

Federal Opposition Submission

to the

Fair Work Commission Annual Wage Review 2015

27 March 2015

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Introduction

1. The Australian Labor Party in opposition has never before made a submission to the Annual Wage Review or its predecessors. We do so now because of the impact of policy decisions of the current Liberal National Government on fairness and equity.
2. We note that with inequality at a 75-year high, and following the disproportionate impacts on low and middle income earners arising from the 2014-15 Budget ¹, the role of the National Minimum Wage in providing a safety net in our industrial relations system is of heightened importance.

Legislative parameters

3. We recognise that the task of the Minimum Wage Panel of the Fair Work Commission ('the Panel') involves carefully balancing economic and social conditions as required by the *Fair Work Act 2009* ('the Act').
4. The Annual Wage Review, as per the Act, requires that the Panel make a National Minimum Wage Order ('the Order') which sets the National Minimum Wage (NMW).
5. In determining the Order, we note that the Panel must take into account the legislative parameters known as the 'minimum wages objective'. Specifically, the Panel is required to 'establish and maintain a safety net of fair minimum wages' taking into account:
 - the relative living standards and the needs of the low paid as well as the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth;
 - promoting social inclusion through increased workforce participation;
 - relative living standards and the needs of the low paid;
 - the principle of equal remuneration for work of equal or comparable value;
 - providing a comprehensive range of fair minimum wages to junior employees to whom training arrangements apply and employees with a disability.²
6. Further, in reviewing modern award minimum wages, the Panel must have regard to the 'modern awards objective'. According to the modern awards objective, the Commission must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:
 - relative living standards and the needs of the low paid;
 - the need to encourage collective bargaining;
 - the need to promote social inclusion through increased workforce participation;

¹ NATSEM, 2014, "Budget 2014-15 Analysis", May 26 2014, available at <http://www.natsem.canberra.edu.au/storage/2014-15%20Budget%20Research%20Note.pdf>

² *Fair Work Act 2009*, s. 284

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- the need to promote flexible modern work practices and the efficient productive performance of work;
 - the principle of equal remuneration for work of equal or comparable value;
 - the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden;
 - the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
 - the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.
7. These legislative parameters provide a balanced set of criteria for the Panel's deliberations and underpin the importance of a strong minimum wage as a safety net and a cornerstone of fairness, social inclusion and living standards.

The Federal Opposition's position

8. The Federal Opposition submits that the NMW is and continues to be a fundamental part of a strong safety net for Australian workers, which enables low income workers to be able to share in the nation's economic prosperity.
9. We submit that the Panel's decision should be one that firmly supports a fair and economically responsible increase in the NMW and all modern award wage rates.
10. Our submission also highlights the current threat to the living standards and the growth in inequality that is occurring under the policy settings of the Government – specifically those announced in the 2014-15 Budget.
11. The Federal Opposition accordingly supports an appropriate increase in the NMW in 2015, consistent with addressing the issues outlined in this submission. Any increase in the NMW in 2015 should take account of the changes in living costs, including the decline in the minimum wage bite over time, and the economic environment since the 2014 AWR, including changes to the domestic policy and economic settings as well as the global economic outlook in the medium term.

Economic Outlook

Performance of the national economy

12. The Panel is required to consider the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth.
13. The Australian economic outlook is for below trend growth over the short term. The Minutes of the March 2015 Monetary Policy Meeting of the Reserve Bank of Australia (RBA) noted that:

‘... a range of indicators suggested that Australian GDP growth continued at a below-trend pace in the December quarter and over the course of 2014. These indicators had suggested that growth of consumption, dwelling investment and public demand were likely to have increased, but that business investment was likely to have fallen further, largely reflecting further steep declines in mining investment.’

14. The RBA further noted that

‘... income growth had remained low by historical standards, which was likely to dampen future consumption growth. There had been further broad-based evidence of spare capacity in the labour market. The unemployment rate had continued its gradual upward trend of the past few years and average hours worked had remained subdued. Nevertheless, members noted that employment growth had picked up over the past year. Members also observed that wage growth outcomes had been low in the December quarter, consistent with ongoing spare capacity in the labour market and pressures on employers to contain costs. Data from surveys and information from liaison suggested that wage growth in the private sector was likely to remain around its recent pace over coming quarters and also pointed to modest employment growth over the same period’.

