



FAIR WORK COMMISSION

ANNUAL WAGE REVIEW 2016

NSW GOVERNMENT SUBMISSION

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Introduction

1. The NSW Government makes this submission to assist the Panel in the Annual Wage Review 2015-16.
2. In this annual wage review, the Expert Panel is required to review the national minimum wage order and modern award minimum wages.¹ The Panel must then make a national minimum wage order, and may make one or more determinations varying modern awards to set, vary or revoke modern award minimum wages.²
3. In addition, the Panel must set special national minimum wages for all award/agreement free employees who are junior employees, employees to whom training arrangements apply, and employees with a disability, as well as setting the casual loading for award/agreement free employees.³
4. In arriving at its decision, the Panel must balance the economic, social and industrial considerations, relevantly provided for in the *Fair Work Act 2009* (Cth). These are:
 - the performance and competitiveness of the national economy, including productivity,
 - business competitiveness and viability, inflation and employment growth; and
 - promoting social inclusion through increased workforce participation; and
 - relative living standards and the needs of the low paid; and
 - the principle of equal remuneration for work of equal or comparable value; and
 - providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.⁴
5. In addition, the Panel is required to ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions.⁵

¹ Fair Work Act 2009 s285(1)

² Fair Work Act 2009 s285(2)

³ Fair Work Act 2009 s294

⁴ Fair Work Act s284(1)

⁵ Fair Work Act s134, also ss3(a), (b), (f) and (g)

Submission

6. The NSW Government believes that the minimum wage is an important safety net for low income households. It also plays a significant role in establishing a benchmark for many other awards and enterprise bargaining agreements in NSW and Australia more broadly. This is particularly important in NSW where significant numbers of workers are reliant on awards.⁶
7. Any approach to setting minimum wages must be balanced and sensitive to economic and labour market conditions so as to ensure minimum wage increases do not have a negative effect on employment.
8. The NSW economy is performing strongly, and continuing low interest rates, a lower exchange rate and above-trend population growth are expected to sustain this performance through 2016. Strong activity in labour intensive sectors such as construction, retail and tourism, coupled with modest wage growth, has supported employment growth.
9. The recovery in New South Wales is however contingent on a sustained period of supportive domestic business conditions and an improvement of economic conditions at a national and global level, which remain a concern at this time.
10. As we have done in earlier submissions, the NSW Government therefore submits that the Panel should take a cautious approach to setting the minimum wage.
11. In support of this submission, succeeding paragraphs provide relevant information regarding the performance of the NSW economy and the characteristics of award reliant employees, as well as comment regarding the promotion of social inclusion and the encouragement of collective bargaining.

Economic Outlook

12. The national transition from mining investment to more broad-based drivers of growth has played to the State's strengths, and the NSW economy is well placed to build on this strong position. The State's unprecedented public infrastructure program and the impact of the lower Australian dollar are expected to become key drivers of a further pick-up in economic growth, while household consumption and dwelling investment will continue to provide support.
13. However, a weaker-than-expected outlook for near-term business investment, driven by persistently weak business confidence and the completion of a number of large non-residential construction projects, has slightly dampened the near-term outlook. State Final Demand (SFD) growth is forecast to be 3¼ per cent in 2015-16, before accelerating to 3½ per cent in 2016-17.

⁶ ABS, Employee Earnings and Hours, May 2014, Cat.No.6306.0

14. Against a weaker outlook for the national and global economies, NSW Gross State Product (GSP) growth is forecast to be 2½ per cent in 2015-16, which is slightly below trend. By 2016-17, ongoing strength in NSW domestic demand, coupled with the strengthening in the national and global economies, is expected to foster a more durable recovery in non-mining business investment. These trends are expected to drive an increase in GSP growth to an above-trend rate of 3 per cent in 2016-17.
15. Recent labour force results show that the labour market strengthened significantly in the first half of 2015-16, with NSW employment growth outpacing the rest of Australia and the unemployment rate the lowest in the nation. Strong activity in labour intensive sectors such as construction, retail and tourism, coupled with modest wage growth, has supported employment growth. A strong 'encouraged worker effect' from the outperforming NSW labour market has resulted in the participation rate rising to around historical highs. Forward indicators (such as job vacancies and hiring intentions) and strong domestic demand growth suggest the recent strength in the labour market will be sustained over the year ahead. Job ads also indicate that the NSW labour market will continue to outperform the national average.
16. In aggregate, NSW public demand is expected to grow solidly over the next two years and provide a strong contribution to economic growth. The State's public infrastructure projects underway or in the pipeline, including projects such as WestConnex, NorthConnex, the Sydney Metro and major hospital upgrades and redevelopments, are expected to provide strong support for NSW economic activity. Continued expense discipline, as part of the Government's fiscal strategy, will work to moderate some of this impact on public final demand.

Award Reliance

17. This review necessarily focuses on award reliant employees.
18. The most recently available ABS data indicates that there are 9 898 900 employees in Australia, of which 18.8% or 1 860 700 are award reliant.
19. In NSW, approximately 3.12 million employees are situated in the national industrial relations system. Of these, 22 per cent are award reliant.
20. NSW has the highest numbers of award reliant employees and the second highest on a proportionate basis.
21. The majority of award reliant employees are women – 57.6% nationally, and the majority of female award reliant workers are part-time.
22. Award reliance is particularly prevalent in the retail and accommodation and food services industries, where almost a third of employees are award reliant.
23. Almost forty per cent of all award reliant employees are employed in small businesses (ie those that employ under 20 employees).

