Minimum Wage Case 2004

Submission of the State and Territory Governments

Victoria
New South Wales
Western Australia
South Australia
Tasmania
Northern Territory
Australian Capital Territory

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TABLE OF CONTENTS

Part		Page number
1	**Overview**	**3**
2	**The ACTU claim**	**4**
3	**Legislative framework**	**5**
4	**Economic context of the claim**	**7**
4.1	Current economic outlook	7
4.2	Risks to the outlook	11
4.3	Summary of state economics	12
4.3.1	Victoria	12
4.3.2	New South Wales	14
4.3.3	South Australia	16
4.3.4	Western Australia	17
4.3.5	Tasmania	18
4.3.6	Northern Territory	20
4.3.7	Australian Capital Territory	22
5	**The needs of the low paid**	**24**
5.1	Who are the low paid	24
5.2	Low paid or working poor	27
5.3	Findings concerning the needs of the low paid	29
5.4	The ACTU submission on the needs of the low paid	32
6	**Impact of an increase in minimum wages**	**34**
6.1	Impact of national wage increases on employment	34
6.2	Minimum wage increases and productivity	37
6.3	Impact of national wage increases on the incidence of enterprise bargaining	38
7	**The State and Territory Governments' position**	**46**
Appendix 1	**Flow on of Minimum Wage Case decisions to State and Territory jurisdictions**	**50**
Appendix 2	**Glossary of terms**	**58**
Attachment 1	**The State of Working Victoria report**	

Part 1 Overview

1. This submission is made on behalf of the States of Victoria, Western Australia, New South Wales, Tasmania and South Australia, and the Australian Capital Territory and Northern Territory (the State and Territory Governments). On 13 January 2004 the Queensland Government called a State election for 7 February. Consistent with the usual conventions no submission is to be made at this time by the State of Queensland.

2. The State and Territory Governments support an increase in all award rates of pay of $20 per week. The submission details the grounds for supporting a $20 increase, consistent with the legislative requirements of the Australian Industrial Relations Commission (AIRC) pursuant to s113 of the Workplace Relations Act 1996 (the WR Act), the impact of a $20 increase on the Australian economy, including the impact on employment, and examines the needs of low paid employees.

3. The State and Territory Governments also submit that a $20 increase in award rates is consistent with the requirements under the WR Act for a fair safety net to be established and maintained to meet the needs of the low paid. Finally, a $20 increase is sustainable in the current economic climate.

4. The State and Territory Governments submit that an increase of $20 per week in award rates of pay is a sustainable increase, considering the current state of the economy as well as future prospects for the economy. An increase of $20 per week will also balance the needs of Australia's lowest paid workers with the needs of employers.

***Please note**: for convenience, the current matter will be referred to as the Minimum Wage Case. Previous reviews of the safety net will also be referred to as Minimum Wage Cases.*

Part 2 The ACTU claim

5. The matter involves an application by unions affiliated with the Australian Council of Trade Unions (ACTU) to the AIRC pursuant to s113 of the WR Act to increase all Federal award rates of pay by $26.60 per week with commensurate adjustments to allowances. The grounds on which the ACTU claim are based are, in summary:

- to give effect to s3 of the WR Act;
- to give effect to s88A of the WR Act;
- to ensure a fair safety net of minimum wages and conditions;
- to protect low paid workers by increasing minimum rates of pay;
- to maintain skills-based career paths;
- to provide simple, equitable enforceable rates of pay; and
- to facilitate equal remuneration for work of equal value and viable flexible work arrangements.

6. Section 113 of the WR Act provides the AIRC's power to set aside or vary an award or any term of an award. The legislative requirements in the WR Act are described in more detail in Part 3 below.

7. The ACTU's claim is $2 (8%) more than that claimed by the ACTU in 2003, when the increment in award wages sought was $24.60 per week and the AIRC awarded $17 for employees earning up to and including $731.80 per week and $15 for employees earning over that amount.

Part 3 The legislative framework

8. The State and Territory Governments submit that, among other things, the AIRC is required by the WR Act to ensure that there is a fair safety net of wages and conditions for Australian employees. This can only be achieved by the AIRC regularly reviewing minimum award rates of pay. Whilst the WR Act does not specify the frequency of such reviews, the State and Territory Governments support the current practice of holding an annual review.

9. Section 88B of the WR Act provides that the AIRC must perform its functions under this Part in a way that furthers the objects of the WR Act and, in particular, the objects of Part VI. More specifically, section 88B(2) states that:

> *In performing its functions under this Part, the Commission must ensure that a safety net of fair minimum wages and conditions of employment is established and maintained, having regard to the following:*
> *(a) the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community;*
> *(b) economic factors, including levels of productivity and inflation, and the desirability of attaining a high level of employment; and*
> *(c) when adjusting the safety net, the needs of the low paid.*

10. Section 3(d)(ii) of the WR Act also states that a principal object of the Act is to provide a framework for cooperative workplace relations that promote the economic prosperity and welfare of the people of Australia. This is to be achieved, in part, by providing the means to ensure the maintenance of an effective award safety net of fair and enforceable minimum wages and conditions of employment.

11. Part VI of the WR Act provides mechanisms for the prevention and settlement of disputes, in part by awards acting as a safety net of fair minimum wages and conditions of employment.

12. Section 90 of the WR Act requires the AIRC to take into account the public interest, and for that purpose to have regard to:

- the objects of the Act, and in particular, the objects of Part VI; and
- the state of the national economy and the likely effects on the national economy of any award or order that the Commission is considering, or is proposing to make, with special reference to likely effects on the level of employment and on inflation.

13. Any decision by the AIRC to increase Federal award rates of pay will, traditionally, flow through to state awards. Workplaces in the Territories are already under the jurisdiction of the WR Act, and so the decision of the AIRC will apply automatically within those jurisdictions.

14. In those States with their own industrial relations regimes (New South Wales, South Australia, Western Australia and Tasmania) the respective Industrial Relations Commissions will hold separate hearings to determine the issue of flow-on. In New South Wales, the Industrial Commission is required to give consideration to the Federal decision by s50(1) of the Industrial Relations Act 1996 (the NSW IR Act). In Victoria, the flow on of any Minimum Wage Case (MWC) increase to employees not covered by a Federal award (schedule 1A employees) is governed by the provisions of s501(2) of the WR Act.

15. A more detailed description of the flow-on of Minimum Wage Case decisions to the various jurisdictions is at Appendix.

Part 4 Economic context of the claim

16. In its 2003 decision, the AIRC stated:

> *The immediate economic outlook, reflected in official forecasts, remains positive. Those forecasts suggest the continuation of strong, non-inflationary growth. There are, however, some uncertainties which present risks, most notably any delay in the passing of drought conditions and possible further weakening in the global economy, with uncertainty as to the impact of the Iraq conflict. Whilst we think it inappropriate to assume the worst possible outcome in respect of these uncertainties and risks, we have given weight to those uncertainties amongst other matters in determining the ACTU's claim.* [1]

17. It is the submission of the State and Territory Governments that the official forecasts referred to by the Bench have, for the most part come to fruition. The Australian economy continues to perform well, and the outlook is generally positive. The State and Territory Governments further submit that since the 2003 Minimum Wage Case decision:

- a number of potential threats to the Australian economy (including the drought, the war in Iraq and the advent of Severe Acute Respiratory Syndrome (SARS)) have now eased;
- the Australian economy has continued to improve; and
- the world economic outlook has improved.

18. These factors are examined in more detail below.

4.1 Current economic outlook

19. In a speech to the Melbourne Institute's Economic and Social Outlook Conference in November 2003, Reserve Bank Governor Mr Ian Macfarlane said:

[1] PR002003 paragraph 186.

> *I should say at the outset that I have always been an optimist when I consider Australia's place in the world. That is, I think that the opportunities before us outnumber the risks and I think that Australia is in a much better position than nearly all of the other countries I could name…The fact that we have had more than a decade of good economic performance, notwithstanding a difficult international environment at times, has helped build confidence in our ability to make our way in the world.* [2]

20. The Commonwealth Mid Year Economic and Fiscal Outlook (MYEFO) forecasts Australian Gross Domestic Product (GDP) to grow by 3.75% in 2003-04, up from 2.8% in 2002-03, based on healthy consumer spending, business investment and a stronger performance from the external sector. Furthermore, dwelling investment is expected to continue its positive contribution to growth in 2003-04. Moreover, the Consensus Economics survey of quarterly forecasts by Australian private sector forecasters, conducted on 8 December 2003, implied that GDP growth was expected to be 3.5% on average in 2003-04, marginally below the MYEFO forecast. In his December 2003 testimony for the House Standing Committee on Economics, Finance and Public Administration, the Governor of the Reserve Bank indicated that GDP may grow by as much as 4.5% through the year ending June quarter 2004 because of the likely strength of the rural recovery. In summary, expectations for economic growth in 2003-04 range from 3.5% to 4.5%, an improvement in the performance from the previous year.

21. Looking ahead to 2004-05 the MYEFO forecasts the national economy to grow by 3.5%. Growth is likely to come from renewed demand for Australian exports and solid, but easing, domestic consumption and business investment. Despite continuing strong demand, housing investment is expected to detract from growth in 2004-05, largely in response to the previously strong supply of medium-density dwelling units (apartments).

22. The MYEFO forecasts Domestic Final Demand (DFD) to grow by 4.5% in 2003-04, with consumer expenditure expected to be a key driver, which is in turn supported by rising household

[2] 13 November 2003.

wealth. In 2004-05, domestic demand is expected to ease, reflecting the more moderate growth in consumer spending and private investment.

23. Consumer spending is forecast to rise by 4.5% in 2003-04, similar to 2002-03, underpinned by gains in household wealth. Consumer spending growth is expected to soften in 2004-05.

24. In 2002-03, business investment grew by a strong 17%. According to the MYEFO, business investment is expected to grow by 7% in 2003-04, underpinned by supportive financial conditions, rising corporate profits and healthy balance sheet positions. Forward looking business surveys point to strong confidence and activity levels throughout 2004.

25. In contrast, net exports are forecast to detract 1.5 percentage points from GDP growth in 2003-04. This result is an improvement on the 3% fall in net exports in the previous year. In 2003-04, rural exports are expected to recover as drought conditions recede, tourism may benefit from reduced concerns about international travel safety, and global demand is expected to improve. International commodity prices (especially for base metals) have been rising and the terms of trade is likely to continue to improve. Partially offsetting this positive external outlook is the recent strength of the $A, which is likely to stimulate import demand. Net exports are forecast to improve in 2004-05, but are not expected to add to economic growth.