15. Furthermore, confidence – both consumer and business – have been below long term averages since mid-2014. Since September 2013, the National Australia Bank Business Confidence rating was at 12. The most recent update has the Business Confidence rating at 0, the lowest level in 18 months. Furthermore, the Westpac Melbourne Institute Consumer Confidence is down 10 per cent over the same period. These measures seems to be driven – at least in part – by the impact of the 2014-15 Commonwealth Budget, both at the micro level in terms of household disposable income, and also the macro level of the economic growth outlook.

Policy Environment

2014-15 Budget

16. The 2014-15 Budget announced a suite of changes to the family payments and the working payments systems that significantly reduced the payments to working age Australians and families.

17. In looking at total disposable household income, these changes have had a material impact and have placed living standards under pressure. The impact of measures introduced in the 2014-15 Budget were estimated at the release of the Budget to have reduced payments – and therefore total disposable household income – by several thousands of dollars annually per family. See [Attachment A](#) for further distributional analysis for the years 2014-15 and 2017-18.

18. These estimates were a result of work undertaken by NATSEM based at the University of Canberra. Through distributional modelling using the STINMOD database, NATSEM found that

the 'burden on families for 2014-15 falls most heavily on low and middle income families with children.'³

19. The reports also finds that:

'The impact on high income families with children is smaller in dollar terms and percent change terms. Across all families (including singles and couples without children) the dollar impact varies by income level without a clear pattern. In percentage terms, the impact is clearly felt by the low income families more than high income families.

The burden on families of the 2014-15 budget is quite clear by 2017-18 once all grandfathering arrangements are removed and the budget levy is removed. Low income couples with children (bottom 20 per cent) are worse off by around 6.6 per cent while single parents are worse off by around 10.8 per cent on average.'

20. The outcome of this modelling was clear. The fiscal consolidation proposed in the 2014-15 Budget disproportionately targeted low income families – families more likely to rely on the minimum wage in their employment.

Impact of the 2014-15 Budget on low paid and relative standards of living

21. Low paid workers tend to be the financially vulnerable in our society including those that are single, young, working on a casual basis, with low levels of education, older part-time workers, and migrants from non-English speaking backgrounds.

22. Together with the National Employment Standards, minimum wages can provide vulnerable groups, and long-term low paid employees with a much needed safety net, where paid employment is consistent with community standards and where workers are less likely to be exploited.

23. In particular, we note that the Government's submission to the 2014 AWR underplays the benefits accruing to low-income workers from increases to the minimum wage.

24. The tax and transfer system has a significant role to play in alleviating the impact of earnings inequality and supporting the living standards of low paid workers. Accordingly, policy changes that are implemented and policy changes that are proposed need to be considered as part of the AWR assessment especially in the context of addressing relative living standards and needs of the low paid.

25. Household living standards depend on their total disposable household income, including both wage earnings and transfer payments. The Australian tax-transfer system provides financial support to low wage workers through the family payments system and Family Tax Benefit.

³ NATSEM, 2014, op. cit.

26. As noted above and in Attachment A, the impact of the 2014-15 Budget had a material negative impact on total household disposable income.
27. If the Government's plans were to be legislated in full, low income parents would lose up to one-tenth of their disposable incomes. In these circumstances, the NMW acts as an important bulwark for living standards.
28. The Federal Opposition has been firm in its opposition to these measures due to the impact that they would have on low and middle income families and has successfully defended living standards by opposing several of these measures being implemented to date. A complete list of these proposals, which have not proceeded through the Parliament, is at Attachment B.
29. The Federal Opposition understands that 'the prospect of legislative change'⁴ is something the Panel has previously not taken into account. However we would urge the Panel to scrutinise carefully any argument by the Government that the tax and transfer system can be solely relied upon to provide targeted support to the lowest-paid workers given their wholesale attempts to undermine the tax and transfer system. If the Government's plans were legislated in full, low income Australians – particularly single parents who would lose one-tenth of their disposable incomes – would be significantly and disproportionately worse off. The compounding effect of a reduction in the real value of her minimum wage - as proposed by some - would have significant negative impacts.

