The history of the Australian Minimum Wage

The Hon. Reg Hamilton
former Deputy President Fair Work Commission,
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Cover image: A nurse, identified as 'Barnes', carrying two buckets down a path at the grounds of the Mareeba Children's Hospital. From the Collection of the State Library of South Australia, B 69879/5.

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The author, The Hon. Reg Hamilton, formerly Deputy President of the Australian Industrial Relations Commission and the Fair Work Commission, and Adjunct Professor, College of Business, School of Business and Law, Central Queensland University, wishes to acknowledge the contribution of Matt Nichol and Grant Ellis, and the hard work of many Fair Work Commission employees.

He presented the original version of this paper to the 2014 Australian Labour Law Association annual conference. He wishes to acknowledge a number of anonymous comments on the paper.

INTRODUCTION

The history of the Australian Minimum Wage 1907–2021

This publication sets out in date order each of the Court and Commission[1] decisions on the Australian minimum wage over the last 100 years under the following headings:

- the origins of the Australian minimum wage;
- the 'needs' principle and 'capacity to pay';
- women's wages;
- quarterly indexation 1922–1953;
- the Great Depression 1931;
- prosperity loadings 1934;
- World War II;
- the post war period, 1953–1956 Basic Wage Inquiries;
- margins 1908–1967;
- the total wage 1967 and subsequent adjustments until 1974;
- removal of discrimination in award rates;
- reintroduction of quarterly wage indexation 1975–1978;
- six monthly wage indexation 1978–1981;
- the wage explosion of 1981, abandonment of wage indexation, and the wage pause 1981–1982;
- six monthly indexation 1983–1987, the Accord and the National Economic Summit;
- reforming awards and work and management practices 1987–1991;
- enterprise bargaining 1991–1996;
- statutory adjustments 1996–2011.

Following that some of the important aspects of this history are summarised:

- the form of adjustments to the minimum wage over 100 years (wage indexation and other forms);
- a statistical comparison of the minimum wage over

100 years (with gross domestic product, average weekly earnings and other matters);
- a statistical comparison of the Australian minimum wage compared with average weekly earnings with minimum wage systems in other comparable countries;
- the changing Court and Commission descriptions of the minimum wage in its decisions;
- wage fixing factors and approaches;
- the Constitution.

This publication brings together, probably for the first time, the basic wage, national wage and safety net decisions of the last 100 years, together with each of the movements in the Australian minimum wage.

According to the International Labour Organization (ILO) World Global Wage Report 90 per cent of ILO Member States now have minimum wages. Women, young workers, workers with lower education, rural workers and workers with dependent children are said to be over-represented in those receiving the minimum wage or below.[2] In 1973 Australia ratified the ILO's convention on minimum wage fixation.[3] Neither the United Kingdom nor the United States for example have ratified it.[4]

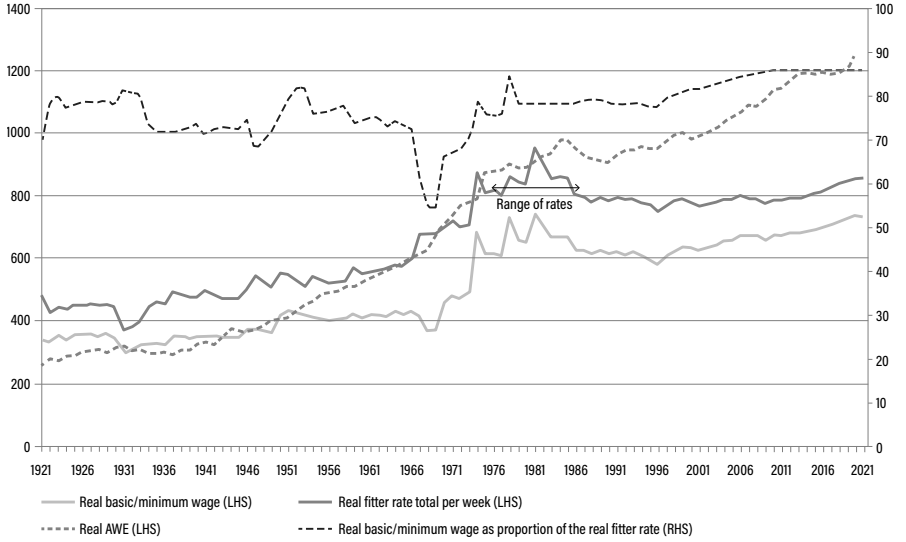
A small majority of workers on the minimum wage in Australia, the United Kingdom and the United States are female: slightly above six per cent of women in the United Kingdom are paid the minimum wage compared to over 4 per cent of men;[5] 55.2 per cent of low-paid minimum wage reliant employees in Australia are women;[6] and women make up two in three minimum wage workers in the United States.[7] Minimum wage increases in Australia and the United Kingdom have recently been found by the Low Pay Commission (United Kingdom) and Fair Work Commission to lessen the 'gender pay gap' and generally equalise pay.[8] Since 2005 the 'gender pay gap' has apparently stagnated in the United States.[9]

A minimum wage functions as both a cost and worker living standard.

AUSTRALIAN MINIMUM AND AVERAGE WAGE GROWTH
1921–2021 in AU$2018

Every review of the minimum wage has involved a debate about how much if any to increase the minimum wage having regard to economic statistics, including those relating to increases in the cost of living for workers. The decisions show a range of approaches have been taken to these statistics. The 'minimum wage' in Figure 1 is the lowest award rate, but the true minimum is arguably even higher as the lowest award rate is an introductory rate (present in only 45 of 121 awards).[10]

Figure 1: Australian Minimum and Average Wage Growth, 1921–2021 in AU$2018[11]



Note: The Real Basic/Minimum Wage, the Real Fitter Rate and the Average Weekly Earnings (AWE) are scaled to the left-hand side (LHS) of the chart. The Real Basic/Minimum Wage expressed as a proportion of the Real Fitter Rate is scaled to the right-hand side (RHS)

THE ORIGINS OF THE AUSTRALIAN MINIMUM WAGE

Pressure for the minimum wage came from two sources: one more direct, one indirect. More directly, the Victorian Anti-Sweating League – established in the 1890s by Protestant reformers to campaign against poor working conditions – as well as Parliamentary inquiries into poor working conditions, led to the Victorian Factories and Shops Acts to remedy these problems. These were associated with political leaders such as the Hon. Alfred Deakin, who later became the second Prime Minister of Australia. In 1895 a Victorian Board of Inquiry reported that there was a problem with 'sweating' – that is, oppressive wages and conditions – in Victoria. It gave as an example one single woman with two children who had lost half her income:

> Her working hours averaged 72 per week, and she worked sometimes on Sunday in order to keep body and soul together. I checked the tickets, and saw that she made knicker trousers throughout for from 2 shillings 6 pence to 3 shillings per dozen. Seven years ago she got 6 shillings per dozen for the same work. Her earnings averaged 11 shillings per week.[12]

Indirectly, the minimum wage was associated with the establishment of independent tribunals to deal with industrial disputes. The Great Strikes of the 1890s left a widespread perception of economic damage, and social disorder verging on civil war resulting from collective labour conflict.[13] The strikes occurred at a time of drought and economic recession, which caused great suffering. These were matters that concerned electors and the community generally, and therefore politicians seeking to be elected in the early 1900s.[14]

Charles Kingston, the dominant political figure in South Australia at the time, spoke for many when he said that given the 'disastrous effects to society generally' of labour disputes, the parties could not be left to simply 'fight the matter out to the bitter end'. He told the Constitutional Convention of 1891 that the solution was compulsory conciliation and arbitration:

> the establishment of courts of conciliation and arbitration, having jurisdiction throughout the Commonwealth, for the settlement of industrial disputes.[15]

In 1896 a Victorian Act set an overall minimum wage for any factory or work-room in the colony of Victoria of 2 shillings and sixpence per week. This and the wages set by wages boards under the *Victorian Factories and Shops Act 1896* were the first minimum wage rates in Australia.[16] Wages set under the wages boards only applied to the industries of boots and shoes; articles of men's and boy's clothing, shirts; all articles of women's and girl's underclothing; bread-making or baking; and later furniture making. Minimum wages were set as follows:

- the Bread-Making Board set 1 shilling an hour, effective April 1897;
- the (Men's) Clothing Board set 7 shillings 6 pence per day for adult males and 3 shillings 4 pence for adult females in October 1897;
- the Boot and Shoe Board set 7 shillings 6 pence per day for adult males and 3 shillings 4 pence per day for females in November 1897, later reduced to 6 shillings 8 pence for male clickers and 6 shillings for all others;
- the Board for Shifts, Collars, Cuffs etc set a rate in January 1898;
- the Women's and Girls' Underclothing Board set a rate in June 1899;
- the Furniture Board set 7 shillings 6 pence per day.[17]

Government inspectors reported that there were real problems in ensuring that the minimum wages were actually paid.[18]

As other industrial tribunals were established (South Australia 1900, New South Wales 1901, Western Australia 1902, Commonwealth 1904, Queensland 1908 and Tasmania 1910[19]), they made awards setting minimum wages at various levels – often 6 shillings a day or 36 shillings a week, or lower.

The Hon. Alfred Deakin (1856–1919). From the Collection of the National Archives of Australia: A5954, 1299/2 PL765/1

However, it was the 7 shillings a day set in *Ex parte H.V. McKay*[20] (known as the Harvester Decision) that became the basis of the Australian minimum wage system. In Harvester the Commonwealth Court of Conciliation and Arbitration decided that 7 shillings a day or 42 shillings a week for an unskilled labourer was 'fair and reasonable' wages, having regard to 'the normal needs of the average employee, regarded as a human being living in a civilised community'. It was set having regard to evidence about household budgets, and to enable a man, wife and three children to live in frugal comfort. The practice of Melbourne public authorities of paying 7 shillings a day as a minimum was also influential. Higher amounts, such as 10 shillings a day, were applied to more skilled employees. These amounts only applied to the Harvester factory in Sunshine, outside Melbourne.[21]

The Harvester 7 shilling minimum was applied to an award in 1908,[22] although there was no one consistent federal 'minimum wage' until the 1920s. Most awards were State awards, and the Harvester rate had little application until the 1920s. In 1913 the Harvester wage was

increased by the amount of inflation found to exist in the first Commonwealth measure of inflation, the 'A' series.[23]

In 1920 the Royal Commission on the Basic Wage (the Piddington Commission) issued a report into the cost of living.[24] The report gave an estimate of the income that was sufficient to support a man, wife and three children under 14 in November 1920 in each capital city in Australia. It set an amount of 115 shillings per week for Melbourne, and similar amounts for other capital cities.

In 1921 the Court confirmed that the Harvester 7 shillings, adjusted for inflation, was the appropriate award minimum rate. It rejected a trade union application for the Court to adopt the higher Royal Commission amounts, on the basis that the economy could not sustain such increases. It set the new Harvester wage at 85 shillings per week.[25] The 85 shillings included the 'Powers 3 shillings', an amount added by Powers J to maintain the real value of the Harvester minimum wage over the next three months ('quarter') because of inflationary price increases that were eroding the real value of the minimum wage. However, the Powers 3 shillings amount was retained even when prices were falling; it was removed in 1931.

The Harvester wage became known as 'the basic wage'. This was effectively the minimum wage and was also a component of all wages. Additional amounts known as 'margins' were paid to more skilled employees such as tradespersons, known then as tradesmen or journeymen.

By the 1920s State tribunals had gradually increased award rates to at least those set in Harvester.[26] The coverage of awards had increased and by the 1920s over half of Australian workers were protected by the minimum wage system.[27]

Eventually there were 34 separate federal basic wages based on different costs of living estimates: separate basic wages for the six capital cities, for 26 country towns and for two localities. There were also basic wages that varied in each of the six State systems.[28]

THE 'NEEDS' PRINCIPLE & 'CAPACITY TO PAY'

Industrial tribunals had to resolve complex questions about the economic and social effects of the minimum wages they proposed to set. During the 1900s a debate took place between those seeking protection for workers and their family 'needs', and those seeking to protect industry. The level of the minimum wage reflected that debate, with a lower level of minimum wage for unskilled labourers initially set by tribunals because of a different method of assessment of needs in, for example, New South Wales (6 shillings a day or less), and then a relatively higher level of minimum wage set in Harvester (7 shillings a day). This was subsequently gradually adopted across Australia.

However, concerns about the capacity of industry to pay led to the rejection of attempts to raise the level of the minimum wage for unskilled labourers again to the level of 'needs' estimated by the Royal Commission on the Basic Wage of 1920 (the Gas Employees Case 1921).[29] Capacity to pay was again given priority when award wages were cut by 10 per cent as a result of the Great Depression of 1931, when industry capacity to pay was substantially reduced.

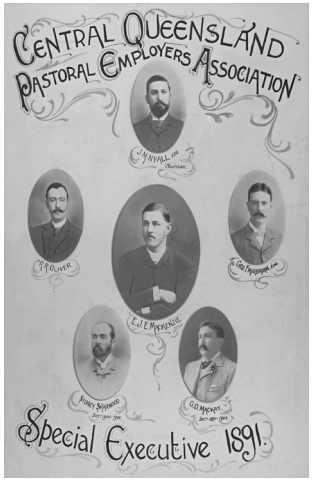


Image of the Members of the Central Queensland Pastoral Employers Association Special Executive, sourced from the State Library of Queensland.

WOMEN'S WAGES

In *The Rural Workers' Union and The South Australian United Labourers' Union v The Employers*[30] the Court considered for the first time the question of how the Harvester 'living' or 'family' wage would be applied to women. It decided that where women were employed in work traditionally done by men and in which they were in competition with male workers, such as fruit picking, they should be paid the full male minimum wage. This principle effectively sought to protect what was regarded as the conventional breadwinners, namely males. However, where women were employed in traditionally female areas of work, such as fruit packing and millinery, they were to be paid a wage deemed sufficient to cover 'the normal needs of a single woman supporting herself by her own exertions', for reasons including that they were not under a legal obligation to support a family. Justice Higgins fixed this at 54 per cent of the male basic wage, and after World War II this became 75 per cent of the male basic wage. This lasted until 1972, when the Commission decided that both men and women should receive the same award wage.

QUARTERLY INDEXATION

1922–1953

In *Federated Gas Employee's Industrial Union v Metropolitan Gas Company* Justice Higgins recognised for the first time the need to maintain the real value of the minimum wage by adjusting it for inflation:

> … 7 shillings in 1907 were worth as much … in the commodities which wages can procure, as 8 shillings 5 ¼ pence today … The industrial unrest which is so general in all parts of the world seems to have solid foundation in the rise in prices of commodities, in the increasing difficulty of getting the things that are essential for subsistence.[31]

In 1922–1923 the Court established a system of quarterly indexation, in which the basic wage was increased in line with a Commonwealth

measure of inflation each quarter.[32] This was a measure to maintain the real value of the minimum wage, and to protect in real terms the standard of living of workers. Clauses providing for automatic increases to take place in accordance with measures of inflation were included in awards. This system was maintained until 1953, interrupted by the Great Depression (1931), a 'fresh start' in 1934, and World War II (1939–1945).

In theory such a system would lead to the maintenance of the award wage at the 1921–22 level in real terms. This was not however the result. The award rate in fact appears to have risen and fallen in real terms. Nobody has yet been able to explain why.[33]

In introducing quarterly indexation the Full Court noted that employers and unions did not oppose quarterly indexation. However, employers opposed the Powers 3 shillings, designed to compensate employees for the time lag in obtaining an adjustment to compensate for prices that had already increased:

> The figures submitted were so convincing that neither the employers' representatives nor the workers' representatives contended that the Court should go back to the figures for the preceding calendar year, or to the figures for the twelve months preceding the award, or to abandon the practice of basing the rates on the last quarter's figures, or to abandon the quarterly adjustments. The real objection by the employers' representatives was to the Court adding 3 shillings a week to the quarterly figures, which they contended would add 3 shillings a week to the Harvester judgement standard, and that additional burden ought not to be added to the burdens the industries have to bear in times of depression …
>
> For instance, if the Court had in April last based its awards on the preceding quarter's figures without adding 3 shillings a week thereto, the workers would have received on an average for the whole quarter up to 31st July, 3 shillings a week less than the costing of living during that quarter, and that would have been unjust to the workers.[34]

As previously discussed, eventually there were 34 separate federal basic wages based on different costs of living estimates: separate basic wages for the six capital cities, for 26 country towns and for two localities. There were also basic wages that varied in each of the six State systems.