26. The Australian Bureau of Agricultural and Research Economics (ABARE) forecasts farm production to increase by 27% in 2003-04, contributing around 0.75 of a percentage point to GDP growth in 2003-04. The recovery should continue into 2004-05, adding 0.25 to 0.5 of a percentage point to GDP growth, as the herd and flock rebuilding process continues and assuming that water supplies are adequate for irrigated crops.

27. After growing by 2.5% in 2002-03, employment is forecast to grow in 2003-04 by 1.5%, whilst the unemployment rate is forecast to average 5.75%, below the 6.1% recorded in 2002-03. In 2004-05, employment growth is expected to be a little stronger at 1.75%, whilst unemployment remains around 5.75%.

28. Average weekly earnings are forecast to increase by 3.75% in 2003-04, after growing by 3.1% in 2002-03. Wage pressures are expected to remain moderate, balanced by increases in productivity.

29. After growing by 3.1% in 2002-03, the headline CPI inflation growth forecast by the Commonwealth has been lowered to 2.25% for 2003-04 (year-average terms) in the MYEFO, largely due to the appreciation of the Australian dollar. In 2004-05, headline inflation is expected to grow by around 2% (year-average). Even though levels of capacity utilisation are high, capacity constraints may not emerge in the coming year, although in New South Wales some employers are reporting labour shortages.

30. The Reserve Bank expects annual, through-the-year CPI inflation to decline from 2.6% in September quarter 2003 to 2.25% in December quarter, and to possibly fall below 2% by mid-2004 when the maximum effects of the higher $A are being felt. In the longer term, the Reserve Bank believes annual CPI inflation may drift back to 2% by December quarter 2004, and to 2.5% by mid-2005, and be subject to continuing upward pressure. Further evidence of this moderate inflation outlook is provided by the yields on Treasury bonds. In early January 2004, the annual CPI inflation rate expectation implied by a Treasury indexed bond expiring in August 2005 was 2%.

31. Forecasts for world growth are strong, largely due to a US-led recovery. The Consensus Economics panel's estimate of 2003 world GDP growth (exchange rate weighted) is 2.5%, rising to 3.5% in 2004. US GDP growth is expected to be 3.1% in 2003. Strength in both the US household and industrial sectors is expected to continue and result in strong growth of 4.1% in 2004. The Consensus panel's estimate for Japanese growth in 2003 is 2.7%, down to 2.1% in 2004.

32. The International Monetary Fund (IMF) has forecast world growth in 2004 of 4.1% (compared with 3.2% in 2003) with the US and Japan to grow by 3.9% and 1.4% respectively in 2004.

4.2 Risks to the outlook

33. Many of the major downside risks that existed in 2003 have dissipated. Domestic spending looks like remaining buoyant for longer than initially expected, Australia's major trading partners appear to be entering a coordinated upswing in their economic conditions, whilst domestic drought conditions have eased across major agricultural areas.

34. A significant issue for domestic growth is how the housing cycle responds over the course of 2004. Historically low interest rates, low inflation, rising income and demand for property as an investment have contributed to a sharp rise in house prices in recent years. This has boosted household wealth and consumer expenditure. The rise in consumer spending has increased at a pace greater than the rise in incomes, resulting in households accumulating more debt. Whilst not high by historical standards, highly leveraged households may be affected by adverse economic shocks.

35. Higher interest rates, combined with a decline in business and consumer confidence could see a reversal in house prices. As a result, some over-exposed consumers and investors could reign-in consumption and investment spending, especially those exposed to the over supplied medium-density housing segment. Ironically, the maintenance of above trend growth in consumer expenditure in the short-term could lead to a larger correction at a later date.

36. In addition, the drought has not fully broken despite improved rainfall, so a major recovery in farm output could be delayed for another year. According to the Bureau of Meteorology, long-term rainfall deficiencies remain in large areas of eastern and northern Australia. For the March quarter 2004, the chances of above average seasonal rainfall are generally close to a neutral 50%.

37. Finally, if the global recovery wanes, the exchange rate appreciates further or if major foreign security risks re-emerge, Australian exports and domestic demand could fall, which would lower domestic economic growth.

4.3 Summary of state economies

4.3.1 Victoria

38. The Victorian economy grew by 2.6% in 2002-03, similar to the national growth rate of 2.8%, but below the average rate of recent years. The major factor contributing to softer growth was a deterioration of net exports, due to a combination of strong import growth and weak exports.

39. A number of factors contributed to the decline in exports over the past year, including lower world growth rates, global economic uncertainty and the advent of SARS. More recently a strong appreciation of the Australian dollar has reduced the international competitiveness of Australian exporters. Domestically, the drought has had a significant impact on the agricultural sector, substantially reducing supplies of agricultural exports.

40. It appears, however, that the global economy is on the road to recovery with growth forecasts for the United States and Japan revised upwards. ABARE has also forecast a recovery in the agricultural sector. According to its Australian Crop Report, winter crop production in Victoria for 2003-04, is forecast to be over 220% higher than in 2002-03.

41. Consumer spending recorded moderate growth in 2002-03, a little below the average of recent years and below the national average. Consumer spending rebounded in the September quarter, although prospects for future growth may be tempered by recent increases in interest rates.

42. Housing construction remains at high levels despite the recent slowing in activity. Forward indicators suggest activity will remain at relatively high levels in the near-term, with approvals showing some renewed strength. For the year as a whole, however, housing investment is still expected to record a moderate decline, with higher interest rates likely to dampen activity.

43. Business investment was particularly strong in 2002-03, rising 16.5%, led by growth in non-residential construction and machinery and equipment investment. The pipeline of non-residential work to be done suggests investment will remain at high levels in 2003-04, although the scope for further growth appears limited.

44. After a subdued labour market performance in 2001-02, employment growth in Victoria was stronger in 2002-03, rising by 2.3%. Employment growth in the wholesale trade and accommodation/cafes/restaurants sectors was particularly strong, while the drought dampened employment in the agriculture/forestries/fishing sector.

45. In year average terms, employment growth of around 1% is expected for 2003-04, with this rising to 1.5% in subsequent years. The unemployment rate is forecast to average 5.5% this year, down from 5.7% in 2001-02. As at December 2003, Victoria had the second lowest unemployment rate of all the States (5.5%, compared to the national average of 5.6%).

46. Consumer price inflation was relatively low in 2002-03. The Melbourne CPI rose by 3.3% in year average terms, compared with 3.1% nationally. This was above the Reserve Bank's medium-term target range of 2-3%. However, through the year to the September quarter 2003, the increase was slightly lower at 2.9% (2.6% nationally). Over coming quarters the subdued global economy and high Australian dollar should ensure import price pressures remain low. Overall, CPI inflation is expected to be around 2.25% in 2003-04 and similar rates in subsequent years.

47. The Victorian Wage Cost Index (WCI) grew by 3.6% in 2002-03, a little above the national average (3.5%). Latest data show an increase of 3.3% through the year to the September quarter 2003. For 2003-04 and the following few years, it is expected that wage claims will remain consistent with growth in the wage cost index of around 3.5% per annum.

48. In summary the outlook for 2003-04 is:

- Gross State Product (GSP): 3.25%
- CPI: 2.25%
- Employment growth: 1%
- Unemployment rate: 5.25%
- Wage Cost Index : 3.5%

4.3.2 New South Wales

49. The NSW economy is expected to grow strongly in 2003-04, recovering from the worst of the impact of the drought and as global growth accelerates. As reported in the New South Wales Half-Yearly Budget Review (issued on 23 December 2003), economic growth in 2003-04 is expected to lift to 3.5%.

50. SFD grew by a robust 5.1% in 2002-03, reflecting strong growth in private consumption, housing and business investment. Overall GSP grew by a more subdued 2.2% in 2002-03 with the effects of the drought and weak world growth having a large impact on the State's exports. In 2003-04 SFD is expected to remain robust, but slow a little from the fast pace of 2002-03, largely reflecting a modest downturn in housing investment and slower growth in business investment. Recent data releases, both globally and domestically, tend to be consistent with this outlook. The recent tightening of the labour market, however, suggests that if growth were to be more firm than expected, upward pressures on wage rates would be likely.

51. Domestic final demand is expected to rise at a somewhat slower pace but that should be more than offset by a better performance on overseas trade, reflecting some recovery from the drought and more buoyant global growth.

52. Total employment rose by a relatively strong 2.1% in 2002-03, up from 0.8% in 2001-02, supporting the 3.4% increase in household consumption in 2002-03. Although employment is forecast to rise a little more slowly in 2003-04, more of the growth is expected in full-time jobs. Strong employment growth was reflected in the unemployment rate which fell below 5.5% in late 2003. The unemployment rate for males fell below 5 per cent, a rate last achieved in 1982. The female unemployment rate has not fallen as much, due to the rapid rise in full-time female employment as a result of a shift from part-time to full-time work, rather than a rise in the total number of females with jobs. Business surveys report that some employers in New South Wales are experiencing labour shortages.

53. Household consumption is expected to again rise by 3.5%. In the first five months of this financial year, retail sales rose by 6.2% in nominal terms (price performance at the retail level over the past year suggests that would equate to 4.5% in real terms). Retail sales account for only about 40% of household consumption. They do not include spending on housing and utilities, transport, education and medical care, among other things. Thus the rise in retail sales for the year to date is consistent with the forecast 3.5% rise in household consumption.

54. Dwelling construction rose by 20.8% in 2002-03 after rising by 17.3% the previous year. However, dwelling construction began declining in the June quarter 2003 and the fall accelerated a little in the September quarter. The fall in approvals in the three months to November 2003 implies a further drop in dwelling commencements in the December quarter, while interest rate increases in November and December 2003 will further discourage dwelling construction. The expected decline in dwelling construction will be a drag on economic growth in 2003-04.

55. Business investment rose by 10% in 2002-03, driven by a 33.6% rise in non-residential building and construction and growth of 8.7% in business spending on equipment. Non-residential construction has subsequently weakened, but at this stage another positive result is expected in 2003-04. Further growth is also expected in business spending on equipment, but at a slower rate than in 2002-03.

56. The problems in the tourist industry, which was affected by SARS and the Iraq war were reflected in a fall of 6,500 in employment in the hospitality sector (cafes, restaurants and accommodation). Employment also declined in finance and insurance. These trends were reversed in the first half of 2003-04. The rise in corporate mergers and acquisitions, which accompanied the recovery in the stock market, created more jobs in finance and insurance. The hospitality sector was boosted by the Rugby World Cup, although it is too early to tell if that carried over into the second half of the year. On the other hand, employment prospects will be weaker in construction this year.