Impact of the Government's policies on women and equal remuneration

30. The Federal Opposition is committed to addressing pay equity in Australia, and notes that complex industry specific factors which contribute to pay inequities. The Workplace Gender Equality Agency notes that the current gender pay gap is 18.8 per cent, and that it has remained with in the 15 per cent and 19 per cent band for the past two decades.⁵
31. We note that the Act provides a range of mechanisms to address unequal remuneration in circumstances of work of equal or comparable value, such as equal remuneration orders and bargaining provisions.
32. Given that women are overwhelmingly represented in low paid jobs, the Federal Opposition considers that AWRs help maintain and improve the real incomes of many low paid women.
33. This is in context of significant challenges to their income since the 2014 AWR including, but not limited to, Government decisions which will:
 - Reduce retirement incomes though abolishing the Low Income Superannuation Contribution and delaying the Superannuation Guarantee increase;
 - Reduce family payments, specifically those that targeted single parents; and
 - Reduce assistance to families with children in childcare.

⁴ [2014] FWCFB 3500, [19]

⁵ Workplace Gender Equality Agency, 2015, "The Gender Pay Gap", Available at: <https://www.wgea.gov.au/learn/about-pay-equity>

Social inclusion and workforce participation

34. Promoting social inclusion is one of the key parameters that the Commission is required to consider when undertaking the AWR.
35. We submit that workforce participation has an important role in social inclusion as it provides not only the necessities of life but also the opportunity for social interaction through productive employment.
36. We note that while low-paid jobs are an important entry point to the workforce and can present a stepping stone to higher paid and more stable forms of work, a substantial proportion of employees remain low-paid for extended periods and the NMW has a significant impact on these workers' living standards.⁶
37. The Federal Opposition submits that the minimum wage is more than an essential strand in the social safety net – and that it can have a role in improving social mobility.

Risks to a strong minimum wage

38. The policy and economic environment outlined above substantiates our view for an appropriate increase in the NMW as part of the 2015 AWR given the role minimum wages play as part of the social safety net.
39. We note that there are alternate views to our approach and contend that these are contrary to the objectives and intent of the Act, the 'minimum wages objective' and the 'modern awards objective'. We further submit that the Government's approach to the NMW seeks to undermine the utility of an important economic lever, and that when seen in the context of the 2014-15 Budget seeks to limit social mobility, and will likely further increase inequality.

Deficiencies in the Government's approach to the 2014 AWR

40. The Government's last submission to the Annual Wage Review was almost wholly limited to the wage setting parameters outlined in the predecessor legislation to the Act.
41. The submission was silent on the additional matters the Commission and the Panel is required to take into account in maintaining a safety net of fair minimum wages including promoting social inclusion through increased workforce participation, relative living standards and the needs of the low paid, and the principle of equal remuneration for work of equal or comparable value.⁷

⁶ Australian Government, 2013, "Submission to the Fair Work Commission Annual Wage Review 2013", 28 March 2013, p. 11

⁷ *Fair Work Act 2009*, s. 134 and s. 284

Audit Commission

42. The Government commissioned Report of the National Commission of Audit (NCOA) recommended that the minimum wage should decline in real terms, indexed to CPI less 1 percentage point for a period of 10 years to reach a benchmark of 44 per cent of National Average Weekly Earnings⁸. Putting to one side the unconventional use of National Average Weekly Earnings for all employees⁹ if today's NMW were 44 per cent of overall Average Weekly Earnings, it would mean a NMW of \$496.60 per week rather than the present level of \$640.90, a \$144.30 weekly difference.
43. This is contrary to actual market conditions. We note that Australia, with a strong minimum wage, has for at least the last decade had an unemployment rate that has been below the OECD total and our participation rate has been above the OECD total.
44. We do however note that since the election of the Liberal-National Government, unemployment has trended up from 5.7 per cent to 6.3 per cent and this may be explained in part by the withdrawal of support for demand in the economy from the current fiscal strategy being pursued.
45. The NCOA also recommended that the minimum wage be reduced even further in the States and Territories with lower average wages on the basis that 'demand for labour and the price employers are willing to pay for unskilled or inexperienced labour varies markedly across the country'.¹⁰
46. Further, implicit in the NCOA recommendations is that the process for determining the minimum wage would no longer be a balancing of factors by an independent arbiter, but a formulaic change, presumably administered by the government of the day.
47. The Federal Opposition disagrees with these propositions in the strongest possible terms.
48. The Federal Opposition asks that in light of these criticisms the Panel reinforce the importance of the minimum wage as a fundamental safety net for Australia, confirm the federal system for the NMW and reject the changes to the independence of the work of the Panel, the Commission or the approach for the AWRs.

