



Electrical Trades Union

CEPU Submission in Reply Annual Wage Review 2022-23

In the Fair Work Commission
28 April 2023

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About the CEPU

The Communications Electrical Electronic Energy Information Postal Plumbing and Allied Services Union of Australia (CEPU), Electrical Energy and Services Division (CEPU) is the principal union for electrical and electrotechnology tradespeople and apprentices in Australia, representing well over sixty-thousand workers around the country.

Initial Submission

The CEPU has made initial submissions, dated 31 March 2023, in the Annual Wage Review 2022-23 (Initial Submission). Those initial submissions addressed matters raised by the Fair Work Commission in its *Background Paper*, dated 10 March 2023, on the adjustment of junior apprentice, adult apprentice and trainee wages in the Annual Wage Review 2021-22. The CEPU sought in its initial submissions:

1. Adjustment of junior apprentice, adult apprentice and trainee wages in line with the Expert Panel determination in this Annual Wage Review 2022-23; and
2. An additional increase to junior apprentice, adult apprentice and trainee wages for all such classifications that did not receive a minimum increase of \$40 per week in the Annual Wage Review 2021-22.

The CEPU maintains that such an increase is consistent with the determination of the Expert Panel in the Annual Wage Review 2021-22,¹ to afford a greater level of support to the low paid while seeking to constrain inflationary pressures. We maintain that such an increase to junior apprentice, adult apprentice and trainee wage rates would not have a significant adverse impact on the performance and competitiveness of the national economy.

While such an approach would result in a compression of relativities between apprentice and corresponding tradesperson rates, the compression is minor. Indeed, the approach advanced by the CEPU would restore relativities between the rates of apprentices at different stages in their apprenticeship, which were disrupted by the inconsistent application of the \$40 minimum increase in the 2021-22 annual wage review.

¹ Annual Wage Review 2021-22 [2022] FWCFB 3500, [191].

Principles – Secure work objective

1. A number of initial submissions in the Annual Wage Review 2022-2023 deal with the construction of new considerations in the modern awards objective.² We note in particular that conflicting submissions have been advanced on the construction of paragraph 134(1)(aa) of the *Fair Work Act 2009* (Cth) (the Act):
(aa) the need to improve access to secure work across the economy...
2. In ordinary usage of the term, work may be described as “secure” in the sense that the work is ongoing and likely to continue. It may also be described as “secure” in the sense that the conditions of work provide for financial security, or more holistic security of the worker.
3. It is trite to observe that in the new paragraph 134(1)(aa) access to “secure work” is distinguished from access to “work” in general by the qualifying adjective “secure”. Contrary to the submission of the ACCI,³ “secure work” for the purposes of paragraph 134(1)(aa) cannot be reduced to merely “reducing the risk of joblessness” in the economy at large. The object is not directed toward increasing access to work generally but rather access to work of an enduring and stable, ‘secure’ nature. The Commission ought, in its consideration of the object in paragraph 134(1)(aa), to turn its mind to the security or otherwise of the work incentivised or disincentivised by its decision. Not merely to the volume of work available in the economy.
4. The broader sense of secure work was a consideration of the Full Bench in its review of the *Supported Employment Services Award 2020*, handed down on 21 December 2022:
(aa) The variations will not improve or diminish access to secure work “across the economy” in a literal sense, but may at least maintain and possibly improve access to secure work for persons with a disability in the ADE sector by placing minimum wages in the sector on a legally sustainable, non-discriminatory and stable footing within the framework of the FW Act in a context where the legal status of the existing wage assessment tools remains in question following the decision in Nojin (as explained in paragraphs [315]-[364] of the December 2019 decision). This consideration there weighs marginally in favour of the variations.⁴

² See, the Australian Chamber of Commerce and Industry, *ACCI Submission: Annual Wage Review 2022-23 (ACCI) [2023]*, [113]-[114]; cf. the Australian Council of Trade Unions, *ACTU Submission to the 2022-23 Annual Wage Review (ACTU) [2023]*, [64], [66]-[67].

³ ACCI, [113]-[114].

⁴ 4 yearly review of modern awards – *Supported Employment Services Award 2020 [2022] FWCFB 245*, [48].