The first measure of price changes used to adjust the basic wage was the 'A Series Retail Price Index'. It was replaced with the 'D Series Price Index' in 1933, the 'C Series Price Index' in 1934, and the special Court series in 1937, amended in 1947 and 1950.[35]

From 1923 to 1953 most adjustments to the basic wage came from award clauses automatically applying quarterly variations in the government index of retail prices to award rates, without a Court decision. In many years there were no Court decisions that reflected the latest level of the basic wage, unless a new award was made using the latest basic wage. There were however Court decisions in 1931, 1937, 1946 and 1950 that changed the basic wage separately to automatic indexation.

In 1953 the Court decided that wage indexation was not compatible with the 'capacity to pay' principle, and brought it to an end, including the removal of automatic adjustment clauses in awards:[36]

> There is no ground for assuming that the capacity to pay will be maintained at the same level or that it will rise or fall coincidentally with the purchasingpower of money. In other words, the principle or basis of assessment having been economic capacity at the time of assessment, it seems to the Court altogether inappropriate to assume that the economy will continue at all times thereafter to be able to bear the equivalent of that wage, whatever may be its money terms. Whatever justification there may be for applying such an adjustment system (to a wage assessed according to national economic capacity) in a closed economy, there can, so it seems to the Court, be none in an economy such as ours where so much of our productive effort depends for its value upon prices of exports and imports beyond the control of any Australian authority.[37]

Wage indexation was not introduced again until 1975. Trade unions frequently sought its reintroduction, and employers opposed it. However, the 'needs' principle, which included changes to the cost of living, was a consideration given weight in all decisions.

Margins were adjusted more infrequently, and at separate hearings.

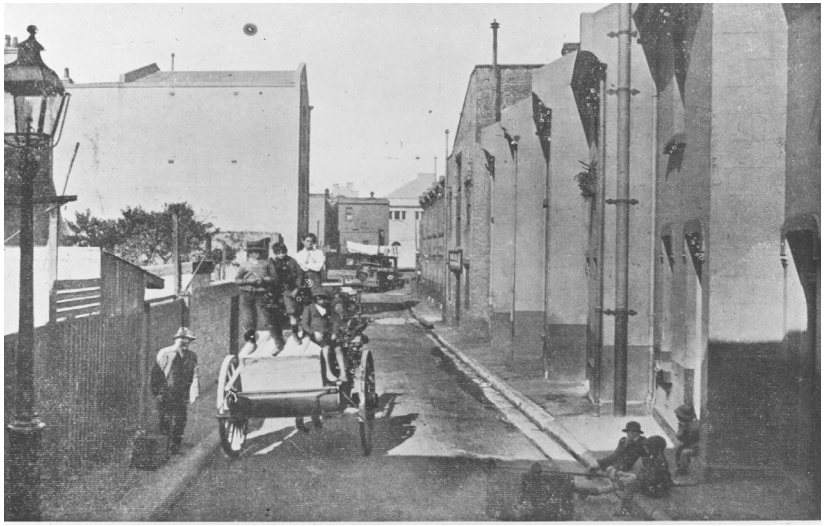


Image of dwellings on lane in Sydney, sourced from the State Library of Victoria.

THE GREAT DEPRESSION

In January 1931 the Court reduced 'all' award wage rates, including the basic wage and margins, by 10 per cent, because of the depressed state of the economy in Australia and overseas:[38]

> The evidence submitted by the applicants was to the effect that the fall in the national income had been so serious as to disturb completely the whole economic balance. The primary cause of the present crisis was the rapid fall in prices received for exported surplus primary products admittedly to the extent of £40,000,000 per annum, and the world fall in general price levels. (p. 8) …

> The Court refuses to make any variations in the basic wage … but after much anxious thought it is forced to the conclusion that for a period of twelve months and thereafter until further order a general reduction of wages is necessary. As stated in the Court's judgement on the recent applications for cancellation of railway awards 'an emergency has arisen which calls for immediate readjustment in all directions; readjustment of costs of government, costs of production and services, rents, dividends, interest, and other returns to capital, and costs of living'. All must adapt themselves to the fundamental fall in national income and national wealth and to our changed trading relationships with other countries.[39]

In 1934 the Court decided that 'the 10 per cent reduction shall cease to operate except in some industries which are now in a critical condition or in which other special circumstances exist', and abolished the Powers 3 shillings.[40] It decided to assess and adjust the basic wage from a 'fresh starting point'.[41] It set an amount of 67 shillings per week for Sydney and 64 for Melbourne, with most other capital cities sitting between those amounts.[42]

PROSPERITY LOADINGS

In 1937 the Court added to these amounts additional loadings, which it referred to as 'prosperity loadings', because of present prosperity and for stabilising reasons.[43] These amounts were 6 shillings for New South Wales, Victoria and Queensland, and 4 shillings for the remaining States. In 1950 they were merged with the basic wage.[44]

WORLD WAR II

The 1940 inquiry into the basic wage was adjourned and not finalised until 1950. It stressed the 'capacity to pay' principle, with the 'needs' principle also considered. In 1950 the Court increased the basic wage by 20 shillings, additional to a 7 shilling interim increase in 1946. It also increased the female basic wage to 75 per cent of the male basic wage, and merged 'prosperity loadings' with the basic wage.[45]

THE POST WAR PERIOD

1953–1965 Basic Wage Inquiries

During this period inquiries into the basic wage were conducted, and there was considerable debate about the relative importance to be placed on capacity to pay or the cost of living as measured by the Consumer Price Index (CPI). However, the Court then Commission consistently rejected trade union applications to re-establish a formal system of wage indexation based on the CPI, consistent with the rejection of such an approach in 1953. Instead inquiries were held at which all relevant economic and social factors were considered and given different weight according to the circumstances.

After bringing quarterly wage indexation to an end in 1953 the Court initially refused to give weight to inflation or worker needs:

> … we now specifically intimate that it will be to the total industry of the country that the Court will ultimately pay regard in assessing the capacity of the community to pay a foundation wage. In fine, time and energy will be saved in future cases if the parties to disputes will direct their attention to the broader aspects of the economy, such as are indicated by a study of the following matters:
>
> - Employment.
> - Investment.
> - Production and Productivity.
> - Overseas Trade.
> - Overseas Balances.
> - Competitive position of secondary industry.
> - Retail Trade.[46]

The basic wage was increased at Basic Wage Inquiries:

- in 1956 (10 shillings a week increase);[47]
- 1957 (10 shillings a week increase);[48]
- 1958 (5 shillings a week increase);[49]

- 1959 (15 shillings a week increase);[50]
- 1961 (12 shillings a week increase);[51]
- 1964 (20 shillings a week increase).[52]

Claims by employers for a reduction or by trade unions for an increase in the basic wage were refused in 1952–53,[53] 1960[54] and 1965.[55]

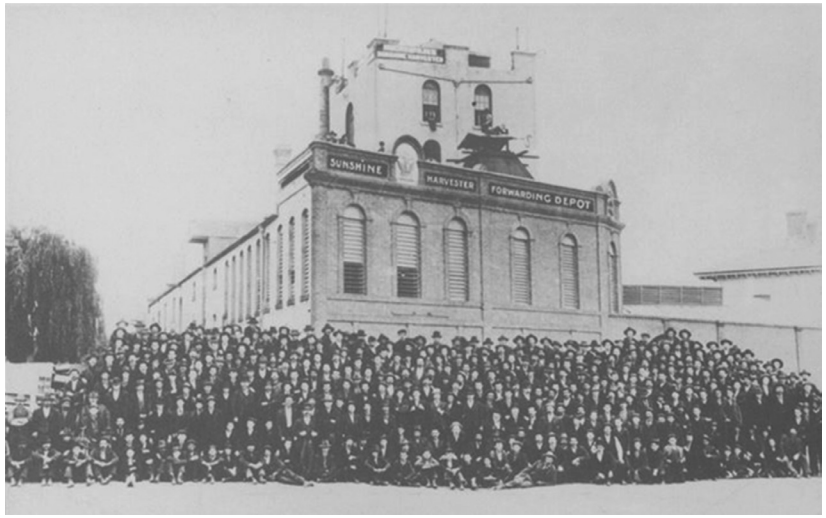


Image of workers at the Sunshine Harvester Forwarding Depot, Richards & Company in Ballarat on 4 February 1905, sourced from Museum Victoria.

MARGINS

Margins were set, and adjusted infrequently and on an award-by-award basis for some time. The Court sometimes found the task of establishing a margin difficult: 'to attempt to assess the value of an actor's skill would be a hopeless task'.[56] It appears that the original relationship between the Harvester 7 shillings for an unskilled labourer and 10 shillings for a fitter was influential for a time, with the margin in the metal trades increased to about three-sevenths of the basic wage again in 1921,[57] 1937[58] and 1947.[59] The metal trades margin was often applied as a yardstick in factory trades and occupations.[60]

Claims for general increases in margins, as opposed to increases specific to one award, began to be heard in circumstances of rapid CPI increases and erosion in the value of margins. In 1954 margins were increased by two and a half their 1937 levels,[61] and in 1959[62] by an additional 28 per cent of the 1954 level. Margins cases came to be heard together with basic wage cases and in 1965 an increase in the margins of 1.5 per cent of the six capital cities' basic wage was awarded,[63] and in 1966 a minimum male margin of $3.75 was prescribed for the Metal Trades Award. In 1966 the basic wage and margins were abolished and replaced with the total wage.

THE TOTAL WAGE

In 1966 the Commission decided to abolish the distinction between the basic wage and margins. It directed that these amounts be removed from awards, and replaced by the one amount of a total wage.[64] Wright J said:

> One of the basic considerations affecting my decision is that, over the years, the Court and the Commission have come to regard the same general economic considerations – such as purchasing power of money and national productivity – as relevant to the level of marginal rates in the fashion that they have for a very long time been relevant to the basic wage level.[65]

Claims for wage indexation continued to be rejected until 1975. For example, in 1969 the Commission said:

> As to automatic quarterly adjustments we reiterate what has been said before that the Commission should retain control over its own award wages and should not allow any form of automatic adjustment to them. Accordingly we reject the claims for the reintroduction of basic wages and their automatic adjustment and also for the introduction of quarterly adjustments to minimum wages for adult males.[66]

Image of three cleaners, sourced from Pond5.

Instead in nearly annual National Wage Cases the Commission increased the total wage per week having regard to all the economic indicators before it by:

- $2 in 1966;[67]
- $1 in 1967;[68]
- $1.35 in 1968;[69]
- 3 per cent in 1969;[70]
- 6 per cent in 1970;[71]
- $2 in 1972;[72]
- 2 per cent plus $2.50 in 1973;[73]
- 2 per cent plus $2.50 in 1974.[74]

In the 1974 decision the Commission expressed its concern about the many labour cost increases that were occurring outside National Wage Case increases:

> Ever since 1967, it has been the hope of the Commission that the bulk of wage increases would come from National Wage Cases in which general increases on economic grounds would normally be

> awarded every year. This approach was elaborated in some detail in the 1969 *National Wage Case Decision*. The Commission's hope has not been fulfilled. In 1970, 1972 and again last year the Commission expressed its concern at the development of what has become known as the three-tiered wage system, with increases occurring as a result of National Wage Cases, industry awards and agreements, and over-award gains of varying amounts obtained from employers.[75]

It was not only National Wage Case increases that were applied across awards. The Commission also sometimes applied industry increases to other awards pursuant to 'comparative wage justice', to maintain consistency between awards[76] and one minimum wage system.

Nevertheless, as a result of industry cases a range of different minimum rates developed rather than one minimum wage. For example in 1987 the lowest rate in the Metal Industry Award for New South Wales was $256.80,[77] while a station cook in the pastoral industry was paid a minimum of $198.83.[78] The minimum for both in 2022 is $812.60 per 38 hour week.

These concerns were to lead to the reintroduction of quarterly wage indexation in the next National Wage Case proceedings, in 1975, accompanied by a set of wage fixing principles that restricted what other increases would be awarded, as discussed in the later section on the reintroduction of quarterly wage indexation.

REMOVAL OF DISCRIMINATION IN AWARD RATES

In the *Cattle Industry Case* 1966 (the Aboriginal Stockmen's Case), the Commission decided to remove the exemption of Indigenous employees from an award. This led to the removal of all such exemptions from federal awards.[79] The result was that one award rate applied to all employees, whether Indigenous or not. It suggested that a simpler system of slow worker permits might be developed to allow pastoralists to apply for exemptions on a single employee basis.

Equal Pay Demonstration, taken in 1969 by Edwin R Warden. Courtesy: Footscray Historical Society Inc.

In the *Equal Pay Case* 1969 the Commission continued in force different minimum wage provisions for men and women.[80] However, it put in place a set of principles that enabled the rates to be reviewed and reconsidered.

In the *National Wage and Equal Pay Cases* 1972 the Commission decided that all award rates, other than the minimum wage, would be set without regard to the sex of the employee.[81] They would be set on 'work value' grounds – that is, on the basis of the value of the work. This led to the end of the system of unequal award rates that had operated since 1912.

This was the second of two equal pay cases. It introduced the concept of 'equal pay for work of equal value'. The principle of 'equal pay for work of equal value' was to be applied to all awards of the Commission:

> By 'equal pay for work of equal value' we mean the fixation of award wage rates by a consideration of the work performed irrespective

> of the sex of the worker. The principle will apply to both adults and juniors … The eventual outcome should be a single rate for an occupational group or classification which rate is payable to the employee performing the work whether the employee be male or female.[82]

REINTRODUCTION OF QUARTERLY WAGE INDEXATION
1975–1978

In the *National Wage Case* 1975 the Commission decided to reintroduce a system of quarterly indexation of award wages in relation to the most recent movement of the six capitals' CPI, unless it was persuaded to the contrary.[83] The Commission said it would also annually consider increases to the total wage 'on account of productivity'. It increased all award rates by the 'full 3.6 per cent increase in the CPI for the March 1975 quarter.'[84]

The Commission was dealing with severely adverse economic circumstances not experienced since the Great Depression, which it described in the following terms:

> The unemployment rate has risen to the highest level in the post-war period [4 per cent]. In real terms, private investment fell sharply during 1974 and private consumption expenditure declined during the second half of 1974. Productivity growth for 1974 was negative. A very large build up of unsold stocks has taken place. Inflation has accelerated to the highest rate since the early 1950s [17 per cent] but it has been outstripped markedly by pay increases. The combination of these inter-related factors is reflected in the abnormally large increase in the share of wages and salaries in Gross Domestic Product and the corresponding squeeze of profits measured by Gross Operating Surplus of Companies. Because of the reasonably high level of international reserves, the only feature of the economy which has not caused undue concern is the adverse movement in the balance of payments during 1974.[85]

The Commission said that it should 'act in a way which will promote economic recovery in a socially equitable and industrially harmonious way'.[86] The Commission decided to introduce quarterly indexation:

> We take this course as we are of the view that some form of wage indexation would contribute to a more rational system of wage fixation, to more orderly, more equitable and less inflationary wage increases and to better industrial relations, *provided* that indexation was part of a package which included appropriate wage fixing principles and the necessary 'supporting mechanisms' to ensure their viability. This conclusion is not inconsistent with much of the evidence and argument put in opposition to indexation.[87]

It also introduced a restrictive set of wage fixing principles that limited the other increases the Commission would award in work value, and 'catch-up of community movements'. These were an attempt to limit the flow-on into other awards of a series of industry wage increases in the previous year. Community movement increases had to be 'genuine catch-up cases and not leapfrogging'.