⁸ National Commission of Audit, 2014, "Towards Responsible Government The Report of the National Commission of Audit, Phase One", February 2014, p. 147

⁹ The average weekly earnings figure used by the NCOA is for all employees, including casuals and juniors. A more useful measure is the average weekly earnings of full-time adults. It is conventional to compare full-time minimum wages to full-time average or median wages. For example, this is what is reported in the OECD database, OECD Stat: <http://stats.oecd.org/Index.aspx?DataSetCode=MIN2AVE>. In November 2014, the average weekly earnings of full-time adults was \$1477, the average weekly earnings of all employees was \$1128.70. The NMW was \$640.90. So the NMW is already 43.4% of average full-time earnings, but its 56.8% of the average weekly earnings of all employees.

¹⁰ National Commission of Audit, 2014, op. cit. p. 148

Productivity Commission Review of the Workplace Relations Framework

49. The Government's Productivity Commission review of the workplace relations framework is examining the role of the minimum wage, noting that minimum wages are a controversial issue.¹¹ This is a framing that has been resoundingly criticised, for example by J. Rob Bray who suggests that there is 'no justification for the claim'.¹²

50. Submissions prompted by Productivity Commission on the minimum wage have included arguments:

- For 'the statutory minimum wage regime to be abolished'¹³ ;
- For the 'current minimum wage [to] be frozen at its current level'¹⁴;
- That an individual business, a group of businesses or an industry sector should be able to delay paying the minimum wage 'based upon incapacity to pay'¹⁵;
- That the on-costs of employment 'brings into question the role of minimum wage setting... in addressing the 'needs of the low paid'¹⁶;
- That the 'key considerations in setting minimum wages should be the protection of jobs and helping the unemployed to be competitive in the labour market'¹⁷;
- That the Productivity Commission consider 'if the current criteria used to set the minimum wage takes an adequate account of economic circumstances, and the need to protect against wage inflation'¹⁸; and
- That 'minimum wages represent too high a proportion of median and average earnings'.¹⁹

51. The Federal Opposition notes that in recent years the Commission has made observations about the policy settings for the minimum wage²⁰ and asks the Commission to consider dealing with some or all of these arguments, where appropriate, in your 2014-15 decision on the minimum wage.

¹¹ Productivity Commission, 2015, "Inquiry into the Workplace Relations Framework Issues Paper 2: Safety Nets", p.1

¹² Bray, J.R., 2015, "Productivity Commission Inquiry into the Workplace Relations Framework, Submission concerning the Minimum Wage", 24 February 2015, p. 4

¹³ Institute of Public Affairs, 2015, "Submission to Productivity Commission Inquiry on Workplace Relations Framework", 12 March 2015, Attachment 1, p. 5

¹⁴ Op. cit.

