The Australian Minimum Wage 1907–2011

Introduction

The following is a summary of the establishment and development of the Australian minimum wage system by the national workplace tribunal, which was called:

- the Commonwealth Court of Conciliation and Arbitration 1907–1956;
- the Australian Conciliation and Arbitration Commission 1973–1988;

1 The author, the Hon. Reg Hamilton, Deputy President, Fair Work Commission, wishes to thank Joe Isaac and Keith Hancock for comments on an earlier version of the outline. © Reg Hamilton 2014
Establishing an Australian Minimum Wage

In 1896 Victorian wages boards set the first minimum wage rates in Australia\(^2\), which 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:

- the minimum wage set by the Bread-Making Board was 1s an hour, effective April 1897;
- the (Men’s) Clothing Board fixed 7s 6d per day for adult males and 3s 4d for adult females in October 1897;
- the Boot and Shoe Board set 7s 6d per day for adult males and 3s 4d per day for females in November 1897, later reduced to 6s 8d for male clickers and 6s for all others;
- the Board for Shifts, Collars, Cuffs etc fixed a rate in January 1898;
- the Women’s and Girls’ Underclothing Board fixed a rate in June 1899;
- the Furniture Board fixed a minimum wage of 7s 6d\(^3\).

The Act set an overall minimum wage for any factory or work-room in the colony of Victoria of 2 shillings and sixpence per week\(^4\). Government inspectors reported that there were real problems in ensuring that the minimum wages were actually paid\(^5\).

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

However, it was the 7 shillings a day set in *Ex parte H.V.McKay*\(^7\) (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 that as a minimum was also influential. Higher amounts, such as

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\(^2\) The Victorian Factories and Shops Act 1896, No.1445, operative on 28 July 1896
\(^4\) Ibid, s.16
\(^5\) M.Rankin, Arbitration and conciliation in Australasia, George Allen & Unwin, London, 1916
\(^6\) D.Nemark and W.L.Wascher, Minimum Wages, 2008 MIT, p.11
\(^7\) (1907) 2 CAR 1
10 shillings a day, were applied to more skilled employees. These amounts only applied to
the Harvester factory in Sunshine, outside Melbourne.\(^8\)

The Harvester 7 shilling minimum was applied to an award in 1908\(^9\), although there was not
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\(^10\).

In 1920 the Royal Commission into the Basic Wage (the Piddington Commission) issued a
report\(^11\) into the cost of living. The report gave an estimate of the income which 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 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
these higher Royal Commission amounts, on the basis that the economy could not sustain
such increases. It set the new Harvester wage at 85 shillings\(^12\). 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
which were eroding the real value of the minimum wage. However, the Powers 3 shillings
was retained even when prices were falling and it was removed in 1931, as noted below.

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\(^13\). The coverage of awards had increased and by the 1920s over half of Australian
workers were protected by the minimum wage system\(^14\).

There were separate basic wage amounts for each capital city, which varied in minor respects. In
addition, there were separate federal and State awards. Finally, awards had separate
classifications, each with a separate wage rate (or margin until 1967), based on a definition of
a job.

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\(^8\) The Excise Tariff Act 1906 was found by the High Court to be invalid in R v. Barger (1908) 6 CLR 41.
\(^9\) (1907–08) 2 CAR 55; (1909) 3 CAR 1 at 21
\(^10\) (1913) 7 CAR 58
\(^11\) Australia, Royal Commission on the Basic Wage, Report of the Royal Commission on the Basic Wage together with evidence,
23 November 1920
\(^12\) Gas Employees Case (1922) 16 CAR 4, per Powers J. See C Forster, ‘Indexation and the Commonwealth basic wage’,
Australian Historical Studies, vol.19, pp.111–115
\(^13\) Compendium of Living Wage Declarations and Reports made by the NSW Board of Trade, 1921, pp.10–15, 28–31; Victorian
Wages Boards: Their Origins and the Doctrine of the Living Wage, P.G.McCarthy, Journal of Industrial Relations, Volume 10,
1968, p.116 at 130
\(^14\) Waltzing Matilda and the Sunshine Harvester Factory, p.71
The Origins of the Australian Minimum Wage

Pressure for the minimum wage came from two sources. More directly, the anti-sweating leagues established in the 1890s by protestant reformers to campaign against poor working conditions, and Parliamentary inquiries into poor working conditions, led to the Victorian Factories and Shops Acts to remedy these problems. These were associated in Victoria with political leaders such as Alfred Deakin, later the second Prime Minister of Australia.