While indexation was introduced, the resulting award increases were sometimes discounted and were less than the relevant CPI movements, because of the failure of the parties to contain claims to those provided in the decision. The Commission consistently rejected 'catch-up' claims for past increases that were less than the CPI.

The decisions under the quarterly indexation system were:

- June quarter 1976 CPI increase of 2.5 per cent – the Commission ordered a flat $2.50 increase to all award wages and salaries up to $166 per week and a 1.5 per cent increase to all award wages and salaries above this level. The date of operation of the decision was 15 August 1976.
- September quarter 1976 CPI increase of 2.2 per cent – the Commission rejected the unions' 'catch-up' claim, but

awarded the full 2.2 per cent increase to apply from the first full pay period commencing on or after 22 November 1976.[88]

- December quarter 1976 CPI increase of 6 per cent – the Commission recognised what it called 'economic responsibilities' and granted a flat $5.70 increase consisting of $2.90 to compensate for the Medibank levy, plus $2.80 for all other factors.[89]
- April quarter 1977 – proceedings were adjourned and increases other than past national wage increases were deferred until 3 May 1977.[90]
- March quarter 1977 CPI increase of 2.3 per cent – the Commission decided that all award rates up to $200 per week be increased by 1.9 per cent and those above $200 per week be increased by a flat $3.80.[91]
- June quarter 1977 CPI increase of 2.4 per cent – the Commission awarded a 2 per cent increase.[92]
- September quarter 1977 CPI increase of 2 per cent – the Commission awarded an increase of 1.5 per cent operative from 12 December, with a discount of 0.5 per cent on account of industrial disputation.[93]
- December quarter 1977 CPI increase of 2.3 per cent – the Commission awarded a 1.5 per cent increase on award wages up to $170 per week and $2.60 per week to wage rates exceeding $170 to be payable from 28 February 1978.[94]
- March quarter 1978 CPI increase of 1.3 per cent – the Commission granted a 1.3 per cent increase but refused a claim for catch-up. The Commission said that this would be the last National Wage Case decision conducted under the existing indexation guidelines.[95]

SIX MONTHLY WAGE INDEXATION
1978–1981

In the *Wage Fixation Principles* case 1978 handed down on 14 September 1978 the Commission continued wage indexation but on the basis of six monthly not quarterly hearings.[96] It continued to provide for 'catch-up of community movements', in particular the $24 award increase in the Metal Industry Award, and for annual hearings on increases to be awarded on account of productivity. A date for hearing in respect of June and September quarter CPI increases was set down for 31 October 1978.

Image of workers walking from the Chrysler Factory assembly line at Tonsley Park, sourced from the National Archives of Australia.

Notwithstanding the problem of lack of compliance with the restrictions of the system, the Commission decided to continue a centralised wage indexation system:

> We have given careful consideration to what might happen if we decided not to persist with an orderly and centralized wage fixing system. Without it we believe there could be quite a rapid increase in industrial disputes. We have also concluded that despite the present economic situation and, in particular, the degree of unemployment, there are sufficient indications that economic reasons alone might not prevent an upsurge of wages, at first sectional and

then becoming general, if no orderly system existed. We therefore believe we should persist in our efforts to maintain such a system.[97]

The indexation decisions in relation to the six monthly indexation system were:

- June and September quarters 1978 CPI increase of 2.1 and 1.9 per cent – the Commission awarded an increase of 4 per cent 'without any reduction in the amount of the increase due to the economic costs of industrial disputation', operative from 26 January 1979.[98]
- June and September quarters 1979 CPI increases of 5 or 5.1 per cent (the increase was calculated differently by the parties) – the Commission awarded an increase of 4.5 per cent operative from 4 January 1980, with the increases discounted by 0.5 per cent.[99] The Commission stressed that increases must be strictly controlled if the concept of a centralised and orderly system of wage determination was to survive. It emphasised limiting the flow-on of increases from the metal industry agreement to $9.30 for tradespersons and $7.30 for non-tradespersons.
- December and March quarters 1979 and 1980 CPI increases of 3 per cent and 2.2 per cent – the Commission awarded an increase of 4.2 per cent. The Commission said that 'substantial compliance' with the principles was an integral part of the 'indexation package'. The increase was discounted by 1.1 per cent, because of the oil levy, health care financing, work value increases, lack of substantial compliance, and the economic effects of industrial action. It also commented on the 35 hour week campaign, and sought to avoid 'processing of the claim by industrial action'.[100]
- June and September quarters 1980 CPI increases of 2.8 and 1.9 per cent – the Commission awarded an increase of 3.7 per cent.[101]

An inquiry into wage fixing principles was held and a decision published in April 1981.[102] The Commission stressed that there could be no centralised system without substantial compliance with the principles that limited cost increases, and that there were currently real difficulties in achieving compliance. New principles were established that provided for six monthly wage indexation with 80 per cent of CPI to be awarded.[103] In the *National Wage Case – First Review* 1981,[104] an increase of 3.6 per cent was awarded, with CPI at 2.1 per cent and 2.4 per cent for the December 1980 and March 1981 quarters. This was the only decision under the new principles.

THE ABANDONMENT OF INDEXATION & THE WAGE PAUSE

Finally, in July 1981, in the *National Wage Case* 1981,[105] the Commission abandoned the indexation system:

> The events since April [the April 1981 inquiry into wage fixing principles] have shown clearly that the commitment of the participants to the system is not strong enough to sustain the requirements for its continued operation. The immediate manifestation of this is the high level of industrial action in various industries including the key areas of Telecom, road transport, the Melbourne waterfront and sections of the Australian public service.

The Commission said that any application for adjustment of wages or conditions on economic grounds would not be heard before February 1982.

The system of wage indexation had been brought to an end. One comment was that the system worked reasonably well for about three years, based on the drop in the increase in ordinary time earnings and measures of inflation, but that after 1978 wages rose at unsustainable levels. An employer complaint in 1981 was that the procedures of the system were 'too decentralised'.[106]

Several important industry cases were:

- In September 1981 the Commission refused to ratify an agreement to increase rates in the Transport Workers' Award 1972 by $20.[107]
- On 18 December 1981 the Commission approved a consent award reached between employers and unions relating to the Metal Industry Award 1971.[108] It provided for no further claims; 38 hour week to be introduced from 15 March 1982; supplementary payment be increased by $9.30 per week for fitters with proportionate increases for other classifications; the tool allowance for tradesmen be increased by $2; from the first pay period on or after 1 June 1982 award wage rates increased by $14 for fitters with relative increases for other classifications (this increase was to be the only increase to apply during the currency of the agreement and in lieu of National Wage Cases). It also provided for special rates and a meal allowance when working overtime to reflect award wage rates.
- In March 1982 the Commission adjourned an agreement to increase rates in the Manufacturing Grocers' Consolidated Award 1975 by $20 and other matters. It decided to convene a conference.[109]

On 14 May 1982 in the *National Wage Case* 1982 the Commission adjourned trade union applications for extensive case by case award increases.[110]

In December 1982 in the *National Wage Case* 1982[111] the Commission introduced a wage pause to last until June 1983. No award increases would occur other than the first instalment of the 'metal industry standard', with some provision for work value, allowances and 38 hour week agreements. This was a limitation on what was sometimes called 'comparative wage justice' or consistency between awards, the principle under which increases in one award were sometimes applied in other awards.[112] Only part of the metal industry agreement would be applied.

Image of print manager checking a newspaper, sourced from Pond5.

SIX MONTHLY WAGE INDEXATION

1983–1987 (the Accord and the National Economic Summit)

In the *National Wage Case* 1983 the Commission reintroduced six monthly wage indexation.[113] The principles also provided for a 38 hour week to be introduced by consent, if there were 'cost offsets', and provided tests for other award increases in a package of principles.

In taking this decision the Commission took account of three 'significant developments'; by way of background, these being:

- the 'Statement of Accord by the Australian Labor Party and the Australian Council of Trade Unions [ACTU] on a prices and incomes approach to economic management', the importance of which was emphasised by the ACTU and Government;
- the 'National Economic Summit Conference initiated by the newly elected Prime Minister', the importance of which was

emphasised by employers because the Accord contained provisions with which the Confederation of Australian Industry (CAI) 'expressly disagrees';
- the 'President's Conference', in which the 'desirability of a return to a centralized system' was agreed but in which there was disagreement about the way the system should operate, including a lack of agreement on the reintroduction of wage indexation.

The Commission summarised the principles of the 'Accord' which included:

> The maintenance of real wages is agreed to be a key adjective;

and

> The government will aim to eliminate poverty by ensuring wage justice for low earners, reducing tax on low income earners, raising social security benefits and making other improvements to the social wage.

The lack of commitment to the principles had ended the previous indexation system. The Commission would now require a 'no extra claims' commitment to be made when each award was varied.

This commitment was included as a requirement for national wage increases until September 1994. The Commission said:

> More emphasis than usual was put in these proceedings on the requirement that unions should publicly and expressly commit themselves to accepting this decision of the Commission and to abiding by its terms. Both the ACTU and the Federal Government made this concept of commitment central to their submissions and it was an integral part of the Federal Government support of the ACTU position. Without a commitment of the kind suggested we would have been reluctant to introduce the package and in particular to award an increase of 4.3%. We have therefore provided under Principle 3 that before any award is varied to give effect to this decision every union party to that award will be required to give a public and unequivocal commitment to the Principles.[114]

Under the indexation principles:

- in the *National Wage Case* 1984 awards were generally varied to give effect to the 4.1 per cent CPI increase, effective first pay period on or after 6 April 1984;[115]
- in the *National Wage Case* 1985, an increase of 2.6 per cent operative from 6 April 1985 was made;[116]
- in the *National Wage Case* November 1985, an increase of 3.8 per cent effective from 4 November 1985 was provided.[117]

The *National Wage Case* June 1986 continued to provide for six monthly wage indexation, with some changes to the principles.[118] In particular a new superannuation principle provided for agreements to be approved for superannuation contributions of up to 3 per cent, but rejected a claim for such payments to be arbitrated. The package was to operate for two years from 1 July 1986. It also provided for a national wage increase of 2.3 per cent from 1 July 1986.

Under the indexation principles the *National Wage Case* December 1986 was adjourned.[119]

REFORMING AWARDS & WORK & MANAGEMENT PRACTICES
1987–1991

The *National Wage Case* March 1987 introduced new principles that did not provide for wage indexation.[120] The principles provided for 'two tier' increases, with the first tier a $10 per week increase to award rates. A second tier adjustment, not exceeding 4 per cent, was available in return for 'measures implemented to improve efficiency' under the 'restructuring and efficiency principle', including changes to 'work practices and management practices'. It provided for arbitration of superannuation claims.

The decision provided for work and management practices to be reformed because of the universal agreement among trade unions, employers and governments that Australia's severe economic problems had to be addressed. These problems included CPI increases of 10 per cent per annum compared to an OECD average of one-quarter of this; increases in the national debt and the costs of servicing it; pressure on interest rates; no growth in non-farm gross domestic product (GDP); negative growth in terms of trade; and a rise in unemployment from 7.6 per cent in June 1986 to 8.2 per cent:

> It is against this background that all parties to these proceedings accepted that Australia's current economic performance has to be improved quickly. It is also against this background that a strong case can be argued that the economy should not be asked at this time to absorb increased labour costs. We do not think that such an outcome is feasible, given the immediate needs and expectations of wage and salary earners. Many may already be feeling at least some of the effects of the problems that confront the country. Not to grant an increase, notwithstanding experience of what would follow from an uncontrolled situation, would inevitably in our view, destroy the immediate possibility of a co-operative community effort to play in that effort.
>
> Our task is to provide a framework in which a combination of restraint and sustained effort to improve efficiency and productivity can be achieved. The principles we have determined provide that framework. For it to be successful, however, we must also make a judgement as to a workable combination of restraint and inducement for sustained effort.[121]

As a result of this package of principles:

- The *National Wage Case* December 1987 was adjourned.[122]
- In the *National Wage Case* February 1988 a flat increase of $6 was operative from 5 February 1988.[123]

In the *National Wage Case* August 1988, two increases at least six months apart were made available, the first one of 3 per cent (after 1 September 1988) and the second a flat rate of $10 (at least six months later).[124] The 'restructuring and efficiency' principle was replaced with the 'structural efficiency' principle. Under this principle increases were available if the parties to the award formally agreed to cooperate positively in a fundamental review of the award with a view to implementing measures to improve the efficiency of industry and provide workers with access to more varied, fulfilling and better paid jobs.

All aspects of award provisions were mentioned as being appropriate for review, including classification structures, and provisions regulating working hours.

The *February 1989 Review* was adjourned.[125]

The *National Wage Case* August 1989 provided that adjustment of pay would be allowable for completion of successful exercises under the 'structural efficiency' principle.[126] It provided for all award rates to be 'broadbanded' into generic classification levels, to replace the hundreds of award rates set by reference to a narrow function. Award rates were to be set by reference to the metals and building tradesperson rate of $356.30 and $50.70 per week supplementary payment. They were to be set on the basis of 'relative skill, responsibility and the conditions under which the particular work is normally performed'.

The decision provided a first increase of $10 per week for workers at the basic skill/trainee level; $12.50 per week at the semi-skilled worker level; and $15 per week or 3 per cent, whichever was the higher, at the tradesman or equivalent level and above. It also provided a second increase of the same order as the first increase, to be paid not less than six months after the first increase. The second instalment of the 'structural efficiency' adjustment was only available if the Commission was satisfied that the principle has been properly implemented and would continue to be implemented effectively.

In the *National Wage Case* April 1991, the 'structural efficiency' principle' was continued with some changes.[127] It provided for a 2.5 per cent

general increase in award rates, subject to the requirements of the 'structural efficiency' principle'.

The Commission decided not to move to a system of enterprise bargaining supported by the ACTU and Commonwealth, and partly opposed by employers, because the parties lacked the 'maturity' to undertake such bargaining, and because the Commission had:

> … major concerns about:
>
> - the incompleteness of the award reform process and its application at the enterprise level;
> - the inadequate development of the 'receptive environment' necessary for the success of enterprise bargaining beyond the scope of the present system;
> - the fundamental disagreements between the parties and interveners about the nature of the proposed form of enterprise bargaining and their failure to deal with various significant issues; and
> - the potential for excessive wage outcomes.

It said that the unresolved issues required further attention and debate, if 'industrial disputation and excessive wage outcomes' were to be avoided.

ENTERPRISE BARGAINING

1991–1996

In the *National Wage Case* October 1991 the Commission continued the availability of the April 1991 increase.[128] It also provided for a new Enterprise Bargaining Principle, under which an enterprise agreement might be approved if certain tests were met, including that wage increases were 'based on the actual implementation of efficiency measures designed to effect real gains in productivity'. The Commission said that the submissions of the parties supported the introduction of enterprise bargaining but also 'revealed a diversity of opinions and a failure to confront practical problems'. It said that there was 'little prospect … that further postponement will lead to more fully developed proposals or to the resolution of the points of disagreement'.

In the *Wage Fixing Principles Decision* October 1993, the Commission continued to make available structural efficiency increases, and provided for an additional $8 increase to be generally available award by award.[129]

In the *Review of Wage Fixing Principles* August 1994, the Commission handed down a new package of principles.[130] The principles made earlier increases available, without establishing new increases. The principles did not include the 'no extra claims' commitment, and described the role of awards as a 'safety net' for enterprise bargaining. In this and later decisions there is a description of the substantial changes made to the award and bargaining framework by the *Industrial Relations Reform Act 1993*. Detailed descriptions of the role of awards as a 'safety net' were established by the Act; new procedures for registration of enterprise agreements were established; the Commission was given the power to order the parties to bargain in 'good faith'; and employers, employees and trade unions could take protected industrial action in some circumstances in bargaining about a new enterprise agreement.

Image of Annual Wage Review 2014–15, sourced from the Fair Work Commission Archives and Library.

