

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

*Industrial Relations Act 1999* - s. 287- application for declaration of a general ruling

**Queensland Council of Unions AND Queensland Chamber of Commerce and Industry Limited,  
Industrial Organisation of Employers and Others (B/2007/45);**

and

**The Australian Workers' Union of Employees, Queensland AND Queensland Chamber of Commerce and Industry  
Limited, Industrial Organisation of Employers and Others (B/2007/46)**

DEPUTY PRESIDENT BLOOMFIELD  
COMMISSIONER FISHER  
COMMISSIONER THOMPSON

24 August 2007

**STATE WAGE CASE 2007**

**DECISION**

**The Claims**

On 27 June 2007 Queensland Council of Unions (QCU) filed an application (B/2007/45) seeking a general ruling pursuant to s. 287 of the *Industrial Relations Act 1999* (the Act) and a statement of policy pursuant to s. 288 of the Act in regard to the principles of wage fixation. In doing so QCU sought the following the decision:

- a \$28 increase in award wage rates;
- an increase in existing award allowances which relate to work or conditions which have not changed and service increments by the equivalent percentage increase to that which the \$28 wage adjustment bears to the C10 wage rate as it appears in the *Engineering Award - State 2002*;
- an increase of \$28 in the level of the Queensland Minimum Wage (QMW) as it applies to all employees; and
- an operative date for the respective increases from 1 September 2007.

On 2 July 2007 The Australian Workers' Union of Employees, Queensland (AWU) filed a similar application (B/2007/46). By consent of all of the parties the two applications were joined in preliminary proceedings conducted on 9 July 2007.

**Submissions by QCU in Support of Its Application**

In opening its submission, QCU indicated that it had generated applications to the Queensland Industrial Relations Commission (QIRC) on an annual basis for a number of years to secure wage and allowance adjustments for Queensland workers. In the past, these applications had sought to replicate the outcomes of national wage case decisions issued by the Australian Industrial Relations Commission (AIRC). However, a diversion from that practice occurred in 2006. The diversion was as a direct result of the introduction of the *Workplace Relations Amendment (WorkChoices) Act 2005* (WorkChoices legislation) and the adoption of a pre-eminent role in the federal jurisdiction to the Australian Fair Pay Commission (AFPC).

QCU indicated the preliminary data suggested that the level of federal intrusion (that is the operation of the WorkChoices legislation) into the State of Queensland through coverage of constitutional corporations under the WorkChoices legislation was around 57.6%. Such figure was derived from an analysis of the *Employee Earnings and Hours Survey by States in Australia - May 2004*. Consequently, the QIRC continued to maintain a relevant and sustaining role in determining wages and conditions for just slightly more than 40% of Queensland workers.

**Queensland Economy**

QCU referred the Commission to *Budget Strategy and Outlook, Budget Paper No. 2*, part of the Queensland State Budget 2007-2008 papers (issued in July 2007), as well as the Queensland Treasury *Mid-Year Fiscal and Economic Review* (issued in January 2007), to record a snapshot of the Queensland economy as follows:

- growth in the Queensland economy is estimated to strengthen to an above-average rate of 5.5% in 2006-07, more than double the 2.5% growth expected nationally, and exceed growth nationally for the eleventh successive year;
- investment is expected to be the main driver of growth in domestic demand in 2006-07 with business investment estimated to rise 18% and be broad-based across the trade, property and service sectors, while public investment in water, transport and energy infrastructure is also expected to grow strongly;

- the Queensland economy is forecast to grow by 5% in 2007-08 and again exceed growth nationally with investment by the business and public sector combined forecast to reach 25% of gross State product, compared with 15% five years earlier, adding significantly to Queensland's productive capacity;
- a slight rebalancing in overall economic growth is anticipated, reflecting some easing in investment growth, albeit from very high rates, and a forecast strengthening in exports growth to a seven-year high of 3.75%;
- households are anticipated to return as the principal driver of growth in domestic demand in 2007-08, with higher consumer spending reflecting strong growth in employment and wages, as well as a pick-up in housing investment;
- employment is estimated to grow at an above-average rate of 4.75% in 2006-07, before retuning to its long-run average of 3% growth in 2007-08, representing the creation of more than 150,000 jobs over two years; and
- Queensland's year-average unemployment rate is estimated to fall to a 33-year low of 4% in 2006-07 and remain steady in 2007-08, representing a rate well below that applying nationally.

QCU also indicated that growth in household consumption is expected to moderate for a third consecutive year, to 3.5% in 2006-07, representing a trough in the consumption cycle. A number of factors have dampened consumer spending in 2006-07, despite above-average growth in employment, and wages and share prices boosting incomes and wealth during the year.

However, growth in household consumption is forecast to strengthen to 4.75% in 2007-08, underpinned by strong growth in incomes, wealth and employment, as well as some stabilisation in interest rates and petrol prices. The strength of the domestic economy as well as the high level of Queensland's terms of trade (export prices relative to import prices) are anticipated to support income growth. Renewed strength in the housing sector is forecast to result in stronger real growth in spending related to household services and furnishings in 2007-08, while the recent strengthening in Queensland house price growth should also support increases in household wealth and, hence, consumption.

Following an expansion lasting a decade and a-half, the Queensland economy has operated at near full capacity in recent years. In response to this, investment is expected to be the main driver of domestic demand growth, rather than consumption, in 2006-07.

Business investment is estimated to rise a further 18% and be broad-based across trade-related sectors, commercial property and services. Public investment is also expected to continue to grow strongly, reflecting transport, energy and water infrastructure spending. Strong growth in domestic demand is estimated to lead to a 10.75% rise in machinery and equipment investment, with a high A\$ also encouraging spending on imported capital goods.

Employment growth is estimated to strengthen to an above-average rate of 4.75% in 2006-07, representing the creation of more than 90,000 jobs over the year. The trend monthly rate for June 2007 shows total employment at 952,000 with Queensland generating more than 35% of all jobs created nationally. Record levels of business and public infrastructure spending, together with solid housing activity, have driven job gains in construction as well as property and business services during the year.

Prices for outputs (particularly for exports) have continued to rise faster than wages in recent years. This improvement in profitability and fall in unit labour costs (wages paid as a share of income earned) has encouraged labour demand, and subsequently jobs growth, in 2006-07.

The year-average labour force participation rate is estimated to reach a new high of 67.25% in 2006-07 (67.4% in May 2007), as strong growth in domestic demand and wages encourages mature-age persons, in particular, to re-enter the workforce. This rise in the participation rate, combined with solid population growth, is estimated to increase the size of the labour force by 3.75% in 2006-07. Reflecting some moderation in growth in overall domestic activity, employment growth is forecast to return to the long-run average rate of 3% in 2007-08, representing the creation of a further 60,000 jobs next financial year.

With employment growth expected to exceed labour force growth, Queensland's year-average unemployment rate is estimated to fall to a 33-year low of 4% in 2006-07. The trend monthly rate for June 2007 shows unemployment at 3.4%. This is a 29 year low for Queensland. This is more than 1.0% less than the rest of Australia and the third successive year that the State's unemployment rate remained below that nationally.

Queensland is expected to continue to record strong wages growth in 2006-07, with the Wage Price Index (WPI) estimated to grow by 4.5%. Tight labour market conditions, as well as a strong terms of trade, have allowed above-average wages growth for employees in the resource, trade and construction-related sectors.

Sustained demand for labour is forecast to see growth in the WPI remain solid at 4.25% in 2007-08, supported by an anticipated pick-up in labour productivity growth and on-going high profitability. With wages growth forecast to remain above inflation in both 2006-07 and 2007-08, employed persons in Queensland are expected to continue to benefit from rising real wages over the forecast period.

While earnings have been relatively strong for employees in areas with significant skills shortages, or sectors benefiting from the strong growth in terms of trade and investment (such as construction, mining and other export-related sectors), employees in other areas have struggled with below-average wage increases (particularly retail and hospitality). This is despite the retail sector being "supportive" of further jobs growth.

Consumer price inflation (as measured by movements in the Brisbane Consumer Price Index (CPI)) is estimated to be 3% in 2006-07, similar to the 3.1% recorded in 2005-06. Domestically, tight housing market conditions have driven rents and housing purchase costs higher in 2006-07. Inflation is forecast to ease to 2.75% in 2007-08, following an assumed return to normal seasonal conditions, which should dampen food price inflation next year, while a pick-up in labour productivity growth is expected to restrain growth in production costs.

### National Economy

QCU said that, at a national level, the current economic expansion is entering its sixteenth year with a total of 61 consecutive quarters of positive growth (the last recorded negative Gross Domestic Product (GDP) quarter was in September 1991).<sup>1</sup> This is by far the longest economic expansion on record with the economy averaging a rate of growth of around 0.9% per quarter, or 3.6% annually.

The Australian economy is forecast to grow 2.5% in 2006-07, down slightly from an outcome of 2.9% for 2005-06. Economic growth in 2007-08 is forecast to grow by 3.75%, with the Commonwealth Treasury indicating:

*"... the forecast for 2007-08 reflects an assumed return to average seasonal conditions and a partial recovery from the drought, which is expected to add 0.5 of a percentage point to GDP growth. Strong growth in 2007-08 also reflects solid growth in consumption and business investment, a modest increase in dwelling investment and accelerating export growth."*

Overall, QCU said, the official forecasts paint a positive picture of the Australian economy over the near future. The federal Budget records that the Australian economy strengthened towards the end of 2006, and this strength is expected to be sustained over the forecast period. Real GDP is expected to grow by 3.75% in 2007-08, up from an estimate of 2.5% in 2006-07.

Further, unemployment has been on a downward trend since 1993. In April 2007 the unemployment rate decreased 0.1% to 4.4% (seasonally adjusted), close to its 30 year low. Male unemployment is at 4.2% with female unemployment at 5.1%.

### The Wage Environment

In Australia there are several measures of wages growth that can, at times, present different signals of wage trends, QCU said. These differences occur because the respective statistical series are designed to measure different concepts.

