODE*	**TRAINING PACKAGE TITLE**	**AQF CERTIFICATE LEVEL**
MEA	Aeroskills	II, Diploma
AVI	Aviation	II, III
BSB	Business Services	II, III, IV, Diploma
PMA	Chemical, Hydrocarbons and Refining	II, III, IV, Diploma
CHC	Community Services	II, III, IV, Diploma
CPC	Construction, Plumbing and Services	II, III, IV, Diploma
CSC	Correctional Services	II, III, IV
UEP	Electricity Supply Industry - Generation Sector	II, III, IV, Diploma
UEE	Electrotechnology	II, III, IV, Diploma, Advanced Diploma
FNS	Financial Services	II, III, IV
SFL	Floristry	III, IV
FBP	Food, Beverage and Pharmaceutical	III, IV
UEG	Gas Industry	III, IV, Diploma, Advanced Diploma
SHB	Hairdressing and Beauty Services	III, IV
ICT	Information and Communications Technology	II, III, IV
MSL	Laboratory Operations	II, III, IV, Diploma, Advanced Diploma
LGA	Local Government (other than Operational Works Certificate II)	II, III, IV
MSA07	Manufacturing	II, III, IV, Diploma, Advanced Diploma
MSM	Manufacturing	II, III, IV, Diploma, Advanced Diploma
MAR	Maritime	II, III
MEM	Manufacturing and Engineering (Technical)	II, III, IV, Diploma, Advanced Diploma

SKILL LEVEL A		
CODE*	**TRAINING PACKAGE TITLE**	**AQF CERTIFICATE LEVEL**
NWP	National Water	III, IV
PMB	Plastics, Rubber and Cablemaking	III, IV
PUA	Public Safety	III
PSP	Public Sector	II, III, IV, Diploma
PPM	Pulp & Paper Manufacturing Industry	III
RII	Resources and Infrastructure Industry	II, III, IV, Diploma, Advanced Diploma
SIR	Retail Services	III, IV
MSS	Sustainability	III, IV, Diploma
MST	Textiles, Clothing and Footwear	III, IV
SIT	Tourism, Travel and Hospitality	II, III, IV, Diploma
UET	Transmission, Distribution and Rail Sector	II, III, IV, Diploma, Advanced Diploma
TLI	Transport and Logistics	III, IV, Diploma

SKILL LEVEL B		
CODE*	**TRAINING PACKAGE**	**AQF CERTIFICATE LEVEL**
ACM	Animal Care and Management	II, III, IV
AMP	Australian Meat Processing	II, III, IV, Diploma
AUR	Automotive Retail, Service and Repair	II, III, IV, Diploma
AUM	Automotive Manufacturing	II, III
CUA	Creative Arts and Culture	II, III, IV
SFL	Floristry	II
FBP	Food, Beverage and Pharmaceutical	II
FWP	Forest and Wood Products	II, III, IV, Diploma
MSF	Furnishing	II, III, IV
UEG	Gas Industry	II
SHB	Hairdressing and Beauty Services	II

SKILL LEVEL B		
CODE*	**TRAINING PACKAGE**	**AQF CERTIFICATE LEVEL**
HLT	Health	II, III, IV, Diploma
LGA	Local Government (Operational Works)	II
MEM	Manufacturing and Engineering (Production)	II, III, IV, Diploma, Advanced Diploma
NWP	National Water	II
PMB	Plastics, Rubber and Cablemaking	II
ICP	Printing and Graphic Arts	II, III
CPP	Property Services	II, III, IV, Diploma
PUA	Public Safety	II
PPM	Pulp & Paper Manufacturing Industry	II
RII	Resources and Infrastructure Industry	I
SIR	Retail Services	II
SIS	Sport, Fitness and Recreation	II, III, IV
MST	Textiles, Clothing and Footwear	II
TLI	Transport and Logistics	II