In the *Third Safety Net Adjustment Decision* October 1995,[131] the Commission provided for earlier increases including the October 1993

first $8, and a second adjustment of $8 from September 1994 at *enterprise level*, subject to certain tests, and a second $8 at *award level* from March 1995, subject to tests including a six-month gap with the last award increase. It provided for a third $8 at *enterprise level* from September 1995, and at *award level* from March 1996, subject to various tests such as a 12 month gap between the second and third Safety Net increases.

A new 'minimum wage' clause was established to be included in awards, linked not to needs but to the minimum classification rate in most federal awards. This was the rate of the C14 classification in the Metal Industry Award. All awards were linked to the rates in that award as a result of the August 1989 structural efficiency reviews.

STATUTORY ADJUSTMENTS & WAGE ADJUSTMENTS[132]

Under the *Workplace Relations Act 1996*, *Workplace Relations Amendment (Work Choices) Act 2005* and *Fair Work Act 2009*

In these decisions, increases were made to awards without a 'no extra claims' commitment or requirement to restructure awards. The restructuring of awards was carried out under statutory obligations and tests.[133] Court and Commission variations to the minimum wage had since 1908 been made in settlement of an 'industrial dispute', pursuant to legislation based on the 'conciliation and arbitration power' of the Australian Constitution (s.51(35)). After 2006 Commission orders varying the minimum wage were made pursuant to legislation based on the corporations power in the Australian Constitution (s.51(20)), without reference to settling an industrial dispute, except in limited respects.

Reviews of the level of award rates were made on an annual basis, at first as a matter of Commission discretion, and eventually because of new statutory requirements. After 2006 the minimum wage was no longer made to prevent and settle industrial disputes. Between 2006 and 2009 a body separate from the Commission, the Fair Pay Commission, fixed minimum wages without reference to general living standards (*Workplace Relations Act*, s 22(1); *Fair Work Act*, s 284(1)(c)).

The real value of the wage decreased from $662.28 to $647.44 (assessed in Australian dollars as at 2016). There have been other periods of real decrease, including 1931 (the Great Depression), and for a period after 1953 (the end of indexation) and 1981 (after the 'wage explosion').

THE FORM OF ADJUSTMENTS TO THE MINIMUM WAGE

Over 100 years

A range of approaches have been taken to adjusting the minimum wage. One approach is wage indexation (in 1921–1952, 1975–1981 and 1983–1986), increasing award wages to reflect movements in measurements of inflation to maintain the real value of the award rate. Another approach is that of deciding applications for increases or the amount of the increase on the basis of all economic and social material put to the Court or Commission during a case (1906–1921, 1952–1975 and 1986 onwards).

Adjustments have regularly been made to the minimum wage over its 100-year history. The periods in which adjustments have been made range from quarterly (e.g. 1921–1952), to six monthly (e.g. 1983–1986), to annually (2009 onwards), or after a period of years (e.g. 1957–1960).

The 'minimum wage' has been described in Commission awards in many ways including basic wage and margins, base rate, the total wage, supplementary payments, prosperity loadings and other amounts. There have been a range of different minimum wage amounts. The multiplicity of terms and varying amounts has perhaps contributed to a lack of understanding and documentation.

STATISTICAL COMPARISON OF THE MINIMUM WAGE

Over 100 years

The minimum wage varied in real terms until the 1920s brought some stability. The Great Depression saw a substantial cut in real terms of about 10 per cent, and the earlier level was not reached again until 1950. The 1960s and 1970s saw substantial growth in real terms, with the minimum wage reaching its height in real terms in 1980 as a result of a

combination of industry cases and National Wage Cases both adding to the level of the minimum wage. It then dropped in real terms to the level reached in the late 1970s, and after a period of stability between 1990 and 2000 has been gradually increasing in real terms.

As can be seen from the following table, over the more than 100 years of the minimum wage (1907–2010), it has more than doubled in real terms (214 per cent). By comparison, movements in real gross domestic product (GDP) per person have increased four and a half times (454 per cent), while real average weekly earnings (AWE) have increased nearly four times (394 per cent).[134]

The 'wage bite' of the minimum wage compared to average weekly earnings has consistently reduced from a very high base. A number of qualifications have to be made in relation to this conclusion:

- Firstly, there is some uncertainty about the accuracy of earlier statistics.
- Secondly, there is evidence that the Australian workforce has grown more skilled.[135]
- Thirdly, the Harvester wage of 1907 was set on the basis of what was 'fair and reasonable' for one large factory that conceded 'capacity to pay', not on an economy-wide basis. Only later was it applied on an economy-wide basis.
- Fourthly, the challenges that those fixing the early minimum wages faced were very different to those today, and the award wage was usually the actual wage that workers took home.
- Finally, the Australian economy was closed and less open to international trade and the minimum wage system might have reflected that environment to some extent.

In any event, the role of the minimum wage over 100 years has changed considerably in social and economic terms.

Table 1: Summary of the minimum wage over 100 years

Year	Real GDP per capita (AU$2018)*	Real minimum weekly wage (AU$2018)†	Real AWE (AU$2018)‡	Real adjusted AWE (AU$2018)§	Wage Bite: Proportion of minimum wage to adjusted AWE
1907 *Commonwealth Conciliation and Arbitration Act 1904*, the Harvester Decision 'living wage' 1907. Minimum wage set in settling 'industrial disputes' 1908–2006.	15,979.3	315.27 (Harvester wage in 1907: 42s per week for an unskilled labourer)	208.30	272.61	1.16
1917 Realisation of need to maintain real value in minimum wage.	15,394.8	254.62	204.57	267.73	0.95
1927 Automatic quarterly indexation 1921– 1953 ('cost of living adjustments'), Harvester wage adopted across Australia.	16,145.0	356.26	302.62	396.05	0.90

* Real GDP per capita compiled from Hutchinson, D and Ploeckl, F (2022), 'What Was the Australian GDP or CPI Then?', *MeasuringWorth*, http://www.measuringworth.com/australiadata/

† The minimum wage from 1917 to 1967 is based on the Basic Wage for males as determined by the relevant federal authorities. From 1968 to 1997 the series is based on the C14 for males under the various Victorian Metal Industry Awards. From 1998 to present the series refers to the Federal/National Minimum Wage. The minimum wage is adjusted in real terms using the CPI under the RBA Inflation Calculator.

‡ The AWE for the period between 1921 and 1968–69 are based on the average annual earnings of employees in manufacturing and then from 1969–70 are based on the average earnings of employees in all sectors. Hutchinson and Ploeckl (2016) rebased the pre-1969–70 data using a ratio of 0.9337 to link the two series together. The AWE is adjusted in real terms using the CPI under the RBA Inflation Calculator. Source: Data compiled from Hutchinson, D and Ploeckl, F (2018), 'Weekly Wages, Average Compensation and Minimum Wage for Australia from 1861–Present', *MeasuringWorth*, https://www.measuringworth.com/datasets/auswages/

§ The adjusted AWE is calculated by multiplying the real AWE by a ratio of about 1.31, representing the average relativity between full-time adult average weekly earnings and average weekly earnings between 2012 and 2021.

Year (continued)	Real GDP per capita (AU$2018)	Real minimum weekly wage (AU$2018)	Real AWE (AU$2018)	Real adjusted AWE (AU$2018)	Wage Bite: Proportion of minimum wage to adjusted AWE
1937 1931 the minimum wage cut by 10% because of the Great Depression. Then a 'fresh start' (1934) and prosperity loadings to reflect economic recovery (1937).	16,239.1	351.07	296.41	387.93	0.90
1947 Post war period. Quarterly indexation until 1953, then wage indexation rejected 1953–1975, Commission to look at all economic indicators.	18,334.0	370.51	372.49	487.50	0.76
1957 As above.	22,931.8	416.39	494.57	647.27	0.62
1967 1967–1981 Commission concerned about three-tiered wage system (over-awards, industry agreements and minimum wage cases) instead of National Wage Cases being the source of increases. The total wage replaces the basic wage and margins (1967).	29,451.6	416.39	611.76	800.64	0.52
1977 Return of wage indexation 1975, three-tiered system continues.	36,876.0	605.51	886.59	1160.32	0.52
1987 Wages explosion 1981, wage pause 1982, wage indexation 1983–1986, end of three-tiered system. Reform of workplaces/ awards from 1987–1988, enterprise bargaining from October 1991, awards a 'safety net' from 1993. Industrial Relations Act 1988, Industrial Relations Reform Act 1993.	42,730.6	626.72	929.10	1215.96	0.52
1997 Awards a 'safety net' with allowable matters, *Workplace Relations Act 1996*	52,175.2	609.13	973.82	1274.49	0.48
2007 *Workplace Relations Amendment (Work Choices) Act 2005*. Statutory wage fixing system based on corporations power.	65,774.9	672.8	1089.90	1426.40	0.47
2010 *Fair Work Act 2009*. Statutory wage fixing system based on corporations power.	67,372.9	671.9	1133.57	1483.56	0.45
2018 As above.	73,439.2	719.2	1195.48	1564.59	0.46
Increase 1907–1957	43.5%	28.2%	137.4%	137.4%	–0.53
Increase 1957–2007	186.8%	66.4%	120.4%	120.4%	–0.15
Increase 1907–2007	311.6%	113.4%	423.2%	423.2%	–0.68
Increase 1907–2018	359.6%	128.1%	473.9%	473.9	–0.69

Source: The Hon. Reg Hamilton

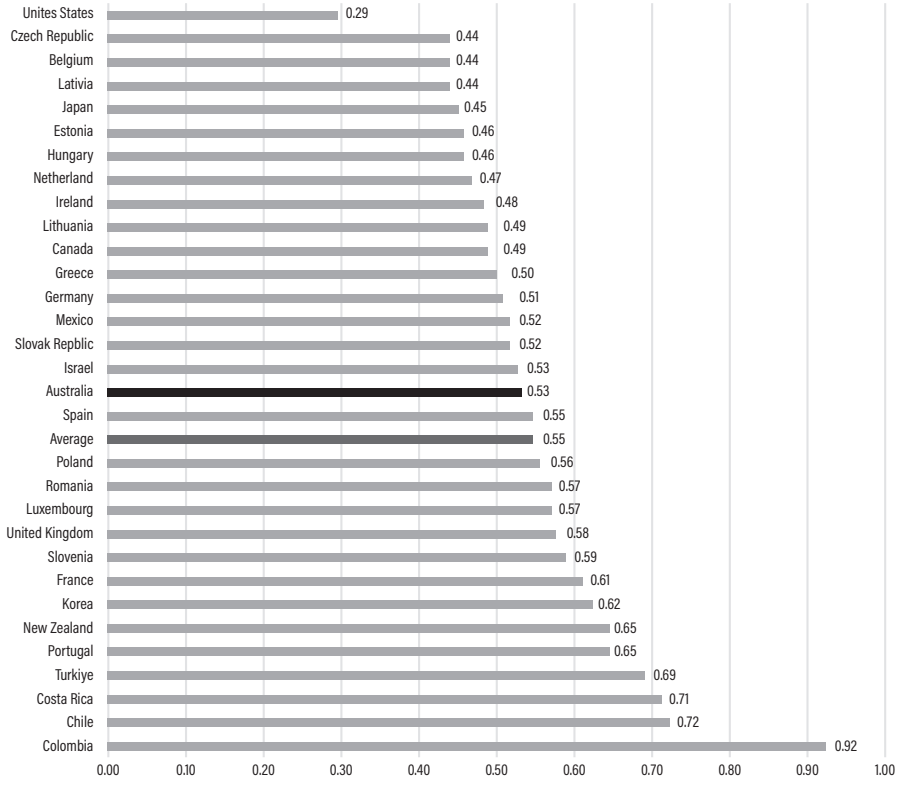
Explanation of the table: gross domestic product (GDP) per capita refers to the gross production of goods and services of the Australian economy for a year, divided by the population. Real average weekly earnings (AWE) refers to the weekly earnings of employees, adjusted to take account of inflation. 'Wage bite' is a term often used today, including in Commission decisions on the minimum wage, to compare the minimum wage with average weekly earnings. It is a measure of how much the minimum wage is in comparison with employees' actual earnings.

THE COURT & COMMISSION

International comparison

As the chart below shows, the Australian minimum wage as a ratio of full-time median earnings in 2020 is slightly below the OECD average. Among the major G7 countries with a minimum wage, Australia's minimum wage bite is relatively high compared to the United States, Japan, Canada and Germany, but is lower than France and the United Kingdom.

Figure 2: Comparison of OECD minimum wage levels relative to median wages of full-time workers, 2020



Source: OECD (2022), Dataset: LFS – Minimum relative to median wages of full-time workers, https://stats.oecd.org

THE COURT & COMMISSION

Descriptions of the minimum wage in its decisions

In 1907 a 'fair and reasonable' wage for an unskilled labourer was described in *Ex parte H.V. McKay* (the Harvester Decision) as 'the cost of living as a civilized being' or sufficient to provide employees with 'a condition of frugal comfort estimated by current human standards'.[136] By 1994 an award was 'a safety net of wages and conditions which underpins enterprise bargaining and protects employees who may be unable to reach an enterprise agreement while maintaining an incentive to bargain for such an agreement'.[137]

In over 100 years of decisions the Court and Commission has described the minimum wage in ways that suited the circumstances of the time, and made decisions that analysed those circumstances and the appropriate Court or Commission response. After the Harvester minimum wage became the national minimum wage in the 1920s by Court decisions, the Court established automatic quarterly indexation of wages on the basis of movements in inflation 1921–1953. As Justice Higgins said in 1913, 'The industrial unrest which is so general in all parts of the world seems to have solid foundation in the rise in prices'.[138]

The Court reduced wages by 10 per cent in 1931 because 'All must adapt themselves to the fundamental fall in national income …,'[139] and then with economic recovery it increased the minimum wage in 1937 because of 'present prosperity and for stabilizing reasons'.[140] It ended automatic quarterly indexation of wages in line with inflation in 1953 because 'There is no ground for assuming that the capacity to pay will be maintained at the same level or that it will rise or fall co-incidentally with the purchasing-power of money'.[141]

The Commission abandoned the basic wage and margins distinction and adopted the 'total wage' in 1967 for reasons including that '… over the years, the Court and the Commission have come to regard the same general economic considerations – such as purchasing power of money and national productivity – as relevant to the level of marginal rates in

the fashion that they have for a very long time been relevant to the basic wage level'.[142]

The Commission re-established systems of wage indexation from 1975–1981, and 1983–1986, because as it said in 1974: 'Ever since 1967, it has been the hope of the Commission that the bulk of wage increases would come from National Wage Cases … [instead of] the three-tiered wage system, with increases occurring as a result of National Wage Cases, industry awards and agreements, and over-award gains of varying amounts obtained from employers'.[143] It persisted with that system because of its concerns in 1978 about what would happen if it was abandoned, namely '… that despite the present economic situation and, in particular, the degree of unemployment, there are sufficient indications that economic reasons alone might not prevent an upsurge of wages, at first sectional and then becoming general, if no orderly system existed'.[144] The three-tiered system of multiple sources of minimum wage increases was finally ended with the adoption of a 'no extra claims' commitment requirement for accessing National Wage Case increases in 1983,[145] after the wage explosion of 1981[146] and wage pause of 1982.[147]

In 1987 yet another economic crisis led to 20 years of award and workplace reform, and then in 1991–1996 awards became a 'safety net for enterprise bargaining'. As the Commission said in 1987, 'Our task is to provide a framework in which a combination of restraint and sustained effort to improve efficiency and productivity can be achieved … we must also make a judgement as to a workable combination of restraint and inducement for sustained effort'.[148] In October 1991 the Commission said it would approve enterprise agreements if wage increases were 'based on the actual implementation of efficiency measures designed to effect real gains in productivity'.[149]

The Court early on established a separate system of lower minimum wages for women based not on the cost of supporting a family, but on what Justice Higgins described in 1913 as 'the normal needs of a single woman supporting herself by her own exertions'.[150] The Commission abandoned separate rates and applied the same rate to both men and women in 1972, stating that 'by "equal pay for work of equal value" we mean the fixation of award wage rates by a consideration of the work performed irrespective of the sex of the worker'.[151] In 1966 the Commission ended the exemption of some Indigenous employees from the minimum wage system.[152]

WAGE FIXING FACTORS AND APPROACHES

Some of the more influential wage fixing factors and approaches taken by the national industrial tribunal in exercising its broad discretion are discussed below. [153]

The needs of workers and capacity to pay

In Ex parte H.V. McKay[154] Justice Higgins determined that 7 shillings a day, 42 shillings a week was 'fair and reasonable' wages. Seven shillings was the lowest rate paid under non-profit Victorian Government instrumentalities such as the Melbourne and Metropolitan Board of Works.[155] He discussed household budgets he asked to be produced but there was no arithmetical link to this budget data in the amounts he set.