57. The Sydney CPI rose by 2.8% in 2002-03, slightly less than the 3.1% increase for all the capital cities. The difference was mainly attributable to a lower rise in the cost of housing in Sydney than in most of the other capital cities. There was a further easing in annual growth in the Sydney

CPI in the September and December quarters of 2003, with the annual rate declining to 2.3%. The easing in inflation, however, appears to reflect the impact of falling global goods prices and the rising currency offsetting, for the moment, quite strong domestic price pressures.

58. The WCI rose by 3.5% in New South Wales in 2002-03, up a little from 3.3% in 2001-02. In the September quarter the annual increase in the WCI edged up to 3.7%.

59. In summary the outlook for 2003-04 is:

- GSP: 3.5%
- CPI: 2.25%
- Employment growth: 1.5%
- Unemployment rate: 5.5%
- Wage Cost Index : 3.75%

4.3.3 South Australia

60. Recent economic data suggests continued growth in the South Australian economy during 2003-04. Despite a weakening in consumer spending and employment in the September quarter, housing construction and business investment remained strong. It is expected that strengthening international economic conditions and the breaking of the drought will generate a recovery in overseas exports from South Australia during 2003-04.

61. GSP growth during 2003-04 is forecast by the South Australian Department of Treasury and Finance to be 4%, reflecting the impact of the recovery in the farm sector. SFD growth is expected to be 3.5% for 2003-04.

62. The Adelaide CPI is estimated to increase by 2.75% in 2003-04.

63. Dwelling investment in South Australia increased strongly in 2002-03 (up 17%) supported by low interest rates, rising house prices and solid employment growth. The most recent data on

dwelling investment shows a continuation of this strength with a rise of 9% during the September quarter. Recent trends in building approvals suggest that there is still a solid amount of activity in the pipeline for the first half of 2004.

64. Business investment is expected to remain strong in 2003-04, supported by strong levels of business confidence and low interest rates. Indicators of investment intentions suggest that growth in business investment will continue throughout 2003-04, but at a more modest pace than experienced in 2002-03.

65. Total employment increased by 2.9% during 2002-03, following growth of 1.0% in the previous financial year. The South Australian unemployment rate has also improved during 2002-03, falling in trend terms from 6.7% in June 2002, to 6.1% in June 2003.

66. The WCI for South Australia grew by 4.0% during the year to the September quarter 2003, which was above the national average increase of 3.6%. Growth of 4.0% was recorded for the private sector with growth of 4.1% recorded for the public sector.

67. In summary the outlook for 2003-04 is:

- GSP: 4%
- CPI: 2.75%
- Employment growth: 1.25%

4.3.4 Western Australia

68. The Western Australian economy is expected to grow steadily in 2003-04, with SFD and GSP forecast to increase by 4% and 4.5% respectively. A fall in Net Exports of 1.25% is forecast.

69. The overall fiscal outlook for the State remains positive for 2003-4 with the continuation of major projects in the mining and resources sectors contributing to a growth in business investment of a projected 10%. A moderation in dwelling construction activity is anticipated in 2003-04

following a significant increase in dwelling investment in 2001-02 (14.9%) and an easing in 2002-03 (7.5%).

70. Western Australia faces an anticipated growth in employment of 2.25% for 2003-04, while unemployment has been forecast to fall to 5.75% for the year. For the month of December 2003, WA's total employment grew by 0.74%, the highest of all of the States, and well above the national average growth of 0.31%. Unemployment remained steady at 6.0%. WA continues to lead the country with respect to participation rates. At December 2003 the State's participation rate of 66.5% compared favourably with the national rate of 63.8%.

71. The forecast inflation rate of 2.5% for Perth in 2003-4 remains firmly within the Reserve Bank's target range.

72. Wage costs in WA for the September quarter 2003 grew by 1.3%. For the year ending September 2003, wage costs grew by a sustainable 3.1%, below the national average of 3.6%.

73. In summary the outlook for 2003-04 is:

- GSP: 4.5%
- CPI: 2.5%
- Employment growth: 2.25%
- Unemployment rate: 5.75%
- Wage Cost Index : 3.25%

4.3.5 Tasmania

74. With a recovering world economy and expected strong national economic conditions, the outlook for the Tasmanian economy remains favourable. The State's population growth has strengthened over a relatively short period and is expected to grow further over the coming year. The 2003-04 Budget forecasts that the Tasmanian economy will grow by 3.5% in 2003-04, above the average growth rate in recent years. Continued economic growth is expected to support the recent

improvements in employment, unemployment and the participation rate, increasing the likelihood that these improvements will be sustainable.

75. Surveys of business sentiment in Tasmania reflect the recent strong performance of the Tasmanian economy. Business confidence is at record levels and sentiments for the next year are very positive, indicating that business investment is likely to remain strong over the short to medium term.

76. Over the five years to 2002-03, Tasmania's real GSP has grown at an average annual rate of around 1.5%, which compares with national average growth of 3.5% over the same period. SFD grew by 2.9% in real terms in the year to September 2003, with private investment growing by 5.2% and consumer spending increasing by 4.7% over the year.

77. Business investment in Tasmania grew by 1.2% (real) in the year to September 2003, following very strong growth in the previous year. Tasmania's business investment performance has approximately matched the national level over recent years, with annual average growth over the five years to 2002-03 in Tasmania and Australia being 5.7% and 5.8% respectively. Private sector investment in machinery and equipment and dwelling investment has been the primary source of the recent growth of business investment in Tasmania.

78. Investment in the State in the short to medium term is expected to be led by the distribution phase of the natural gas project, continuing construction of Basslink and energy projects (such as wind farms) that will link into Basslink, tourism-related infrastructure developments resulting from the introduction of the three Bass Strait ferries and telecommunications investment associated with the optic fibre cable.

79. The Tasmanian labour market has improved significantly over the past few years, with record levels of employment being achieved during 2003. There has been a general, underlying improvement in the State's employment performance since the most recent trough in late 1998. In trend terms, employment in Tasmania has risen by 5.0% through the year to November 2003, to reach a record level of 209 500 persons. The unemployment rate fell to 7.9%, in year average

terms, in the year to November 2003 compared to 8.5% one year earlier. At 7.9%, Tasmania's unemployment rate, in average annual terms, is the lowest rate since April 1982.

80. Economic growth for Tasmania is expected to perform above the long-term average in 2003-04 and be close to the national growth rate. Business investment, dwelling investment and retail trade continue to be strong, reflecting renewed confidence in the State's economy. It is expected that the improvement in Tasmania's labour market will be sustained and that there will be a further increase in the participation rate. Wages growth remains below the national average, while inflation is expected to broadly follow the national trend.

81. In summary the forecast for 2003-04 is:

- GSP [3]: 3.5%
- CPI: 2.3%
- Employment growth: 2.2%
- Unemployment rate: 8.4%

4.3.6 Northern Territory

82. Onshore economic activity continued to show positive signs in 2002-03, and although patchy across industry sectors, SFD, increased by 4.8% as both consumption and investment strengthened. Consumption, a key element of onshore economic activity, increased by 5.1%, and work for the liquefied natural gas (LNG) plant at Wickham Point boosted business investment. After three years of weak housing construction activity, dwellings investment increased by 10.2%, supported by continued low interest rates and a more balanced housing market.

83. Despite strengthening onshore economic conditions, Northern Territory GSP contracted by 0.8% in 2002-03 as falling offshore oil production, which has limited links to the onshore economy, continued to negatively impact on exports. The Territory economy also continued to be affected

[3] For Tasmania the estimate of growth based on underlying movements in output derived from trend projections based on a variety of indicators. The estimate is not designed to be consistent with the experimental GSP series produced by the ABS, nor do they purport to forecast the ABS GSP estimates.

by the downturn in international visitor arrivals, with international services exports (a significant proportion of which are tourism-related) falling by 16.3% in 2002-03.

84. Treasury expects GSP growth of 1.6% in 2003-04. Construction for Bayu-Undan stage two, which commenced in early 2003, will provide a significant boost to the local economy, and though consumption is set to moderate somewhat, it will still be a significant contributor to growth. Bayu-Undan stage two, a $3 billion investment project, involves piping gas from the Timor Sea to be converted to liquefied natural gas at Wickham Point (near Darwin). There will be significant opportunities for jobs and contracts in pipeline installation and building the LNG plant and support operations. The joint venture board has announced final approval for the investment, and work on the LNG plant has begun. The LNG plant will create up to 1300 jobs over the life of the project.

85. A pick-up in housing construction, tourism, and population and employment growth will also support stronger onshore economic activity. Further out, continuing defence relocations will support population growth, and the operational phase of the railway should provide new employment opportunities.

86. The operational phase of the railway, which recently commenced, will provide an important link to southern Australia. Combined with the new East Arm Port, the railway has the potential to see Darwin develop into a nationally important transport hub, with significantly increased land-to-sea international freight. In the longer term, the operational phase of the railway will help create a more robust and competitive Territory economy as reduced freight rates impact on the cost of living and conducting business throughout the Territory.

87. Over the medium term, Territory economic growth prospects are positive. Construction of the gas pipeline to shore and the LNG plant at Wickham Point is expected to take at least two years, with production expected in early 2006. The defence force plans to relocate an army helicopter regiment to Darwin, and there are a number of resource projects in the feasibility study stage including a major expansion in alumina production at Nhulunbuy. The energy production outlook for Territory-administered areas, and adjacent areas, in the Timor Sea is positive. Oil production

will dominate in the short to medium term, while gas extraction and manufacturing could dominate in the longer term.

88. In summary the outlook for 2003-04 is:

- GSP: 1.6%
- CPI: 2.1%
- Employment growth: 1%

4.3.7 Australian Capital Territory

89. All major indicators of economic activity in the ACT grew strongly in 2002-03. ACT GSP grew 2.9% in seasonally adjusted year-on-year terms, a significant increase on the growth of 1.7% in 2001-02 and slightly higher than the increase in national GDP of 2.8%. ACT GSP is forecast to increase by 3.1% in 2003-04 on the back of forecast employment growth of 1.4%. SFD is forecast to increase by 2.9%.

90. There was a 35.3% increase in residential building approvals and a 26.2% increase in dwelling unit commencements in 2002-03. The strong result for dwellings reflects the well-documented rise in residential property prices in Canberra. However there are signs that the very strong housing market in the ACT in 2002-03 may be starting to ease. This appears partly due to the Reserve Bank's decision to raise official interest rates by 25 basis points in both November 2003 and December 2003, combined with the likelihood of further rises.