Secondly, 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. The strikes occurred at a time of drought and economic recession, which caused great suffering. These were matters that concerned electors, the community generally, and therefore politicians seeking to be elected in the early 1900s.

Charles Kingston, the dominant political figure in South Australia, 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.’

The ‘needs’ principle and ‘capacity to pay’

Industrial tribunals had to resolve complex questions about the economic and social effects of 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 NSW (6 shillings a day or less), and then a relatively higher level of minimum wage set in Harvester (7 shillings a day), which 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 into the Basic Wage of 1920 (the Gas Employees Case 1921). 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.

15 Keith Hancock, Australian Wage Policy, Infancy and Adolescence, University of Adelaide Press, 2013, p.63
16 R.Norris, The Emergent Commonwealth, Melbourne University 1975, p.198
Women’s wages

In The Rural Workers’ Union and The South Australian United Labourers' Union v. The Employers \(^{18}\) 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 fruitpicking, 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 or work, such as fruitpacking and millinery, they were to be paid a wage deemed sufficient to cover ‘the normal needs of a single women supporting herself by her own exertions’, for reasons including that they were not under a legal obligation to support a family. Higgins J fixed this was 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.

First indexation decision

In Federated Gas Employee’s Industrial Union v Metropolitan Gas Company Justice Higgins said:

‘...7s in 1907 were worth as much.... in the commodities which wages can procure, as 8s 5 ¼ d 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.’\(^{19}\)

Quarterly Indexation 1922

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\(^{20}\). 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. No-one has yet been able to explain why.

The Full Court noted that employers and unions did not oppose quarterly indexation. However, employers opposed the ‘Powers three shillings’, designed to

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\(^{18}\) (1912) 6 CAR 61, Higgins J, President, 20 June 1912

\(^{19}\) (1913) 7 CAR 58 at 69

\(^{20}\) 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
compensate employees for the time lag in obtaining an adjustment to compensate for prices which had already increased:

‘The figures submitted were so convincing that neither the employers’ representative 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 employer’s representatives was to the Court adding 3s. a week to the quarterly figures, which they contended would add 3s. 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 3s. a week thereto, the workers would have received on an average for the whole quarter up to 31st July, 3s. a week less than the costing of living during that quarter, and that would have been unjust to the workers.’

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:

‘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 re-adjustment in all directions; re-adjustment of costs of government, costs of production and services, rents, dividends, interest, and other returns to capital, and costs of living’. All must adapt

21 (1922) 16 CAR 829 at 831–832
22 Basic Wage Inquiry (1930–1931) 30 CAR 21
themselves to the fundamental fall in national income and national wealth and to our
changed trading relationships with other countries.'\textsuperscript{23}

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’\textsuperscript{24}. It decided to assess and adjust the basic wage
from a ‘fresh starting point’\textsuperscript{25}. It set an amount of 67 shillings for Sydney and 64 for
Melbourne, with most other amounts for each capital city between those amounts\textsuperscript{26}.

**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 stabilizing reasons\textsuperscript{27}. These
amounts were 6 shillings for NSW, Victoria and Queensland, and 4 shillings for the
remaining States. In 1950 they were merged with the basic wage\textsuperscript{28}.

**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\textsuperscript{29}.

**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. However, the Court then Commission consistently
rejected trade union applications to re-establish a formal system of wage indexation based on
the consumer price index, 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.