¹⁵ Ai Group, 2015, "Ai Group Submission Productivity Commission Inquiry into the Workplace Relations Framework A workplace relations framework for the 21st Century", March 2015, p. 86

¹⁶ Australian Chamber of Commerce and Industry, 2015, "Productivity Commission Inquiry into the Workplace Relations Framework", March 2015, p. 50

¹⁷ Op. cit. p. 52

¹⁸ Business Council of Australia, 2015, "Submission to the Productivity Commission's Workplace Relations Inquiry", p. 9

¹⁹ Australian Chamber of Commerce and Industry, 2015, op. cit. p. 54

²⁰ [2014] FWCFB 3500, [65]

The case for a decent minimum wage

52. The Federal Opposition supports a strong and appropriate minimum wage. The NMW is an important component of the industrial relations framework in Australia.
53. Since the 1907 Harvester judgment²¹ there have been arguments put that the minimum wage is too high – and that it has a negative impact on jobs and growth. These positions often extend this proposition to question the NMW in its entirety. Federal Opposition rejects this view; a position that is supported by an increasing share of those engaged in the debate.
54. However, while the minimum wage has been increasing in real terms, it has been decreasing relative to median and average wages. Twenty years ago the minimum wage was 63% of the median wage. Now it is 54 per cent. The decline is even starker relative to average wages: 52 per cent to 43 per cent over twenty years.
55. The decline in the minimum wage, relative to the wages of a typical worker, reflects the increase in earnings inequality that has occurred in Australia over the past generation. From 1975 to 2014, real wages increased by 72 per cent for the top tenth of earners, but by 23 per cent for the bottom tenth of earners. If cleaners and retail staff had enjoyed the same wage gains as financial dealers and surgeons, they would be earning an extra \$16,000 a year.²²
56. Australia is one of only four OECD countries where the minimum wage relative to the average wage is decreasing. In twelve countries, including the US, UK, Canada and Japan the minimum wage is increasing relative to the average wage, ‘reflecting the increased recognition of its role in alleviating working poverty and boosting household income and consumption.’²³
57. The decline in the minimum wage bite in Australia over the period 2003-2013 is the largest in the OECD. If the trend continues Australia may be in the same position as countries where ‘working poor’ is a fair description of low income earners.
58. At the same time the minimum wage has not been keeping pace with productivity gains, and the labour share of income is declining.
59. Figures released by the Australian Bureau of Statistics in February 2015 showed annual wage growth has slowed to 2.5 per cent – the weakest since the ABS began collecting this data in 1997. Internationally, it has been suggested that wage stagnation cannot be explained ‘solely by weak economic growth [but also by] a widening gap between growth in wages and labour productivity’.²⁴

²¹ Ex parte H.V. McKay (1907) 2 CAR 1

²² Leigh, A., 2015, “Fair gone? How governments can guard against growing inequality”, ANZSOG/VPSC Victoria Lecture Series, Melbourne, 19 February 2015, available at:

http://www.andrewleigh.com/fair_gone_how_governments_can_guard_against_growing_inequality

²³ International Labour Organization, Organisation for Economic Co-operation and Development, World Bank Group, 2014, “G20 labour markets: outlook, key challenges and policy responses”, p. 9

²⁴ Op. cit. p.5

60. Further, the ILO, OECD and World Bank have noted that ‘while the financial crisis and weak recovery have been a large factor in the slump in consumer demand in many countries, a long-term decline in the labour share has also served to put a limit on consumption, as labour earnings are typically the main source of income for most households.’²⁵
61. A decent NMW is fundamental to the Australian safety net. It can also provide a foundation for the determination of award wages, and may, in amongst a range of broad factors, provide support for low and middle income families and their consumption, with the flow-on benefits to economic growth more generally.
62. As a rule, low-income households save very little and consume more of their income than high income households. The Reserve Bank has confirmed that the highest 20 per cent of income earners accounted for 80 per cent of total saving, while the bottom 20 per cent were actually spending more than they earned, on average.
63. At the same time we have seen declines in the minimum wage bite, a growing gap between wages and productivity and a declining labour share of income, household income inequality in Australia is growing. According to the Australian Treasury, an increase in the Gini coefficient shows that ‘income distribution in Australia has become more unequal over the last 30 years.’²⁶ The ILO, OECD, and the World Bank found that ‘on average, an increase in income inequality by 1 Gini point lowers yearly GDP per capita growth by around 0.2 percentage points.’²⁷
64. A decent minimum wage is not the only way to address inequality, but it is an important part of the solution.
65. Recent research from the OECD, the World Bank and the IMF has focused on the connection between economic growth and equality and concluded that inequality is the price of economic growth. Growth spells are shorter in unequal economies and income re-distribution can assist in stabilising sustainable growth.
66. Eroding minimum wage is contrary to the objectives outlined in the Act, community standards and the national economic interest.