SKILL LEVEL C		
CODE*	**TRAINING PACKAGE**	**AQF CERTIFICATE LEVEL**
AHC	Agriculture, Horticulture and Conservation and Land Management	II, III, IV
SIF	Funeral Services	III, IV
RGR	Racing and Breeding	II, III, IV
SFI	Seafood Industry	II, III, IV

Schedule 1

LIST OF AWARDS NOT SUBJECT TO THIS GENERAL ORDER

Awards that do not contain wages and are therefore excluded:

Alcoa Long Service Leave Conditions Award, 1980
Catering Employees' (North West Shelf Project) Long Service Leave Conditions Award 1991
Catering Workers' (North Rankin A) Long Service Leave Conditions Award No. A 40 of 1987
The Contract Cleaning (F.M.W.U.) Superannuation Award 1988
Health Care Industry (Private) Superannuation Award 1987
Miscellaneous Government Conditions and Allowances Award No A 4 of 1992
Miscellaneous Workers' (Security Industry) Superannuation Award, 1987
Ngala Superannuation Award, 1989
Printing Industry Superannuation Award 1991
Public Service Allowances (Fisheries and Wildlife Officers) Award 1990
Supported Employees Industry Award
The Swan Brewery Company Limited (Superannuation) Award 1987
West Australian Petroleum Pty Ltd Long Service Leave Conditions Award 1991
Woodside Offshore Petroleum Pty. Ltd. Long Service Leave Conditions Award, 1984
Worsley Alumina Pty. Ltd. Long Service Leave Conditions Award, 1984

Awards that have certain parts quarantined:

Clerks (Racing Industry - Betting) Award 1978 **– Schedule C**
The Iron Ore Production & Processing (Locomotive Drivers) Award 2006 – **Clause 2.1**
Iron Ore Production & Processing (Locomotive Drivers Rio Tinto Railway) Award 2006 **– Clause 6**
Shearing Contractors' Award of Western Australia 2003 **– Clause 4.2**

Awards containing transitional provisions to which the General Order does not apply:

Clothing Trades Award 1973 **– Clause 18**
Department of Communities (CSA Family Resource Workers, Welfare Assistants and Parent Helpers) Award 1990 **– Schedule F**
Education Department Ministerial Officers Salaries Allowances and Conditions Award 1983 No. 5 of 1983 **– Schedule I**
Egg Processing Award 1978 **– Appendix 4**
Electorate Officers Award 1986 **– Schedule G**
Family Day Care Co-Ordinators' and Assistants' Award, 1985 **- Schedule C**
Government Officers (Social Trainers) Award 1988 **– Schedule K**
Government Officers (Insurance Commission of Western Australia) Award, 1987 **– Schedule D**
Government Officers Salaries, Allowances and Conditions Award 1989 **- Schedule P**
Juvenile Custodial Officers' Award **– Schedule G**
Public Service Award 1992 **– Schedule M**

Schedule 2

STATEMENT OF PRINCIPLES – July 2021

1. Application of the Statement of Principles

1.1 This Statement of Principles is to be applied and followed when the Commission is making or varying an award or making an order in relation to the exercise of the jurisdiction under the Act to set the wages, salaries, allowances or other remuneration of employees or the prices to be paid in respect of their employment.

1.2 In these Principles, wages, salaries, allowances or other remuneration of employees or the prices to be paid in respect of employment will be referred to as "wages".

1.3 In making a decision in respect of any application brought under these Principles the primary consideration in all cases will be the merits of the application in accordance with equity, good conscience and the substantial merits of the case pursuant to section 26(1)(a) of the Act.

1.4 These Principles do not have application to Enterprise Orders made under section 42I of the Act or to applications made under section 40A of the Act to incorporate industrial agreement provisions into an award by consent.