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\textsuperscript{30}:

\textsuperscript{23} Ibid at 8 and 31
\textsuperscript{24} Basic Wage Inquiry 1934 (1934) 33 CAR 144 at 148
\textsuperscript{25} Ibid 153
\textsuperscript{26} Ibid 154
\textsuperscript{27} Basic Wage Inquiry 1937 (1937) 37 CAR 583
\textsuperscript{28} Basic Wage Inquiry 1940 (1940) 44 CAR 41; Basic Wage Inquiry 1950 (1950) 68 CAR 698
\textsuperscript{29} Basic Wage Inquiry 1940 (1940) 44 CAR 41; Basic Wage Inquiry 1950 (1950) 68 CAR 698
\textsuperscript{30} Basic Wage Inquiry (1952–1953) 77 CAR 477
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. 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.31

After bringing to an end quarterly wage indexation, the Court said that:

‘... 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.’32

The basic wage was increased at Basic Wage inquiries:

- in 1956 (10 shilling increase)33
- 1957 (10 shilling increase)34
- 1958 (5 shilling increase)35
- 1959 (15 shillings a week increase)36
- 1961 (12 shillings a week)37
- 1964 (20 shillings a week increase)38

Claims by employers for a reduction or by trade unions for an increase in the basic wage were refused in 1952–5339, 196040, and 196541.

31 Ibid, p.497
32 Basic Wage Inquiry 1953 (1953) 77 CAR 477 at 509–510
33 Basic Wage Inquiry 1956 (1956) 84 CAR 157
34 Basic Wage Inquiry 1957 (1957) 87 CAR 437
35 Basic Wage Inquiry 1958 (1958) 89 CAR 284
36 Basic Wage Inquiry 1959 (1959) 91 CAR 680
37 Basic Wage Inquiry 1961 (1961) 97 CAR 376
38 Basic Wage Inquiry (1964) 106 CAR 629
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.

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’42. 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 192143, 193744 and 194745. The metal trades margin was often applied as a yardstick in factory trades and occupations46.

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 levels47, and in 195948 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 awarded49, 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 wage50. 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

39 Basic Wage Inquiry (1952–53) 77 CAR 477
40 Basic Wage Inquiry (1960) 94 CAR 313
41 Basic Wage Inquiry (1965) AILR 324
42 (1924) 19 CAR 788 at 795–796
43 (1921) 15 CAR 297
44 (1937) 37 CAR 176
45 (1947) 58 CAR 1088
46 Waltzing Matilda and the Sunshine Harvester Factory, pp.88–89
47 (1954) 80 CAR 3
48 (1959) 92 CAR 793.
49 (1965) AILR Rep. 324
50 Basic Wage, Margins and Total Wage Case (1966) 115 CAR 93
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.\textsuperscript{51}

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.’\textsuperscript{52}

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

- by $2.00 in 1966\textsuperscript{53}
- by $1 in 1967\textsuperscript{54}
- by $1.35 in 1968\textsuperscript{55}
- by 3 per cent in 1969\textsuperscript{56}
- by 6 per cent in 1970\textsuperscript{57}
- by $2 per week in 1972\textsuperscript{58}
- by 2 per cent plus $2.50 in 1973\textsuperscript{59}
- and again the same in 1974\textsuperscript{60}.

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 overaward gains of varying amounts obtained from employers.’\textsuperscript{61}

\textsuperscript{51} Ibid at 107
\textsuperscript{52} 129 CAR 617 at 621
\textsuperscript{53} Ibid
\textsuperscript{54} National Wage Case (1967) 118 CAR 655
\textsuperscript{55} National Wage Case (1968) 124 CAR 463
\textsuperscript{56} National Wage Case (1969) 129 CAR 617
\textsuperscript{57} National Wage Case (1970) 135 CAR 244
\textsuperscript{58} National Wage Case (1972) 143 CAR 290
\textsuperscript{59} National Wage Case (1973) 149 CAR 75
\textsuperscript{60} National Wage Case (1974) 157 CAR 293
\textsuperscript{61} Ibid at 301
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 which restricted what other increases would be awarded as discussed below.

**Removal of Discrimination in Award Rates**

In the *Cattle Industry Case 1966*[^62] (the Aboriginal Stockmen's Case), the Commission decided to remove the exemption of Aboriginal employees from an award. This led to the removal of all such exemptions from federal awards. The result was that one award rate applied to all employees, whether Aboriginal 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.

In the *Equal Pay Case 1969*[^63] the Commission continued in force different minimum wage provisions for men and women. However, it put in place a set of principles which enabled the rates to be reviewed and reconsidered.