Conclusion

67. Australia’s minimum wage remains strong compared to those of most economies, our labour market performance has also been strong. We have a lower rate of unemployment, higher

²⁵ Op. cit. p.12 (Labour share is the ratio of labour compensation to total domestic output. It includes wages, salaries and benefits and thereby reflects both the level of employment (quantity) and the wages and benefits paid (price).

²⁶ Fletcher, M. and Guttman, B., 2013, “Income inequality in Australia”, Australian Treasury Economic Roundup, Issue 2

²⁷ ILO et al, 2014, op.cit. p. 18

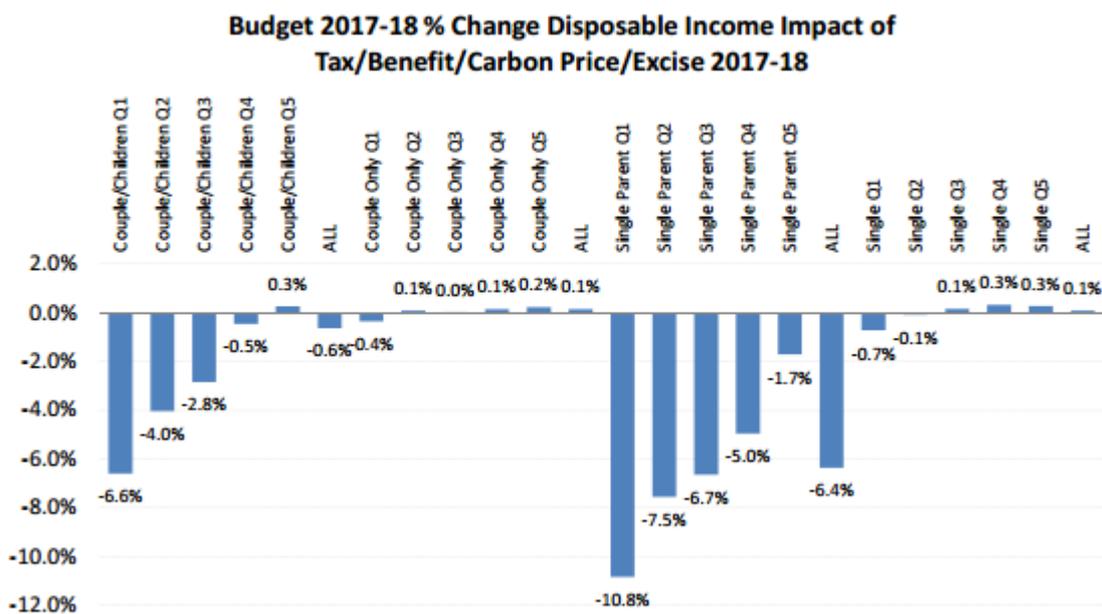
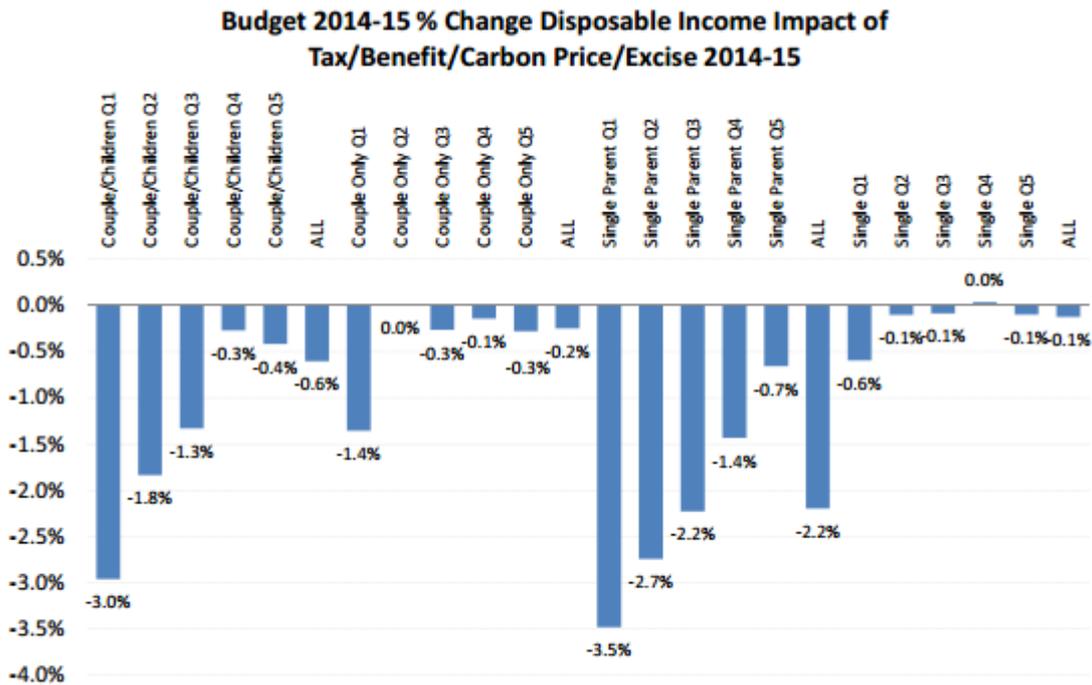
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employment-to-population ratio and very low industrial disputation compared to many other advanced economies.