The four most commonly used measures are:

- Average Weekly Earnings (AWE) of non-farm wage and salary earners, from the Australian Bureau of Statistics (ABS) survey of the same name, published for "all employees", and also "full-time adult employees". Nationally for the year to November 2006 AWE for all employees increased by 4.4% to \$846.70. The AWE for full-time adult employees increased by 2.6% over the same period to be \$1105.70.
- Average Weekly Ordinary Time Earnings (AWOTE), which is derived from the same AWE survey but includes only ordinary time earnings of adults working full-time. For the year to November 2006 AWOTE at a national level increased by 3.0% to \$1058.90, increasing to \$1070.40 as at May 2007, with the Queensland AWOTE at the same date being \$1008.50.
- Average compensation per non-farm employee - published as part of the ABS's Quarterly National Accounts - also referred to as Average Earnings on a National Accounts basis (AENA). Nationally for the year to December 2006 the AENA grew by 4.2 % seasonally adjusted, or 4.0% trend.

<sup>1</sup> ABS *National Income, Expenditure and Product* Cat. No. 5206.0 December 2006.

- WPI, which forms part of the expanded Labour Price Index (LPI) Survey. Nationally the WPI is at 4.0% for the period 2006-2007 and is projected to remain at the same level for 2007-08.<sup>2</sup>

The following table sets out the percentage change in the LPI in the periods 2004-05 and 2005-06 for all States and nationally, and for Queensland, Western Australia and Australia for 2006-07.

**Table 1: Percentage change in LPI excluding bonuses - States**

	2004 - 2005	2005- 2006	2006- 2007
New South Wales	3.6	4.1	
Queensland	3.8	4.4	4.5
South Australia	3.5	3.8	
Western Australia	4.3	4.5	4.6
Tasmania	4.9	4.1	
Australia	3.8	4.1	4.0

Source: ABS *Labour Price Index* Cat. No. 6345.0.

As the WPI is not affected by compositional change, it is the best measure to assess the economic impact of wage changes to the employer, QCU said. The WPI is the Reserve Bank of Australia's (RBA) preferred measure of wages growth and has also previously been relied upon by the AIRC as its preferred measure of wage change.

The application before this tribunal sees a claim for a flat monetary adjustment, QCU indicated. To apply the WPI as a flat monetary amount, whilst seeking to benefit those workers most in need (at the trade level - C9/C10 - and below), requires an averaging exercise, QCU said.

If the WPI of 4.5% was applied to the wage rates as they currently appear in the *Engineering Award - State 2002* then the average increase to those classifications would be almost \$30.00 per week overall, QCU said. The trade level (C9/C10) would receive an adjustment of no more than \$28.00 per week, thus ensuring that the benefit of the flat adjustments is at the classifications of trade level and below.

Award workers in unincorporated businesses are, according to QCU, predominately concentrated in low paid occupations of intermediate clerical, sales and service (29.5%); elementary clerical, sales and service (29.7%); and labourers and related workers (27.0%). These are all classifications that would be at or below the trade level (C9/C10) of the *Engineering Award - State 2002*. These classifications will benefit directly by the quantum sought, as well as by the method of calculation which applies the WPI as an average flat increase.

This method of adjustment and the manner in which it is calculated, QCU submitted, ensures that the legislative obligation placed upon the Commission, to ensure economic prosperity and social justice through fair standards in relation to living standards prevailing in the community (s. 3(f) of the Act), is met.

QCU also indicated that data on the wage trends in enterprise bargaining is available from the *Trends in Enterprise Bargaining* series which is published quarterly by the Department of Employment and Workplace Relations (DEWR). This report records the average annualised wage increase (AAWI) "per employee" and discloses that the AAWI per employee for those agreements lodged in the March quarter 2007 was 3.7%.

#### Fair Wages

QCU said that the outcome sought from this application is the maintenance of fair wages. It is about ensuring, consistent with legislative requirements that secure, relevant and consistent award rates are set (s. 126(d) of the Act). The application before the Commission ensures fairness by maintaining the real and the relative value of award wages, QCU said.

QCU also submitted that the Commission has an important role to play in maintaining the fairness of award wages because:

- it is more difficult for award-reliant wage earners to rely on bargaining because of a lack of bargaining power;
- award wage increases will not reduce or eliminate the incentive to bargain;
- it would not be fair that award-reliant workers fall further behind other workers; and
- award-reliant wage earners have needs associated with the costs of living.

In support of the above proposition QCU referred to the 2006 State Wage Case decision where the Commission stated: "*there is a continuing issue of wage disparity that needs to be addressed in the interest of ensuring fair wages in line with standards generally prevailing in the community.*". ((2006) 182 QGIG 565, para 212)

<sup>2</sup> MYEFO December 2006 Table 2.

QCU submitted that there is, and will remain after the granting of the current application, a significant gap between award wages and the outcomes from bargaining agreements and therefore considerable incentive for employees to seek, collectively or individually, arrangements in excess of the minimum. In fact, QCU said, the claim does not reduce an ever-widening gap between award and bargained wages.

QCU also stated that there is no evidence that recent increases in award wage rates of pay have slowed the growth in bargaining. In fact, according to QCU, the contrary is the case as the number of award-reliant employees has reduced. ABS *Employee Earnings and Hours* (EEH) data shows the number of award-reliant workers declined from 20.5 % of the workforce in 2002 to 20.0 % in 2004 to 19% in 2006.<sup>3</sup> As the Full Bench of the AIRC indicated in its 2005 decision:

*"... the proportion of employees covered by enterprise agreements has continued to grow in spite of safety net adjustments. Recent ABS data on methods of setting pay has illustrated a consistent decline in the proportion of employees on minimum award rates."* (para 286)

and further:

*"We are conscious that increases in the award safety net have the potential to influence the pace at which bargaining, either formal or informal, is taken up at the enterprise level. The material presented supports the conclusion that since 1997 the number of employees covered by agreements has shown relatively steady growth, though this may have plateaued somewhat in recent years. On the evidence presented, we do not think the adjustment provided for in this decision is likely to prejudice that growth."* (para 300)

The considerable gap between award rates of pay and those obtained through individual or collective bargaining is currently more than a sufficient incentive for award workers to agitate for enterprise agreements and for this to be resisted by employers, QCU submitted.

QCU also referred to its submission to the 2006 State Wage Case, wherein it submitted that Professor David Peetz<sup>4</sup> has highlighted that wage increases due to safety net adjustments have been worth much less than the wage increases obtained through enterprise bargaining.<sup>5</sup>

QCU also said that Professor Peetz considers that the incentive for employers to bargaining with their employees in award-reliant workplaces is diminished by the fact that those employers experience increases in productivity and work intensity without having to negotiate an agreement:

*"Workplace infrastructure, not worker incentives, impose the chief limits to enterprise bargaining. With management mostly initiating bargaining, low safety net adjustments merely reduce the pressure on employers to engage in bargaining and negotiate productivity increases to offset the cost of higher wages. ..."*<sup>6</sup>

QCU submitted that granting the claim will ensure that the wages of award-dependent workers increase in a way that is comparable to increases for others in the community. This is because the claim applies the WPI and then averages it across the wage rates appearing in the *Engineering Award - State 2002* to arrive at a flat monetary amount designed to benefit those workers most in need.

#### Fair Standards

QCU said that in determining the issue of "fair standards" (see s. 3(g) and s. 126(f) of the Act) assistance may be drawn from the Australian Workplace Industrial Relations Survey (AWIRS), which was a federally sponsored research project undertaken in 1990 and 1995. AWIRS was discontinued after the 1995 series and, as such, assistance in determining issues of workplace characteristics has been garnered from a subsequent study undertaken by the governments of New South Wales, Queensland, and Victoria.

These governments commissioned a comprehensive workplace survey, the purpose of which was to obtain current information on workplace characteristics. Results from these surveys, covering more than 2100 employers, form the Joint Eastern States Survey (JESS).

QCU said that data from the JESS found that workplaces in recreational and personal services and in retail trade have average wages below \$700 per week. Other industries, such as manufacturing, health and education and transport, have average wages below or equal to \$750 per week. Weekly and hourly pay rates also vary considerably by the type of industrial instrument in operation. Workplaces covered only by awards have the lowest median hourly pay of \$15. In

<sup>3</sup> ABS, 2006 Employee Earnings and Hours (EEH) survey data.

<sup>4</sup> Peetz, D. (1998). The Safety Net, Bargaining and the Role of the Australian Industrial Relations Commission. *Journal of Industrial Relations*, 40(4), p. 533-553.

<sup>5</sup> Ibid p. 535.

<sup>6</sup> Ibid p. 542.

contrast, workplaces covered by collective agreements have a median hourly pay of \$17. In terms of proportion of low pay workplaces, 46% of award-reliant workplaces pay less than \$15 per hour. In contrast, 53% of workplaces covered by collective agreements have pay above \$17 per hour.

These findings, according to QCU, indicate that low pay workplaces are more likely to be award-reliant.

The pattern outlined with hourly wages is also reflected in the average wages paid at the workplace, QCU said. At award-reliant workplaces, the lowest median weekly wage is just under \$600 per week. In contrast, the average wage for all workplaces is \$750 per week, and for those with collective agreements it is \$900. In terms of the distribution of earnings by workplaces, just 16% of award-reliant workplaces pay above \$800 per week. This can be compared to 62% of those covered by collective agreements.

In terms of gender distribution, female workers are disproportionately located in low-income occupations with high concentrations in intermediate and elementary clerical occupations. When this pattern is compared by industry, workplaces in the identified low pay industries (retail, recreational and personal services) also have a high proportion of women in low paid occupations. When female employment patterns are compared by industrial coverage, a high proportion of low paid female jobs are found to be award-dependent, including elementary and intermediate clerical sales and service.

The analysis of the JESS characteristics of low pay workplaces identifies the following, QCU said:

- low pay workplaces, when measured by the average wage for the largest occupational or lowest hourly rate paid group in the workplace, are in retail, recreational and personal services and manufacturing;
- main occupational groups located in low pay workplaces are likely to be elementary clerical, sales and service workers or labourers;
- low pay workplaces are more likely to be covered by awards than by collective or individual agreements; and
- industries and occupations common for low pay workplaces are more likely to be female dominated.

### **The AWU Position**

The AWU indicated that it had had the opportunity to read the submission filed by QCU in relation to matter B/2007/45 and indicated its support for those submissions as well as the desire to adopt them in relation to its own application B/2007/46.

### **Submission in Support of the Application by QCU**

Queensland Council of Social Services (QCOSS) lodged a written submission in which it indicated that it was a peak body for almost 700 welfare and community sector organisations in Queensland, with its members including organisations which are focused on a range of issues including:

- family support;
- child safety;
- indigenous support;
- young people;
- health;
- housing;
- homelessness;
- community development and capacity building.