24. Significant numbers of award reliant employees are casuals.

Promoting Social Inclusion

25. In its 2015 decision, the Panel said:

[418] The Act requires the Panel to take into account “promoting social inclusion through increased workforce participation” when determining both the NMW and modern award minimum rates (s.284(1)(b)).

[419] Consistent with past decisions, we interpret this to mean increased employment. Higher minimum wages can provide incentives to those not in the labour market to seek paid work, which needs to be balanced against potential negative impacts on the supply of jobs for low-paid worker.

26. The NSW Government’s 2015-16 Budget allocated a record \$68.6 billion over four years to provide critical infrastructure in key service delivery areas right across the State. This funding also supports the construction of productivity enhancing assets to boost economic growth. Since the Budget, the Government has continued to provide further support for infrastructure by allocating \$1.1 billion for new infrastructure and remains fully committed to Rebuilding NSW, which will boost infrastructure investment by \$20 billion across the State. Funding has been allocated to accelerate the delivery of the Rebuilding NSW package including Sydney Metro City and Southwest, Parramatta Light Rail and new schools in Ballina, Parramatta and Inner-Sydney.⁷

27. Clearly, the rate at which the National Minimum Wage and minimum award rates of pay are set will have a significant bearing on the success of these strategies. A stable wage environment is essential.

28. It is therefore the view of the NSW Government that the maintenance of a safety net of fair minimum wages must reflect general economic conditions and be balanced against access to employment opportunities and the needs of business.

29. In the 2015 Review, the Panel also observed that:

[453] Evidence on the duration of employment in low-paid work points to its role as an entry point into the labour market and a stepping stone for many into better paid work. But a substantial number of low-paid workers either remain in low-paid work for a number of years, or move between low-paid work and no work. We cannot be indifferent to the standard of living of low-paid workers just because many do not stay in that situation for long periods.

30. Consequently, when determining any changes to minimum wage rates, the Panel should take into account Australia’s soft labour market conditions and the weakness of national demand.

⁷ NSW Treasury, NSW Budget Half Yearly Review 2015-16:
http://www.treasury.nsw.gov.au/__data/assets/pdf_file/0019/127090/2015-16_Half-Yearly_Review_fact_sheet.pdf

31. The NSW Government has ensured that job performance remains strong with around 176,700 jobs created in New South Wales over the year to November 2015.⁸
32. Minimum wage jobs provide employment for low skilled workers, function as an important stepping-stone for new entrants into the labour market, particularly young people, and provide opportunities to develop employability skills that facilitate progression to higher paying jobs.
33. The NSW Government submits that the best way of promoting increased workforce participation is to ensure that the level at which minimum wages are set is appropriately balanced with the continuing provision of employment opportunities.
34. In addition, the NSW Government submits that the Panel should have regard to the role which the tax-transfer system could play in relation to the maintenance of an effective safety net for the low paid. The NSW Government particularly notes the Panel's observations on the positive impact the tax-transfer system can have on the standard of living of award reliant workers in the 2015 Decision where it said:
- [45]** Taxes and transfers appear to have relatively and absolutely improved the disposable incomes of NMW-reliant and C10-reliant families since 2010, other than for some couple families with no dependent children. Over the past five years real disposable household income has risen for all household types, typically by around 3.5 per cent. Both the real value of minimum wages and changes in the tax-transfer system have contributed.⁹
35. Any decision to set minimum wages must appropriately take into account the role played by the tax-transfer system in supporting the living standards of low paid workers.
36. Minimum wages must not act as an impediment to affected workers securing and maintaining employment, or regaining employment once out of the workforce. Nor should a minimum floor be set such that it raises costs to a level that hinders an enterprise's competitiveness.

Encouraging Collective Bargaining

37. In the 2015 Review decision, the Panel observed that:

[473] The available evidence indicates that the level of increases in minimum award wages over the past decade or so have been compatible with the encouragement of collective bargaining.

⁸ NSW Treasury, NSW Budget Half Yearly Review 2015-16:
https://www.treasury.nsw.gov.au/sites/default/files/pdf/2015-16_Half-Yearly_Budget_Review_Fact_Sheet.pdf

⁹ Annual Wage Review 2014-15 [2015] FWCFB 3500, at para [45]

38. Agreement reliant employees outnumber their award reliant counterparts by more than two to one, however it is noted that the proportion of employees whose pay is set by awards has risen, while that whose wages are set by collective agreements has correspondingly fallen.
39. Average weekly earnings for award reliant employees remain significantly less than those for collective bargaining reliant employees, however, the difference has been reduced.
40. Aggregate bargained wage outcomes appear to have become more or less static around the 3.5 per cent mark since June 2012.¹⁰ The average annualised wage increase (AAWI) in the September quarter 2015 was 3.4 per cent.¹¹
41. Also, a significant gap between the Average Annual Wage Increase (AAWI) measure of bargained outcomes and the Wage Price Index (WPI) that opened up over 2013 widened slightly during the June and September quarters 2015 .¹²
42. In any event, it is critical that a sustainable safety net of minimum wages is one that supports enterprise bargaining at NSW workplaces. In particular, the Panel should continue to set minimum wages at a level that maintains incentives for enterprise bargaining that rewards flexible and productive work practices.
43. The NSW Government submits that any unnecessary increase to minimum wages that does not reflect productivity improvements may limit the capacity of businesses to absorb such increases and consequently have a deleterious impact on employment growth.

¹⁰ *Trends In Federal Enterprise Bargaining September 2014*: <https://docs.jobs.gov.au/>

¹¹ *Trends In Federal Enterprise Bargaining September 2015*:
<https://docs.jobs.gov.au/>

¹² *Trends In Federal Enterprise Bargaining September 2015*:
<https://docs.jobs.gov.au/>