91. The current inflated house prices in the ACT have resulted in high levels of household debt, leaving ACT residents exposed to any future interest rate rises. This has implications for consumption and spending in 2003-04, however indicators such as new motor vehicle sales are still very strong in year-to-date terms.

92. Despite higher interest rates and uncertainty about the strength of the ACT housing market forecast growth in employment and consumption should see business investment continue to grow in 2003-04.

Part 5 The needs of the low paid

5.1 Who are the low paid

93. As the AIRC has acknowledged, there is a paucity of Australian research defining, or identifying who are the low paid. In recent national wage cases, the parties and the AIRC have relied largely on anecdotal evidence, and witness statements provided by the ACTU. Further, the Bench said that in future cases it would be assisted by material which gives greater content to the expression "the needs of the low paid".[4]

94. In 2002 the Australian Centre for Industrial Relations Research and Training (ACIRRT) was commissioned by Industrial Relations Victoria (Department of Innovation Industry and Regional Development) to undertake a comprehensive survey of Victorian employers (based on workplaces) and employees (based on household surveys) to provide an overview of the state of work in Victoria.

95. On 3 February 2004 the second report from *The State of Working Victoria* survey was released. *The Low-Paid in Victoria* report uses survey data to analyse who are low paid workers, where they work and what they think about their workplaces. For the purposes of the survey, "low pay" was defined as a rate of less than $12.15 an hour ($461.70 per week). At the time of the survey, the minimum federal award rate was $11.35 an hour. A copy of the report is at Attachment 1. The report contains technical notes about the survey.

96. The State and Territory Governments submit that whilst the research is Victoria-specific, the results are generally typical of any Australian jurisdiction.

97. The report found that low paid workers were earning on average, $10.42 an hour – 38% less than the Victorian average for all employees of $16.88, and 43% less than the national average of $18.35.[5] The survey also estimated that nearly 285,000 Victorian workers earned less than the lowest Federal minimum hourly rate.

[4] PR002003 paragraph 251.
[5] As of July 2002.

98. The data reveals a number of interesting findings in relation to who is more likely to be low paid. The data tends to reinforce the anecdotal evidence in this respect. Women are more likely to be low paid (22% compared to 17% of men), as are workers from a non-English background (23% compared to 18% who speak English at home). Age is also a significant variable, with young and older workers more likely to be low paid compared to workers within the 30-49 years age group. Nearly 40% of all young workers (those aged under 30) were found to be low paid. Approximately 13% of workers 50 and over were found to be low paid.

99. Workers' qualifications are also closely aligned to their employment status, with workers holding only a high school or vocational qualification more likely to be low paid.

100. Geography also plays a significant role, with non-metropolitan workers more likely to be in the low paid category compared to their metropolitan counterparts.

101. Furthermore, low paid workers are more likely to be employed as casuals, want to work more hours and experience higher turnover in employment. Low paid workers are also less likely to be in a union, with 22% of non-union members low paid, and only 12% of union members classified as such.

102. Low paid workers are predominantly found in the private sector, and are concentrated in four industries, Accommodation, Culture, Recreation and Personal Services (38%), Retail Trade (33%), Construction (29%) and Wholesale Trade (23%). Table 2 (Part 6) of this submission demonstrates the incidence of award reliance in each of these sectors, with employees in the Accommodation, Culture, Recreation and Personal Services, and Retail Trade sectors all heavily award reliant.

103. In respect to employment by occupational groups, the low paid are overwhelmingly employed either within the elementary clerical, sales and service, or tradespersons and related workers occupational groupings. There are also significant numbers working in clerical sales and services, as well as labourers, in the low paid category.

104. Casual employees are much more likely to be in the low paid sector, with nearly one third of all casual employees counted as low paid compared to 16 per cent of permanent employees.

105. Nearly 33% of all low paid workers were employed with their current employer for less than one year, whilst only 6% of low paid workers have been employed for 10 years or more. Not surprisingly, low paid workers experience lower levels of attachment to their work, experience less stress at work and find it harder to care about their jobs. They are less likely to feel recognised for their efforts at work, have less input and are more likely to want to leave their jobs.

106. The survey was also used to build a profile of the attitudes of low paid workers to their work. Respondents were asked a series of attitudinal questions to gauge their sentiments towards their work. In relation to job attachment, low paid workers find it harder to care about their jobs and are also less likely to feel pride in their organisation. Similarly, low paid workers are likely to express lower levels of job satisfaction, experience lower levels of autonomy in their work or to express positive views about perceived fairness and job satisfaction.

107. Nationally there is evidence of growing inequality between high and low-income households. The ABS Household Income and Income Distribution survey demonstrates that between 1996 and June 2001, the low-income household's share of income dropped from 11% to 10.5%. In the same period, high-income households increased their share from 37.1% to 38.5%. The share of the income pie for middle-income households remained at 17.7%.[6] Over that period, low-income households increased their income in real terms by 8%, middle-income households by 12% and high-income households by 14%. This indicates that the income gap between low and high income households continues to grow.[7]

5.2 Low paid or working poor?

[6] ABS *Household Income and Income Distribution 2000-01*, catalogue 6523.0. Published 23/7/2003.
[7] Income is defined in that survey as being "regular and recurring cash receipts including moneys received from wages and salaries, government pensions and allowances, and other regular receipts such as superannuation, workers' compensation, child support, scholarships, profit or loss from own unincorporated business or partnership and investment income. Gross income is defined as "the sum of the income from all these sources before income tax or the Medicare levy are deducted. Other measures of income are disposable income and equivalised disposable income" (p.61).

108. In Fragmented Futures: New Challenges in Working Life[8] authors Ian Watson, John Buchanan, Iain Campbell and Chris Briggs argue that:

> *The emergence of a group of working poor in Australia has come as a shock to many commentators. Surely only countries like the United States suffer from this problem? Yet, during the late 1990's, a number of studies suggested that at least 10 per cent of employees fell into this category, though usually the terminology was the 'low-paid' workforce. [9]*

109. Watson et al examine two benchmarks (indexed) of the low paid workforce - those in receipt of two thirds of median earnings and those paid $10 per hour - and conclude that the size of the working poor grew during the decade of the 1990s. This is most evident on the former benchmark. The authors argue that:

> *If we adopt a notion of relative poverty – in which to be poor is to be excluded from the life of the community – then a benchmark which rises over time is essential. After all, living standards in the community as a whole were higher at the end of the 1990's than at the end of the 1980's, so falling behind – in relative terms – could constitute hardship. Even in absolute terms there is some evidence that low income families are experiencing severe financial hardship.[10]*

110. The following table illustrates this point:[11]

[8] ACIRRT, University of Sydney. Federation Press 2003.
[9] ibid p123.
[10] ibid p124.

[11] ibid p125. source – ABS catalogue 1350.0, June 2001.

Table 1 Financial stress among low income households, 1998-99 (%)

Indicator of financial stress	Bottom 20%	All households
Could not afford a one week holiday annually	45	27
Could not afford a night out once a fortnight	32	19
Could not pay gas, electricity or phone bill on time	26	16
Pawned or sold something	9	4
Sought assistance from welfare organizations	8	5
Went without meals	5	3

Source: Watson, Buchanan, Campbell & Briggs (2003) *Fragmented Futures*, Federation Press.

111. The authors conclude by saying:

> *The living standards of the working poor in Australia have deteriorated during the 1990's, particularly as the collective provision of goods and services has declined in favour of their (reduced) availability through markets…As well as the ethical challenge around fairness, the wages breakout at the top end of the labour market also poses real challenges for the macro-economy. How can Australia achieve low inflationary and sustainable economic growth while earnings at the top of the labour market grow in such an unrestrained fashion? How can social solidarity be strengthened when earnings inequality continues to widen? The majority of Australians are clearly unsettled by this widening inequality, and most would like to see inequality curtailed.* [12]

112. In the 2003 MWC, and as in previous cases, the ACTU presented evidence from employees to demonstrate the difficulties those employees had in affording basic necessities. In its decision, the AIRC stated:

> *It is apparent from their evidence that the witnesses struggled to make ends meet. A significant proportion of their expenditure is on necessities and unexpected*

[12] ibid p129, 121.

expenditures are difficult to finance. There were a number of things which the witnesses went without, for example:

- *regular holidays;*
- *social outings;*
- *repairing/replacing household appliances;*
- *new clothes;*
- *insurance; and*
- *dental treatment.*

Many of the witnesses live week to week and find it difficult to save.[13]

113. The State and Territory Governments submit that this conclusion continues to be valid less than 12 months later.

5.3 Findings concerning the needs of the low paid

114. Part 3 of this submission has outlined the requirements of section 88B(2) of the WR Act with respect to the AIRC's role in adjusting the award safety net of pay and conditions and considering the needs of the low paid.

115. It is clear from previous decisions that the term "the low paid" in s.88B(2)(c) refers to persons who are in employment. Nevertheless, the Bench is required by s.88B(2)(b) and 90(b) to have regard to the likely effects of its decision on the level of employment and on the desirability of attaining a high level of employment.[14]

116. During the 2003 Minimum Wage Case, the Bench heard submissions from parties in respect to the effectiveness of increases in award wages as a means of alleviating the hardships faced by low paid workers. Prior to the 2002 wage case, the former Federal Minister for Employment and Workplace Relations the Hon Tony Abbott MP proposed that tax credits be given to low income

[13] PR002003 paragraph 197-198.
[14] ibid paragraph 220.

earners, instead of wage rises. This proposal was not adopted by the Federal Government.

117. In the 2003 Minimum Wage Case, both the Commonwealth and the Australian Industry Group (AiG) submitted that increases in minimum wages via national wage rises represent a poor return for employees, or, as the AiG put it, "poor bang for your buck".[15] The AiG's, and the Commonwealth's submission in this respect centred on the twin impacts of taxation, and the potential loss of social security benefits. As an example, the Commonwealth submitted that a person receiving the minimum wage ($431.40 – pre 2003 decision) with a dependant spouse and two children would only keep $4.19 out of the $24.60 per week sought by the ACTU, after tax and after having their social security benefits reduced. The AiG also submitted that for every $1 granted by the AIRC, the cost to the employer is actually $1.30.

118. However, as in the 2002 Minimum Wage case, no specific proposals were offered by any party, including the Commonwealth, with respect to changes to the social safety net.

