

Fair Work Commission

*Fair Work Act 2009*

Part 2-3, Div 4 – 4 yearly review of modern awards

**AM2014/190 – DISTRICT ALLOWANCES**

---

**SDA'S SUPPLEMENTARY SUBMISSIONS**

---

**A. Background**

1. The Shop, Distributive and Allied Employees' Association (**SDA**) refers to the:
  - (a) further reply submissions of the New South Wales Business Chamber and ABI (**ABI**) dated 24 April 2018; and
  - (b) further submissions of the Australian Industry Group (**AIG**) dated 26 April 2018; in relation to the data set underpinning the WA Government's Regional Price Index (**RPI**) provided by the SDA to the Full Bench on 12 April 2018 (**Exhibit 24**).

**B. Supplementary submissions**

2. With respect, the submissions advanced by ABI and AIG largely do not concern Exhibit 24, and instead retread issues about the RPI that were dealt with at the hearing.
3. In the circumstances, the SDA relies on its previous written and oral submissions, and provides only the following brief supplementary submissions.

Methodology of the RPI

4. The RPI is a measure specifically adapted by the WA Government to estimate the cost of living in regional WA relative to Perth, including in the SDA Regions, for the purpose

---

Filed on behalf of (name & role of party)	SDA, Applicant Union		
Prepared by (name of person/lawyer)	David Scaife		
Law firm (if applicable)	Eureka Lawyers		
Tel	(08) 9428 3333	Fax	(08) 9428 3320
Email	david.scaife@eurekalawyers.com.au		
<b>Address for service</b> (include state and postcode)	Suite 2, 82 Beaufort Street Perth WA 6000		

---

of calculating district allowances payable under the WAIRC's Location Allowances General Order.

5. The RPI's methodology is set out in a transparent manner in Exhibit 12. It is a robust and comprehensive measure of relative cost of living in the SDA Regions that is not measured in any other data set of which the SDA is aware.
6. Exhibit 12 provides that the RPI's categories are derived from the Consumer Price Index (**CPI**) produced by the Australian Bureau of Statistics. That is, the RPI does not purport to reproduce the CPI categories precisely. AIG's submissions at [16] to [17] are therefore merely speculation.
7. At [2.12] of its submissions, ABI conflates "housing costs" with rental and mortgage rates. Plainly, "housing costs" extend to matters such as rates, charges, utilities and insurance. In contrast to the census data relied upon by ABI, each of these components is taken into account in the calculation of the RPI. ABI's criticisms should therefore be disregarded entirely.

#### The appropriate comparator

8. In the absence of an alternative data set, there is no unfairness in using Perth as the comparator for the purposes of assessing whether higher cost of living is a disability experienced by workers in the SDA Regions, particularly given that Perth is the most relevant comparator from both a labour market and historical perspective.
9. Furthermore, the figures set out at [25] of AIG's submissions indicate the change in the CPI for the respective capital cities from 2011-12 to the March Quarter of 2018. They are not figures that compare the current cost of living between the cities, and so cannot be relied on to support the comparative contentions made by AIG at [27].
10. The relatively higher cost of living experienced by workers in the SDA Regions is plainly a real disability that, purely as a question of quantum, exceeds the SDA's proposed allowance of 4.28% of the standard rate. The SDA's proposal is modest in partially addressing the disability, and therefore suitable for inclusion in the safety net.

#### Fluctuations in the cost of living

11. AIG submits at [10] that the fluctuations in the cost of living and the differences between locations mean that a uniform district allowance of 4.28% is inappropriate. Taken to its logical conclusion, this submission appears to support a method of fixing district allowances that would vary allowances from year to year and location to location. This submission sits uncomfortably with:

- (a) the concept of a safety net, as opposed to a minimum floor;
  - (b) the need to ensure a simple, easy to understand, stable and sustainable modern award system pursuant to s 134(1)(g) of the *Fair Work Act 2009* (Cth) that nonetheless include district allowances as expressly contemplated by s 139(1)(g)(iii);
  - (c) the fact that disability allowances cannot be precisely fixed by virtue of the qualitative and variable nature of the disabilities to which they relate.
12. Exhibit 24 demonstrates that, while there are fluctuations in the cost of living in the SDA Regions, the cost of living has been substantially higher in the SDA Regions on a long-term basis across all categories.
13. ABI and AIG otherwise do not outline any evidence or analysis that would undermine the integrity of Exhibit 24.

**C. Conclusion**

14. Exhibits 12 and 24 provide clear evidence that workers in the SDA Regions face a persistent and substantially higher cost of living.
15. The very high cost of living is a disability associated with the performance of work in the SDA Regions. Together with the disabilities caused by climate and isolation, and the history of district allowances in the SDA Regions, the higher cost of living justifies the SDA's claim.
16. The SDA submits that unfairness would only be caused if the Full Bench declined to insert district allowances in relation to the SDA Regions on the basis that the evidence was deficient for other potentially meritorious locations, such as Laverton.



---

**EUREKA LAWYERS**

Solicitors for the SDA

**Dated:** 2 May 2018