The overarching policy framework at QCOSS is *Ending Poverty and Inequality in Queensland: A Fair Queensland Action Plan*. QCOSS considers wage levels that keep pace with the increasing cost of living play an important part in any plan to end poverty. Consistent with the Australian Council of Social Service (ACOSS), QCOSS took the position that minimum wages should be based on benchmarks for an adequate living standard well above poverty.

QCOSS indicated that the University of Queensland Social Research Centre<sup>7</sup> (UQSRC) (2006) cite Lloyd et al<sup>8</sup>, using data from the ABS *Survey of Income and Housing Costs*, to estimate that 10.5% of the Queensland population are in poverty, with this equating to 400,000 people - including over 100,000 children. QCOSS also said that Queensland is deemed as having the third highest rate of poverty in Australia, after New South Wales and Victoria (UQSRC 2006:4).

QCOSS indicated that it provided input to the submission made by ACOSS to the AFPC on minimum wages, where ACOSS had highlighted:

<sup>7</sup> Boreham, P. et al. (2006) 'UQSRC 2006 Poverty in Queensland.' Prepared for Queensland Council of Social Services Inc. p. 7.

<sup>8</sup> Lloyd, R. Harding, A. & Payne, A. (2004). 'Australians in Poverty in the 21<sup>st</sup> Century.' Paper for the 33<sup>rd</sup> Conference of Economists 27-30 September 2004 (NATSEM).

- the "risk" of income poverty is between 5-10% for households headed by a wage earner, yet 27% of households below the poverty line are headed by a wage earner (including 11% headed by a full-time wage earner). The reason that a substantial proportion of people below the poverty line are in wage earning households is that there are many more wage earning households overall than jobless households. Based on the National Centre for Social and Economic Modelling (NATSEM) estimates for 2001, around 500,000 people in wage earning households lived below the poverty line. These are mainly families with children;
- recent research using focus groups of employees from low paid households suggests that budgeting on minimum wages is a struggle for these households. They must forego items that most wage earning households expect, such as dental care, annual holidays, a car, eating out with friends, and buying a home;
- there is no convincing evidence to suggest that modest increases in minimum wages over the last decade in Australia have constrained overall economic growth. From 1997 to 2005, real minimum wages rose by 8% (after having fallen over the previous decade), and employment rose by 18%. In the present favourable economic conditions there is room for further increases in minimum wages in "real terms".

QCOSS stated that it recognised that apparently low unemployment figures, such as those in Queensland, mask a broader issue that most jobs growth is at the high-skilled end and unemployment highest among those without qualifications and skills. As such the benefits of growth have not necessarily been evenly distributed.<sup>9</sup>

It also indicated that UQSRC<sup>10</sup> had pointed out that while unemployment has generally been identified as the prime cause of poverty for people of working age, this does not however mean that the employed are exempt from poverty. UQSRC had also quoted Saunders, saying that:

*"... employment is only sufficient in reducing poverty if it is full-time. The process of moving out of poverty is then rendered more difficult in that most employment growth in Australia has been in casual and part-time jobs."*<sup>11</sup>

QCOSS said that the proportion of people working part-time in Queensland increased significantly between 1992 and 2005, peaking in 2002 and 2003 at almost 30% before reducing to 28% in 2005.<sup>12</sup>

QCOSS also indicated that housing affordability was a particular concern at the moment with that issue being raised as a primary issue at every consultative forum undertaken by QCOSS during 2006. In this context, low-income earners in areas where strong economic growth had taken place were particularly vulnerable. Their incomes were insufficient to enable them to readily borrow the necessary funds to purchase their own houses, as a consequence of which they were tied to rental properties - where rents were increasing because of supply:demand considerations.

### **Submission by the Queensland Government**

In response to the QCU and AWU applications the Queensland Government proposed:

- a general ruling to provide a \$24.60 a week increase to all State award rates of pay and the QMW;
- an increase of 4.1% to existing award allowances which relate to work or conditions which have not changed and to service increments;
- an operative date of 1 September 2007.

The Queensland Government stated that its support for a \$24.60 increase was based on an assessment of various interrelated factors, which include:

- the relevance of other wage fixing decisions in 2007;
- the current state of the economy and the economic outlook;
- the importance of fair wages for those employees who remain reliant on awards or the QMW for their rate of pay;
- the impact of minimum and award wage adjustments of this kind;
- the effect of increases to the QMW and award rates on the gender pay gap; and
- the provisions of the Act.

### **Number of Employees Affected**

<sup>9</sup> Frijters, P., Gregory, R. (2006), 'From golden age to golden age: Australia's Great Leap forward', in a June 2006 special edition of the *Economic Record* for the celebration of Prof. Robert Gregory's career.

<sup>10</sup> Boreham, P. et al. (2006) 'UQSRC 2006 Poverty in Queensland.' Prepared for Queensland Council of Social Services Inc. p. 22.

<sup>11</sup> Ibid p. 9.

<sup>12</sup> Ibid p. 24.

The Queensland Government submitted that the QIRC's jurisdiction now only extended to employees of unincorporated entities and the Queensland public sector. Using data from the ABS EEH Survey, the Queensland Government estimated that this comprised around 40% of employees in Queensland. After accounting for employees of unincorporated businesses who are already covered by federal awards or agreements (under transitional arrangements), this figure falls to approximately 35% to 38%.

The Government also indicated that, according to the EEH Survey, 23% of non-farm employees in Queensland in 2004 were paid at the award rate only. According to data from the same survey, 41.2% of these employees work in unincorporated businesses. As Table 2 below showed, this leads to an estimate that 194,500 employees in Queensland in unincorporated firms are paid by awards only.

However, the Government submitted this figure estimates total award coverage as the EEH survey does not distinguish between State awards and federal awards, while the Unions' applications in this matter relates to employees paid under State awards only. Accordingly, the assumption has been made that the proportion of State award coverage is somewhere between 50% and 80% of all award coverage. On this basis, the number of employees in unincorporated businesses who rely on State awards is estimated to be in the range of 97,300 and 155,600 employees. These are the employees who would benefit from an increase in award rates of pay arising from any State Wage Case decision, the Government said.

**Table 2: Award-only employees in unincorporated businesses, Queensland**

Total no. of non-farm employees	2,052,900
Employees paid by awards only (23%)	472,200
Employees paid by awards only in unincorporated businesses (41.2%)	194,500
High estimate (80%) award coverage in unincorporated businesses	155,600
Low estimate (50%) award coverage in unincorporated businesses	97,300

#### Characteristics of Employees Affected

The Government indicated that the characteristics of unincorporated business in Queensland had been incorporated into its submission to the 2006 State Wage Case and was equally relevant this year. That data was derived from a Queensland Workplace Industrial Relations Survey (QWIRS), developed by the Queensland Department of Industrial Relations in conjunction with the Sydney University-based Australian Centre for Industrial Relations Research and Teaching (ACIRRT).

The QWIRS data indicated that unincorporated businesses were more likely to be in non-metropolitan areas of Queensland: 33.7% of unincorporated businesses are in non-metropolitan areas compared to 24.7% of incorporated businesses. Further, the data also showed that unincorporated businesses have high proportions of female employees, and associated with this is their tendency to have relatively high proportions of part-time and casual employees.

In 27.9% of unincorporated businesses, female employees accounted for 75% or more of the workforce, compared with 14.5% of employees of incorporated businesses. In 26.4% of unincorporated businesses, casuals made up more than half of the workforce, compared with 12.7% in incorporated businesses. Finally, whilst a large number of unincorporated businesses did not employ part-time employees, unincorporated enterprises were far more likely to have part-time employees than were incorporated enterprises.

#### The History of Wage Adjustments Since 1999

The Queensland Government's submission included a table (Table 3) which recorded the history of wage adjustments, through State Wage Cases, since the introduction of the Act. Over this period, the State Wage Case adjustments have provided award-reliant employees with total increases of between \$130.40 and \$132.40 per week, as demonstrated below.

**Table 3: Increases awarded by the QIRC in State Wage Cases 1999-2005**

Year	Amount awarded by QIRC decision	C14 and QMW		C10	
		Nominal %	Real %	Nominal %	Real %
1999	\$12 pw, for up to and including \$510 pw \$10pw, for over \$510 pw	3.2	2.1	2.6	1.5
2000	\$15 pw for all award rates	3.9	0.7	3.2	0.0



2001	\$13 pw, for up to and including \$490 pw \$15 pw, for up to and including \$590 pw \$17 pw, above \$590 pw	3.25	0.24	3.1	0.1
2002	\$18 pw in all award rates	4.4	1.8	3.5	1.0
2003	\$17 pw for up to and including \$731.80 pw \$15 pw for above \$731.80	4.2	1.3	3.4	0.6
2004	\$19 increase to all QMW and award rates	4.5	2.2	3.7	1.4
2005	\$17 increase to QMW and all award rates	3.6	1.1	3.2	0.7
2006	\$19.40 increase to QMW and all award rates	3.9	1.2	3.4	0.6

However, the Government also indicated that whilst these increases had helped to ensure that the lowest paid workers in Queensland who had not received increases through collective or individually bargaining continued to receive the benefit of both nominal and real wage increases, award-reliant employees at the C10 trade level and above have had their wages reduced in real terms over the period. This was demonstrated in the following table (Table 4).

**Table 4: Real and nominal increases for award rates and AWOTE 1998 - 2006**

	\$ Rate Sep 1998	\$ 1 Sep 2006	\$ Increase	Nominal % Increase	Real % Increase
AWOTE*	697.60*	984.00	286.40	41.1%	9.71
C14	373.40	503.80	130.40	34.92%	4.94
C13	390.10	520.50	130.40	33.43%	3.78
C12	412.60	543.00	130.40	31.60%	2.36
C11	433.50	563.90	130.40	30.10%	1.17
C10	465.20	597.60	132.40	28.46%	-0.09
C9	486.10	618.50	132.40	27.24%	-1.04
C8	506.90	639.30	132.40	26.12%	-1.91
C7	527.80	658.20	130.40	24.71%	-3.01
C6	567.50	699.90	132.40	23.33%	-4.08
C5	587.80	720.20	132.40	22.52%	-4.70

\* AWOTE based on August 1998 quarter and August 2006 quarter.