119. In its 2003 decision, the Bench stated that nothing in the material presented led it to alter its views expressed in last year's decision that safety net increases are an imperfect and partial mechanism for addressing the needs of the low paid. Safety net adjustments do, however, assist in meeting those needs. [16] Importantly, the Bench noted that the variation of awards to provide a wage increase is the *only* tool available to it to address the needs of the low paid.

> *Accordingly, and subject to proper consideration of the matters specified in the Act, the Commission must utilise that tool from time to time notwithstanding the fact that it is an imperfect and partial mechanism for addressing the needs of the low paid.* [17]

120. However,

> *If the Commission was presented with alternative proposals that more effectively addressed the needs of the low paid this may enable the object of maintaining a safety net of fair minimum*

[15] Exhibit AiG 1 paragraph 4.5.
[16] PR002003 paragraph 226.
[17] ibid paragraph 230.

wages to be achieved in a way that better balances meeting the needs of the low paid with the economic considerations and is more beneficial to the national economy. [18]

121. The State and Territory Governments submit that the WR Act requires the AIRC to adjust the award safety in the context of living standards generally prevailing in the Australian community. Whilst the State and Territory Governments will welcome any proposals for reform that the Commonwealth makes that genuinely benefit the low paid, Minimum Wage Cases are not the appropriate forum for speculation on proposals for reform. As in 2003, there are no specific Commonwealth Government proposals for relevant reform.

122. In its 2003 decision the Bench also referred to the proposal by the Australian Catholic Commission for Employment Relations (ACCER) and the Australian Council of Social Services (ACOSS) for an inquiry into the minimum wage. The ACCER proposal was that the findings of such an inquiry would be implemented in 2004. Once this inquiry was concluded, a further inquiry would be conducted into the relativities between the Federal minimum wage and the rates of pay in award classifications. The findings of this second inquiry would then be implemented from 2005.

123. In considering these proposals, the Bench stated:

In a previous part of our decision we have dealt with a proposal that we conduct an inquiry into the needs of the low paid in order to ascertain an appropriate benchmark for the adequacy of the minimum wage. We have decided not to do so. Whilst we shall not repeat what we have already said, in future cases we would be assisted by material which gives greater content to the expression "the needs of the low paid". [19]

124. In its 2003 decision the AIRC also referred to the current inquiry by the Senate Community Affairs Committee into poverty and financial hardship. The inquiry included an examination of pay levels for the low paid. At the time, it was anticipated that the Committee would have made

[18] ibid.
[19] ibid paragraph 251.

its report well in advance of any future applications to vary award wages. However, the Committee will not now report until 4 March 2004, after the date of lodgement of this submission. The State and Territory Governments respectively reserve their right to make any necessary further submissions in respect to the findings of the inquiry at the appropriate time.

125. The State and Territory Governments ask the AIRC to note that neither the Commonwealth, `ACCI nor the AiG took the opportunity to make a submission to the Senate inquiry on issues relating to the tax transfer system and its relationship to safety net adjustments.

5.4 The ACTU submission on the needs of the low paid

126. The State and Territory Governments note the written submission of the ACTU in respect to the needs of the low paid, and in particular, the research conducted by the Social Policy Research Centre (SPRC) titled *Updated budget standard estimates for Australian working families in September 2003*. [20]

127. The State and Territory Governments note that the SPRC paper has analysed two standards, a 'low cost budget standard' and a 'modest but adequate budget standard'. The SPRC further argue that the low cost budget standard is:

> *…too low for use in setting minimum wages and below which it becomes increasingly difficult to maintain an acceptable living standard because of the increased risk of deprivation and disadvantage.*[21]

128. Therefore, according to the SPRC, the minimum wages should be set somewhere between the two standards. [22]

129. The 'low cost standard' according to the SPRC research allows for a single income couple with one child a *net* weekly rate of pay of $568.70 a week. This compares to the current minimum

[20] ACTU Written Submission 28 January 2004 Composite Exhibit tag 8.
[21] ACTU Written Submission 28 January 2004 paragraph 8.4.
[22] ibid.

gross weekly wage of $448.40 per week. The ACTU has estimated the disposable wage of the same family group living on the minimum wage in order to facilitate comparison. After tax, and adding social security benefits, a single income couple with one dependant has a disposable income of $604.90. [23]

130. In respect to the 'modest but adequate' budget standard, the SPRC assess the minimum net income required to be $724.30 a week. [24]

131. According to the SPRC the 'modest but adequate' standard is one lying between the standards of survival and decency, and the standards of luxury. They state that it could be described as the approximate median standard of living in Australia. On the other hand the 'low cost' standard is a standard of living requiring frugal and careful management of resources, and as a level below which it becomes difficult to maintain a decent standard of living. [25]

132. Whilst the SPRC conclude that the 'low cost standard' is too low for use in setting minimum wages, but the 'modest but adequate' standard is probably too high, they do not state where, in the range between the two standards the minimum wage should be set and argue that this is a matter of judgement. The State and Territory Governments submit that the AIRC should exercise its judgement in the light of this evidence and award an increase in all award rates of $20.

[23] ibid table 7.3.
[24] ibid.
[25] ibid paragraph 7.9-7.10.

Part 6 Impact of an increase in minimum wages

6.1 Impact of national wage increases on employment

133. The requirements of the AIRC under the WR Act to assess the impact of safety net adjustments, including any impact on employment, were outlined in detail in Part 3.

134. An industry-by-industry analysis shows that those industries that are more award-reliant have experienced significant employment and productivity growth. ABS data indicates that the industries that are most award-reliant are Accommodation, Cafes and Restaurants (with 61.2% of employees reliant on awards for their employment conditions), Retail Trade (with 34.2% of employees award reliant) and Health and Community Services (with 30.3% of employees award reliant).[26]

135. In fact, employment growth since 1996 in the most award-reliant industries has exceeded total employment growth. This was acknowledged by the AIRC in its 2003 Minimum Wage Case decision. The AIRC stated:

> *...since May 1996 employment growth in the three most award reliant sectors has significantly exceeded total employment growth of 12.5 per cent. Employment grew 24.7 per cent in health and community services, 19.7 per cent in accommodation, cafes and restaurants, and 14.6 per cent in the retail industry.*[27]

136. The latest available data reinforces this view, as the following table illustrates. The table illustrates the strong employment growth in award reliant industries since 1997:

[26] ABS Employee Earnings and Hours Survey (6306.0) 26/3/2003.
[27] PR002003 paragraph 149.

Table 2 Employment by selected industries

Quarter ending	Industry					
	Accomm, Cafes Restaurants (61.2%)	Retail (34.2%)	Health and Community Services (30.3%)	Transport, Storage (16.4%)	Wholesale Trade (11.7%)	All (20.5%)
December 1997	402,900	1,280,300	800,100	148,900	494,400	8,143,800
December 2003	485,300	1,477,800	951,600	175,900	454,400	9,181,400
% change in numbers of employed	+20.45%	+15.42%	+18.94%	+18.13%	-8.8%	+12.74%

Source: ABS *Labour Force Australia* catalogue 6202.0, table LQEI 909. Published 11/12/2003. (figures in brackets represents the industry's percentage of award-reliant employees).

137. The table illustrates that in the Wholesale Trade industry sector, where only 11.7% of employees are award-reliant, employment has actually fallen by some 40,000 persons over the period December 1997 to December 2003. Interestingly, this industry is the most heavily reliant on individual agreements (80.4% covered) with only 7.9% of employees covered by a collective agreement. [28]

138. In considering the ACTU's 2003 wage claim, the Bench considered a number of academic papers on the link between wages and employment, as well as the report of the UK Low Pay Commission. Some of this research produces conflicting results, an observation made by the UK Low Pay Commission itself. The AIRC concluded:

> *Given the complex range of factors acting on employment, it is not possible to draw specific conclusions as to the impact of safety net adjustments on employment. However, the general assessment of employment data, including a focus on more heavily award*

[28] ABS *Employee Earnings and Hours Survey* catalogue 6306.0. Published 26/3/2003 table 24.

reliant sectors, does not disclose any basis to suggest that past safety net adjustments have had significant adverse employment effects. [29]

139. And further:

Having regard to the various studies and the research findings of the UK Low Pay Commission, it is evident that there is a continuing controversy amongst academics and researchers as to the employment effects of minimum wage improvements. As noted by the UK Low Pay Commission, the research results often conflict. That Commission concluded, from the research undertaken for it, that negative effects do occur but that those effects are modest and confined to specific groups. Taking all of the research into account, it has not been established that moderate increases in the wages of the low paid, of themselves, will diminish aggregate employment outcomes, although some studies suggest that some negative effects might occur for employees receiving the minimum wage. [30]

140. Since the 2003 decision a paper by Mr Andrew Leigh entitled *Employment Effects of Minimum Wages: Evidence from a Quasi-Experiment* has been published, which considers the effects of the statutory minimum wage in Western Australia.[31] The State and Territory Governments submit that this report does not require the AIRC to alter the views it has held to date on the impact of minimum wage increases on employment.

141. The conclusions of Mr Leigh have been misinterpreted in the press and by some parties to the MWC. Mr Leigh's concluded and firm views were expressed in a clarifying article issued in the *Australian Financial Review* on 14 January 2004, to the effect that the increase in minimum rates had a zero impact on low wage workers and that the evidence from his research appears to provide support for regular, moderate increases to the Federal minimum wage.

[29] PR002003 paragraph 150.
[30] ibid paragraph 161.
[31] Mr Andrew Leigh, Harvard University.

6.2 Minimum wage increases and productivity

142. As with the question of the impact of wage rises on employment, there is a no agreement between the various parties on the impact of increases on productivity. The ABS publishes data on productivity on an industry-by-industry basis.[32] The ABS assesses productivity using the weekly labour survey and produces an index of Gross Value Added divided by an index of hours worked (using 2001/02 as the base year). The following table shows the increase in productivity in selected industries, including the most award reliant industries.

Table 3 Productivity increases by industry: 2000-01 to 2002-03

Year	**Industry**						
	Accomm, Cafes Restaurants (61.2%)	Health and Community Services (30.3%)	Retail (34.2%)	Transport, Storage (16.4%)	Wholesale Trade (11.7%)	Cultural and Recreation al Services (10.9%)	All (20.5%)
2001-02	100	100	100	100	100	100	100
2002-03	105.9	102	101.1	105.5	102.9	95.8	100.8
% change	+10.77%	+4.2	+2.1%	+10.5%	+6.3%	-7.8%	+4.77%

Source: ABS National Accounts catalogue 5204.0 table 25. (The figure in brackets represent the level of award reliance for each sector):

143. The above table illustrates that the industry that is most award reliant (ie Accommodation, Cafes and Restaurants) has exceeded the average productivity gain by a substantial amount. Other award reliant industries, Health and Community Services and Retail have also achieved productivity growth.

