



## **BACKGROUND PAPER**

*Fair Work Act 2009*

s.285—Annual wage reviews to be conducted

### **Annual Wage Review 2016–17—Proposal for a medium-term target (C2017/1)**

MELBOURNE, 19 SEPTEMBER 2016

*Note: This is a background document only. It has been prepared by the Commission research area and does not represent the concluded views of the Commission on any issue.*

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## Introduction

[1] In the Annual Wage Review 2015–16 (2015–16 Review), [United Voice](#) proposed that the Expert Panel for annual wage reviews (Panel) conduct a separate process of submissions and hearings in relation to setting a medium-term target as an “additional tool to assist it in the performance of its annual obligations”.<sup>1</sup>

[2] United Voice argued that a separate process would “assist procedural convenience to the Panel and those making submissions and to ensure that the merits of the matter are considered aside from the specifics of an annual [wage] review”.<sup>2</sup>

[3] United Voice did not express a view on the target that should be adopted or the considerations for the Panel if one were adopted.<sup>3</sup> United Voice did, however, submit:

“By way of illustration only, we offer the following examples of how a target (or target band) might be set:

- (a) A target or band defined by reference to the “bite” (that is the NMW expressed as a percentage of median wages);
- (b) A target or band set by reference to a goal in relation to a level of low-paid work (that is the NMW & other award wages set by reference to the OECD definition being less than two thirds of median wages);
- (c) A target or band set in nominal dollars for the NMW; or
- (d) A hybrid of these approaches.

In using the phrase “medium-term” we indicate that we have under contemplation a period of around 5 years.”<sup>4</sup>

[4] [Australian Council of Trade Unions](#) (ACTU) and [Australian Catholic Council for Employment Relations](#) (ACCER) supported United Voice’s proposal for the establishment of a separate process, while ACCER added that the role of the tax-transfer system also be considered.<sup>5</sup> Although the Australian Chamber of Commerce and Industry did not object to the preliminary hearing, they questioned its benefits given the additional resources required of parties.<sup>6</sup>

[5] During consultations, United Voice clarified that their proposal would be a matter for the Panel constituted for the Annual Wage Review 2016–17 (Review).<sup>7</sup>

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<sup>1</sup> United Voice, *Submission to Annual Wage Review 2015–16*, 30 March 2016 at pp. 5–6.

<sup>2</sup> United Voice, *Submission to Annual Wage Review 2015–16*, 30 March 2016 at p. 6, para. 7.

<sup>3</sup> United Voice, *Submission to Annual Wage Review 2015–16*, 30 March 2016 at p. 13, para. 36.

<sup>4</sup> United Voice, *Submission to Annual Wage Review 2015–16*, 30 March 2016 at p. 14, paras 37–38.

<sup>5</sup> ACTU, *Submission in reply to Annual Wage Review 2015–16*, 30 March 2016 at p. 22, para. 57; ACCER, *Submission in reply to Annual Wage Review 2015–16*, 30 March 2016 at p. 2, para. 6.

<sup>6</sup> Transcript of proceedings, 11 May 2016, at paras 602 and 604.

<sup>7</sup> Transcript of proceedings, 10 May 2016, at para. 498.

## Preliminary hearing

[6] A [draft Statement](#) issued 27 July 2016 on the timetable for the Review proposed that a preliminary hearing, to be held on 24 October in Sydney, would consider United Voice's proposal, as well as the process to deal with a review of transitional instruments and a review of existing arrangements for employees with disability.<sup>8</sup> The closing date for interested parties to lodge expressions of interest to participate in a preliminary hearing was set for 20 September 2016.

[7] This timetable was confirmed in a [Statement](#) issued 24 August 2016 with some amendments. The closing date for filing submissions was extended to 5.00pm Monday 10 October 2016 and a date for lodging reply submissions was set at 5.00pm Monday 17 October 2016.<sup>9</sup> Submissions can be filed electronically at [awr@fwc.gov.au](mailto:awr@fwc.gov.au)

## Examples of medium-term targets

[8] In their submission to the 2015–16 Review, United Voice discussed various medium-term targets applied in other contexts.