68. The Federal Opposition accordingly supports an appropriate increase in the NMW in 2015.
69. We submit that the Panel's decision should be one that firmly supports a fair and economically responsible increase in the NMW and all modern award wage rates.
70. The Federal Opposition submits that the NMW is and continues to be a fundamental part of the strong safety net for Australian workers.

Attachment A – NATSEM 2014-15 Budget distributional analysis²⁸

The following graphs provides further distributional information on the impact of the 2014-15 Budget. Further information, include dollar impacts and cameos of various family scenarios is available at <http://www.natsem.canberra.edu.au/storage/2014-15%20Budget%20Research%20Note.pdf>



²⁸ NATSEM, 2014, op. cit.

Attachment B – Tax and transfer changes proposed by the Government

	MEASURE	PROPOSED START DATE	SAVE (millions)
1.	Maintain at their current levels for three years the income free areas for all working age allowances (other than student payments), and the income test free area for parenting payment single.	1 July 2015	\$83.0
2.	Index parenting payment single to the Consumer Price Index (CPI) only, by removing benchmarking to Male Total Average Weekly Earnings.	Royal Assent	\$134.2
3.	Maintain at their current levels several family tax benefit free areas for three years	1 July 2015	\$636.4
4.	Maintain at their current levels for three years the income free areas and other means-test thresholds for student payments, including the student income bank limits.	1 January 2015	\$76.0
5.	Maintain the standard FTB child rates for two years in the maximum and base rate of family tax benefit Part A and the maximum rate of family tax benefit Part B.	1 July 2015	\$1,852.2
6.	Revise the family tax benefit end-of-year supplements to their original values and cease indexation.	1 July 2015	\$1,209.4
7.	Limit family tax benefit Part B to families with children under six years of age, with transitional arrangements applying to current recipients with children above the new age limit for two years.	1 July 2015	\$1,888.6
8.	Introduce a new allowance for single parents on the maximum rate of family tax benefit Part A for each child aged six to 12 years inclusive, and not receiving family tax benefit Part B.	1 July 2015	Cost of \$155.0
9.	Maintaining for three years the current income test free areas for all pensions (other than parenting payment single) and the deeming thresholds for all income support payments	1 July 2017	\$314.7
10.	Reset the social security and veterans' entitlements income test deeming thresholds to \$30,000 for single income support recipients, \$50,000 combined for pensioner couples, and \$25,000 for a member of a couple other than a pensioner couple.	20 September 2017	\$32.7
11.	Family Payment Reform – Maintain Family Tax Benefit Payment Rates – one year extension	1 July 2016	\$768.3
12.	Maintain Eligibility rates for Australian Government Payments – one year extension	1 July 2017	\$109.0