Although Justice Higgins did not describe the Harvester wage as a living wage,[156] he said that seven shillings was a '… standard appropriate … [for] the normal needs of the average employee, regarded as a human being living in a civilised community'.[157] This rate was based on the 'cost of living' for a family of five as enough to feed, house and clothe them in 'frugal comfort'.[158] Justice Higgins may have been influenced by Pope Leo's call for wages to enable a workman to support his wife and his children in the Papal Encyclical Rerum Novarum in 1891[159] and the lower living wage enunciated by Justice Heydon in 1905 in the New South Wales Court of Arbitration,[160] but did not mention either. He did discuss and reject lower Victorian wage board rates.[161] Justice Higgins preferred to describe the wage in Harvester as the basic wage but he did refer to it as a 'living wage' in 1916.[162]

Various estimates are that the Harvester rate was 110.5 per cent, 127 per cent or 151.4 per cent of average weekly earnings at the time, which was possible because the rate only applied to one employer.[163] By 1915 Justice Higgins calculated the basic wage on the ability of an industry to pay the rate and the industry's potential profits, but excluded the profits of an individual employer.[164]

Beginning in 1908 the Harvester rate was adopted in federal awards, although there were few federal awards until the 1920s. The Harvester case led to wage regulation where the basic wage was set in specific occupations or industries through arbitration and embodied in what is known as an 'award'.[165] Federal award coverage was very low until the 1920s: only 20 awards were made between 1905 and 1914.[166] But award coverage quickly grew. At the end of the 1920s coverage was estimated as 30 per cent for State awards and 30 per cent for federal awards.[167] By 1954 the Harvester basic wage had led to something approaching a universal minimum wage. Until 1949 awards were close to the market rate of average weekly earnings. Thereafter market rate growth exceeded increases in award earnings, although steady growth generally occurred over the long term (see Figure 1).

By the end of the 1920s federal and State awards applied to a majority of the workforce, and applied the Harvester standard, which became the 'basic wage'.[168] In 1922 the Conciliation and Arbitration Court rejected adopting the higher minimum wage levels recommended by the 1920 Royal Commission on the Basic Wage because the economy did not have the capacity to pay the higher amount. Justice Higgins criticised the recommendation of the Commission as the new wage did not differentiate between occupations and the Court continued to instead apply the Harvester level as the basic wage (as adjusted for decreasing purchasing power).[169] Over the ensuing decades minimum rates were regularly adjusted by the tribunal and were increased by indexation at various times between 1922 and 1987.

There were difficulties with the family methodology. Single men received a family wage,[170] and average families had less than three

children[171]. A husband, who had a legal obligation to support a family, received a family minimum wage, while a wife was paid only enough to support herself, unless she worked in the same job as men and then received the male wage. The Court increasingly recognised that the government and not the minimum wage system was responsible for compensating families for the cost of children and called for a national system of child endowment in 1931.[172]

Employer or industry capacity to pay was increasingly emphasised after 1922[173]. The Royal Commission on the Basic Wage in 1920 (known as the Piddington Commission) conducted a thorough investigation of the cost of living for Australian workers and their families. In 1922 the tribunal rejected an application to increase wages to the Piddington Commission's estimation of workers' needs, which was 50 per cent higher than the basic wage. The tribunal said that such a rate of pay would exhaust the entire national income,[174] the minimum wage depended on the performance of the economy and that the tribunal 'is not the steam engine that gives the necessary power to carry on the industries' but is only a 'governor on an engine'. The tribunal also held that it did not have a 'fairy wand to wave' and 'compel employment at any standard of comfort the Judge … thinks it desirable'.[175]

In 1931 the tribunal highlighted the economic constraints on the minimum wage when it noted that 'Neither the Legislature nor this Court can effectively prescribe a general level of wages above the capacity of the country's aggregate industry'.[176] The tribunal also suggested that family needs had to be addressed by a national 'system of child endowment',[177] a call repeated in 1932 and 1934. In 1934 the tribunal also stated that Justice Higgins took a 'hazy' view of the average number of members of a family, which he set at five, when statistics showed that the average number of children per household was 1.8 at that time, not three. The tribunal again stated that neither it nor the legislature could set a wage rate above Australia's 'aggregate industry' and that a basic wage that provides an acceptable standard of living for a family would exceed industry capacity.[178]

In the 1950s Chief Justice Kelly was critical of the Harvester approach of minimum wage increases as a means of improving worker living standards. In February 1952 he circulated a letter to trade unions and employers that suggested a 10 per cent reduction in the basic wage, freezing margins for three years, and criticised quarterly adjustments. Prime Minister Sir Robert Menzies may have been unhappy with these proposals.[179] In 1953 Chief Justice Kelly presided over the tribunal when it ruled that there was no connection between the level of the basic wage and any assessment of a family's living costs. Further, the tribunal concluded that some amounts that made up the basic wage were unrelated to the costs of a family. The tribunal held that the basic wage no longer reflected worker needs but 'the highest rate which the economy as a whole can sustain'.[180]

The basis of the new method of wage determination of the tribunal under Chief Justice Kelly were seven economic factors that did not include worker cost of living: investment indices, GDP changes, the balance of payments position, the level of overseas trade, the volume and value of retail trade and the competitiveness of Australia's secondary industry.[181] This approach was reiterated in the Basic Wage Decision in 1956–1957,[182] the Basic Wage Inquiry in 1958[183] and the Basic Wage Inquiry in 1960.[184] The effect of the economic factors concept was immediate: the real minimum wage dropped from $409.96 to $401.10 between 1953 and 1960. A similar effect occurred from 2006 to 2009 when a separate wage tribunal operated without the requirement to consider general living standards. There were also real decreases to $662.28 in 2006 and to $647.44 in 2008.[185]

Worker needs gradually returned as a prominent principle in setting the basic wage. This began when the tribunal stated in the Basic Wage Inquiry in 1961 that 'the purchasing power of the basic wage is a matter of importance'. At the same time the tribunal noted that the most important factor in determining a worker's living standards was what the economy could afford.[186] In the Basic Wage Inquiry in 1964 the tribunal referred to the basic wage as a 'standard' and made its decision on the basis of economic capacity to pay and price movements.[187] Worker living standards returned as an expressly recognised factor of importance.

After the basic wage was replaced with the total wage, the needs of the low paid became an important factor in decisions from the 1960s. The resulting frequent flat amount increases in awards compressed relativities between lower and higher award classifications and had a modest egalitarian effect. For a time, a new minimum wage clause applied to workers regardless of classification, which helped workers in the lowest award classifications – but it was frozen in the 1980s.[188]

Indexation of award wages by the amount of measured inflation and increases in the cost of living for workers was a means of addressing the needs of workers and has been used to fix minimum wages for nearly a third of the history of the minimum wage system. Wage indexation was first recognised by Justice Higgins in 1913 when he indexed the Harvester rate and noted that rising prices were a worldwide cause of 'industrial unrest'.[189] Indexation was initially calculated according to the first Commonwealth measure of inflation (the A Series).[190] Automatic indexation clauses operated in all awards from 1922 to 1953[191] and were largely agreed with employers. In 1922 employers accepted real wage maintenance of the Harvester standard for the term of an award in Re the Fairest Method of Securing the Harvester Standard for Workers,[192] an approach formally adopted by the tribunal in the same year, but they did not accept the Powers 3 shillings that compensated employees for the drop in real value in wages until the next quarterly increase for inflation.[193] Indexation was important part of wage regulation as over-award payments were not common until after the 1950s.

Worker needs returned as an influential concept of wage regulation when indexation was again introduced from 1975 to 1981 and 1983 to 1987.[194] During these periods indexation again took account of the economic context. For example, the 14 indexation decisions from 1975 to 1981 typically provided less than full indexation because of other cost increases and industrial campaigns.[195] Also, the indexation systems at this time were a *prima facie* position expressed in National Wage Case

decisions in formal wage fixation principles. Actual increases were not made until a full tribunal hearing, decision and an order.

Indexation ended in 1982 after a 'wage explosion', which included 'flow-on' to other awards of the metal industry agreement, which delivered a 23 per cent wage increase.[196] It was reintroduced between 1983 and 1986 as part of a package of wage fixing principles which included a 'no extra claims' commitment, limited flow-on of the metal industry standard and a later productivity case.[197]

Women's wages

As described previously, the Court initially set different minimum rates for men and women. Women received a male wage if they worked in male jobs, and if not received approximately 54 per cent of the male wage based on the needs of a woman supporting herself, not a family. Justice Higgins said that women did not have a legal obligation to support a family, unlike men.[198] This was increased to 75 per cent after World War II. Separate award rates for men and women were abolished in 1972.[199]

Aboriginal workers

Aboriginal workers were initially excluded from award rates. This exclusion was removed after the *Cattle Industry Case* (Aboriginal Stockmen's Case) in 1966.[200]

Many different minimum wages

Awards also contain multi-level classifications, apprentice and junior minimum wages, and different types of contracts of employment including part-time and casual, and provide for other additional payments including allowances and loadings. Each has a long history which could be dealt with at considerable length.

The low paid: allowing workers to live in dignity

The tribunal in its Annual Wage Review decision in 2009–10 said that while there was support for the proposition that the income of the low paid needs to allow these workers to live in dignity, it is an approach that is difficult to conceptualise in a monetary amount and limited evidence was provided as to the appropriate amount of money.[201]

The awarding of 'flat amounts' – dollar increases rather than percentage increases – was sometimes used as a means of assisting low-paid workers. This began in the *National Wage Case* 1968 decision in which the Commission said that a flat amount[202] was awarded in part 'because of our desire to do the best we can for the low wage earner …'[203] Such a reason was commonly given for flat amounts. Flat rate National Wage Case and Safety Net increases were also awarded in 1972, 1976, 1978, 1987 and 1993 to 2010. Percentage increases were otherwise awarded between 1967 and 1993, although there were variations such as 'stepped' increases that applied different increases to different award levels.[204] In the period from 1993 to 1996 the Prices and Incomes Accords provided for flat amounts of $8, which were the adjustments from 1993 to 1996, with the objective of assisting low-paid workers, although the Commission did not directly adopt the Accords.[205] Flat amounts continued until 2011 when they were abandoned by the Commission on the basis that over the last 20 years they had compressed relativities, resulted in real drops at the higher award rates and that it was time to maintain the real value of all rates.[206] From 2011 percentage increases have been awarded. However in the Annual Wage Review 2022 decision a flat amount was again awarded to assist the low paid.

In the Safety Net Review – Wages Review 1997 the Australian Industrial Relations Commission stated that three factors together constitute a workable definition of the low paid: a worker's wages are not prescribed in workplace or enterprise agreements; their award classifications are toward the lower end of the award structure; and they receive no or only small over-award payments. The Commission rejected formal benchmarks. An inquiry could not define the low paid, as an appropriate defined standard of living or family unit was not possible and the interaction of social welfare and award wages with expenditure surveys could not be equated with needs.[207]

The Henderson poverty line was discussed in some decisions as a means of indicating the low paid and had some limited influence.[208]

A new federal minimum wage clause was established in April 1997. The new minimum wage was linked to the lowest rate in the Metal Industry Award (C14) and was not a new measure of 'needs'[209] but instead provided a base for the award system. This clause was phased out after 2009 as the lowest rate increasingly became limited to an introductory rate, and due to the introduction of the national minimum wage order which applied to non-award employees (the level of which is fixed in the same way).

In 1998 the Commission said that the needs of the low paid were affected by growing income inequality.[210] Then, in 1999, the Australian Industrial Relations Commission decided that unemployed people were not included in the concept of low-paid workers.[211] The Commission's *Safety Net Decision* 2000 noted that some low paid are in households of relatively high means.[212] In 2001 the Commission recognised the difficulty of identifying the size of the low-paid group of workers and that this group faced particular difficulties that were taken into account.[213] In 2002 the Commission's *Safety Net Decision* rejected calls for an inquiry into the low paid but said that empirically determined poverty lines were a relevant factor.[214] The Commission's *Safety Net Decision* 2003 held that increases in award wages are a 'blunt instrument' in addressing the needs of the low paid because of those workers in higher income households, on-costs and the impact of tax.[215] Overall the needs of the low paid influenced the gradual real growth in the minimum wage and the not infrequent award of flat amounts, which had an equalising effect by compressing relativities.

From 2006 to 2008[216] the minimum wage was set by a new independent tribunal, between the Australian Fair Pay Commission. Statutory guidelines referred to 'providing a safety net for the low paid' to replace 'relative living standards and the needs of the low paid'.[217] Accordingly, decisions provided flat amounts which had previously been abandoned by the Commission because of the desire to maintain the classification

system. Also, there were less-than-inflation increases. The Fair Pay Commission's final decision provided no increase following the economic downturn in 2008.

Under the Fair Work Act *2009* the wage fixing panel tribunal in the Annual Wage Review 2010–11 considered a range of possible definitions of who constitutes low-paid workers. Various submissions proposed award rates of pay, the national minimum wage, less than two-thirds of median earnings for full-time employees, less than two-thirds of average weekly ordinary time earnings for full-time adult employees and below 120 per cent of the national minimum wage.[218] The tribunal decided to emphasise workers at the lower award classifications.[219]

In 2018 the Commission rejected this approach by deciding that a threshold of 60 per cent of median adult full-time ordinary earnings was a suitable benchmark for identifying the low paid[220] – an approach that is based on OECD standards, and above some award rates such as those for forklift drivers.[221] Some low-paid workers live in high-paid households but 'the low paid are disproportionately found in the bottom deciles, with 62.3 per cent of the low paid in the bottom half of the [household income] distribution'.[222]

In the Annual Review 2020–21[223], the tribunal also considered other indicators of needs such as 'budget standards, comparisons of hypothetical low-wage families with customary measures of poverty, both before and after taking account of the tax-transfer system, and survey evidence of financial stress and material deprivation among low-paid household'.

Margins for skilled labour

The basic wage set a floor for unskilled workers; margins were additional amounts paid to more skilled employees. The original unskilled/skilled ratio was established in Harvester as 7/10, based on the distinction between an unskilled labourer and a skilled tradesman (for example, journey-men fitters, turners and blacksmiths).[224] The tribunal made comparisons with English fitter rates in decisions in 1922[225] and 1924;[226] the 7/10 ratio was similar to the 0.66 ratio that operated

in England for 600 years.[227] Moreover, the Australian and English labourer/tradesman relativities both began as 2/3 or 7/10 and ended at over 8/10 (see Figure 1). The 7/10 rate was important for brief periods from the 1900s to the early 1970s and influenced tribunal decisions as late as 1963.[228] This ratio then alternated with a more egalitarian 8/10 ratio until the 1970s saw the tribunal formally confirm the 8/10 ratio. Since 2010 the ratio has been 0.86.

While the basic wage frequently changed on a national basis, margins were adjusted less regularly and on an award-by-award basis.[229] For example, the fitter margin was varied a total of 13 times until the basic wage and margins were abolished and replaced by the total wage in 1967. Unlike the basic wage, which was adjusted for inflation, margins were typically adjusted for economic reasons.