Source: ABS *Average Weekly Earnings* Cat. No. 6302.0; *Engineering Award - State 2002*.

The Government also submitted that another relevant comparison was to look at the level of the minimum wage as a percentage of AWOTE over the period in question. This showed that since 1998 minimum wage increases have not kept pace with the growth in average weekly ordinary time earnings for full-time adults, falling from 53% of AWOTE in 1998 to around 50% by 2006, as shown below in Table 5.

**Table 5: Minimum wage movements compared with AWOTE movements 1998 - 2006**

	C14	AWOTE average 4 quarters through year after increase	C14 year average AWOTE
1-Sept-98	373.40	700.90	53.27%
1-Sept-99	385.40	725.13	53.15%
1-Sep-00	400.40	766.75	52.22%
1-Sep-01	413.40	801.95	51.55%
1-Sep-02	431.40	837.20	51.53%
1-Sep-03	448.40	888.70	50.46%
1-Sep-04	467.40	934.75	50.00%
1-Sep-05	484.40	972.25	49.82%
1-Sep-06	503.80	1002.35	50.26%

\* Source: ABS *Average Weekly Earnings* Cat. No. 6302.0; *Engineering Award - State 2002*.

In this respect the Government submitted that with the QMW now falling to only 50% of AWOTE in Queensland, and with the award trade rate (at C10) at 59.6% of AWOTE, award wages were not keeping up with the wages provided in the

community. As a result, it said, a greater than usual increase to minimum and award rates this year would assist to redress this imbalance.

### Strong Economic Performance

The Queensland Government submitted that the State economy had performed effectively and efficiently on all major indicators during the period since the introduction of the Act. Queensland had experienced a 31.3% increase in economic growth since 1999-00, compared to 19.9% for the rest of Australia. The average annual growth rate in Queensland since 1999-00 was 4.5% compared with 2.8% for the rest of Australia. The year-by-year comparison is shown in the following table (Table 6).

**Table 6: Economic growth, Queensland, Rest of Australia and Australia**

Year	Queensland	Rest of Australia	Australia
1999-00	4.7	3.8	4.0
2000-01	3.1	1.7	1.9
2001-02	5.4	3.4	3.8
2002-03	5.2	2.8	3.2
2003-04	4.9	3.8	4.0
2004-05	4.2	2.0	2.4
2005-06	3.8	2.4	2.7

The Queensland Government also submitted that the State's strong economic performance had led to a significant reduction in unemployment levels. Whereas the unemployment rate was 7.7% in 1999-00 it had fallen to 4.0% by 2006-07. The Government submitted that the minimum and award wage adjustments approved over the same period by the AIRC and QIRC had not discouraged, nor hampered, strong employment growth.

### The State of The Economy

The Queensland Government's submission included a deal of detail on the state of the international, national and Queensland economies, respectively. That material speaks for itself and it is not our intention to reproduce it all here. Rather, we intend to summarise relevant aspects, as follows:

- The 2007-08 Federal Government Budget Strategy and Outlook states that the world economy grew by 5.4% in 2006, the fastest growth rate recorded in over 30 years, and slightly faster than the 5.25% expected in the Mid-Year Economic and Fiscal Outlook 2006-07. While the United States economy slowed over the second half of 2006, Japan, India, China, and the Euro area grew more strongly than expected.
- The strong performance of the world economy occurred despite increases in official interest rates and high oil prices throughout much of the year. World growth continued to be underpinned by favourable financial market conditions and strong corporate balance sheets.
- According to Queensland Treasury, Queensland's major trading partner growth is expected to ease to 4.5% in 2006-07, mainly as a result of marginally slower growth in the Asian region. While the outlook for the rapidly developing countries of China and India is robust, growth in the export-oriented industrialised Asian economies is expected to be adversely affected by a softening in overseas demand, particularly from the United States. Major trading partner growth is forecast to remain steady at around 4.25% in 2007-08, which would represent the third consecutive year of above-average growth for Queensland's major trading partners.
- The United States economy is forecast to grow by 2.25% in 2007, due to the lagged effects of tighter monetary policy and a downturn in the housing market. In 2008, a gradual recovery in the housing sector is expected to support a return to growth of around 3%.
- The 2007-08 Federal Government Budget Strategy and Outlook states that growth in GDP is estimated to ease to 2.5% in 2006-07, after growth of 2.9% in 2005-06. Growth has been limited by severe drought conditions, despite the non-rural economy benefiting from strong overseas demand for Australia's commodity exports. Specifically, farm output is estimated to fall by 20% in 2006-07, leading to a decline in rural exports and investment in the agricultural sector.
- Federal Treasury assumes an unwinding of drought conditions and an increase in mining production will boost economic growth in 2007-08. The assumed return to average seasonal conditions is forecast to add 0.5% to GDP growth, while expanded capacity in the mining sector is anticipated to strengthen growth in exports.

These factors, combined with a rebound in machinery and equipment investment, are forecast to accelerate overall economic growth to 3.75% in 2007-08.

- The world economy is expected to continue to expand at a strong rate, with world GDP forecast to increase by 5% in 2007-08. The positive outlook reflects expectations for strong growth in China, India, Japan and the Euro area. Growth in the United States is expected to ease in 2007-08, before strengthening in 2008-09.
- In the domestic economy, prospects for the household sector have improved. While household consumption grew modestly in 2005-06, and dwelling investment experienced a mild decline, growth is expected to strengthen to 3.5% in 2006-07 and 2007-08. This reflects the continued stimulus to household income and wealth from high commodity prices and strong employment and wage growth, which is expected to support consumption and allow households to further consolidate their balance sheets.
- Wage growth nationally is expected to remain solid at 4.25% in 2007-08. While there have been localised wage pressures in those sectors most affected by mining and construction activity, overall wage pressures remain contained.
- The 2007-08 Queensland Government Budget Strategy and Outlook states that growth in the Queensland economy is estimated to strengthen to an above-average rate of 5.5% in 2006-07, more than double the growth of 2.5% estimated nationally and the eleventh successive year the State economy has outperformed the national economy.
- Business investment is expected to be the main driver of domestic demand growth, rather than consumption, in 2006-07. Public investment is also expected to grow strongly, reflecting transport, energy and water infrastructure spending. In comparison, growth in consumer spending is expected to ease due to higher interest rates and the continued effects of a moderation in the housing cycle in previous years.
- The Queensland economy is forecast to grow by 5% in 2007-08.
- Growth in household consumption is expected to moderate for a third consecutive year, to 3.5% in 2006-07, representing a trough in the consumption cycle. However, it is forecast to strengthen to 4.75% in 2007-08, underpinned by strong growth in incomes, wealth and employment, as well as some stabilisation in interest rates and petrol prices.
- Following modest growth in 2005-06, growth in dwelling investment in Queensland is expected to strengthen to 3.75% in 2006-07 and 4.25% in 2007-08, driven by on-going growth in renovation activity as well as a turnaround in new home construction activity.
- Following five years of very strong growth, business investment in Queensland increased by a further 18% in 2006-07. Continuing buoyant economic conditions, domestically and in the State's major trading partners, as well as high rates of corporate profitability and capacity utilisation, have added considerable momentum to the current cycle. Investment in other buildings and structures is estimated to rise by 28.75% in 2006-07.
- Employment growth in Queensland is estimated to strengthen to an above-average rate of 4.75% in 2006-07. Record levels of business and public infrastructure spending, together with solid housing activity, have driven job gains. Queensland Government initiatives have also contributed to employment growth, particularly in health and community services. Further, prices for outputs have continued to rise faster than wages in recent years. This improvement in profitability and fall in unit labour costs (i.e. wages paid as a share of income earned) has encouraged labour demand, and subsequently jobs growth, in 2006-07.
- Queensland recorded strong nominal average earnings growth of 4.5% in 2006-07, driven by the tight labour market conditions and strong terms of trade experienced over the year.
- The CPI rose 3% in 2006-07, implying a rise in real average earnings of around 1.5%. With an expected pick-up in labour productivity growth and on-going high profitability, nominal earnings growth is expected to remain solid at around 4.25% in 2007-08. Again, this is well above anticipated inflation for the year, leading to another forecast increase in real earnings in 2007-08.
- Wage growth remained solid across Australia in the year to March 2007 quarter, fuelled by skills shortages in several industries, and supported by high commodity prices in resource-rich states such as Queensland and Western Australia. In the year to the March 2007 quarter, Queensland recorded 4.5% growth in the WPI - just marginally lower than the highest ever increase in the WPI since the ABS commenced the series in 1997. Across Australia the rate of increase averaged 4.1% for the year to March 2007.

- There is nothing in any of the various measures of wage growth to indicate a threat to macro-economic balance, either nationally or at the State level. Commonwealth Treasury noted in its Budget 2007-08 papers that wage rises were largely confined to the mining and construction industries, and there did not appear to be much broadening in wage pressures. Recent improvements in real incomes in Queensland are expected to support growth in consumer spending in 2007-08. However, a rising CPI and potential increases in official interest rates may detract from real wage growth.

In summary the Government submitted:

- The main picture from the commentary above and in official forecasts is considered to be one of generally positive economic prospects at the national and State level. Solid economic growth has continued and employment growth has been strong, with low unemployment. Wages growth has strengthened but inflation has remained contained.
- There are some risk factors to be taken into account, particularly in relation to future movements in commodity prices and capacity constraints generally. In particular, both the Federal Government Budget Strategy and Outlook and the Reserve Bank statement note the risk that higher wage pressures may flow to other sectors if investments in additional capacity cannot keep pace with increases in aggregate demand in the economy.
- That said, there will always be risks to the outlook that need to be considered. The overall assessment is that economic conditions and forecasts remain generally positive at the national and State level.

### Statutory Requirements

The Queensland Government also submitted that the legislative obligations imposed on the Commission by the provisions of the Act (see for example sections 3(g) and 126(f)) mean that award rates should be adjusted with some reference to general movements in wages across the community. It said that, for those employees who rely on awards, a major indicator of community standards are the wage increases that have been achieved through enterprise bargaining and increases in rates of pay generally. Awards are not intended to be a mere safety net of wages and conditions and, in line with the statutory obligations placed on the Commission, there should be a continuing effort to address the disparity between award rates and enterprise bargaining rates, as well as general wage movements across the community.