5. The Full Bench in its recent review of shutdown provisions in modern awards also observed for the purpose of paragraph 134(1)(aa) that removal of award provisions that purported to allow employers to direct that employees take leave without pay during a shutdown “*may be characterised as improving access to secure work to a minor degree*”.⁵ In that analysis, “secure work” has to do with the conditions on which work is offered or withheld or terminated in an existing employment relationship. This is as opposed to an investigation of the risk of joblessness due to market or other influences on the employer that emanate from outside the employment relationship.
6. The Explanatory Memoranda to the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022* support the view that secure work involves both ‘job security’ in the sense that particular employment is stable and ongoing, and ‘job security’ in the sense that the terms on which particular work is offered provide regular and predictable access to beneficial wages and conditions:

[On s.134(1)(aa)]

“In addition, Part 4 would amend section 134 of the FW Act to include the promotion of job security and gender equality in the modern awards objective.”⁶

...

“By requiring the FWC to consider the objective of secure work in exercising its powers under the FW Act, the amendments would promote stable and ongoing employment, protecting the right to work in Article 6 of the ICESCR.”⁷

...

[On s.3(a)]

“The reference to promoting job security recognises the importance of employees and job seekers having the choice to be able to enjoy, to the fullest extent possible, ongoing, stable and secure employment that provides regular and predictable access to beneficial wages and conditions of employment...”⁸

7. Even were the Commission persuaded that paragraph 134(1)(aa) invites a consideration of the impact of the annual wage review on the volume of work available, we submit that the

⁵ 4 yearly review of modern awards—Plain language—Shutdown provisions [2022] FWCFB 246, [83].

⁶ Explanatory Memoranda - Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022, [7].

⁷ *Ibid.*, [59].

⁸ *Ibid.*, [334]

Commission should conclude that the annual wage review has no or negligible impact on that volume. We adopt the submissions of the ACTU on this point, that there is no evidence for the proposition that fair increases to minimum wages will reduce job security due to disemployment effects.⁹ Treasury forecasts for workforce participation remain high. Observed growth in employment, seasonally adjusted, in the year under review indicates no adverse impact from substantial increases to minimum wages in the 2021-22 Annual Wage Review.

Impact to the Economy

8. An increase to the rates of pay for junior apprentices, adult apprentices and trainees within low-paid cohort is recommended by demand-driven labour supply pressures in a number of key industries – the electrical contracting and construction industry, the power industry, and electrical distribution and supply industry among them. Higher minimum wages for apprentices are necessary to drive enrollments and completion rates and secure labour supply to meet medium to long-term demand.
9. We note the submission of the Housing Industry Association (HIA) to this Annual Wage Review,¹⁰ in which HIH observe a persistent shortage of trades in housing construction since the September quarter of 2021, driven by a combination of increased construction activity, insufficient volume of apprenticeships offered and insufficient apprentice completion rates.¹¹ This is consistent with the broader trends in the labour market in the year under review, of low unemployment (3.5%), however compounded by the need to encourage uptake of apprenticeships three to four years in advance of projected demand while also encouraging consistent completion rates.
10. The National Centre for Vocational Education Research (NCVER) publishes data on the rate of completion of VET qualifications, including electrical apprenticeships. In that data series, data on completion rates in the four years prior to publication requires a projection which is then corrected in subsequent reports. VET qualification completion rates to 2021,¹² reported on 30 August 2022, show observed completion rates for VET qualifications commenced in 2016-17 and projections from 2017 onwards. The observed actual completion rate for all qualifications