In the *National Wage and Equal Pay Cases 1972*[^64] the Commission decided that all award rates, other than the minimum wage, would be set without regard to the sex of the employee. 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.”[^65]

**Reintroduction of Quarterly Wage Indexation 1975–1978**

In the *National Wage Case 1975*[^66] the Commission decided to reintroduce a system of quarterly indexation of award wages in relation to the most recent movement of the six capitals consumer price index (CPI) unless it was persuaded to the contrary. 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’[^67].

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[^64]: (1972) 147 CAR 172, Moore J, A/g President, Robinson J, Coldham J, Public Service Arbitrator Taylor, Brack C, 15 December 1972
[^65]: Ibid p.179
[^66]: Print C2200 167 CAR 18
[^67]: 167 CAR 18 at 37
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.’

The Commission said that it should ‘act in a way which will promote economic recovery in a socially equitable and industrially harmonious way.’ 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.’

It also introduced a restrictive set of wage fixing principles which limited what 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 must 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 which were less than the CPI.

The decisions under the quarterly indexation system were:

- June quarter 1976 CPI increase of 2.5 per cent—Commission ordered a flat $2.50 increase to all award wages and salaries up to $166 per week and a 1.5 percent

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68 167 CAR 18 at 23
69 Ibid at 25
70 167 CAR 18 at 32
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 percent increased to apply from the first full pay period commencing on or after 22 November 197671;
- 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 factors72;
- the April quarter 1977—proceedings were adjourned and increases other than past National Wage increases were deferred until 3 May 197773;
- the March quarter 1977 CPI increase of 2.3 per cent74—the Commission decided that all award rates up to $200 per week be increased by 1.9 percent and those above $200 per week increased by a flat $3.80;
- June quarter 1977 CPI increase of 2.4 per cent—the Commission awarded a 2 percent increase75.
- September quarter 1977 CPI increase of 2 per cent—the Commission awarded an of 1.5 per cent operative from 12 December, with a discount of 0.5 per cent on account of industrial disputation76;
- December quarter 1977 CPI increase of 2.3 per cent—the Commission awarded a 1.5 percent 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 197877;
- March quarter 1978 CPI increase of 1.3 per cent—the Commission granted a 1.3 per cent increase was granted but refused a claim for catch-up. The Commission said that this would be last decision National Wage Case conducted under the existing indexation guidelines78.


In the Wage Fixation Principles case 197879 handed down on 14 September 1978 the Commission continued wage indexation but on the basis of six monthly not quarterly hearings. 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 of hearing in respect of June and September quarter CPI increases was set down for 31 October 1978.

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71 Print D1460 182 CAR 225
72 Print D2720186 CAR 557
73 Print D3315 188 CAR 591
74 Print D3315 188 CAR 591
75 Print D4320 192 CAR 847
76 Print D5501 198 CAR 520
77 Print D6070 201 CAR 447
78 Print D7262 205 CAR 399
79 Print D8400 211 CAR 268
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.’,\(^{80}\)

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

- June and September 1978 quarters 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\(^{81}\);
- June and September 1979 quarters 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\(^{82}\).
  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 1979 and March 1980 Quarters CPI increases of 3 per cent and 2.2 per cent—the Commission awarded an increase of 4.2%. 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’\(^{83}\);
- June and September 1980 Quarters CPI increases at 2.8 and 1.9 per cent—the Commission awarded an increase of 3.7 per cent\(^{84}\).

An inquiry into wage fixing principles was held and a decision published in April 1981\(^{85}\). The Commission stressed that there could be no centralised system without substantial compliance with the principles which limited cost increases, and that there were currently real difficulties in achieving compliance. New principles were established which provided for six-monthly wage indexation with 80 per cent of CPI to be awarded\(^{86}\). In the *National Wage*
Case - First Review 1981, an increase of 3.6% 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 first and last decision under the new principles.

The Abandonment of Indexation and the Wage Pause

Finally, in July 1981, in the National Wage Case 1981, 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 will not be heard before February 1982.

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;
- on 18 December 1981 the Commission approved a consent award reached between employers and unions relating to the Metal Industry Award 1971. 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; tool allowance for tradesmen be increased by $2; from 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 is to be the only increase to apply during the currency of the agreement and in lieu of National Wage Cases); special rates and 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.