The Government submission noted that the Full Bench in the 2006 Queensland State Wage Case decision acknowledged this statutory requirement, stating:

*"We accept that the legislative obligations placed on us mean that award rates should be adjusted with some reference to general movements in wages across the community. One of the major indicators of general movements across the community are the wage increases that have been achieved through enterprise bargaining and in the community generally. As we have said previously, the legislation does not require us to establish a safety net of wages and conditions. In that regard we are required to address the disparity between real award rates and enterprise bargaining rates, as well as general wage movements across the community."* (para 274)

According to the Government, this recognised an important principle that improvements in wages and conditions should not be restricted to those employees who are best placed to bargain for them in negotiations with their employer. This point, it said, had also been made by a Full Bench of the AIRC in its Safety Net Review 2004 decision, where it stated:

*"...no one would suggest that all employees are capable of bargaining. Bargaining is not a practical possibility for employees who have no bargaining power. It is to be inferred from the statutory scheme that the award safety net should be adjusted with the interests of these employees in mind."*<sup>13</sup>

The concept of fair wages and community standards, the Government submitted, also contains some notion of ensuring that wage increases improve living standards and address issues of poverty and inequality.

The Government's submission indicated that general wage movements measured by the wage cost index are running at 4.5%, while inflation is in the range of 2.75% - 3.0%, meaning there is real wage growth across the workforce generally. The lowest paid employees in the workforce who rely on award rates or the minimum wage should also receive the benefit of real wages growth, it said. This would give effect to the notion of improving living standards (s. 3(b) of the Act) and providing fair standards in relation to living standards generally prevailing in the community.

The Government also submitted that Tables 4 and 5 (above) made it clear that the growth in the QMW and award rates of pay had not kept pace with the growth in average weekly earnings for full-time adults. This pattern of wages growth, it

<sup>13</sup> AIRC, Safety Net Review, PR002004, 5 May 2004, para 10.

said, meant that there was a continuing issue of wage disparity that needed to be addressed in the interests of ensuring fair wages in line with standards generally prevailing in the community.

The Government submission also indicated that almost one-quarter of employees rely on the award system to provide wage increases and there continues to be a wage disparity between this group of workers and those who benefit from enterprise bargaining, as the table below (Table 7) demonstrates.

**Table 7: Average weekly ordinary time earnings, non-managerial employees by pay setting method**

	Award Only	Federal registered CA	Federal registered IA	Other	State registered CA	State registered IA	Total All Employees
Non-managerial employees							
adult permanent/fixed contract full-time	\$590.10	\$823.80	\$902.50	\$829.80	\$907.30	n.p	\$820.30
adult casual full-time	\$633.00	\$744.90	\$1,198.60	\$896.70	\$658.60	-	\$803.50
adult permanent/fixed contract part-time	\$375.00	\$424.80	\$519.10	\$480.90	\$485.40	n.p	\$449.80
adult casual part-time	\$318.70	\$326.30	\$565.90	\$354.90	\$391.00	n.p	\$339.30
Junior	\$200.70	\$186.80	\$76.40	\$202.00	\$192.00	-	\$196.80
Total	\$394.60	\$638.40	\$861.70	\$719.00	\$749.10	n.p	\$633.20

The gap between award rates of pay and certified agreements is not narrowing, the Government said. The table below (Table 8) compares industry data on average weekly earnings for award-reliant employees and employees covered by collective agreements at two points in time, *viz.* 2002 and 2004. The difference between award rates and collective agreement pay is expressed as a ratio. The table shows how the ratio of award earnings to agreement earnings has changed between 2002 and 2004.

**Table 8: Change in average weekly total earnings by pay setting method by industry**

	2002			2004			change
	award	agt	ratio award-agt	award	agt	ratio award-agt	
Mining	1486.40	1569.10	94.7	1170.90	1624.60	72.1	-22.66
Manufacturing	503.50	869.20	57.9	553.50	941.30	58.8	0.87
Electricity, Gas and Water Supply	905.80	1056.90	85.7	729.60	1114.60	65.5	-20.25
Construction	589.10	1033.40	57.0	517.80	1057.80	49.0	-8.06
Wholesale Trade	445.90	804.20	55.4	549.60	760.80	72.2	16.79
Retail Trade	332.30	323.80	102.6	352.50	356.90	98.8	-3.86
Accommodation, Cafes and Restaurants	366.60	376.50	97.4	378.50	508.10	74.5	-22.88
Transport and Storage	633.10	977.50	64.8	623.90	992.20	62.9	-1.89
Communication Services	381.50	888.20	43.0	310.10	875.10	35.4	-7.52
Finance and Insurance	460.80	786.20	58.6	482.70	893.30	54.0	-4.58
Property and Business Services	439.00	781.10	56.2	482.00	812.90	59.3	3.09
Government Administration and Defence	562.00	829.40	67.8	604.70	900.00	67.2	-0.57
Education	530.20	752.40	70.5	549.10	829.70	66.2	-4.29
Health and Community Services	424.50	694.60	61.1	476.50	741.70	64.2	3.13
Cultural and Recreational Services	355.80	670.10	53.1	393.30	638.40	61.6	8.51
Personal and Other Services	340.10	874.30	38.9	369.60	929.80	39.8	0.85
Total	419.90	755.40	55.6	444.60	800.00	55.6	-0.01

Source: Unpublished data, ABS *Survey of Employee Earnings and Hours* Cat. No. 6306.0, May 2004.

In 2002, the ratio of award earnings to agreement earnings in all industries was 55.6% and this ratio had not changed by 2004, suggesting no growth in the gap between award rates and agreement rates. However, the pattern differs across industries. For example, in accommodation, cafes and restaurants, the most award-reliant sector, the ratio of award to

agreement earnings declined by -22.9 points between 2002 and 2004. In most other industries where there are high proportions of award-reliant employees there were also declines in the award-agreement ratio.

According to the Government, the tables above illustrate 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 Government said. The fact that some employees remain award-reliant, despite the fact their rate of pay falls well short of the pay of those on agreements, suggests that employees are not choosing to remain as award-only employees. The reality is that, for a variety of reasons, not all employees are able to bargain with their employers for wage increases, a point which has been recognised by the AIRC and this Commission in the past, the Government said.

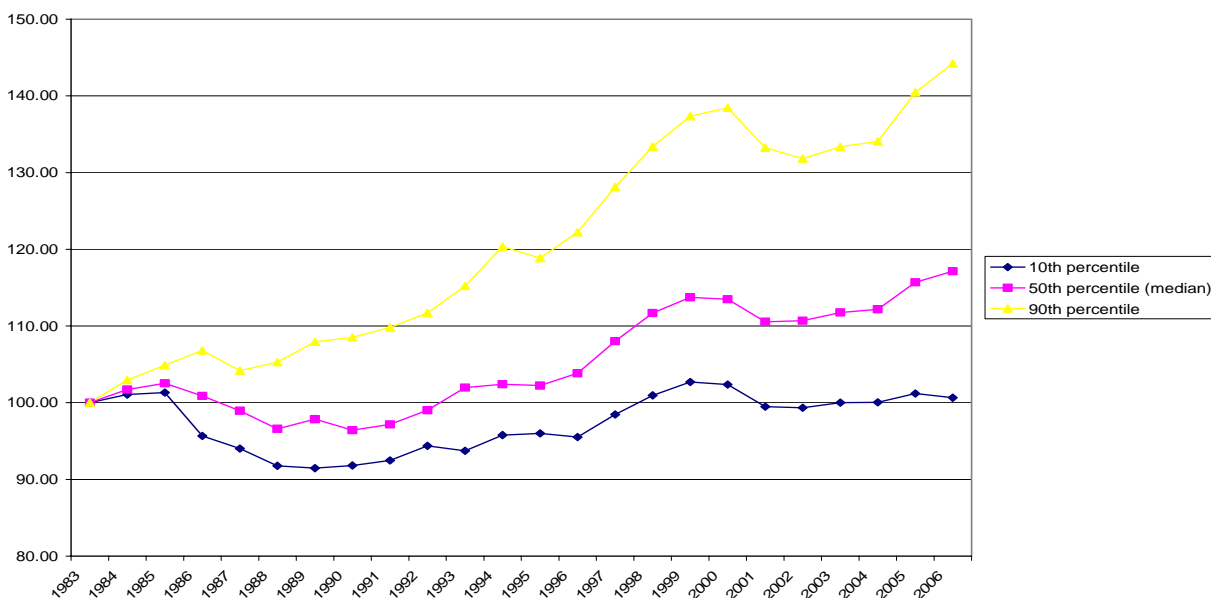
In the Government's submission, the decision in the 2006 State Wage Case supported the combined view that the rate of wage increases in the community should be taken into account when deciding the State Wage Case increases and that previous State Wage Case increases have not had a deleterious impact on enterprise bargaining, as follows:

*"The rate of increase in income levels is something that should be taken into account in deciding what adjustment is necessary to ensure that wages and employment conditions provide fair standards in relation to living standards prevailing in the community. There is no evidence that recent increases in award wage rates of pay have slowed the growth in bargaining."*<sup>14</sup> (para 273)

The Government also submitted that fair wages can help address issues of poverty and inequality, which are an on-going reality in both Queensland and Australia. In respect to inequality, the submission indicated that while the Queensland and Australian economies have experienced significant growth over the past two decades, the benefits of this growth have not been evenly distributed across the labour force. This has resulted in increased levels of earnings inequality, the Government said.

This growth in earnings inequality is illustrated in the chart below (Chart 1), which shows the change in earnings inequality in Queensland for full-time non-managerial employees between 1983 and 2006. The figure shows a significant divergence between the real earnings growth of non-managerial employees in the top 10% compared to those in the bottom 10%. There has also been some growth in the divergence between the real earnings growth of non-managerial employees on median earnings and those in the bottom 10%.

**Chart 1: Wage dispersion, 1983-2006, Queensland**



Source: Unpublished data, ABS *Survey of Employees Earnings and Hours* Cat. No. 6306.0 May 2004.

It should be noted that this data relates to full-time employees only. The Government's submission said there has been a significant increase in the proportion of employees working part-time, many of whom are employed on a casual basis. Given that part-time and casual employees tend to be concentrated in relatively low paid industries and occupations, the data in the chart may underestimate the increase in inequality resulting from structural changes in the labour market, the submission said.

<sup>14</sup> *Queensland Council of Unions v The Crown and Others* (2006) 182 QGIG 565.