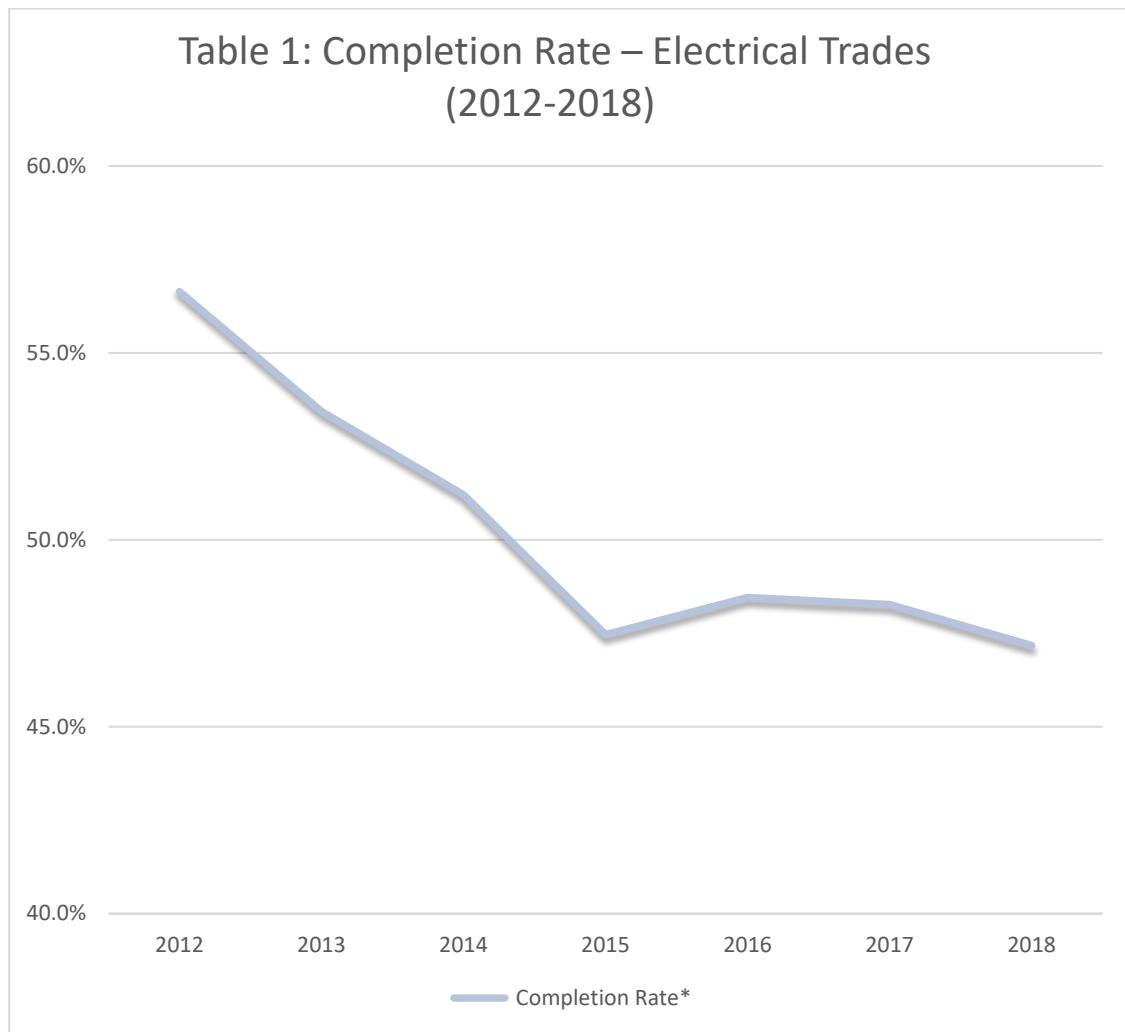
⁹ ACTU, [67]-[68]; [104]-[105].

¹⁰ Housing Industry Association, *Submission to the Fair Work Commission – National Annual Minimum Wage Review 2023* [2023].

¹¹ *Ibid.*, [2.2].

¹² National Centre for Vocational Education Research, *VET qualification completion rates 2021* (2022).