In 1921 Justice Higgins fixed the total rate for a fitter at 120 shillings on the basis of the Harvester labourer to fitter ratio.[230] This total was adjusted in 1922 when Justice Powers decreased the fitter's margin from 36 to 24 shillings to bring it into line with other awards.[231] In 1924 the tribunal fixed the margin on the basis of the market rate and not the cost of living.[232] Then, in January 1931, the tribunal reduced all award wage rates (including margins) by 10 per cent because of the domestic and international economic effects of the Great Depression.[233] The basic wage was reduced again in 1935 to 27 shillings as the highest rate that the economy could sustain,[234] but economic recovery allowed the tribunal to restore the Harvester standard in 1937.[235] In 1954 the tribunal said that margins are not automatically increased on account of prices.[236] But in 1959 the tribunal took into consideration prices and the capacity of the economy when it increased the fitter margin from 75 to 96 shillings.[237] In 1963 the tribunal included in its decision-making process national economic indicia about the capacity of the economy in increasing the fitter margin to 102 shillings.[238] Margin hearings ended in 1966 when the basic wage and margins were merged to form the total wage, in part because hearings on both wages had become economic reviews that were similar in nature.[239]

Comparative wage justice

Between the 1960s and 1983, industry agreements reached in one award were applied to other awards in some cases under 'comparative wage justice'. The last example was limited application of the metal industry standard under wage fixing principles in 1983 which continued for a period. Possible application of industry agreements to other awards ended with the requirement that awards be a 'safety net' in 1993.

Figure 1 demonstrates the effect of industrial campaigns on award rates. From 1967 to 1981 there was an unprecedented number of large fluctuations in the real rates of award wages. The increases made to thousands of federal and State awards is largely undocumented. During this period the metal industry was influential to wage setting across other industries. The metal trades work value decision in 1967[240] led to large increases to the fitter rate and saw the labourer/fitter ratio being only 0.54 (compared to 0.7 to 0.8). This decision was quickly applied to other awards and it was a substantial source of additional increase to the flat amount increase in the National Wage Case decision in 1969.[241]

In 1967 there was extensive use of the 'penal sanctions' contained in ss 109(1)(a)(b) and 111 of the Conciliation and Arbitration Act 1904 (Cth) to control industrial action. A total of 275 fines that totalled $83,000 were imposed on seven metal unions for industrial action. Statistics for the March quarter in 1968 show that compared to the same period in the previous year, nearly four times as much time was lost to strikes. The extensive use of industrial action by unions led to legislative sanctions becoming unworkable and were largely repealed after the Clarrie O'Shea case led to the imprisonment of a union official.[242]

In 1974 there was a consent 'equitable base' increase of $15 in the Metal Industry Award,[243] a further arbitrated increase of $9[244] and a work value arbitrated increase to the fitter rate of $9.30 in 1979.[245] These increases were part of what was called 'flow-on' or 'comparative wage justice' that lifted the base rate for all awards. In December 1981 the tribunal approved a consent award for the metal industry that was reached between employers and unions. It provided for a complex package of

wage increases, including a $25 increase for fitters at the end of 1981 and a further $14 increase from June 1982.[246] Overall rates increased by 23 per cent and these new rates were applied to other awards. However, the resulting substantial increase in labour costs led to a six-month wage pause.[247]

The tribunal discussed collectively bargained wage rises and how to have regard to them in national increases based on economic assessments. In the National Wage Case decision in 1974 the tribunal stated that its hope in 1967 (and again in 1969) that most wage increases would result from National Wage Cases on the basis of economic grounds failed to eventuate. Instead, a complex three-tiered wage system existed where wages were set by National Wage Cases, industry awards and collective bargaining.[248] Debate within the tribunal in 1968 and other proceedings led to the National Wage Case decision in April 1975[249] and the introduction of a formal work value principle. A more restrictive principle was implemented in March 1980.[250]

Indexation was used by the tribunal as a tool to regulate collective bargaining. Despite ongoing industrial campaigns, the tribunal in 1978 decided to continue the system of wage indexation because 'economic reasons alone might not prevent an upsurge of wages, at first sectional and then becoming general, if no orderly system existed'.[251] Isaac concluded that between 1975 and 1979 'wage drift' rarely occurred as few increases exceeded award movements that were consistent with national capacity to pay and that this system was effective.[252] Yet the substantial award increases that flowed from the metal industry agreement in 1981[253] were generally viewed as creating excessive wage cost growth that resulted in the consensus agreement to pause wages in 1982.[254] This wage pause saw the end of the three-tiered system of minimum wage regulation in 1983 and the adoption of a 'no extra claims' commitment requirement for accessing National Wage Case increases,[255] a system that was accompanied by the 'social wage' and wage indexation until 1996.

Hancock and Richardson argued that the industry campaigns and cases in 1975 and 1981 resulted in the tribunal being asked by either

employers or government to subdue the wage explosion that resulted from collective bargaining, a product of the unwillingness of unions to refrain from exercising their market power.[256]

Industry campaigns and agreements lessened with the reduction in industrial action over several decades. As industrial action diminished across the economy so did discussion about it in tribunal decisions on the minimum wage. The last substantive discussion of industrial action and the minimum wage was in 2000.[257]

Statutory changes also restricted the ability of trade unions to have an industry agreement approved in an award. Formal enterprise bargaining was recognised by the tribunal in October 1991, followed by legislation which removed the tribunal's public interest test for agreements in 1992.[258] Then the Industrial Relations Reform Act 1993 (Cth) and then the Workplace Relations Act 1996 (Cth) effectively limited compulsory arbitration to a safety net of employment conditions,[259] a role that meant that there would be over-award payments and enterprise agreements above awards. Awards therefore no longer necessarily attempted to set actual rates of pay.

A tension sometimes existed between settling an individual dispute and the public interest.[260] In some industry cases such as the metal industry, settlement of disputes was a factor, as well as public interest considerations. Awards continued to be made to prevent or settle industrial disputes until 2005 when the constitutional basis of employment legislation became the corporations power contained in s 51(20) of the Constitution.[261] The conciliation and arbitration power in s 51(35) was given a limited role with respect to non-corporate employers and eventually abandoned in the Fair Work Act 2009 (Cth).

Enterprise bargaining

The Industrial Relations Reform Act 1993 (Cth) limited the minimum wage to a 'safety net' of minimum standards rather than actual rates.[262] This as well as the introduction of a formal system of enterprise bargaining in 1991[263] was an abandonment of attempts to lift the minimum

wage to market rates. There was a dramatic decline in the number of workers who received award conditions. In 1990, 78 per cent of the workforce received award rates[264] and this number had fallen to 22.7 per cent of workers in 2018.[265] Before World War II, award rates were the actual rates for most employees.

Statutory directions

Prior to the 1990s statutory directions on the minimum wage existed but were limited to definitions of the basic wage and margins.[266]

In 1993 the Industrial Relations Act directed the Commission to have regard to certain matters that were summarised by the Commission in a formal 'Statement of Principles'. The aim was to ensure awards protected employees by providing secure relevant and consistent wages and working conditions which would establish a safety net that supported enterprise bargaining.[267]

New statutory directions for awards were introduced by the Workplace Relations Act in 1996. These directions were summarised by the Commission in the *Safety Net Decision* 1998 as economic, social and bargaining. Economic factors focused on the effects of adjusting the wage in line with employment, productivity and inflation. Social factors involved providing fair minimum standards that had regard to living standards in Australia and the needs of low-paid workers. Bargaining factors involved providing incentives to bargain and encouraging the creation of enterprise or workplace agreements.[268]

New statutory directions for minimum wages were introduced with the Fair Work Act 2009. The Commission's expert panel for annual wage reviews is composed of four members of the Fair Work Commission and three external members.[269] Section 284 of the Act requires the maintenance of a safety net of minimum wages that takes into account the performance and competitiveness of the national economy, the promotion of social inclusion through increased workforce participation, relative living standards and needs of low-paid workers, the principle of equal remuneration for work of comparable value and a fair minimum wages for juniors, trainees and employees with a disability.

The application of these and previous statutory directions leave the tribunal with considerable discretion. The Fair Work Commission refused in 2018 as a matter of discretion to set a living wage that is 60 per cent of median income because of the substantial risk of negative employment effects and cannot in any event substitute that formula for the statutory criteria.[270]

Reform of awards

Six systems of award reform began with an economic crisis in 1987.[271] The latest reform is award 'modernisation', part of the Kevin Rudd Labor Government's 'Fair Work' agenda. In 1996 there were approximately 3253 federal awards (and a similar number of State awards) that set different minimum wage levels. There are now 121 'modern' awards that have a high degree of consistency in relation to wage rates,[272] though some awards continue to have unclear coverage or classification 'streams'.[273] Additional payments such as penalties and allowances introduce multiple variables, although they have been repeatedly reviewed by the tribunal. Evidence of the simplification and modernisation process can be seen in the Metal Industry Award combining with other manufacturing awards to have a total of 19 pay points.[274] Award reform included removal of barriers to productivity and other measures.

Previously the Metal Trades Award had 295 pay points or classifications and the Metal Industry Award had 288 pay classifications. Despite the simplification of the award system, employers facing allegations of underpayment of wages frequently argue that their non-compliance is largely the result of the complexity of the award system. The COVID-19 crisis has led to discussion of further reduction of complexity, as well as more flexible award provisions such as job-sharing and a wider span of hours to accommodate increased working from home.[275]

The minimum wage and COVID-19

In the Annual Wage Review 2019–20 the Fair Work Commission considered the impact of the economic downturn resulting from COVID-19 on the minimum wage.[276] While the majority stated that economic considerations favoured greater moderation in setting the minimum wage, increasing the wage was supported by various equity considerations such as promoting social inclusion, relative living standards, the needs of the low paid and equal remuneration.[277] Equal pay is particularly important as women are more likely to be in low-paid employment and paid at the award rate.[278] Further, the majority of the Commission held that a moderate and sustainable increase that does not create disemployment must be viewed within the context of the economic climate under COVID-19.[279] The result was an increase of 1.75 per cent that aimed to maintain the real value of the national minimum wage and award-reliant employees. The increase was composed of three groups of industries and gradually implemented on 1 July 2020, 1 November 2020 and 1 February 2021.[280] In contrast the dissenting decision recommended no increase because 'jobs should be prioritised over an increase' and 'considerations about relative living standards are best judged over the longer term, and not solely on a year by year basis'.[281]

THE CONSTITUTION

There were many High Court challenges (mostly by employers) to the Constitutionality of the Court and the Act. The first wages case in the High Court concerned the Harvester Basic Wage Decision. In King v Barger, Commonwealth v McKay[282] a majority of the High Court held that the Conciliation and Arbitration Court's power under the Excise Tariff 1906 (Cth) to set a 'fair and reasonable' wage for workers manufacturing goods that were the subject of excise duties was an unconstitutional use of the taxation power.[283] However, Justice Giudice, a former President of the Australian Industrial Relations Commission, warned in 2007 to cautiously interpret Barger due to the influence of the doctrine of implied immunity of State instrumentalities,[284] which was abandoned by the High Court in Amalgamated Society of Engineers v Adelaide Steamship Co Ltd.[285]

After Barger a series of cases influenced the wage-setting powers of the Commonwealth Court of Conciliation and Arbitration. In 1909 the High Court in the Woodworker case[286] used the implied immunities doctrine to rule that State awards prevailed over federal awards, a decision overturned in 1927 in Clyde Engineering Co Ltd v Cowburn.[287] The High Court in Woodworker also declared that 'paper disputes' established by a trade union's letter of demand to an employer could not create an 'industrial dispute' within the meaning of s 51(35) of the Constitution.[288] This decision was also overturned when the High Court in 1911 ruled in Whybrow[289] that paper disputes could be used by unions to create federal awards.[290] In subsequent cases the High Court found that paper disputes had to be a genuine inter-State dispute[291] and were only binding on non-union members if they were the product of a trade union letter of demand and not an employer letter.[292] Whybrow also decided that s 51(35) of the Constitution did not permit a provision of the Conciliation and Arbitration Act to give the Conciliation and Arbitration Court the power to set a 'common rule' for an entire industry and that the Act was valid despite arbitration being involuntary.[293] The High Court in The School Teachers' case[294] found that teachers working in State schools could not be the subject of an interstate industrial dispute.

Initially the Federal Government attempted to expand the powers of the Conciliation and Arbitration Court after Justice Higgins described the High Court's decisions on s 51(35) as a 'Serbonian bog of technicalities, and the bog is extending' as federal awards could not prevail over State awards.[295] The Federal Government was unsuccessful in 1911 and 1913 in its attempts to expand its constitutional powers to include general labour conditions and wages in two referenda.[296]

Between 1918 and 1920 'round table' discussions by industrial councils and specialist tribunals gained traction as an alternative to arbitration via legislation introduced by the Commonwealth, South

Australia and New South Wales. These systems operated for the next decade. The Industrial Peace Act 1920 (Cth) implemented temporary industrial councils that were created by the executive government for the prevention and settlement of industrial disputes and led to Justice Higgins resigning from the Conciliation and Arbitration Court.[297]

The Royal Commission on the Constitution in 1927 recommended that s 51(35) of the Constitution be amended so that the legislative power on industrial relations be the sole power of the States. In 1929 Prime Minister Stanley Bruce's attempts to rationalise the arbitration system culminated in his failed effort to exclude the Federal Government from all arbitration (except maritime disputes) through the Maritime Industries Bill 1929 (Cth), causing not only an election loss but a Prime Minister losing his seat in parliament for the first time.[298]

By the conclusion of World War II political opinion had shifted and the Federal Government again failed in its efforts to expand its industrial relations power by maintaining wartime regulation of industry. While the Constitution Alteration (Industrial Employment) Bill 1946 (Cth) prohibited 'industrial proscription' that was first used in the National Security Act 1939 (Cth), it also proposed to give the Commonwealth Parliament the constitutional power in s 51(35) to set working conditions (including the basic wage) for any industry.[299] Once again a referendum on the conciliation and arbitration power failed to pass.[300]

In the early arbitration cases it is unclear whether the Court applied the terms 'industry', 'industrial dispute' and 'industrial matters' as defined in s 4 of the Conciliation and Arbitration Act, the words in s 51(35) or both. The High Court in Waterside Workers' Federation[301] in 1918 ruled that the Conciliation and Arbitration Court could not exercise judicial power and the Court's powers were subsequently reconstituted. Then, in 1930, legislative amendments reduced the broad wage-setting powers of the Court by limiting the ability of the judges to alter the basic wage.[302] The High Court in 1956 imposed further restrictions on the Court's powers in R v Kirby and Others[303] by finding that it was unconstitutional for the Court to exercise both judicial and

award-making functions. As a result, two new industrial bodies were established: the Commonwealth Industrial Court performed judicial functions (now exercised by the Federal Court of Australia) and the Commonwealth Conciliation and Arbitration Commission made and varied awards. Next, the High Court ruled in Amalgamated Engineering Union[304] in 1967 that the Industrial Relations Commission had the power to replace the basic wage with the 'total wage' in the National Wage Case 1967[305] and that the Constitution prevented the Commonwealth Parliament from directly setting the minimum wage.[306]

Parliament largely abandoned s 51(35) as the basis for regulating employment and industrial relations in 2005 when the John Howard Coalition Government utilised the corporations power in s 51(20) of the Constitution to nationalise employment regulation with the introduction of the Work Choices legislation. This approach survived a constitutional challenge in the High Court.[307] The result is that most of the previous limitations on the wage-setting powers of the federal industrial tribunal no longer have effect, though the coverage of what is now the Fair Work Act applies to corporations and others covered by dual systems of federal and State legislation.

THE SURPRISING INFLUENCE OF THE VICTORIAN 1896 WAGES BOARDS ON THE FIRST MINIMUM WAGE SYSTEMS IN THE UNITED STATES AND UNITED KINGDOM

The wages boards established by the British colony of Victoria in 1896 were the model followed both by the United Kingdom in establishing wages boards in 1909 and in the United States in establishing wages boards at State level in 1912. The colony of Victoria became a State of Australia.