Whilst the reasons for growing levels of wage inequality are varied and complex, the continuing disparity between those covered by agreements and those covered by awards is undoubtedly a contributing factor, the Government said. This reinforces the importance of fair wages (determined through the State Wage Case process) as a mechanism for dealing with this disparity, and in doing so, also helping address wider issues of inequality.

The submission indicated that the flow-through of fair wages and reasonable minimum wage adjustments to award only and minimum wage employees not only helps address issues of wage disparity or wage inequality, it can also help address income inequality in society. While income distribution is a wider concept, which also takes into account tax and transfer payments (which, it was submitted, are beyond the scope of the Commission's jurisdiction), reasonable wage increases can make a contribution to alleviating income inequality and this is relevant to the object of providing fair standards in relation to living standards prevailing in the community.

The Government submission also indicated that NATSEM, based at the University of Canberra, has reported a substantial gap remains between Australia's least well-off families and the average family. In 2004-05 the average disposable income of families in the bottom income quintile was \$554 for a family with two children, compared with a median disposable income for all families with children of \$972.

### Poverty is an Issue for Wages Earners

Fair wages are important in the context of continuing evidence that a not insignificant proportion of employees in Queensland and Australia live in poverty, the Government said.

However, it is also appropriate in affluent Western countries like Australia to define poverty in relative rather than absolute terms. Relative poverty is defined not necessarily in terms of a lack of income to meet the most basic needs. Instead, it looks at where a person's income is low relative to others, thereby precluding that person from participating in the lifestyle and consumption patterns enjoyed by others in society. The assessment is therefore against the general living standards and values of the community, and this in many ways is consistent with the approach taken towards wage-fixing in the Act which refers to fair standards in relation to living standards generally prevailing in the community.

Even when considering income poverty in a relative sense, there has been an on-going debate about the methodology for setting the poverty line. Generally, the approach has been to compare against the entire population and set the poverty line at either half the median income or half the mean income, the submission said.

The submission also said that the Queensland Government recognised that the causes of poverty, and the range of possible solutions to it, are necessarily complex and multidimensional and not generally within the jurisdiction of the Commission. Nonetheless, the submission indicated, the issue of poverty does have particular relevance for the State Wage Case given there is evidence to suggest that having a low paid job is not necessarily a guarantee against poverty.

Unemployment, undoubtedly, continues to be the primary cause of poverty in Queensland and Australia, the Government said. More than half of all Australians who are unemployed live in a family which is poor. Being employed, particularly on a full-time basis, is generally sufficient to guard against poverty. However, the Government said, it is recognised that there is a range of people who are vulnerable to poverty.

NATSEM, for example, the Government said, has found that although the rate of poverty amongst workers is low, there is nevertheless a risk of poverty. It estimates that 10.7% of those in poverty are people whose main source of income is wages and salaries. Restricting the comparison to persons of labour force age, as a percentage of Australians aged 15 and over in poverty by labour force status, NATSEM found that 4% of full-time workers experience financial disadvantage and comprise a substantial 15.9% of those in poverty. This indicates that while part-time workers would be more vulnerable to poverty, working poverty exists even among those with full-time jobs.

Lloyd et al,<sup>15</sup> in a paper presented at a NATSEM conference in 2004 stated:

*"While the link between work and prosperity is unsurprising, other areas of analysis demonstrated that employment, in the simple sense of not being unemployed, was not always enough to guarantee financial security. Poverty persisted, albeit to a much lesser extent, amongst those in part and full-time employment. It was shown that part-time work in particular did not necessarily represent freedom from poverty."*

### Gender Pay Equity

The Government's submission also addressed gender pay equity and the need for the Commission to consider that issue as part of its deliberations in respect of the present application. The submission indicated the link between minimum wage fixing and the gender pay gap has been addressed recently by researchers into gender pay equity, including Associate

<sup>15</sup> Lloyd, R. Harding, A. & Payne, A. (2004). 'Australians in Poverty in the 21<sup>st</sup> Century.' Paper for the 33<sup>rd</sup> Conference of Economists 27-30 September 2004 (NATSEM) p. 23.

Professor Gillian Whitehouse, who presented a paper at the Women and WorkChoices Roundtable on 5 December 2006. In it she contends that:

*"... the level of minimum wages is a key issue of concern for the maintenance and advancement of gender pay equity."*

The Government submission said Whitehouse concludes that:

*"In combination, these figures suggest that Australia's relative success on the measure of gender pay equity has much to do with limiting the extent of low-pay for all workers, including women. What happens to the minimum wage is therefore an issue of considerable concern."*

She further observes that:

*"... the advantages of a well-maintained minimum wage are considerable."*

Associate Professor Whitehouse's paper also considers how the minimum wage fixing process may be utilized to maintain and improve gender pay equity. It says that other features of a minimum wage fixing system with the potential to enhance pay equity are:

- a requirement for regular increases; and
- a restriction on the increases flowing on to higher-end wage earners.

As a consequence, the Queensland Government submitted, the current Queensland wage fixing principles - and specifically the processes of the State Wage Case and the fixing of the QMW - are consistent with the mechanism, described above, being advocated by Whitehouse and others. There is a legislative requirement for the QMW to be reviewed annually and a general ruling on minimum award rates is made each year, the Government said. Further, these increases generally do not flow on to high wage earners because, by definition, they are subject to over award payments or certified agreements, under which State Wage Case increases are generally absorbed. As such, the awarding of decent minimum wage increases through the annual State Wage Case in Queensland can improve gender pay equity, the submission concluded.

#### The Evidence of Strong Employment Growth in Award-Reliant Sectors

The Queensland Government also submitted that another strong indicator that reasonable award wage increases are consistent with strong employment performance is the evidence from industries that have a high proportion of award-reliant employees, and are therefore receiving minimum wage increases.

ABS data in the table below (Table 9) indicates that the most award-reliant industries in Queensland are accommodation, cafes and restaurants (56.1% of employees reliant on awards for their employment conditions), retail trade (33.9%), health and community services (29.7%), cultural and recreation services and personal and other services. It is also important, the Government said, to note that many of the more award-reliant industries are also likely to have a higher proportion of unincorporated enterprises and will therefore be in the State jurisdiction.

**Table 9: Award-reliance by industry, Queensland**

	%	No. non-farm employees 000s
Mining	1.6	0.4
Manufacturing	21.6	37.2
Electricity, Gas and Water Supply	1.5	0.2
Construction	18.2	15.5
Wholesale Trade	22.7	18.0
Retail Trade	33.9	89.6
Accommodation, Cafes and Restaurants	56.1	47.3
Transport and Storage	19.3	14.1
Communication Services	7.9	1.5
Finance and Insurance	4.6	3.7
Property and Business Services	22.0	44.2
Government Administration and Defence	0.8	0.7
Education	7.3	12.3
Health and Community Services	29.7	59.7
Cultural and Recreational Services	37.5	15.5
Personal and Other Services	29.0	20.0



Total	23.0	380.0
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Source: ABS *Survey of Employee Earnings and Hours* Cat. No. 6306.0 May 2004.

The following table (Table 10) then compares the pattern of employment growth by industry for Queensland and the rest of Australia. This table shows that employment has grown in all five of the top award-reliant industries. In three of these award-reliant industries (personal and other services, property and business services, and retail trade) employment growth in Queensland has exceeded the percentage growth in the rest of Australia.

**Table 10: Percentage change in employment, Queensland and rest of Australia, 2000/01 to 2006/07**

Industry	% change Qld	% change rest of Aust
Agriculture, Forestry & Fishing	19.6% decrease	17.6% decrease
Mining	97.2% increase	66.3% increase
Manufacturing	7.5% increase	6.8% decrease
Electricity, Gas & Water	55.9% increase	25.5% increase
Construction	65.1% increase	33.3% increase
Wholesale Trade	3.9% decrease	11.1% increase
Retail Trade	22.8% increase	11.2% increase
Accommodation, Cafes and Restaurants	12.4% increase	7.6% increase
Transport & Storage	38.7% increase	6.3% increase
Communication Services	17.2% increase	0.7% increase
Finance and Insurance	38% increase	15.5% increase
Property & Business Services	34.8% increase	11.2% increase
Government Admin & Defence	65.4% increase	26% increase
Education	19.5% increase	14.7% increase
Cultural & Recreational Services	26.6% increase	22.3% increase
Health & Community Services	29.9% increase	24% increase
Personal and Other Services	11.8% increase	17.8% increase

Source: ABS *Labour force, Australia* Cat. No. 6202.0.

Given the above, according to the Government, there is also evidence to suggest that employment growth and employment opportunities for the unemployed and low-skilled have not been discouraged by minimum wage increases. For example, the 2005 Joint State Governments' submission to the National Wage Case referred to calculations by NATSEM that found the increase in employment within the bottom income quintile had moved in line with the national average:

*"Between 1997/98 and 2004/05 the proportion of unemployed households heads in both the bottom quintile and overall dropped, in line with the overall fall in unemployment rates in Australia across this period. In 1997-98 almost one third of heads in the bottom quintile were unemployed, compared with under one quarter in 2004/05."*

#### Estimated Cost Impact

The Queensland Government provided estimates of the cost impact of increasing all State award rates of pay and the QMW by \$24.60 per week. Cost impacts were provided across the economy and for the unincorporated private sector.

The costings are based on the estimate that between 97,000 and 156,000 employees will be covered by a State Wage Case increase (see Table 2 above), with the dollar increase weighted to take into account the employment status of employees who fall within the award-reliant category. The wage cost impact is expressed as a percentage point contribution to average weekly earnings growth.

The results show that the granting of an increase of \$24.60 to the QMW would increase average weekly earnings growth by 0.16%. This is considered by the Government to be an affordable cost impact across the economy. In this respect, the Government submitted that the economy-wide estimates of costs are an important measure for the Commission to consider in light of its statutory responsibilities regarding an efficient and effective economy.

The Government also indicated that granting an increase of \$24.60 per week would add between 0.68% and 0.74% to average weekly earnings growth of private unincorporated businesses, the employees of which are the direct beneficiaries of the increase. This is also considered by the Government to be a reasonable and affordable addition to wages growth.

In relation to the cost impact, the Queensland Government also made the observation that improvements to wages and conditions will always have some impact on labour costs and said that that is simply a statement of fact. However, a cost burden in itself does not constitute a reason for denying a certain level of improvement to current standards, the Government said. It is necessary to first assess the extent of the cost impact. The cost implications, while obviously an important consideration, then need to be balanced against other considerations, consistent with the provisions of the Act.