[9] In particular, United Voice referred to the staged increases in minimum wages specified by either the federal, state or local jurisdictions in the United States<sup>10</sup> and the Reserve Bank of Australia's medium-term target band which seeks to keep consumer price inflation to 2–3 per cent.<sup>11</sup>

[10] United Voice also discussed the introduction in the United Kingdom (UK) of a National Living Wage (NLW) which was also considered in the 2015–16 Review.<sup>12</sup>

[11] From 1 April 2016, the NLW in the UK provides a premium above the National Minimum Wage for workers aged 25 years and over. The NLW was introduced as part of a package of measures that included changes to tax, national insurance and welfare systems. The policy objectives and intended effects are to:

- raise the earnings of the lowest paid;
- increase the incentive to work; and
- move to a higher wage, lower tax, lower welfare society.<sup>13</sup>

[12] The NLW was set at £7.20, 7 per cent above the UK National Minimum Wage rate of £6.70 per hour.<sup>14</sup> The UK Government has set a target for the NLW of 60 per cent of median earnings by 2020, with the objective to have a NLW above £9.00 by 2020.<sup>15</sup>

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<sup>8</sup> [2016] FWC 5023.

<sup>9</sup> [2016] FWC 5924.

<sup>10</sup> United Voice, *Submission to Annual Wage Review 2015–16*, 30 March 2016 at p. 16, para. 46.

<sup>11</sup> United Voice, *Submission to Annual Wage Review 2015–16*, 30 March 2016 at pp. 17–18, paras 49–51.

<sup>12</sup> [2016] FWC 3500 at para. 479.

<sup>13</sup> Department for Business, Innovation and Skills (2015), *Impact Assessment: Amendment to the National Minimum Wage Regulations 2015 – Introducing the National Living Wage*, BISLM010, 30 November, p. 1.

<sup>14</sup> Her Majesty's Treasury (2015), *Summer Budget 2015*, OGL, July, p. 87.

[13] The Low Pay Commission has been charged with consideration of the speed of the increases required to reach the target, subject to sustained economic growth. In October 2016, the Low Pay Commission is to advise on the levels of the NLW for 2017 and provide an indicative rate for 2018.<sup>16</sup>

[14] The UK Government's objective corresponds to a rise of over 30 per cent in what was the minimum amount payable to a worker 25 years and over prior to the introduction of the NLW.

## Questions for parties

[15] Parties should address the following questions in their submissions to the preliminary hearing on the consideration of a medium-term target.

1. Taking into consideration the powers of the Panel to set national minimum wages and modern award minimum wages under s.285(2) and the minimum wages and modern award objectives set out in ss 284 and 134 of the *Fair Work Act 2009*, does the legislative framework allow the Panel to adopt a medium-term target (or target range) for the NMW or modern award minimum wages?
2. Should a medium-term target be set for the NMW or both the NMW and modern award minimum wages?
3. What are the reasons for or against setting a medium-term target?
4. For parties advocating a medium-term target:
  - (a) what criteria should be applied in setting a medium-term target?; and
  - (b) what target (or target range) should be proposed?
5. If a medium-term target is adopted, how should it be assessed or reviewed during subsequent annual wage reviews?
6. Would parties be assisted if the Panel decided on whether it ought to set a medium-term target prior to initial submissions made to the Annual Wage Review 2016–17?

## References

[\[2016\] FWCFB 3500](#)

Department for Business, Innovation and Skills (2015), *Impact Assessment: Amendment to the National Minimum Wage Regulations 2015 – Introducing the National Living Wage, 30 November 2015*, BISLM010.

Her Majesty's Treasury (2015), *Summer Budget 2015*, OGL.

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<sup>15</sup> Low Pay Commission, *National Minimum Wage: Low Pay Commission Report Spring 2016*, <http://www.gov.uk/government/publications/national-minimum-wage-low-pay-commission-report-spring-2016>, p. 55, para. 2.2.

<sup>16</sup> Low Pay Commission, *National Minimum Wage: Low Pay Commission Report Spring 2016*, <http://www.gov.uk/government/publications/national-minimum-wage-low-pay-commission-report-spring-2016>, p. 107, para. 3.2.

Low Pay Commission (2016), [\*National Minimum Wage: Low Pay Commission Report Spring 2016\*](#), March.

Transcript of proceedings (2016), [\*Final consultation in Melbourne\*](#), 10 May.

Transcript of proceedings (2016), [\*Final consultation in Sydney\*](#), 11 May.

[United Voice](#), *Submission to Annual Wage Review 2015–16*, 30 March 2016.