144. The State and Territory Governments also note the AIRC conclusions in the 2003 MWC decision that:

> *... the strong productivity growth enjoyed over recent years does not suggest to us that safety net increases awarded since 1997 have been detrimental to aggregate*

productivity growth. In our view the safety net adjustments awarded will not constrain productivity growth.[33]

6.3 Impact of national wage increases on the incidence of enterprise bargaining

145. In its submissions in the 2003 MWC the Commonwealth tendered detailed material linking enterprise bargaining with improved productivity.[34] In response to this view, the State and Territory Governments reiterate the submission made in 2003 that whilst workplaces with an enterprise agreement tend to be more productive than those without an agreement, there may be other reasons for this, such as the active participation of a union in the workplace bargaining process. The Commonwealth also sought to argue that what it termed 'excessive' safety net adjustments by way of a Minimum Wage Case act as a disincentive to bargain. [35]

146. On 13 February 2003 the Federal Government introduced the Workplace Relations Amendment (Protecting the Low Paid) Bill 2003 (the Low Paid Bill). The Low Paid Bill would require the AIRC, when adjusting the safety net, to consider the needs of the low paid, the employment prospects of the unemployed, and the capacity of employers to meet increased labour costs. In his second reading speech on the Bill, the then Minister for Employment and Workplace Relations, the Hon. Tony Abbott MP stated:

The Federal workplace relations system is now firmly focused upon the setting of wages and conditions of employment at the enterprise level. Agreement making gives employers and employees the opportunity to increase the productivity and competitiveness of Australian enterprises. A key part of the principal object of the Workplace Relations Act is that actual wages should, as far as possible, be determined by bargaining at the workplace or enterprise level. A central feature of the legislative framework is the Australian Industrial Relations Commission's role in encouraging bargaining. Decisions of the Commission on the adjustment of rates of pay in awards need to be consistent with and reinforce the safety net role of awards. This is important

[32] ABS Catalogue 5204.0 Table 25.
[33] PR002003 paragraph 184.
[34] Commonwealth Exhibit 1 paragraphs 8.1-8.40.
[35] ibid paragraphs 8.41-8.56.

to ensure genuine safety net standards, to encourage agreement making and to meet overall economic objectives. [36]

147. The Commonwealth's rationale for the Bill ignored the existing role of the WR Act and AIRC with respect to the low paid.

148. The Commonwealth has failed to establish any link between increases in minimum wages and disincentives to bargain at the enterprise level. If such a link does exist, then it could be assumed that the Commonwealth would have used it to justify its Low Paid Bill. Instead, the only reference to the matter in the explanatory memorandum to the Bill is the following statement:

Under recent decisions of the Commission quite highly paid workers have been able to receive safety net adjustments. This acts as a disincentive to bargaining at the enterprise level.[37]

149. The State and Territory Governments reject any argument that safety net adjustments act as a disincentive to enterprise bargaining. The continued spread of enterprise bargaining, across all sectors of industry is firm evidence that providing wage increases to the lowest paid workers does not hamper enterprise bargaining.

150. In its submission to the AIRC in the 2003 Minimum Wage Case the Commonwealth concedes that enterprise bargaining continues to spread:

…bargaining is gradually spreading, even in the most award dependent industries. It is gradually spreading…[38]

[36] Hansard, House of Representatives 13 February 2003, p11777.
[37] Explanatory Memorandum to the Workplace Relations Amendment (Protecting the Low Paid) Bill 2003, p1.
[38] PR002003 paragraph 2334.

151. In 2000 the Australian Bureau of Statistics (ABS) estimated the proportion of award-reliant employees to be 23.2%. By 2002 the ABS survey indicated that just 20.5% of all Australian employees are covered by award rates only. [39]

152. There is also clear evidence that those industries that are classified as award reliant are becoming less so over time. The following table shows how award reliance has changed in key industries between 2000 and 2002.

Table 4 Change in award reliance by industry: 2000 to 2002

Industry	Award reliance (%)		Change (%)
	2000	2002	
Accommodation Cafes Restaurants	64.7	61.2	-3.5
Health and Community Services	37.4	30.3	-7.1
Retail Trade	34.9	34.2	-0.7
Personal and Other Services	27.1	22.2	-4.9
Transport and Storage	18.4	16.4	-2.0
Construction	15	17.1	+2.1
Manufacturing	11.4	12.5	+1.1
All industries	23.2	20.5	-2.7

Source: ABS *Employee Earnings and Hours* catalogue 6306.0 published 27 March 2001 (table 25) and 26 March 2003 (table 24).

153. The State and Territory Governments submit that this is clear evidence that safety net adjustments alone cannot explain the great disparity between the levels of award-reliance from industry to industry. Further, between 2000 and 2002 the move away from awards and towards collective and individual agreements in some key industries that are heavily award-reliant (Health and Community Services, and Personal and Other Services) was much greater than the all-industries average. On the other hand, two industries with relatively low award-reliance (Construction, and Manufacturing), the rate of award-reliance actually increased. The reasons

[39] ABS *Employee Earnings and Hours* catalogue 6306.0 table 25 (2000) and 24 (2002).

why there is a disparity in the levels of bargaining must, it is submitted, be attributable to factors other than safety net adjustments.

154. Whilst enterprise bargaining has extended to all industries and all sectors, its development is by no means uniform. Enterprise bargaining is much more prevalent amongst larger businesses than amongst small businesses (1-19 employees). Only 4.2% of small businesses have certified agreements compared to 13.9% of businesses with between 20 and 49 employees. For businesses with between 50 and 99 employees certified agreement coverage is 29.8% and for those with 100 to 499 employees the figure is 42.8% [40] The State and Territory Governments submit that this disparity has nothing to do with the impact of safety net adjustments. Small business owners lack the resources and expertise that often need to be devoted to the enterprise bargaining process. Small business owners are also less likely to belong to an employer group that can provide that expertise. In particular, a business owner who has one or two employees is unlikely to devote time and money to negotiating and certifying an agreement that will in all probability result in marginal increases in efficiency. The relative cost and returns for a business with more than 50 employees are of course different.

155. Making bargaining easier will not, of itself, mean that bargaining will take place. Following the referral of industrial relations powers to the Commonwealth in 1996, the WR Act was amended to make it easier for Victorian businesses to obtain Federal award coverage. Unlike other states, there is no longer a requirement in Victoria that an industrial dispute extend beyond the State's borders. Despite this, a significant proportion of workplaces are still subject to Schedule 1A of the Act. In fact, in 2000 it was estimated that over 225,000 employees are solely reliant on Schedule 1A for terms and conditions and that 142,000 businesses are covered by Schedule 1A.[41] The reason for this can be distilled from the fact that Schedule 1A businesses tend to be small businesses**.** Research by ACIRRT in 2000 for the Victorian Industrial Relations Taskforce indicated that 57.6% of businesses with less than 5 employees were covered by Schedule 1A, the balance having Federal award coverage or a combination of Federal award and Schedule 1A.

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[40] ABS *Employee Earnings and Hours* catalogue 6306.0 published 26 March 2003, table 27.
[41] *Independent Report of the Victorian Industrial Relations Taskforce, Part 2: Statistical Research on the Victorian Labour Market*. Prepared by ACIRRT for the Victorian Industrial Relations Taskforce in 2000.

Only 19.2% of business with between 20 and 99 employees were Schedule 1A reliant, with no businesses of 100 or more employees having sole Schedule 1A coverage. [42]

156. The ACIRRT research also shows that Schedule 1A workplaces have below average rates of membership of both organised labour and employer associations. This lack of a union presence may also explain why in some industries there is less prevalence of enterprise bargaining than in others.

157. Moreover, evidence suggests support for the award system by business. Of 1988 workplaces surveyed as part of the Australian Workplace Industrial Relations Survey (AWIRS) (1995) [43], 16% strongly agreed that the award system worked well, 43% agreed, and 23% expressed neither support nor opposition. Only 18% of respondents did not believe the award system worked well. Support for the award system was greatest amongst businesses with less than 20 employees.[44] The State and Territory Governments note that the last AWIRS survey was conducted in 1995, and a survey was due to be completed in 2000. The Governments also note the AIRC comments in the 2003 MWC decision that:

> *We see value in a comprehensive, representative and technically robust survey directed to providing direct and contemporary information relevant to the Commission's task in adjusting the wages safety net.* [45]

158. The State and Territory Governments support a new AWIRS being undertaken to assist the AIRC and the parties.

159. Again, the spread of enterprise bargaining is not affected by national wage case increases. If wage rises granted as part of the safety net review were to be curtailed, either as a result of legislative change or a departure on the part of the AIRC from its recent practice, the most likely result will be that award-reliant workers will be even more disadvantaged than they are at present. Further, there is no

[42] ibid.
[43] 569 with less than 20 employees and 1358 in the private sector.
[44] *Australian Workplace Industrial Relations Survey* 1995 p318 table 13.17.
[45] PR002003 paragraph 176.
[46] MWC 2003 ACTU Exhibit 3, tag 8 p94.

evidence that there will be a sudden rush to bargain should there be no increase in minimum wages.

160. The State and Territory Governments agree that the impact of safety net adjustments will differ from industry to industry. Factors such as the level of award-reliance, economic circumstances and varying levels of competition mean that there can be no uniform effect. Notwithstanding this, the State and Territory Governments submit that minimum wage increases have not had an adverse impact on any particular industry, by virtue of the fact that it is more award-reliant or that other unique circumstances may be in play.

161. The State and Territory Governments also submit that the AIRC should take into consideration the fact that amongst award-reliant employees there is an over-representation of non-union members; young workers, women and workers from non-English speaking backgrounds. Data from the ABS also indicates that significantly more women than men have their employment regulated solely by an award: 26.1% of women are aware-reliant, compared to only 15.1% of males.[47]

162. This fact is supported by research such as that conducted for the *State of Working Victoria* survey, which demonstrated that women are more likely to be low paid (22% compared to 17% of men), as are workers from a non-English background (23% compared to 18% who speak English at home). *The Low Paid in Victoria* findings therefore support the submission of the State and Territory Governments that industries that have a lower incidence of collective bargaining do so largely because they tend to employ workers who lack bargaining power. More detail on the findings of this survey was provided in Part 5 of this submission.