## Conclusion

The Queensland Government submission indicated that, on balance, the Government considered that a \$24.60 a week increase for award-reliant employees and employees on the minimum wage is appropriate. The Government also submitted that a \$24.60 increase is one which the Queensland economy can sustain in light of the generally favourable economic conditions and outlook, as demonstrated by the key economic indicators referred in its submission, and which are generally recorded above.

Based on the analysis above, the Government said, there are strong arguments for a greater than usual increase to the QMW and to State award rates of pay in the 2007 State Wage Case. The time is right, it said, for the Commission to award a \$24.60 increase and take a step further than it has previously taken in order to provide fair wages for those employees who most need them. It can do this in the knowledge that this is a responsible position, in the context of a strong economy, and with the evidence that previous increases have not had adverse affects economically, and that, in social terms, more can still be done to address issues of wage disparity.

In advocating a position of \$24.60, the Queensland Government also submitted that it is appropriate for the Commission to continue the practice of awarding flat dollar increases, as this has the benefit of targeting lower paid workers with a proportionately higher increase, and reducing the cost impact at higher classification levels.

## Submission by the Queensland Chamber of Commerce and Industry Limited

In its submission, the Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers (QCCI) acknowledged that any decision the Commission might make would have an effect on approximately 40% of Queensland workers. Its submission also recognised that the provisions of the Act required the Commission to examine the social and economic environment as a whole in determining an appropriate level of wage increase which was fair and reasonable for both employees and employers.

QCCI indicated that it did not object to the Commission issuing a General Ruling or a Statement of Policy under sections 287 and 288 of the Act, respectively, with such rulings to operate from 1 September 2007.

However, QCCI opposed the magnitude of the increases claimed by both QCU and AWU, describing them as "*unreasonable and unsustainable*". In the alternative, QCCI supported the following increases:

- any employee earning \$597.60 or less, an increase of \$15.00 per week;
- any employee earning more than \$597.60, an increase of \$12.00 per week;
- \$18.32 per week to the QMW, taking the figure to \$522.12.

QCCI indicated that the claims also failed to appreciate, and take into consideration, the recent tax relief introduced by the federal Government, which had been a matter taken into consideration by the AFPC in its July 2007 decision. QCCI submitted that the tax relief granted to low paid workers must be taken into consideration by the Commission in coming to its determination, taking into account the overall implications of the proposed, significant, increases claimed by QCU and AWU.

QCCI submitted that whilst the Queensland economy was performing solidly, and the labour market had also performed strongly, the QCU/AWU claim for a wage increase of \$28 per week could not be justified simply on economic grounds. The amounts claimed were considerably in excess of any previous increases awarded by the Commission and needed to be compared to the previous highest increase awarded, namely the \$19.40 per week awarded by the Commission in the 2006 State Wage Case.

QCCI submitted that the increases proposed by it, taking into account recent tax concessions, would allow the lowest paid employees in the Queensland community to keep in touch with employees achieving higher wage increases under other types of arrangements, including workplace agreements. In this respect, QCCI said, it needed to be noted that there would always be a gap between the minimum wage rates payable and rates that employees negotiated. The increases proposed by QCCI, without any bargaining, were fair and reasonable.

QCCI also submitted that if the Commission was to adhere to its legislative charter it had to be careful not to award wage increases which had the potential to adversely impact upon the economy and jobs. Any decision had to help provide a stable economic platform that supported economic prosperity and social development.

## Submission by the Queensland Cane Growers' Association

The Queensland Cane Growers' Association, Union of Employers (QCGA) indicated its support for the position advanced by QCCI (above), including the amount of increases to be awarded and an operative date of 1 September 2007.

However, in its submissions, QCGA also indicated that it sought relief in the form of a deferral of any increase granted by the General Ruling, which it advocated for, for those cane grower employers who were in receipt of an Exceptional Circumstances Interest Rate Subsidy (ECIRS) or Exceptional Circumstances Relief Payment (ECRP) for a period of 12 months or until the employer is no longer in receipt of such assistance (whichever is the earlier date).

In doing so, QCGA submitted that s. 287(5) of the Act provided the Commission with jurisdiction to make a ruling which excludes a class of employer, or employers in a particular locality. QCGA submitted that the Full Bench had the jurisdiction to defer payment of wage increases prescribed by the General Ruling for those employers and employees covered by the *Sugar Field Sector Award - State 2005*, who are not constitutional corporations, where such employers are in receipt of ECIRS or ECRP on the grounds that the employers do not have the capacity to pay due to serious or extreme economic adversity.

In urging the Full Bench to adopt such course of action QCGA generally referred to, without tabling, Wage-Setting Decision 3/2007 issued by the APFC in July 2007 which included a provision granting constitutional corporations in receipt of ECIRS or ECRP an ability to defer the wage increases awarded by that body.

QCGA further submitted that employers who are in receipt of ECIRS or ECRP have demonstrated that they have met the criteria for relief under the Commission's 2006 Statement of Policy for economic incapacity (Principle 10) because the conditions attached to the granting of such payments were onerous. However, neither the application forms nor the assessment criteria attached to each scheme were tendered to support this contention.

When the Full Bench sought clarification as to whether QCGA was asking for its submission about the deferral to be considered as part of the Commission's overall deliberations on the claims, or whether QCGA was foreshadowing an application to pursue the exemption/deferral under s. 287(5) of the Act, the QCGA advocate sought an adjournment to seek instructions. Upon resumption he indicated that QCGA wished to reserve its rights to consider lodging an application for exemption. He could not indicate whether this would be pursuant to s. 287(5) of the Act or Principle 10 - Incapacity to Pay, of the Wage Fixation Principles. Given such position, we have not considered the original request for deferral as part of our deliberations on the present applications.

#### **Submission by the Queensland Fruit and Vegetable Growers**

The Queensland Fruit and Vegetable Growers, Union of Employers (Growcom) also supported the submissions of QCCI (above), including quantum of wage increase proposed and an operative date of 1 September 2007.

In so doing, Growcom indicated that the farm-gate value to the State and National economies of fruit and vegetable industry produce in Queensland is estimated at \$1.78 billion. It also indicated that the sector was labour intensive, with employment being generated by the industry, excluding seasonal and casual workers, estimated to be 25,000 persons. Because of its labour-intensive nature, employment costs had a significant impact on total costs of production. Growcom indicated that there had been a declining trend in average producer incomes over the past 5 years whilst the trend for input prices, including labour, had persistently increased.

As was the case with QCGA, Growcom also sought deferral of any wage increase for producers currently in receipt of ECIRS or ECRP payments on the basis that even a small increase would place an unreasonable financial burden on those in receipt of such funding. In this respect, Growcom indicated that the Queensland Farmers Federation had estimated that there were approximately 150 Queensland horticultural farmers which have received some form of ECRP relief, together with possibly a further 95 farms that have received some form of ECIRS funding.

Growcom also reserved its rights to consider lodging an application to seek exemption, in respect of members in receipt of ECIRS or ECRP payments. Again, because of this position, we have not considered the original request for deferral as part of our deliberations on the QCU/AWU applications.

#### **Submission by The Restaurant and Caterers Employers Association of Queensland**

The Restaurant and Caterers Employers Association of Queensland, Industrial Organisation of Employers (RCEAQ) opposed the quantum sought by each QCU and AWU and, instead, proposed that the Commission record a decision of \$10.26 per week, the same amount awarded in July 2007 by the AFPC, to award wage rates and to the QMW with consequential adjustments to existing allowances.

RCEAQ also proposed an operative date of 1 October 2007, the same as that determined by AFPC, on the basis that an operative date of 1 September 2007 did not allow sufficient time for employers to be apprised of any decision which might be issued by the Commission in time for them to process any wage increases prior to the claimed operative date.

RCEAQ indicated that the restaurant industry employed approximately 180,000 persons across Australia. As such, it was the largest part of the hospitality industry *per se*. Employment in the industry was substantially casual and was more

"bottom heavy" than other industries. It was also predominantly made up of businesses employing, on average, 8 persons or less.

Wages represented between 32% and 35% of gross turnover in a typical restaurant with between 8 and 20 employees. Wages were roughly comparable to food costs as the largest cost element which had to be managed by restaurant owners and caterers. Whilst the restaurant and catering industry turned over a record \$12.8 billion last year, profitability was in decline with businesses generally returning between 2% and 4% on net profit on turnover with an average of 3.3%.

Any increase in wages costs would have a significant impact on the industry for a number of reasons. Firstly, profit levels were such that any increase in costs could not be readily absorbed. As a consequence, many employers were likely to reduce overall employment levels in order to control any increase in wages. Secondly, approximately 53.4% of all employees in the industry were casual, which compared to the all-industry average of approximately 26%. This meant that more employees received loaded-up rates than other industries. Thirdly, a report by DEWR disclosed that award wage increases in the restaurant and catering industry impacted more on that industry sector than any other. This was because employees in the accommodation, café and restaurant industries were three times more likely to be award-only employees as those in other industries (60.2% versus 19.9%). This compounded the effect of any wage increase.

RCEAQ said that a report by Econtech Pty Ltd, an economic modelling/research company, commissioned in 2006, disclosed that in the year to March 2006 output in the accommodation, cafes and restaurants industry sector fell 2.2%. The report also demonstrated that the industry was expected to continue to under-perform against the rest of the economy. This was in part attributable to the strength of the Australian dollar, which had a negative effect on revenues with outbound tourism increasing and inbound tourism decreasing, as well as spending by Australians on eating out slowing due to increases in petrol prices and interest rates.

RCEAQ also indicated that the industry was facing chronic skills shortages and, rather than helping to alleviate such shortages, any increase in award wage levels would simply exacerbate the problem. This was because employers would be less able to, or less likely to, engage additional staff or retain existing staff.

#### **Submission by the National Retail Association Limited**

The National Retail Association Limited, Union of Employers (NRA) opposed the applications by QCU and AWU in their entirety.

NRA indicated that the retail industry was the largest employing industry within the State, and within the Nation. The industry employed 17.51% of the Queensland workforce and was also the largest employer of women and the largest employer of youth in the State.

In Queensland 51% of the retail workforce was female with 39% of the overall workforce aged between 15 and 24. This compared to other industries where, on average, 45% of the workforce was female and 18% were aged between 15 and 24.