On 14 May 1982 in the National Wage Case (1982) the Commission adjourned trade union applications for extensive case by case award increases.

In December 1982 in the National Wage Case (1982) 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.

**Six Monthly Wage Indexation 1983–1987**

In the *National Wage Case 1983*\(^9^4\) the Commission reintroduced six monthly wage indexation. 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 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 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 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.’\(^9^5\)

Under the indexation principles:

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\(^9^3\) Print F1600 23 December 1982  
\(^9^4\) Print F2900 23 September 1983  
\(^9^5\) Ibid p.47
in the National Wage Case 1984\(^{96}\) awards were generally varied to give effect to the 4.1% CPI increase, effective first pay period on or after 6 April 1984;

in the National Wage Case 1985\(^{97}\), an increase of 2.6% operative 6 April 1985 was made;

in the National Wage Case November 1985\(^{98}\), an increase of 3.8% effective 4 November 1985 was provided.

The National Wage Case June 1986\(^{99}\), continued to provide for six monthly wage indexation, with some changes to the principles. 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% from 1 July 1986.

Under the indexation principles, the National Wage case December 1986\(^{100}\) was adjourned.


The National Wage Case March 1987\(^{101}\) introduced new principles which did not provide for wage indexation. 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 amongst trade unions, employers and Governments that Australia’s severe economic problems had to be addressed. These problems included CPI increases of 10% 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, negative growth in terms of trade, and a rise in unemployment from 7.6% in June 1986 to 8.2%:

‘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

\(^{96}\) Print F5000 4 April 1984

\(^{97}\) Print F8100 3 April 1985

\(^{98}\) Print G0700 4 November 1985

\(^{99}\) Print G3600 26 June 1986

\(^{100}\) Print G6400 23 December 1986

\(^{101}\) Print G6800 10 March 1987
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.\textsuperscript{102}

As a result of this package of principles:

- the National Wage Case December 1987\textsuperscript{103} was adjourned.
- in the National Wage Case February 1988\textsuperscript{104} a flat increase of $6.00 was operative from 5 February 1988.

The \textit{National Wage Case August 1988}\textsuperscript{105}, two increases at least six months apart were made available, the first one of 3\% (after 1 September 1988) and the second a flat rate of $10 (at least six months later). 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 \textit{February 1989 Review}\textsuperscript{106} was adjourned.

The \textit{National Wage Case August 1989}\textsuperscript{107}, provided that adjustment of pay would be allowable for completion of successful exercises under the structural efficiency principle. 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 $15.00 per week or 3\%, whichever is the higher, at the tradesman or equivalent level and above; and a second increase of the same order as the first increase, to be paid not less than 6 months after the first increase. The second instalment of the structural efficiency adjustment should only be

\textsuperscript{102} Ibid, p.32
\textsuperscript{103} Print H0100 17 December 1987
\textsuperscript{104} Print H0900 5 February 1988
\textsuperscript{105} Print H4000 12 August 1988
\textsuperscript{106} Print H8200 25 May 1989
\textsuperscript{107} Print H9100 7 August 1989
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*\(^{108}\), the structural efficiency principle was continued with some changes. It provided for a 2.5 per cent general increase in award rates, subject to the requirements of the structural efficiency principle.

It decided not to move to a system of enterprise bargaining supported by the ACTU and Commonwealth, and 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*\(^{109}\) the Commission continued the availability of the April 1991 increase. 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\(^{110}\).

In the *August 1994 Review of Wage Fixing Principles*\(^{111}\), the Commission handed down a new package of principles. The principles made earlier increases available, without

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\(^{108}\) Print J7400 16 April 1991  
\(^{109}\) Print K0300 30 October 1991  
\(^{110}\) Print K9700, Supplementary Decision Print K9940  
\(^{111}\) Print L4700
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 the Third Safety Net Adjustment Decision of October 1995\(^{112}\), 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 under the Workplace Relations Act 1996, the Workchoices Act 2006 & the 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\(^{113}\).

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.