163. Generally speaking, these employees are award-reliant not by choice but because they are not able to take advantage of enterprise bargaining. As stated above, there may be other reasons why they do not participate in bargaining, such as the lack of support from a union, or conversely, their employer is not a member of any employer group that is able to assist them in negotiating an agreement.

[47] ABS *Employee Earnings and Hours* catalogue 6306.0 published 26 March 2003, table 22.

164. The gap between award rates of pay and certified agreements is continuing to grow, although in some industries (including retail trade, which is the second most award reliant industry) it is narrowing. In one industry, Accommodation Cafes and Restaurants, the award rate of pay in 2000 actually exceeded the certified agreement rate. By 2002, the situation was reversed. The following table illustrates how the situation changed between May 2000 and May 2002.

Table 5 Award rates of pay compared to certified agreement rates of pay: 2000 to 2002.

Industry	2000		2002		Increase/decrease in gap between award and agreement rates 2000-2002
	Award	Certified Agreement	Award	Certified Agreement	
Accommodation, Cafes Restaurants	$322.80	$316.90	$366.60	$376.50	+$15.80
Retail Trade	$299.60	$308.70	$332.30	$323.80	-$17.60
Health and Community Services	$454.50	$709.90	$424.50	$694.60	+$14.70
Transport and Storage	$575.70	$973.80	$633.10	$977.50	-53.70
All industries	$416.10	$717.40	$419.90	$755.40	+34.20

Source: ABS *Employee Earnings and Hours* catalogue 6306.0 published 27 March 2001 (table 25) and 26 March 2003 (table 24).

165. It is submitted that these figures are illustrative of the disparity in the pay of award-reliant workers and those who benefit from collective and individual bargaining. This gap should already provide a significant incentive for employees to enter into individual or collective agreements. The fact that some employees remain award reliant, despite the fact that their pay is falling further and further behind the pay of those on agreements illustrates that there must be other reasons, as stated above, rather than just a lack of will at play.

166. The State and Territory Governments submit that whilst there are demonstrable benefits to be gained from encouraging enterprise agreement, benefits for employers and employees alike, the WR Act clearly does not make enterprise bargaining compulsory.

167. In the 2003 Minimum Wage Case decision, the AIRC stated:

> *Further, we note that if, as the Commonwealth suggests, bargaining is conducive to productivity improvement, the continuing spread of bargaining supports a conclusion that safety net adjustments have not diminished the scope for bargaining and any associated productivity improvement.* [48]

168. The State and Territory Governments also submit that the potential impact of safety net adjustments may be further minimised by the likelihood that not all employees classified as award-reliant actually receive safety net adjustments. This view is endorsed by the AIRC in its 2003 Minimum Wage Case decision when it said:

> *Taking into account the fact that the 1995 Australian Workplace Industrial Relations Survey (AWIRS) and the 1999 AACS suggest that not all employees classified by survey respondents as award reliant benefit from safety net increases, we remain of the view that estimates based on data for award reliant employees might be better described as showing the potential cost impact, rather than the actual impact.* [49]

169. In summary, the State and Territory Governments submit that:

- most low-paid employees rely on safety net adjustments via Minimum Wage Cases as the only practicable way to obtain an increase in pay;
- in the absence of such increases, these workers would be even more disadvantaged;
- safety net adjustments do not act as a disincentive to bargain; and
- a reduction in the level of, or even the abolition of, safety net adjustments will not lead to a sudden explosion of enterprise bargaining.

[48] PR002003 paragraph 183
[49] ibid paragraph 139.

Part 7 The State and Territory Governments' Position

170. The State and Territory Governments submit that a $20 increase in all award rates of pay is fair and reasonable and is justified in terms of both the current economic context and the immediate economic outlook.

171. The State and Territory Governments submit that there is evidence outlined previously in this submission justifying the need for a reasonable increase in award rates of pay.

172. In 2003 the AIRC granted a $17 weekly increase in award rates up to and including $731.80, and a $15 increase in award rates over that amount. The increases were granted in the context of a severe drought and external factors such as uncertainty in Iraq and a weak US economy.

173. The State and Territory Governments submit that the Australian economy in 2004 is stronger than it was 12 months ago, and the immediate economic outlook much more positive. An increase in minimum wages of a higher amount than in 2003 is therefore sustainable. However, the State and Territory Governments do not consider that the economic situation (or outlook) is so positive as to warrant a $26.60 weekly increase in wages as sought by the ACTU.

174. The State and Territory Governments submit that the evidence in this submission and the evidence submitted by the ACTU, on the needs of the low paid, justifies the need for a reasonable increase in award rates of pay. An increase of $20 in the weekly award rate of pay, as proposed by the State and Territory Governments will be sufficient to allow award reliant employees to maintain the standard of living they have enjoyed for the past 12 months.

175. Part 3 of the submission considered the legislative context within which the ACTU claim is made and the duty of the AIRC pursuant to the WR Act. The State and Territory Governments further submit that the granting of a $20 increase by the AIRC is consistent with the legislative requirements of s88B(2) of the WR Act, to ensure that a safety net of fair minimum wages and conditions of employment is established and maintained.

176. Part 4 examined the economic context in which the ACTU claim is being made, as well as the economic position of each State and Territory. The submission concludes that a $20 increase in award rates of pay is sustainable in the context of both the current state of the economy and within the short to medium outlook.

177. Through 2003, the Australian economy has again shown resilience in the face of weak global growth. In its submission to the 2003 Minimum Wage Case, the State and Territory Governments stated:

> *…the year 2003 looks set to be a more significant challenge for the economy. The housing activity slowdown and the direct and indirect impact of the drought are likely to become more apparent, and a modest slowing in domestic demand and overall economic growth is likely. Further, there is more than the usual degree of uncertainty surrounding the global outlook and this may have an impact on business investment plans, which are expected to be one of the key drivers of the Australian economy in 2003*[50]

178. The improving international economy will also be of benefit to Australia. The forecast for growth in the United States in 2004 has been revised upwards, after having recorded strong growth in the last quarter. Australian exports will thus benefit from strong demand in the United States as well as China. The outlook in Japan has also improved in recent months. London-based Consensus Economics has estimated that world GDP growth for 2003 will be 2.5%, and for 2004 3.5%, its highest level since 2001.

179. The State and Territory Governments submit that despite these significant challenges, the Australian economy collectively, and the State and Territory economies individually, have remained strong and able to sustain a $20 wage increase. Whilst the international political situation is by no means stable, the situation in Iraq does not pose a threat to the Australian economy.

[50] PR002003 paragraph 248.
[51] ibid.
[52] ibid

180. At the 2003 Minimum Wage Case, three other threats to the well-being of the Australian economy were identified. These were SARS, the drought and the slow-down in the housing market. In respect to SARS, which had a marked negative impact on tourism, the immediate threat appears to have passed and whilst isolated cases of the disease are reported from time-to-time there is no evidence to suggest that the disease will again threaten the industry to the extent it did in 2003. As regards the drought, whilst the situation remains serious in some States, strong Winter and Spring rains have improved the situation. A media release issued by ABARE on 15 December 2003 stated that:

> *Most of Australia's principal agricultural regions remain affected to some degree by drought or its aftermath…Assuming seasonal conditions continue to improve, the volume of farm production is forecast to increase by around 17 per cent in 2003-04.*

181. Finally, two recent interest rate increases appear to have finally led to a long-predicted slow down in the housing market. However, the result is anticipated to be a return to more sustainable levels of growth, rather than a "boom and bust" outcome.

182. Part 5 of the submission examines who the low paid are, their needs and how they are reliant on Minimum Wage Case adjustments to the safety net in order to maintain a decent standard of living. The State and Territory Governments conclude that a $20 increase in weekly award rates of pay is necessary for the low paid to maintain a reasonable standard of living.

183. Part 6 of the submission examines the assertion of a linkage between increases in minimum rates of pay and enterprise bargaining, and concludes that such increases have had no adverse effect on workplace bargaining.

184. The State and Territory Governments also submit that a $20 increase in award wages will not adversely impact on jobs growth or unemployment. Further, there is no evidence to suggest that economic or political circumstances in 2003-04 are so different than in previous years so as to

lead the AIRC to depart from the view it expressed in the 2003 Minimum Wage Case that any increase in award rates should apply to all award reliant employees. [53]

185. The State and Territory Governments submit that the AIRC should consider the support by the State and Territory Governments for a $20 increase on its merits in the light of Australia's present strengths and outlook. In determining the quantum of the wage increase, the economic impact of minimum wage increases needs to be balanced with the needs of the low paid. There is no economic justification for the AIRC not granting a meaningful safety net adjustment. It is not equitable for the lowest paid Australians to be denied an increase in wages simply because of perceived uncertainties in the economic outlook.

186. The State and Territory Governments administer significant regional economies. Policy decisions are taken by the Governments following careful and responsible consideration of economic and social matters and the impact on business and citizens. The Governments consider the proposed $20 increase to be sustainable.

53

Appendix 1: Flow on of Minimum Wage Case decisions to State and Territory jurisdictions

Victoria

1. Victoria is unique amongst the Australian states in that all workers in the State are subject to the provisions of the WR Act. In 1996 the Victorian *Commonwealth Powers (Industrial Relations) Act 1996* (CPIR Act) referred a number of Victoria's industrial relations powers to the Commonwealth.

2. This led to a situation where, by 2003, approximately 67% of Victorian workers were covered by the Federal award safety net or by agreements, a significant number (estimated at around 561,000) by the inferior minima prescribed in Part XV and Schedule 1A of the WR Act. 54

3. On 5 December 2003 the Federal Parliament passed the Workplace Relations Amendment (Improved Protection for Victorian Workers) Act 2003. In addition to improving conditions for employees covered by Schedule 1A of the WR Act (but not, it should be noted, to the level enjoyed by award-covered employees) the Act provides the AIRC with the power to make common rule awards for Victoria. Such a power already exists with respect to the Northern Territory and Australian Capital Territory by virtue of the "territories" power in the Constitution. The requisite constitutional referral of power was effected by the Victorian Federal Awards (Uniform System) Act 2003, which amended the CPIR Act.

4. It must be noted, however, that whilst the amendments to the WR Act will operate from 1 January 2004 there is a 12-month transitional period for the AIRC and parties to implement the detail of the new framework agreements. In other words, whilst the AIRC may make a common rule award applying in Victoria any time after 1 January 2004, no such award may operate before 1 January 2005.

[54] Estimate based on research conducted by the Australian Centre for Industrial Relations Research and Training for the Industrial Relations Taskforce in 2000.