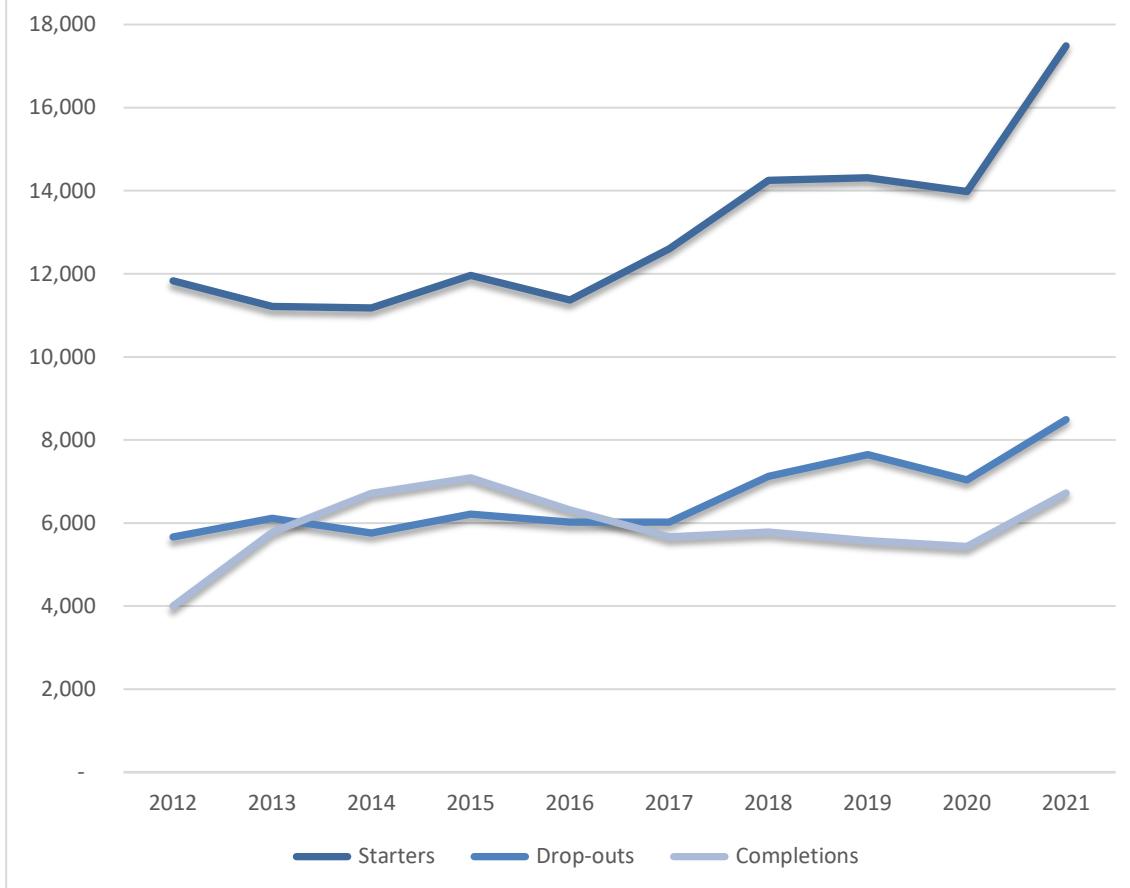
commencing 2017 was 45.9%. For qualifications at certificate IV the completion rate was 51.6%. The observed completion rate for electrical trades remains relatively low:



11. The volume of apprenticeships commenced has generally increased over the same period.¹³ The trend in enrollments for electrical trades, for example, shows a marked increase from 2020 (see Table 2 below). It can be inferred that the labour supply shortage does not arise from a reluctance of employers to engage apprentices due to wage costs or otherwise.

¹³ *Ibid.*

Table 2: Enrolments, Drop-Outs & Completions - Electrical Trades (2012-2021)



12. We note that the Commonwealth Government provides substantial support to employers of apprentices in the form of incentive payments and provides additional support through apprenticeship services and investments in TAFE and other registered training organisations. For many trade qualifications that lead to a licenced outcome – electrical trades among them – each non-completion of an apprenticeship represents a loss of public and private investment. This provides a further ground in the interest of the broader economy for incentivising completion of apprenticeships, including by ensuring that apprentice wage rates retain their real value.
13. In our submission alleviation of labour supply pressures in industries reliant on qualified trades requires that apprentices are incentivised to complete apprenticeships, including through the provision of minimum wages that meet the cost of living. To that end consideration of the broader impacts to the economy recommends the award of an additional increase to Junior Apprentice, Adult Apprentice and Trainee classifications of modern awards. We recommend that those classifications receive the balance of at least \$40.00 per week in on their rates as at

31 June 2021 (less the increase awarded on 1 July 2022), plus any further increase determined for modern award classifications generally to apply from 1 July 2023.