The United Kingdom

Alfred Deakin, later the second Prime Minister of Australia, was an important influence on the Victorian wages board system of 1896 and was a member of the Victorian Legislative Assembly. A series of wage

board Bills introduced into the British House of Commons by Sir Charles Dilke from 1898 were eventually adopted as the *Trade Disputes Act 1909*, the beginning of the British minimum wage system.

Deakin worked closely with Dilke, both seeing themselves as 'liberals' at a time when both were British subjects, before Australia was established as a nation. In 1887, before the 1896 establishment of Victorian wage boards, Deakin met with Sir Charles Dilke.[308] They discussed a proposal for wages boards composed of representatives of employers and employees with compulsory wage fixing powers, which was being advanced in Victoria by David Syme, the proprietor of *The Age* newspaper and an important political figure. Deakin then drafted and sent Dilke a bill for trade boards.[309] In 1898 Deakin and Dilke again discussed wages boards when Deakin and family visited England. They discussed the Victorian experience with the wearing apparel boards which had been set up in 1896.

Cooper says that from this time Dilke and his wife and niece were determined to introduce wages boards in England.[310] Blackburn[311] considers that Deakin may have been responsible for convincing Dilke to pursue wages boards with compulsory wage fixing powers, although there were also other influences in Britain. When the Victorian Act was introduced in 1896, Dilke discussed with Sydney and Beatrice Webb, leading campaigners on labour issues, the possibility of introducing such legislation in Britain. Beatrice Webb visited Australia and like Dilke favoured the wages boards of Victoria, rather than the compulsory arbitration system of New Zealand.[312]

The United States

The 1981 US Study Commission Report on the Minimum Wage[313] was prepared for United States Congress pursuant to a legislative requirement. It said that the Victorian 1896 wages boards[314] led to the first United Kingdom and then to the first United States wages boards. It was therefore the start of minimum wage systems in those countries:

> Massachusetts passed the first minimum wage law for women and children in 1912, the same year that Theodore Roosevelt included a minimum wage plank in his platform as the Independent Progressive candidate for President.
>
> The National Consumers League under the pioneering influence of Florence Kelley prepared a model minimum wage bill based on a 1909 British law, which in turn grew out of a 1909 act in the Australian province of Victoria. Following the Massachusetts' example seven states passed the Consumers League model bill in 1913.

Other studies agree with this analysis.[315]

COMPARING THE MINIMUM WAGE SYSTEMS OF THE UNITED STATES, UNITED KINGDOM AND AUSTRALIA[316]

The systems of wage regulation in the United States, the United Kingdom and Australia evolved in radically different parochial directions in response to local factors. Australia set statutory wages through the conciliation and arbitration requirements in s 51(xxxv) of the Constitution. The United Kingdom promoted collective bargaining, and wages boards were an ancillary mechanism until the introduction of a universal minimum wage in 1998. Supreme Court decisions in the United States severely limited minimum wage laws until 1937.

In Australia during the early 20th century Constitutional and political challenges did not prevent independent wages boards and industrial tribunals setting and regularly adjusting relatively high minimum wages for over 100 years. Australian minimum wage regulation is dynamic and constantly evolving. It began as the basic wage, transitioned to a universal minimum wage and is now a 'safety net' for enterprise bargaining. Industrial tribunal wage policies influence the national economy.[317]

In the United Kingdom the Liberal Government established wages (trade) boards in 1909 to address sweating and, later, gaps in collective

bargaining. Minimum wages had a limited ancillary role which continued until the revolutionary abolition of minimum wages in 1993 – when the Conservative Party abolished most minimum wages for free market reasons. Then, in 1998, the Tony Blair Labour Government implemented a National Minimum Wage (set by the Minister who may seek advice from the Low Pay Commission). In 2015 and 2020 an ambitious living wage with a target of 60 per cent of median earnings and then two thirds of median earnings was established by the Conservative Government. The view that the economy can sustain a relatively high minimum wage to help low paid workers is now bipartisan.

Supreme Court decisions severely limiting minimum wage systems in the United States differentiated it from Australia and the United Kingdom. From the 1940s, increasing the federal minimum wage involved political trade-offs that saw incremental increases and exemptions for some occupations and industries. By the end of the Ronald Reagan administration the rate of the federal minimum wage was largely ineffective, resulting in grassroots living wage campaigns.

The Supreme Court (and some State courts) prevented Constitutional validity of minimum wage laws until West Coast Hotel Co v Parrish[318] in 1937. Later Congressional inaction rendered the federal minimum wage largely ineffective. Vigorous localised living wage campaigns have led to regional living wages.

The minimum wage is an influential mechanism to help the low paid and alleviate poverty in Australia and the United Kingdom. Unlike the United States, Australia and the United Kingdom give weight to low wages as 60 per cent of median wages and below two thirds respectively.

A universal minimum wage functioning as both a cost and worker living standard requires wage fixing institutions to set a minimum wage which helps the low paid at economically sustainable levels.

CONCLUSION

The establishment and maintenance of the Australian minimum wage system by independent industrial tribunals is an important part of Australia's economic and social history, and something that differentiates Australia as a country from both the United States and United Kingdom.[319] Those countries established a minimum wage later, and it appears to have been of a lesser comparative importance. The Australian minimum wage is a multi-level minimum wage based on skill and responsibility, which is unique to Australia.

The establishment of the minimum wage system was a key decision of the early Australian Commonwealth after Federation in 1901. Court decisions to reduce the minimum wage were part of Australia's response to the Great Depression, while Court ordered increases played a role during the recovery from the Depression, and the post war recovery. The Commission's decisions on the minimum wage sought to address the economic difficulties of the 1970s, and to promote reform of awards and workplaces in the 1980s and 1990s.

For over 100 years the minimum wage provided employers and employees with a floor for wage rates, for employer labour costs and employee living standards, having regard to changing social and economic circumstances.

ATTACHMENT 1: THE MINIMUM WAGE SINCE 1906 IN AU$2018*

Year	Reference	Amount per week	Real basic / minimum wage ($2018)
1906	(1906) 1 CAR at 27	£8–£34 per month	
1907 1907 1907	(1907) 1 CAR 62 (1907) 1 CAR 122 2 CAR at 1	24s. per 100 sheep shorn £7/6s per day £2.2.0	315.27
1908	2 CAR at 55	£2.2.0 (42s.)	296.72
1913	7 CAR at 58	£2.10.0 (42s.)	256.49
1914	8 CAR at 127	53s.	313.05
1915			272.80
1916			268.96
1917			254.62
1918			238.70
1919	13 CAR at 839	11s. 6d. per day (69s.)	273.20
1920			241.37
1921	15 CAR at 829	£4.15s (95s.)	336.29
1922 1922 1922	16 CAR at 13 16 CAR at 262 16 CAR at 829	85s. 77s. £4.10.0 (90s.)	335.46

* This is the base level of the federal minimum wage system in AU$2018. Columns 1-3 are taken from a Commission table compiled by the Registrars over many years, added to and amended by the Hon. Reg Hamilton. Column 4 adjusts the minimum wage series in column 3 in real terms (in AU$2018). The sources are:

- 1907–1923 An FWC table of Commonwealth Arbitration Court decisions;
- 1923–1966 Commonwealth Basic Wage '6 Capitals' Labour Report No.54 1968 and 1969 (ABS Cat No.6101.0);
- 1966–1978 Labour Reports 1973 p.307, 1975 p.100, 1977 p.80, 1979 p.108 (ABS Cat No.6101.0);
- 1978–1995 Victorian Year Book, ABS Ct No.1300.2, *National Wage Case* decisions, Metal Industry Award decisions;
- 1995–2012 AMWU Research Centre Spreadsheet, AIRC Decisions Federal Minimum Wage; Report of the Review of Veterans' Entitlements, (Clarke, Riding, Rosalky 2003), table A12.2, p.759;
- 2010–present: Various decisions of Fair Work Australia/Fair Work Commission.

Year (continued)	Reference	Amount per week	Real basic / minimum wage ($2018)
1923		From 1923–1953 most adjustments to the basic wage came from award clauses automatically applying quarterly variations in the government index of retail prices to award rates, without a Court decision. In many years there were no Court decisions which reflected the latest level of the basic wage, unless a new award was made using the latest basic wage. There were however Court decisions in 1931, 1937, 1946 and 1950 which changed the basic wage separately to automatic indexation.	354.24
1924	20 CAR 60 at 71	No general case, but indexation. Award £4.5s.6d. (85s.6d.) (4th Quarter)	339.84
1925	23 CAR 85 at 89	No general case, but indexation. Award £4.6s.6d. (86s.6d.)	352.12
1926	24 CAR 652 at 655	No general case, but indexation. Award £4.10s.6d. (90s.6d.) (Syd)	354.30
1927	26 CAR 577	No general case, but indexation. Award £4.7s.6d. (87s.6d.) (Vic)	356.26
1928	27 CAR 176 at 182	No general case, but indexation. Award £4.9s.6d. (89s.6d.) (3rd Quarter)	352.21
1929		No general case, but indexation	358.33
1930		No general case, but indexation	343.74
1931	30 CAR at 2	£3.1.1 (61s.1d.) (10% reduction)	301.41

Year (continued)	Reference	Amount per week	Real basic / minimum wage ($2018)
1932	31 CAR 305 at 323	No general case, but indexation. Award £3.3.0 (63 s.) (SA)	306.75
1933	32 CAR 90 at 102, 108	£3.3.4 (63s.4d.)	321.40
1934	33 CAR 144 at 154	£3.5.0 (65s.)	325.76
1935	34 CAR 209 at 221	No general case, but indexation. Award 11s.4d. per day (68s.) (2nd Quarter)	331.09
1936	36 CAR 736 at 751	No general case, but indexation. Award £3.9s. (69s.) (3rd Quarter)	326.68
1937	37 CAR at 583, 595	£3.13.0 (73s.)	351.07
1938	40 CAR 71 at 72	No general case, but indexation. Award 81s. (Syd)	351.30
1939	41 CAR 516	No general case, but indexation. Award £4.1s. (81s.) (Vic)	347.13
1940	44 CAR 41	General case, no change, indexation	351.83
1941	44 CAR at 41	£4.6.0 (86s.)	352.21
1942		No general case, but indexation	352.88
1943		No general case, but indexation	346.04
1944		No general case, but indexation	345.90
1945	Perlman, Mark (1954), *Judges in Industry*, Melbourne University Press, p. 192.	No general case. 93s.	345.90
1946	57 CAR at 603	£5.0 (100s.)	370.91
1947	Cameron, RJ, *Standard Hours and the Basic Wage* (unpublished manuscript), p. 108.	No general case, but indexation. 142s.	370.51
1948		No general case, but indexation	366.47

Year (continued)	Reference	Amount per week	Real basic / minimum wage ($2018)
1949		No general case, but indexation	363.12
1950	68 CAR at 696	£8.2.0 (162s.)	419.53
1951		No general case, but indexation	433.68
1952		No general case, but indexation	427.30
1953	77 CAR at 477	£11.16.0 (236s.)	417.79
1954		No general case, no indexation	411.37
1955		No general case, no indexation	405.13
1956	84 CAR 157 at 165, 168	£12.6.0 (246s.)	399.60
1957	87 CAR 437 at 443	£12.16.0 (256s.)	404.25
1958	89 CAR 284 at 299	£13.1.0 (261s.)	409.29
1959	91 CAR 680 at 692	£13.16.0 (276s.)	424.01
1960	94 CAR 313 at 321 96 CAR at 572	£13.16.0 (276s.) £13.16.0 (276s.)	408.77
1961	97 CAR 376 at 409, 411	£14.8.0 (288s.)	417.00
1962	No Case	£14.8.0 (288s.)	418.34
1963	No Case	£14.8.0 (288s.)	415.67
1964	106 CAR 629 at 650	£15.8.0 (308s.)	432.15
1965	110 CAR at 93	£15.8.0 (308s.)	417.92
1966	115 CAR 93 at 123	£16.8.0 (328s.)	430.87
1967 1967 1967	118 CAR 655 at 661 118 CAR at 219 121 CAR 454 at 463	MI* – $28.59	416.39
1968	124 CAR 463 at 467, 468	MI – $29.85	369.62

Ends series 1

* 'MI' means Metal Industry Award adjustment. The source of these adjustments are set out in the table in the Waltzing Matilda and the Sunshine Harvester website, under Historical Materials.

Year	Reference	Print no.	Amount per week	Minimum wage	Real basic / minimum wage ($2018)
1978 Sep	211 CAR 268	D8400	Wage Fixing Principles Case		
1978 Sep	215 CAR 84	D8920	4.0%	MI – $140.60	726.57
1979 June	223 CAR 729	E0267 & E0267A	3.2%	MI – $138.90	657.78
1980 Jan	232 CAR 12	E1681	4.5%		
1980 Mar	235 CAR 246	E2370	Decision No. 2	MI – $151.30	650.56
1980 July	241 CAR 258	E3410	4.2%		
1981 Jan	250 CAR 79	E5000	3.7%		
1981 Apr 1981 May	254 CAR 341 255 CAR 652	E6000B E6300	Wage Fixing Principles Case 3.6%	MI – $189.30	743.42
1981 July	260 CAR 4	E7300	Indexation system abandoned		
1982 May	274 CAR 473	E9700	Increase refused	MI – $200.20	706.08
1982 Dec	287 CAR 82	F1600	Wage pause		
1983 Sep	291 CAR 3	F2900	4.3%	MI – $208.81	699.26
1983 April	No increase, CPI -0.2%, No National Wage Hearing				
1984 April	293 CAR 40	F5000	4.1%	MI – $218.36	670.24
1985 April	297 CAR 7	F8100	2.6%		
1985 Nov	299 CAR 163	G0700	3.8%	MI – $231.60	668.97
1986 June	301 CAR 611	G3600	2.3%	MI – $236.90	627.49
1986 Dec	15 IR 395	G6400	Increase refused		
1987 Mar	17 IR 65	G6800	$10.00 + 4.00%*	MI – $256.80	626.72

* The 4% increase accessible under the second tier.

Year (continued)	Reference	Print no.	Amount per week	Minimum wage	Real basic / minimum wage ($2018)
1987 Dec	20 IR 371	H0100	Increase refused		
1988 Feb	22 IR 461	H0900	$6.00	MI – $270.70	616.18
1988 Aug	25 IR 170	H4000	A maximum of 3 per cent and $10.00, and the same 6 months later*		
1989 Feb	27 IR 196	H8200	-	MI – $285.10	624.66
1989 Aug	30 IR 81	H9100	$10.00 at base level, $12.50 at semi-skilled, and $15 or 3% per cent whichever is higher at trades level, and the same 6 months later.†		
1990 Mar				MI – $311.30	
1990 April					613.93
1991 Jan					
1991 April	36 IR 120	J7400	2.5%	MI – $325.40	621.98
1991 Oct	39 IR 127	K0030	-		
1993 Oct	50 IR 285	K9700	-	MI – $333.40	620.01
1993 Nov	51 IR 54	K9940	$8.00		
1994 Aug	55 IR 144	L4700	Review of wage fixing principles	MI – $333.40	608.04
1994 Sep	56 IR 114	L5300	$8.00		

* These increases were to be spaced six months apart, and were accessible subject to a commitment to negotiations under structural efficiency principle.

† These increases were to be spaced six months apart, and were accessible subject to the conclusion of an agreement under the structural efficiency principle.