The monetary increases awarded in the annual minimum wage proceedings from 1997–2011 are outlined in Table 1 below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
<th>Minimum wage</th>
<th>Tribunal reference</th>
<th>IR reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997#</td>
<td>$10.00</td>
<td>$359.40</td>
<td>P1997</td>
<td>71 IR 1</td>
</tr>
<tr>
<td>1998#</td>
<td>$14.00 (up to $550 per week) $12.00 (above $550 up to $700 per week) $10 (above $700 per week)</td>
<td>$373.40</td>
<td>Q1998</td>
<td>79 IR 37</td>
</tr>
<tr>
<td>1999#</td>
<td>$12.00 (up to and including $510 per week) $10.00 (above $510 per week)</td>
<td>$385.40</td>
<td>R1999</td>
<td>87 IR 190</td>
</tr>
<tr>
<td>2000#</td>
<td>$15.00</td>
<td>$400.40</td>
<td>S5000</td>
<td>95 IR 64</td>
</tr>
</tbody>
</table>

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\(^{112}\) Print M5600

\(^{113}\) ‘Industrial Dispute’, Reg Hamilton, 2012 contains an account of the statutory award reform provisions and results. The table of safety net increases is taken from this publication.
<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
<th>Minimum wage</th>
<th>Tribunal reference</th>
<th>IR reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001#</td>
<td>$13.00 (up to and including $490 per week) $15.00 (above $490 up to $590 per week) $17.00 (above $590 per week)</td>
<td>$413.40</td>
<td>PR002001</td>
<td>104 IR 314</td>
</tr>
<tr>
<td>2002#</td>
<td>$18.00</td>
<td>$431.40</td>
<td>PR002002</td>
<td>112 IR 411</td>
</tr>
<tr>
<td>2003#</td>
<td>$17.00 (up to and including $731.80 per week) $15.00 (above $731.80 per week)</td>
<td>$448.40</td>
<td>PR002003</td>
<td>121 IR 367</td>
</tr>
<tr>
<td>2004#</td>
<td>$19.00 per week</td>
<td>$467.40</td>
<td>PR002004</td>
<td>129 IR 389</td>
</tr>
<tr>
<td>2005#</td>
<td>$17.00 per week</td>
<td>$484.40</td>
<td>PR002005</td>
<td>142 IR 1</td>
</tr>
<tr>
<td>2006*</td>
<td>$27.36 per week (up to $700 per week) $22.04 per week (above $700 per week) Further $17 per week where no 2005 safety net review increase received before 27 March 2006 but had 2004 safety net review or other safety net adjustment in prior 12 months</td>
<td>$511.86 per week</td>
<td>PR002006#</td>
<td>157 IR 124</td>
</tr>
<tr>
<td>2007*</td>
<td>$10.25 per week (up to $700 per week) $5.30 per week (above $700 per week)</td>
<td>$522.12 per week</td>
<td>[2007] AIRCFB 684#</td>
<td>164 IR 1</td>
</tr>
<tr>
<td>2008*</td>
<td>$21.66 per week</td>
<td>$543.78 per week</td>
<td>[2008] AIRCFB 635#</td>
<td>172 IR 119</td>
</tr>
<tr>
<td>2009*</td>
<td>no change</td>
<td>$543.78 per week</td>
<td></td>
<td>183 IR 1</td>
</tr>
<tr>
<td>2010**</td>
<td>$26.00 per week (69c per hour) increase, based on 38-hour week Modern awards and transitional instruments (including Div 2B enterprise awards, but not including Division 2B State awards)</td>
<td>$569.90 per week</td>
<td>PR062010 [2010] FWAFB 4000</td>
<td>193 IR 380</td>
</tr>
<tr>
<td>2011**</td>
<td>3.4% increase—weekly wages rounded to the nearest 10 cents</td>
<td>$589.30 per week</td>
<td>PR002011 [2011] FWAFB 3400</td>
<td>203 IR 119</td>
</tr>
</tbody>
</table>

Notes:
# Decision of the Australian Industrial Relations Commission.
* Decision of the Australian Fair Pay Commission. The Australian Industrial Relations Commission Full Bench complementary decision is also listed.
** Decision of the Fair Work Australia Minimum Wage Panel.

The Minimum Wage in Real Terms

The minimum wage varied in real terms until the 1920s brought some stability (see attached graph). 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 age reaching its height in real terms in 1980 as a result of industry cases. 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.
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 US and UK\textsuperscript{114}. 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 a hundred 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.