1.5 This statement of Principles will operate until reviewed under s 50A(1)(d) of the Act.

2. (deleted)

3. When an Award may be varied or another Award made without the claim being regarded as above or below Minimum Award Conditions

3.1 In the following circumstances wages in an award, may on application, be varied or another award made without the application being regarded as a claim for wages above or below the minimum award conditions:

3.1.1 To include previous State Wage Case increases in accordance with Principle 4.1.

3.1.2 To adjust wages for total minimum rates pursuant to Principle 4.2.

3.1.3 **(deleted)**

3.1.4 To adjust allowances and service increments in accordance with Principle 6.

3.1.5 To adjust wages pursuant to work value changes in accordance with Principle 7.

3.1.6 To make or vary an award or to make an order to provide for equal remuneration for men and women for work of equal or comparable value in accordance with Principle 8.

3.1.7 To vary an award to include the minimum wage in accordance with Principle 9.

4. Previous State Wage Case Increases

4.1 Wage increases available under previous State Wage Case Decisions such as structural efficiency adjustments, and previous arbitrated safety net adjustments will, on application, still be accessible.

4.2 Minimum rates adjustments may also be progressed under this Principle.

5. (deleted)

5.1 **(deleted)**

6. Adjustment of Allowances and Service Increments

6.1 Existing allowances which constitute a reimbursement of expenses incurred may be adjusted from time to time where appropriate to reflect the relevant change in the level of those expenses.

6.2 **(deleted)**

6.3 Allowances which relate to work or conditions which have not changed and service increments may be adjusted as a result of the State Wage order, or, if an award contains another method for adjusting such allowances, in accordance with that other method.

6.4 In the absence of any other prescribed method, where the Commission has determined that it is appropriate to adjust existing allowances relating to work or conditions which have not changed or service increments for a monetary safety net increase, the method of adjustment shall be as follows: divide the monetary safety net increase by the rate of pay for the key classification in the award which applied immediately prior to the safety net increase, and multiply the resulting figure by 100.

6.5 Existing allowances for which an increase is claimed because of changes in the work or conditions will be determined in accordance with the relevant provisions of Principle 7.

6.6 New allowances to compensate for the reimbursement of expenses incurred may be awarded where appropriate having regard to those expenses.

6.7 Where changes in the work have occurred or new work and conditions have arisen, the introduction of a new allowance, if any, is to be determined in accordance with the most appropriate Principles.

6.8 New service increments may only be awarded to compensate for changes in the work and/or conditions and will be determined in accordance with the relevant parts of Principle 7.

7. Work Value Changes

7.1 Applications may be made for a wage increase under this Principle based on changes in work value.

7.2 Changes in work value may arise from changes in the nature of the work, skill and responsibility required or the conditions under which work is performed. Changes in work by themselves may not lead to a change in wage rates. The strict test for an alteration in

wage rates is that the change in the nature of the work should constitute such a significant net addition to work requirements as to warrant the creation of a new classification or upgrading to a higher classification.

7.3 In addition to meeting this test a party making a work value application will need to justify any change to wage relativities that might result not only within the relevant internal award classifications structure but also against external classifications to which that structure is related. There must be no likelihood of wage "leapfrogging" arising out of changes in relative position.

7.4 These are the only circumstances in which rates may be altered on the ground of work value and the altered rates may be applied only to employees whose work has changed.

7.5 In applying the Work Value Changes Principle, the Commission will have regard to the need for any alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which work is performed.

7.6 Where new or changed work justifying a higher rate is performed only from time to time by persons covered by a particular classification or where it is performed only by some of the persons covered by the classification, the new or changed work should be compensated by a special allowance which is payable only when the new or changed work is performed by an employee and not by increasing the rate for all employees working at that classification.

7.7 The time from which work value changes in an award should be measured is any date that on the evidence before the Commission is relevant and appropriate in the circumstances.

7.8 Care should be exercised to ensure that changes which were or should have been taken into account in any previous work value adjustments or in a structural efficiency exercise are not included in any work evaluation under this provision.