Year (continued)	Reference	Print no.	Amount per week	Minimum wage	Real basic / minimum wage ($2018)
1995 Mar				MI - $341.40	595.09
1995 Oct	61 IR 236	M5600		MI - $341.40	595.09
1997 April	71 IR 1	P1997		MI - $359.40	609.13
1998 April	79 IR 37	Q1998	$14.00 up to $550 pw $12.00 above $550 up to $700 pw $10 above $700 pw	$373.40	627.46
1999 April	87 IR 190	R1999	$12.00 up to & incl. $510 pw $10.00 above $510 pw	$385.40	638.16
2000 May	95 IR 64	S5000	$15.00	$400.40	634.70
2001 May	104 IR 314	PR002001	$13.00 up to & incl. $490 pw $15.00 above $490 up to $590 pw $17.00 above $590 pw		
2002 May	112 IR 411	PR002002	$18.00	$431.40	636.01
2003 May	121 IR 367	PR002003	$17.00 up to & incl. $731.80 pw $15.00 above $731.80 pw	$448.40	643.49
2004 May	129 IR 389	PR002004	$19.00 pw	$467.40	655.40
2005 June	142 IR 1		$17.00 pw	$484.40	661.43

AUSTRALIAN FAIR PAY COMMISSION

General wage-setting decisions

Year	Reference	Amount per week	Minimum wage	Real minimum wage ($2018)
2006 Oct	157 IR 124	$27.36 pw up to $700 pw $22.04 pw above $700 pw Further $17 pw where no 2005 SNA incr. received before 27 March 2006 but had 2004 SNA or other SN adj. in prior 12 months	$511.86 pw	674.93
2007 Jul	164 IR 1	$10.26 pw up to $700 pw $5.32 pw above $700 pw	$522.12 pw	672.80
2008 Jul	172 IR 119	$21.66 pw	$543.78 pw	671.50
2009 Jul	183 IR 1	No change	$543.78 pw	659.82

FAIR WORK AUSTRALIA & FAIR WORK COMMISSION

Minimum Wage Panel

Year	Reference	Print no.	Amount per week	Minimum wage	Real minimum wage ($2018)
2010 June	193 IR 380	PR062010 [2010] FWAFB 4000	$26.00 pw (69c ph) increase, based on 38 hour week Modern Awards and Transitional instruments (including Division 2B enterprise awards, but NOT including Division 2B State Awards)	$569.90 pw $15.00 ph Casual loading for award-free employees 21% Increase does not apply to award/ agreement-free juniors and trainees	671.90
2011 June	203 IR 119	PR002011 [2011] FWAFB 3400	3.4% increase. Weekly wages rounded to the nearest 10 cents	$589.30 pw $15.51 ph ($19.40 pw (51c ph)) increase, based on 38 hour week) Casual loading for award-free employees 22%	672.55

Year (continued)	Reference	Print no.	Amount per week	Minimum wage	Real minimum wage ($2018)
2012 June	222 IR 369	PR002012 [2012] FWAFB 5000	2.9% increase. Weekly wages rounded to the nearest 10 cents	$606.40 pw $15.96 ph ($17.10 pw (45c ph)) increase, based on 38 hour week) Casual loading for award-free employees: 23%	680.08
2013 June	235 IR 332	PR002013 [2013] FWCFB 4000	2.6% increase. Weekly wages rounded to the nearest 10 cents	$622.20 pw $16.37 ph ($15.80 pw (41c ph)) increase, based on 38 hour week) Casual loading 24%	681.11
2014 June	245 IR 1	PR002014 [2013] FWCFB 3500	3.0% increase. Weekly wages rounded to the nearest 10 cents	$640.90 pw $16.87 ph ($18.70 pw (50c ph)) increase, based on 38 hour week) Casual loading 25%	684.55
2015 June	252 IR 119	PR002015 [2015] FWCFB 3500	2.5% increase. Weekly wages rounded to the nearest 10 cents	$656.90 pw $17.29 ph ($16.00 pw (42c ph)) increase, based on 38 hour week)	691.22

Year (continued)	Reference	Print no.	Amount per week	Minimum wage	Real minimum wage ($2018)
2016 June	258 IR 201	PR002016 [2016] FWCFB 3500	2.4% increase. Weekly wages rounded to the nearest 10 cents	$672.70 pw $17.70 ph ($15.80 pw (41c ph)) increase, based on 38 hour week)	698.92
2017 June	267 IR 241	PR002017 [2017] FWCFB 3500	3.3% increase. Weekly wages rounded to the nearest 10 cents	$694.90 pw $18.29 ph ($22.20 pw (59c ph)) increase, based on 38 hour week)	708.18
2018 June	279 IR 215	PR002018 [2018] FWCFB 3500	3.5% increase. Weekly wages rounded to the nearest 10 cents	$719.20 pw $18.93 ph ($24.30 pw (64c ph)) increase, based on 38 hour week)	719.20
2019 June	289 IR 316	PR002019 [2019] FWCFB 3500	3.0% increase. Weekly wages rounded to the nearest 10 cents	$740.80 pw $19.49 ph ($21.60 pw (56c ph)) increase, based on 38 hour week)	729.06
2020 June	297 IR 1	PR002020 [2020] FWCFB 3500	1.75% increase. Weekly wages rounded to the nearest 10 cents	$753.80 pw $19.84 ph ($13.00 pw (35c ph)) increase, based on 38 hour week The operative date varied by Award Group	735.62

Year (continued)	Reference	Print no.	Amount per week	Minimum wage	Real minimum wage ($2018)
2021 June	307 IR 203	PR002021 [2021] FWCFB 3500	2.5% increase. Weekly wages rounded to the nearest 10 cents	$772.60 pw $20.33 ph ($18.00 pw (49c ph)) increase, based on 38 hour week The operative date varied for particular modern awards	732.98
2022 June	n/a	PR002022 [2022] FWCFB 3500	$40 pw ($1.05 ph) increase, based on 38 hour week. Modern award minimum wages increase by $40 pw up to $869.60 pw, or a 4.6% increase applies above that threshold. Weekly wages rounded to the nearest 10 cents	$812.60 pw $21.38 ph The operative date varied for particular modern awards	n/a

ENDNOTES

1 The national workplace tribunal was called:
- the Commonwealth Court of Conciliation and Arbitration 1905–1956;
- the Commonwealth Conciliation and Arbitration Commission 1956–1973;
- the Australian Conciliation and Arbitration Commission 1973–1989;
- the Australian Industrial Relations Commission 1989–2009;
- Fair Work Australia 2009–2012;
- the Fair Work Commission 2013 onwards.

2 International Labour Organization Global Wage Report 2020–21, 3, 131.

3 C131 - Minimum Wage Fixing Convention, 1970 (No. 131).

4 Australia ratified C131 on 15 June 1973: Ratifications of C131-Minimum Wage Fixing Convention, 1970 (No. 131), date of entry into force 29 April 1972, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:::NO:11300:P11300_INSTRUMENT_ID:312276:NO; International Labour Organization 2020, 168.

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6 Wilkins, Roger and Zilio, Federico (2020), 'Prevalence and persistence of low-paid award-reliant employment', 2.

7 National Women's Law Centre 2021.

8 Low Pay Commission, National Living Wage Review 2015–2020, 10; Annual Wage Review 2018–19, PR002018, [2018] FWCFB 350, 388.

9 Barroso, Amanda and Brown, Anna (25 May 2021), 'Gender pay gap in U.S. held steady in 2020', Pew Research Centre, https://www.pewresearch.org/fact-tank/2021/05/25/gender-pay-gap-facts

10 Review of certain C14 rates in modern awards [2019] FWC 5863.

11 AWE 1921–1965 data from Butlin, M, Dixon, R and Lloyd, P (2015), 'Statistical Appendix: Selected Data Series, 1800–2100', published in *The Cambridge Economic History of Australia*, Cambridge University Press; AWE 1966–2017 data from Hutchinson, D and Ploeckl, F (2018), 'Weekly Wages, Average Compensation and Minimum Wage for Australia from 1861–Present', MeasuringWorth, https://www.measuringworth.com/datasets/auswages/

12 Victorian Hansard (17 December 1895), p. 4250.

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17 Hammond, MB (1914), 'Wages Boards in Australia', *The Quarterly Journal of Economics*, 29(1):122–125.

18 Rankin, M (1916), *Arbitration and Conciliation in Australasia,* George Allen & Unwin, London.
19 Nemark, D and Wascher, WL (2008), *Minimum Wages*, MIT, p. 11.
20 (1907) 2 CAR 1.
21 The *Excise Tariff Act 1906* was found by the High Court to be invalid in *R v Barger* (1908) 6 CLR 41.
22 (1907-08) 2 CAR 55; (1909) 3 CAR 1 at 21.
23 (1913) 7 CAR 58.
24 Royal Commission on the Basic Wage (23 November 1920), Report of the Royal Commission on the Basic Wage together with evidence.
25 Gas Employees Case (1922) 16 CAR 4, per Powers J. See Forster, C, 'Indexation and the Commonwealth basic wage', *Australian Historical Studies*, 19: 111115
26 Compendium of Living Wage Declarations and Reports made by the NSW Board of Trade, 1921, pp. 10–15, 28–31; McCarthy, PG (1968), 'Victorian Wages Boards: Their Origins and the Doctrine of the Living Wage', *Journal of Industrial Relations*, 10:116 at 130.
27 Hamilton, R (2011), *Waltzing Matilda and the Sunshine Harvester Factory*, Fair Work Australia, p. 71.
28 Plowman, David (December 1995), 'Protecting the Low Income Earner', *The Economics and Labour Relations Review*, 6(2):272 and 257.
29 Gas Employees Case (1922) 16 CAR 4, per Powers J. See Forster, C, 'Indexation and the Commonwealth basic wage', *Australian Historical Studies*, 19: 111115.
30 (1912) 6 CAR 61, Justice Higgins, President, 20 June 1912.
31 (1913) 7 CAR 58 at 69.
32 Gas Employees Case (1922) 16 CAR 4 at 36, Powers J; Wool and Basil Workers Case (1922) 16 CAR 768, Webb DP; (1923) CAR 17 CAR 680 at 690.
33 Hancock, Keith (2013), *Australian Wage Policy: Infancy and Adolescence,* University of Adelaide Press.
34 (1922) 16 CAR 829 at 831–832. A good source of information about the early decisions is Anderson, George (1929), 'Fixation of Wages in Australia', Melbourne University Press.
35 Plowman, David (December 1995), 'Protecting the Low Income Earner', *The Economics and Labour Relations Review*, 6(2): 272 and 257.
36 Basic Wage Inquiry (1952-1953) 77 CAR 477.
37 Ibid, p. 497.
38 Basic Wage Inquiry (1930–1931) 30 CAR 21.
39 Ibid at 8 and 31.
40 Basic Wage Inquiry 1934 (1934) 33 CAR 144 at 148.
41 Ibid 153.
42 Ibid 154.
43 Basic Wage Inquiry 1937 (1937) 37 CAR 583.
44 Basic Wage Inquiry 1940 (1940) 44 CAR 41; Basic Wage Inquiry 1950 (1950) 68 CAR 698.
45 Basic Wage Inquiry 1940 (1940) 44 CAR 41; Basic Wage Inquiry 1950 (1950) 68 CAR 698.

46 Basic Wage Inquiry 1953 (1953) 77 CAR 477 at 509–510.
47 Basic Wage Inquiry 1956 (1956) 84 CAR 157.
48 Basic Wage Inquiry 1957 (1957) 87 CAR 437.
49 Basic Wage Inquiry 1958 (1958) 89 CAR 284.
50 Basic Wage Inquiry 1959 (1959) 91 CAR 680.
51 Basic Wage Inquiry 1961 (1961) 97 CAR 376.
52 Basic Wage Inquiry (1964) 106 CAR 629.
53 Basic Wage Inquiry (1952–53) 77 CAR 477.
54 Basic Wage Inquiry (1960) 94 CAR 313.
55 Basic Wage Inquiry (1965) AILR 324.
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57 (1921) 15 CAR 297.
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62 (1959) 92 CAR 793.
63 (1965) AILR Rep. 324.
64 Basic Wage, Margins and Total Wage Case (1966) 115 CAR 93.
65 Ibid at 107.
66 129 CAR 617 at 621.
67 Ibid.
68 *National Wage Case* (1967) 118 CAR 655.
69 *National Wage Case* (1968) 124 CAR 463.
70 *National Wage Case* (1969) 129 CAR 617.
71 *National Wage Case* (1970) 135 CAR 244.
72 *National Wage Case* (1972) 143 CAR 290.
73 *National Wage Case* (1973) 149 CAR 75.
74 *National Wage Case* (1974) 157 CAR 293.
75 Ibid at 301.
76 Commercial Printing Case 1942 39 CAR at 310; GMH Case 1966 115 CAR at 968.
77 H0120/VO51.
78 Print G6783.
79 (1966) 113 CAR 651, Kirby CJ, President, Moore J, Taylor Senr C, 7 March 1966.
80 (1969) 127 CAR 1142, Moore J, President, Williams J, Public Service Arbitrator Chambers, and Gough C, 19 June 1969.
81 (1972) 147 CAR 172, Moore J, A/g President, Robinson J, Coldham J, Public Service Arbitrator Taylor, Brack C, 15 December 1972.
82 Ibid p. 179.
83 Print C2200 167 CAR 18.
84 167 CAR 18 at 37.
85 167 CAR 18 at 23.
86 Ibid at 25.
87 167 CAR 18 at 32.

88 Print D1460 182 CAR 225.
89 Print D2720186 CAR 557.
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91 Print D3315 188 CAR 591.
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93 Print D5501 198 CAR 520.
94 Print D6070 201 CAR 447.
95 Print D7262 205 CAR 399.
96 Print D8400 211 CAR 268.
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99 Print D8920.
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101 Print E5000 9 January 1981; 250 CAR 79.
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107 Print E7520 1 September 1981; 261 CAR 224.
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112 Commercial Printing Case 1942 39 CAR at 310; GMH Case 1966 115 CAR at 968.
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132 The monetary increases awarded in the annual minimum wage proceedings from 1906 to 2022 are outlined in Attachment 1.
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152 (1966) 113 CAR 651, Kirby CJ, President, Moore J, Taylor Senior C, 7 March 1966.
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168 *Barrier Branch of Amalgamated Miners Association v Broken Hill Pty Company Ltd* (1909) 3 CAR 1, 21.
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176 Basic Wage Inquiry (1934) 33 CAR 144, 149.
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178 Basic Wage Inquiry (1934) 33 CAR 144, 148.
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186 (1961) 97 CAR 376, 384.
187 (1964) 106 CAR 629, 639.
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192 (1922) 16 CAR 829, 831.
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194 *National Wage Case Decision* (1983) 291 CAR 381.
195 E.g. the September quarter 1976 *National Wage Case* Decision (1976) 182 CAR 225 and the March quarter 1978 *National Wage Case* Decision (1978) 205 CAR 399.
196 Wage Pause Decision (1982) 287 CAR 82.
197 *National Wage Case Decision* (1983) 291 CAR 381.
198 The Rural Workers' Union (Fruit Pickers' Case) (1912) 6 CAR 21.
199 Equal Pay Case 1972 (1972) 147 CAR 172.
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202 A flat amount is a shilling or dollar amount rather than a percentage, the significance being that a flat amount is a higher percentage at lower award rates, and a lower percentage at higher award rates. This lessens the gap between lower and higher rates, and therefore has an egalitarian effect.
203 124 CAR 463.
204 E.g. the March quarter 1976 *National Wage Case* (1976) 177 CAR 335.
205 Review of Wage Fixing Principles (1993) 51 IR 54.
206 Annual Wage Review 2010-11 [2011] FWAFB 3400, paragraph 307.
207 (1997) 71 IR 1, Chapter 7.6.
208 *National Wage Case* 1973 (1973) 149 CAR 75, 83.
209 *Safety Net Review - Wages* April 1997 Decision (1997) 1 IR 71, 76. Note that the author negotiated and argued for the clause, and was the main employer advocate in Safety Net Cases 1992–2001.
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216 Workplace Relations Amendment (Work Choices) Act 2005 (Cth). The legislation survived a constitutional challenge in New South Wales v Commonwealth (2006) 229 CLR 1.
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232 (1924) 20 CAR, 1150-1151.
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240 (1967) 121 CAR 587.
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