5. Further, whilst many Victorian employees currently covered by Schedule 1A will in future have the protection of a new common rule award, it is anticipated that some employees will continue to be award free. This will apply in areas where there is no appropriate Federal award.

6. In summary, therefore, despite the recent legislative reforms, Schedule 1A employees will not benefit directly from the current application. As in the past, this group of Federally regulated employees will rely on any decision to increase minimum award wages being applied to Victorian minimum wage orders pursuant to s501(2) of the WR Act.

7. Section 501(2) of the WR Act provides that on application by an employee, a group of employees, an employer or employee organisation or the Minister, the AIRC may set or adjust minimum wages. In setting the level of minimum wages the AIRC must, so far as possible and appropriate in relation to Victorian practice and conditions, take into consideration:

   - the needs of workers and their families (having taken into account the general level of wages in Victoria), the cost of living, social security benefits and the relative living standards of other social groups; and
   - economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment (section 501(4)).

8. Since 1997, all national wage case decisions have flowed on to the Schedule 1A employees as a result of an application under section 501(2) of the Act. It is anticipated, therefore, that the Commission's decision in the current matter will have direct relevance to Schedule 1A employees through these provisions.

9. On 1 July 2003 a number of unions and employer groups reached an agreement in respect to an application to flow on the 2003 minimum wage case decision to Victorian minimum wage orders. The agreement was to the effect that employers would not oppose the application that pay increases be granted, effective from the first pay period on or after 1 August 2003 subject to the following conditions:

- the operative date for the next adjustment of the Victorian minimum wage orders will be no earlier than 1 August 2004 unless there has been a significant change in circumstances, namely:
  - a change in the Statement of Principles as determined by the Full Bench in the Safety Net Review - Wages May 2003; or
  - a variation in the operative dates for Safety Net Adjustments in respect of Federal awards generally; or
  - legislative change.

New South Wales

10. The objects of the NSW IR Act are set out at section 3 and include:

- to provide a framework for the conduct of industrial relations that is fair and just;
- to promote efficiency and productivity in the economy of the State;
- to facilitate the appropriate regulation of employment through awards, enterprise agreements and other industrial instruments; and
- to encourage and facilitate co-operative workplace reform and equitable, innovative and productive workplace relations.

11. Section 50(1) of the NSW IR Act provides that as soon as practicable after the making of a national decision, a Full Bench of the Industrial Relations Commission of New South Wales (the NSW Commission) must give consideration to the national decision either on application or on its own initiative.

12. A 'national decision' is defined in section 48 of the NSW IR Act as a decision of a Full Bench of the AIRC that generally affects, or is likely to generally affect, the conditions of employment of employees in New South Wales who are subject to its jurisdiction.

13. The NSW Commission, unless satisfied that it is not consistent with the objects of the NSW IR Act or that there are other good reasons for not doing so, must adopt the principles or provisions of the national decision for the purposes of awards and other matters under the NSW IR Act.

14. When adopting the principles or provisions of a national decision or making a state decision, a Full Bench of the NSW Commission may make or vary awards, or make other orders, to the extent necessary to give effect to its decision.

15. On 27 May 2003, a Full Bench of the NSW Commission handed down its decision in the State Wage Case. In the absence of any major dissent, the NSW Commission agreed to flow-on the National Wage Case decision to all workers on New South Wales state awards.

16. In that decision, the NSW Commission awarded a $17 per week increase in award rates up to and $731.80 per week and a $15 increase in award rates above $731.80 per week.

South Australia

17. The current objects of the Industrial and Employee Relations Act 1994 (the SA I&ER Act) are set out in section 3 and include:

- to promote goodwill in industry;
- to contribute to the economic prosperity and welfare of the people of South Australia;
- to facilitate industrial efficiency and flexibility, and improve the productiveness of South Australian industry;
- to encourage enterprise agreements that are relevant, flexible and appropriate;
- to provide for awards that are relevant, flexible and expressed in non-technical language;
- to provide a framework for making enterprise agreements, awards and determinations affecting industrial matters that is fair and equitable to both employers and employees; and
- to encourage and assist employees to balance their work and family responsibilities effectively through the development of mutually beneficial work practices with employers.

18. In relation to the flow on of the national wage case decision, section 100 of the SA I&ER Act provides that the Full Commission may, on its own initiative, or on the application of:

    - the Minister; or
    - the United Trades and Labor Council; or
    - the South Australian Employers' Chamber of Commerce and Industry Incorporated, make a declaration adopting in whole or in part, and with or without modification, principles, guidelines, conditions, practices or procedures enunciated or laid down in, or attached to, a decision or declaration of the Commonwealth Commission.

19. The annual implementation of the flow-on of the national decision occurs on an award-by-award basis.

20. On 2 July 2003 a Full Bench of the Industrial Relations Commission of South Australia (the 'IRCSA') handed down a state wage decision which adopted the 6 May 2003 Decision of the Australian Industrial Relations Commission.

Western Australia

21. The Western Australian Industrial Relations Act 1979 (the WA IR Act) is established on a number of principal objects, which include:

    - to provide a system of fair wages and conditions of employment;
    - to promote equal remuneration for men and women of equal value;
    - to ensure that all agreements registered under the Act provide for fair terms and conditions of employment;
    - facilitation of the efficient organisation and performance of work according to the needs of an industry and enterprises within it, balanced with fairness to the employees in the industry and enterprises; and
    - encouraging employers, employees and organisations to reach agreements appropriate to the needs of enterprises within industry and the employees in those enterprises.

22. Section 51(2) of the WA IR Act provides that when and as often as a National Wage Decision is made, the Western Australian Industrial Relations Commission (WAIRC) is required to consider hat decision on its own motion, and:

    - unless it is satisfied there are good reasons not to do so, shall make a General Order to adjust, by the amount of any change in the rate of wages under that decision, rates of wages paid under awards; and
    - may make a General Order to adopt in whole or in part and with or without modification any principle, guideline, condition or other matter having effect under that decision.

23. Before making an order, the WAIRC is to give the Trades and Labor Council (UnionsWA), the Chamber of Commerce and Industry of WA, the Australian Mines and Metals Association and the Minister for Labour Relations (Consumer and Employment Protection) an opportunity to be heard.

24. Following the National Wage Decision of the Australian Industrial Relations Commission on 5 May 2003, and after hearing from the above parties, the Commission in Court Session of the WAIRC granted the flow-on of the $17.00/$15.00 per week increase to State award wages by General Order operative from 5 June 2003.

25. In addition to the award minimum wage, the Minimum Conditions of Employment Act 1993 (MCE Act) also establishes a statutory minimum wage that underpins all contracts of employment operating within the State jurisdiction. Following the passage of the Labour Relations Reform Act 2002, the MCE Act minimum wage is now set by the WAIRC at the same time as the National Wage Case flow-on decision is made.

26. In 2003, the State Government, and UnionsWA, convinced the WAIRC to equalise the MCE Act minimum wage with the National and State award minimum wage of $448.40 per week. The WAIRC also issued a new underpinning system of minimum wages for trainees and apprentices, largely based on a model proposed by the State Government.

27. It is therefore expected that any decision of the Australian Industrial Relations Commission in the 2004 Minimum Wage Case will have a direct bearing on the rates of pay under State awards, and will have an indirect influence on the MCE Act minimum wage that is established by the WAIRC.

Tasmania

28. Section 35(7) of the Tasmanian Industrial Relations Act 1984 (the 'Tas IR Act') empowers a Full Bench of the Tasmanian Industrial Commission (TIC) to vary wage rates in Tasmanian awards where it is satisfied that it is appropriate to do so, having regard to a decision of the Australian Commission applicable to Tasmanian employees working under Federal awards.

29. The Full Bench may provide for, or alter, a minimum wage in an award (section 35(1)(b)), and may extend this provision across the State (section 35 (4)).

30. Section 36 provides that in making an award or approving an agreement the TIC shall satisfy itself that the award or agreement is consistent with the public interest. The TIC shall consider:

- the economic position of any industry likely to be affected by the proposed award or agreement;
- the economy of Tasmania and the likely effect of the proposed award or agreement on it with particular reference to the level of employment; and
- any other matter considered to be relevant to the public interest.

Northern Territory

31. All awards in the Northern Territory are Federal awards. As such unions need to make application to vary awards to reflect safety net adjustments before the increase can be passed on to workers in the private sector. Not all workers in the private sector will receive the increase as many have their employment regulated by certified agreements or Australian Workplace Agreements.

32. Safety net adjustments do not directly affect Northern Territory public sector employment. Public sector employees are currently covered by certified agreements under which greater increases have been achieved in exchange for productivity and efficiency gains.

Australian Capital Territory

33. The ACT is covered by the WR Act and ACT employees work under conditions established in federal awards and agreements. As a consequence, adjustments to the award safety net will be available to relevant ACT employees in accordance with decisions of the AIRC.

Appendix 2: Glossary of terms used

ACIRRT	Australian Centre for Industrial Relations Research and Training
ACTU	Australian Council of Trade Unions
AiG	Australian Industry Group
AIRC	Australian Industrial Relations Commission
AWIRS	Australian Workplace Industrial Relations Survey
CPI	Consumer Price Index (capital city figure is used)
CPIR Act	*Commonwealth Powers (Industrial Relations) Act 1996* (Vic)
GSP	Gross State Product
MYEFO	Mid-year Economic Forecast
NATSEM	National Centre for Social and Economic Modelling
SPRC	Social Policy Research Centre
SFD	State Final Demand
WCI	Wage Cost Index
WR Act	*Workplace Relations Act 1996* (Cth)

[55] Ibid p 20.
[56] ABS *Household Income and Income Distribution 2000-01*, catalogue 6523.0. Published 23/7/2003.
[57] Ibid p61.
[58] ACIRRT, University of Sydney. Federation Press 2003.
[59] Ibid p123.
[60] Ibid p124.
[61] Ibid p125. source – ABS catalogue 1350.0, June 2001.
[62] Ibid p129, 121.
[63] PR002003 paragraph 197-198

[64] *Victorian Survey of Disadvantaged Households* produced by the Social Justice Committee for the St Vincent de Paul Society Victoria Inc, March 2003.
[65] PR002003 paragraph 220
[66] Exhibit AiG 1 paragraph 4.5
[67] PR002003 paragraph 226
[68] ibid paragraph 230
[69] ibid
[70] ibid paragraph 251
[71] *The Australian,* 10/1/2004 p1-2.
[72] ACTU Composite Exhibit tag 8.
[73] ACTU Written Submission 28 January 2004 paragraph 8.4.
[74] ibid
[75] ibid