7.9 Where the tests specified in 7.2 and 7.3 are met, an assessment will have to be made as to how that alteration should be measured in money terms. The assessment should normally be based on the previous work and the nature and extent of the change in work.

7.10 The expression "the conditions under which the work is performed" relates to the environment in which the work is done.

7.11 The Commission should guard against contrived classifications and over-classification of jobs.

7.12 Any changes in the nature of the work, skill and responsibility required or the conditions under which the work is performed, taken into account in assessing an increase under any other provision of these Principles, shall not be taken into account in any claim under this provision.

8. Equal Remuneration for Men and Women for Work of Equal or Comparable Value

8.1 Applications may be made under this Principle to implement equal remuneration for work of equal or comparable value.

8.2 The Commission must apply this principle when it:

8.2.1 hears applications to vary an award in order to implement equal remuneration for work of equal or comparable value;

8.2.2 arbitrates industrial disputes about equal remuneration; or

8.2.3 values or assesses the work of employees in 'female dominated' industries, occupations or callings.

8.3 In assessing the value of work, the Commission is required to examine the nature of work, skill and responsibility required and the conditions under which work is performed (which has the same meaning as it does for Principle 7 Work Value Changes) as well as other relevant work features.

8.4 The assessment is to be transparent, objective, non-discriminatory and free of assumptions based on gender.

8.5 The purpose of the assessment is to ascertain the current value of work. Changes in work value do not have to be demonstrated.

8.6 Prior work value assessments and/or the prior setting of pay rates for the work cannot be assumed to have been free of assumptions based on gender.

8.7 In assessing the value of the work, the Commission is to have regard to the history of the award including whether there have been any assessments of the work in the past and whether remuneration has been affected by the gender of the workers. Relevant matters to consider may include:

8.7.1 whether there has been some characterisation or labelling of the work as "female";

8.7.2 whether there has been some underrating or undervaluation of the skills of female employees;

8.7.3 whether remuneration in an industry or occupation has been undervalued as a result of occupational segregation or segmentation;

8.7.4 whether there are features of the industry or occupation that may have influenced the value of the work such as the degree of occupational segregation, the disproportionate representation of women in part time or casual work, low rates of unionisation, limited representation by unions in workplaces covered by formal or informal work agreements, the incidence of consent awards or agreements and other considerations of that type; or

8.7.5 whether sufficient and adequate weight has been placed on the typical work performed and the skills and responsibilities exercised by women as well as the conditions under which the work is performed and other relevant work features.

8.8 Gender discrimination is not required to be shown to establish undervaluation of work, therefore there is no requirement for a male comparator.

8.9 Comparisons within and between occupations and industries are not required in order to establish undervaluation of work on a gender basis.

8.10 Such comparisons may be used for guidance in ascertaining appropriate remuneration. The proper basis for comparison is not restricted to similar work.

8.11 Where the Commission determines that there is not equal remuneration for work of equal or comparable value, the Commission is to make an assessment as to how equal remuneration is to be achieved. Outcomes may include but are not limited to the reclassification of work, the establishment of new career paths, changes to incremental scales, wage increases, the establishment of new allowances and the reassessment of definitions and descriptions of work to properly reflect the value of the work.

8.12 There will be no wage leapfrogging as a result of any changes in wage relativities arising from any adjustments under this principle.

8.13 The Commission will guard against contrived classifications and over classification of jobs.

8.14 The Commission may determine in each case whether any increases in wages will be absorbed into overaward payments.

8.15 Equal remuneration will not be achieved by reducing current wage rates or other conditions of employment.

8.16 The Commission may decide to phase in any decision arising from this principle. Any affected employer may apply to have any decision phased in. The merit of such application will be determined in the light of the particular circumstances of each case and any related material will be rigorously tested.