Mitigation by State and Commonwealth subsidies

14. The cost to employers of apprentices' wages are offset by the *Australian Apprenticeships Incentive System* in the case of Apprenticeships commenced before 1 July 2022 and the *Australian Apprenticeships Incentives Program* in the case of Apprenticeships commenced after 1 July 2022 (the **Incentive Programs**). Payments under both incentive programs are made to the eligible employer of the apprentice, not to the apprentice. The employer is not obliged to pass on any part of the payments received under the Incentive Programs to the apprentice. For employers engaging apprentices in a qualification on the Australian Apprenticeships Priority List, the current subsidy is equal to 10% of wages paid in the first and second years and 5% of wages paid in the third year of the apprenticeship.
15. The subsidies payable to employers of apprentices do not affect the apprentices' income and are a neutral consideration with respect to the needs of the low paid and costs of living generally. However, because of the subsidies, award minimum wages for apprentices may increase substantially before those increases would have an impact on the feasibility of hiring an apprentice when compared with the cost of hiring a tradesperson to perform the same work. While we do not accept that a reasonable increase to the minimum wage rates for apprentice classifications would have any appreciable effect on the wider economy, or on demand for the work of apprentices, we note that any such impact would be muted by payments made to the employer under the incentive programs.
16. Further, given the availability of subsidies, the actual cost to an employer of employing an apprentice does not correspond with the productivity loss alleged to underpin the relativities of apprentice wage rates with tradesperson (C10 or equivalent) rates. Adjusted for the subsidy, an adult apprentice paid at 80% the C10 or equivalent tradesperson's rate in the first year of their apprenticeship – ostensibly to account for spending one day per week spent in training – is 28% less expensive to employ than the tradesperson. Given the subsidies, the Commission has latitude to award an 8% wage increase to the apprentice before the real cost to the employer exceeds the relativity established in the Award rates.
17. For completeness we note that some apprentices may be eligible for loans under the Commonwealth Trade Support Loans program. The value of Trade Support Loan, indexed to the

Consumer Price Index becomes a debt payable by the apprentice through a tax impost on future wages. As the loan incurs a corresponding debt, the real value of which is preserved through CPI indexation, the Trade Support Loans program should be regarded as a neutral consideration with respect to the needs of the low-paid.

Needs of the low paid

18. As we observed in our initial submission junior apprentices, adult apprentices and trainees on award minimum wage rates are almost all low-paid. Assessed against the households modelled by the UNSW Social Policy Research Centre in its Budget Standards for Low-Paid Families, Junior Apprentices in most households earn less than the Minimum Income for Healthy Living (MIHL) adjusted for housing and discretionary expenses. The same can be said of Adult Apprentices in most households with children and for all modelled households in the first year of their apprenticeship.
19. The *Miscellaneous Award 2020* provides junior apprentice rates for ordinary hours below the equivalent Minimum Income for Healthy Living household budgets constructed for most of the households assessed:

Year	Junior apprentice ordinary hourly rate	MIHL Single Earner	MIHL Single Parent FT	MIHL Single Person*	MIHL Dual Earner Couple 2 Children*	MIHL Dual Earner Couple 1 Child*	MIHL Dual Earner Couple*
	\$	\$	\$	\$	\$	\$	\$
1st year	13.62	30.39	29.89	23.45	21.04	18.68	16.72
2nd year	16.09	30.39	29.89	23.45	21.04	18.68	16.72
3rd year	19.81	30.39	29.89	23.45	21.04	18.68	16.72
4th year	23.52	30.39	29.89	23.45	21.04	18.68	16.72

* Including housing and discretionary spending. Adjusted for average of 38 hours/week.

20. The *Electrical, Electronic and Communications Contracting Award 2020* also provides junior apprentice rates for ordinary hours below the equivalent Minimum Income for Healthy Living household budgets constructed for most households assessed:

Year	Junior apprentice** ordinary hourly rate	MIHL Single Earner Couple*	MIHL Single Parent FT 1 Child*	MIHL Single Person*	MIHL Dual Earner Couple 2 Children*	MIHL Dual Earner Couple 1 Child*	MIHL Dual Earner Couple*
	\$	\$	\$	\$	\$	\$	\$
1st year	15.16	30.39	29.89	23.45	21.04	18.68	16.72
2nd year	17.82	30.39	29.89	23.45	21.04	18.68	16.72
3rd year	19.15	30.39	29.89	23.45	21.04	18.68	16.72
4th year	22.34	30.39	29.89	23.45	21.04	18.68	16.72

* Including housing and discretionary spending. Adjusted for average of 38 hours/week. **Listing apprentice rates for those who have completed year 12 only.