8.17 Claims brought under this principle will be considered on a case by case basis.

9. Minimum Adult Award Wage

9.1 A minimum adult award wage clause will be required to be inserted in all new awards, including interim awards.

9.2 The minimum adult award wage clause will be as follows –

MINIMUM ADULT AWARD WAGE

No employee aged 21 or more shall be paid less than the minimum adult award wage unless otherwise provided by this clause.

The minimum adult award wage for full-time employees aged 21 or more working under an award that provides for a 38 hour week is $779.00 per week.

The minimum adult award wage for full-time employees aged 21 or more working under awards that provide for other than a 38 hour week is calculated as follows: divide $779.00 by 38 and multiply by the number of ordinary hours prescribed for a full time employee under the award.

The minimum adult award wage is payable on and from the commencement of the first pay period on or after 1 July 2021.

The minimum adult award wage is deemed to include all State Wage order adjustments from State Wage Case Decisions.

Unless otherwise provided in this clause adults aged 21 or more employed as casuals, part-time employees or piece workers or employees who are remunerated wholly on the basis of payment by result, shall not be paid less than pro rata the minimum adult award wage according to the hours worked.

Employees under the age of 21 shall be paid no less than the wage determined by applying the percentage prescribed in the junior rates provision in this award (if applicable) to the minimum adult award wage, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.

The minimum adult award wage shall not apply to apprentices, employees engaged on traineeships or government approved work placement programs or employed under the Commonwealth Government Supported Wage System or to other categories of employees who by prescription are paid less than the minimum award rate, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.

Liberty to apply is reserved in relation to any special category of employees not included here or otherwise in relation to the application of the minimum adult award wage.

Subject to this clause the minimum adult award wage shall –

> Apply to all work in ordinary hours.
>
> Apply to the calculation of overtime and all other penalty rates, superannuation, payments during any period of paid leave and for all purposes of this award.

Minimum Adult Award Wage

> The rates of pay in this award include the minimum weekly wage for employees aged 21 or more payable under the 2021 State Wage order decision. Any increase arising from the insertion of the minimum wage will be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such above award payments include wages payable pursuant to enterprise agreements, consent awards or award variations to give effect to enterprise agreements and over award arrangements. Absorption which is contrary to the terms of an agreement is not required.
>
> Increases under previous State Wage Case Principles or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset the minimum wage.

Adult Apprentices

> Notwithstanding the provisions of this clause, the minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for a 38 hour week is $665.60 per week.
>
> The minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for other than a 38 hour week is

calculated as follows: divide $665.60 by 38 and multiply by the number of ordinary hours prescribed for a full time apprentice under the award.

The minimum adult apprentice wage is payable on and from the commencement of the first pay period on or after 1 July 2021.

Adult apprentices aged 21 years or more employed on a part-time basis shall not be paid less than pro rata the minimum adult apprentice wage according to the hours worked.

The rates paid in the paragraphs above to an apprentice 21 years of age or more are payable on superannuation and during any period of paid leave prescribed by this award.

Where in this award an additional rate is expressed as a percentage, fraction or multiple of the ordinary rate of pay, it shall be calculated upon the rate prescribed in this award for the actual year of apprenticeship.

10. Making or Varying an Award or issuing an Order which has the effect of varying wages or conditions above or below the award minimum conditions

10.1 An application or reference for a variation in wages which is not made by an applicant under any other Principle and which is a matter or concerns a matter to vary wages above or below the award minimum conditions may be made under this Principle.

10.2 Claims may be brought under this Principle irrespective of whether a claim could have been brought under any other Principle.

10.3 **(deleted)**

11. (deleted)

12. Economic Incapacity

12.1 Any respondent or group of respondents to an award may apply to reduce and/or postpone the variation which results in an increase in labour costs under this Statement of Principles on the ground of very serious or extreme economic adversity. The merit of such application shall be determined in the light of the particular circumstances of each case and any related material shall be rigorously tested. The impact on employment at the enterprise level of the increase in labour costs is a significant factor to be taken into account in assessing the merit of an application.

13. (deleted)