21. The *Electrical, Electronic and Communications Contracting Award 2020* also provides junior apprentice rates for ordinary hours below the equivalent Minimum Income for Healthy Living household budgets constructed for most households assessed:

Year	Junior apprentice** ordinary hourly rate	MIHL Single Earner Couple*	MIHL Single Parent FT 1 Child*	MIHL Single Person*	MIHL Dual Earner Couple 2 Children*	MIHL Dual Earner Couple 1 Child*	MIHL Dual Earner Couple*
	\$	\$	\$	\$	\$	\$	\$
1st year	13.81	30.39	29.89	23.45	21.04	18.68	16.72

2nd year	16.32	30.39	29.89	23.45	21.04	18.68	16.72
3rd year	18.83	30.39	29.89	23.45	21.04	18.68	16.72
4th year	21.34	30.39	29.89	23.45	21.04	18.68	16.72

* Including housing and discretionary spending. Adjusted for average of 38 hours/week. **Listing apprentice rates for those who have completed year 12 only.

22. This trend is consistent across most modern awards. Rates for junior apprentices who have completed year 12 do not approach the Minimum Income for Healthy Living household budget as constructed for a single person until the 4th year of the apprenticeship.
23. With very limited exceptions, junior apprentices who have completed year 12 will be older than 18 when commencing their apprenticeship and all such apprentices will be 21 or older in the third year of their apprenticeship. In most modern awards, junior apprentices include all employees who were younger than 21 years of age at the time their apprenticeship commenced, or their current apprenticeship contract commenced. In such circumstances, the cohort of junior apprentices would include an employee who turned 21 during the first year of their apprenticeship and will be 24 years old during the 4th year of their apprenticeship. It is no longer the case that junior apprentices have predominately left school early to commence a trade, or that junior apprentices lack the financial pressures of supporting a household and dependents. The Commission should anticipate that Junior Apprentices will be represented in each of the households modeled for MIHL budgets.
24. As was the case in the Annual Wage Review 2021-22, persistent high inflation and associated cost of living pressures in the year under review have disproportionately impacted the low-paid in non-discretionary expenditure. Junior Apprentices, Adult Apprentices, and Trainees are among the low-paid classifications bearing that impact. Having received less than the minimum \$40 per week increase awarded in the 2021-22 review, the impact of wage growth failing to keep up with inflation has compounded for Junior Apprentices, Adult Apprentices and Trainees in a way that it has not done other adult classifications on award minimum wages.
25. We submit that these factors recommend an additional increase to the award minimum wage of all Junior Apprentice, Adult Apprentice and Trainee classifications by the balance of \$40, less the dollar amount of the increase awarded to those classifications in the Annual Wage Review 2021-22.

Recommendation

26. The decision of the Commission in the Annual Wage Review 2021-22 departed from the uniform percentage increases that had been applied since the Annual Wage Review 2010–11 (2010–11 Review), by the award of a flat dollar amount to provide greater relative benefit to low paid employees. As is observed in the Background Paper prepared by the Commission on the question of adjusting adult apprentice and trainee wages,¹⁴ the flat dollar adjustment followed the approach applied in the 2009-10 Review. That is, apprentice rates expressed as a proportion of a tradesperson rate received that proportion of the increase which applied to the tradesperson rate, very often less than the minimum \$40 per week increase awarded to other low-paid employees.
27. We recommend that Commission depart from the approach applied in the 2009-20 Review by applying a flat-dollar increase for junior apprentices, adult apprentices and trainees. The mechanism through which to do so is available in the summary of hourly rates of pay incorporated as a schedule to most modern awards since the 2020 Modern Award Review. The rate for each apprentice classification is expressed as a dollar amount, not merely a percentage of a tradesperson rate. It is therefore open to the Commission to determine that the minimum rate of pay for an apprentice classification is the greater of:
 - a. the expressed percentage of the relevant tradesperson rate; or
 - b. an expressed dollar rate, adjusted to include the balance of a \$40.00 minimum increase on the rate as at 31 June 2022, plus any additional increase determined in the Annual Wage Review 2022.
28. An adjustment in this manner would correct the compounding impact of low-paid apprentices having received wage increases less than inflation during the high inflation event sustained since FY2021-22. Given the current strength of the labour market, and the insulating impact of Commonwealth incentives to employers of apprentices, we submit that the adjustment and associated compression in relativities would not have a significant adverse effect on ‘the performance and competitiveness of the national economy’ (ss.134(1)(h) and 284(1)(a)).

for the CEPU Electrical Division

28 April 2023

¹⁴ *Annual Wage Review 2022–23—Adjustment of adult apprentice and trainee wages* ('Background Paper') [2023] Fair Work Commission.