NRA submitted that labour costs were a very significant operating expense for retailers. The retail sector was a highly competitive sector, typically operating under a regime of low margins. Increases in labour costs were not easily recovered through price increases.

NRA produced a table showing the percentage rate in the growth of wage rates for shop assistants under the *Retail Industry Award - State 2004* and compared that wages growth with the increase in the rate of inflation. NRA submitted that such analysis showed that, notwithstanding the absence of any form of productivity or efficiency savings, shop assistants under the Award were accessing competitive wage increases. It further submitted that such results were making it increasingly difficult for employers to negotiate meaningful outcomes in certified agreement negotiations or wage reviews.

#### **Aged Care Queensland**

NRA also made a submission on behalf of Aged Care Queensland in which it indicated that labour costs in the aged care sector account for up to 80% of total operating costs. As a consequence, there was considerable sensitivity to wage outcomes, NRA said.

Further, the significant regulatory environment within which the sector operated made it very difficult for aged care employers to absorb any award wage increases. This was because the owners of aged care facilities were regulated in terms of the fees they might charge, the amount of subsidy they might receive and, therefore, their total income. Whilst the levels of fees and subsidies received were subject to annual indexation adjustments determined by the Commonwealth Government, operators could be severely disadvantaged if such indexation increases fell short of increases awarded by industrial tribunals such as QIRC.

### Submissions in Reply by The AWU

The AWU urged us not to delay releasing a decision on the QCU/AWU application because of the possible lodgement of an application by QCGA or Growcom for exemption from the proposed General Ruling in respect of organisations who may be receiving ECIRS or ECRP payments.

The AWU said the Commission had, in previous State Wage Case decisions, spelt out its expectations in respect of anyone seeking exemption pursuant to s. 287(5). Those expectations had not been met by QCGA or Crowcom in the present case.

### Submissions in Reply by QCU

In its reply submission QCU referred the Commission to recently released inflation data issued by RBA on 13 August 2007 which increased the underlying inflation rate from 2.75% per annum to 3.0% per annum over the year to December 2007.

Using this revised estimate, QCU tendered a table showing the change in the real value of wage rates under the *Engineering Award - State 2002* if the Commission accepted the wage increases proposed by either the Queensland Government or QCCI, which, in turn, were supported by several other employers, or RCEAQ. This table (Table 11) appears below.

**Table 11: Change in real value of wage rates under the Engineering Industry Award - State 2002 - counter proposals of employer respondents and State Government - 2007**

	Current Pay Scale	National CPI* 2007	Qld Govt	Nominal Increase	Real Wage Change	CommQld Growcom QCGA	Nominal Increase	Real Wage Change	RCEAQ	Nominal Increase	Real Wage Change
C14	503.80	3.0	528.40	4.9	1.9	522.10	3.6	0.6	514.10	2.0	-1.0
C13	520.50	3.0	545.10	4.7	1.7	535.50	2.9	-0.9	530.80	2.0	-1.0
C12	543.00	3.0	567.60	4.5	1.5	558.00	2.8	-0.2	553.30	1.9	-1.1
C11	563.90	3.0	588.50	4.4	1.4	578.00	2.5	-0.5	574.20	1.8	-1.2
C10	597.60	3.0	622.20	4.1	1.1	612.60	2.5	-0.5	607.90	1.7	-1.3
C9	618.50	3.0	643.10	4.0	1.0	630.50	1.9	-1.1	628.80	1.7	-1.3
C8	639.30	3.0	663.90	3.8	0.8	651.30	1.9	-1.1	649.60	1.6	-1.4
C7	658.20	3.0	682.80	3.7	0.7	670.20	1.8	-1.2	668.50	1.6	-1.4
C6	699.90	3.0	724.60	3.5	0.5	711.90	1.7	-1.3	710.20	1.5	-1.5
C5	720.80	3.0	745.20	3.4	0.4	732.80	1.7	-1.3	731.10	1.4	-1.6
C4	741.60	3.0	766.20	3.3	0.3	753.60	1.6	-1.4	751.90	1.4	-1.6
C3	783.30	3.0	807.90	3.1	0.1	795.30	1.5	-1.5	793.60	1.3	-1.7
C2a	804.20	3.0	828.80	3.0	0.0	816.20	1.5	-1.5	814.50	1.3	-1.7
C2b	841.90	3.0	866.50	2.9	-0.1	853.90	1.4	-1.6	852.20	1.2	-1.8
C1a	925.40	3.0	950.00	2.7	-0.3	937.40	1.3	-1.7	935.70	1.1	-1.9
C1b	1050.50	3.0	1075.10	2.3	-0.7	1062.50	1.1	-1.9	1060.80	1.0	-2.0

\* based on Reserve Bank of Australia estimate 13 August 2007.

### Conclusions

#### Relevant Legislation

The Queensland Government submitted that the objects of the Act and other relevant provisions of the Act require the Commission to balance economic and social factors in making determinations on matters such as State Wage Cases. This reflects the Queensland Government's view that industrial relations has both an economic and a social dimension, wages policy being a prime example of this.

In economic terms, there is a need to ensure wage outcomes are consistent with strong economic performance. In social terms, there is a need to ensure that people are covered by fair and reasonable wages that allow them to participate in society and that those who do not benefit from bargaining are not left behind. These economic and social objectives are encapsulated in the Principal Object of the Act which is to provide a framework for industrial relations that supports economic prosperity and social justice, the Government said.

The Government also submitted that the following sub-sections are particularly relevant for the Full Bench to consider in making its determination in this matter:

- "3. *Principal object of this Act*  
*The principal object of this Act is to provide a framework for industrial relations that supports economic prosperity and social justice by-*  
 (a) ....

- (b) *providing for an effective and efficient economy, with strong economic growth, high employment, employment security, improved living standards, low inflation and national and international competitiveness; and*
- (c) ...
- (d) *ensuring equal remuneration for men and women employees for work of equal or comparable value; and*
- (g) *ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community."*

These provisions are also consistent with those matters that have traditionally formed part of Australian wage-fixing deliberations. These generally include considerations of the needs of low paid workers and community living standards, as well as economic factors.

The Act has a strong focus on the importance of ensuring fair wages and conditions with reference to prevailing community standards. In addition to the reference in the Objects of the Act, ss. 126(d) and (f), as well as s. 273(1), place obligations on the Commission to ensure fairness in wages, as shown below:

*"126 Content of Awards*

*The commission must ensure an award -*

- (a) ...
- (d) *provides for secure, relevant and consistent wages and employment conditions; and*
- (e) ...
- (f) *provides fair standards for employees in the context of living standards generally prevailing in the community."*

and

*"273 Commission's functions*

- (1) *The Commission's functions including the following-*
- (a) *establishing and maintaining a system of non-discriminatory awards that provide fair wages and employment conditions."*

It should also be noted that pursuant to s. 126 of the Act the Commission is also obliged to ensure an award:

- (e) *provides for equal remuneration for men and women employees for work of equal or comparable value."*
- (f) ...
- (g) *is suited to the efficient performance of work according to the needs of particular enterprises, industries or workplaces.*
- (h) *takes account of the efficiency and effectiveness of the economy, including productivity, inflation and the desirability of achieving a high level of employment."*

The intent of the 1999 legislation was also made clear by the then Minister for Employment, Training and Industrial Relations, the Hon. Paul Braddy MP, in the second reading speech when he said that awards would no longer be a mere safety net of wages and conditions.<sup>16</sup>

Section 273(2)(a) provides that the Commission must perform its functions in a way that furthers the objects of the Act and s. 320(5) provides for the Commission to consider the objects of the Act as well as the likely effects of the Commission's decision on the community, local community, economy, industry generally, and the particular industry concerned.

There is also a specific statutory obligation under s. 287(2) for the Full Bench to ensure that a general ruling about a QMW is made each calendar year. This section of the legislation was amended following recommendations from the 2000-2001 Pay Equity Inquiry report, *Worth Valuing*, where the Commission recommended that (*inter alia*), because a number of female dominated occupations were award-free (such as nannies and domestic cleaners), a minimum wage for all employees should be made annually. Prior to this the minimum wage applied only to award employees.

The legislative parameters governing decisions of the Commission in matters such as that presently before it need to be contrasted with the legislation governing the deliberations of AFPC, whose July 2007 decision was relied upon, to differing degrees, by several employer respondents.

The AFPC has been established as an independent statutory body to set minimum wages and casual loadings and it is for the AFPC to determine the timing and frequency of wage reviews, the scope of particular wage reviews, the manner in which wage reviews are to be conducted and when wage setting decisions are to come into effect. The AFPC must,

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<sup>16</sup> Hansard, 25 May 1999, p. 1831

according to the Commonwealth Minister in his submission to the 2006 Stage Wage Case, have regard to the following wage setting parameters in promoting the economic prosperity of the people of Australia:

- the capacity for the unemployed and low paid to obtain and remain in employment;
- employment and competitiveness across the economy;
- providing a safety net for the low paid; and
- providing minimum wages for junior employees, employees to whom training arrangements apply and employees with disabilities that ensure those employees are competitive in the labour market.

In performing its wage setting function the AFPC is able to undertake research and monitor and evaluate the impact of its wage setting decisions. Further, in arriving at its decisions the AFPC adopts a consultative approach, rather than the adversarial system followed in the present proceedings. As a consequence, parties are given limited opportunity to comment on the (private) submissions made by those with whom AFPC might consult and there is no opportunity for any party to be aware of the case they might be required to counter if they are to advocate for their own position to be adopted.

By contrast, QIRC proceedings are conducted in an open forum with every issue advanced by any particular party capable of being commented on by others. In addition, QIRC is required to consider a number of matters not taken into account by the AFPC in its deliberations - such as living standards in the community, fairness, the needs of the low paid and the public interest.

Importantly, as noted above, decisions which the Commission is now called upon to make are not in the context of setting rates which provide a safety net of wages and conditions but, rather, wages which represent fair standards for employees in the context of living standards generally prevailing in the community.

#### Wage Decisions by Interstate Tribunals and AFPC in 2007

The present applications before QIRC are, in essence, the last in a series of wage case decisions which have been before other State Industrial Tribunals, and the AFPC, during 2007. The following table (Table 12) summarises the outcomes of the deliberations of those other Tribunals and AFPC, and includes the proposed new QMW if the primary propositions before us were accepted.

**Table 12: Comparison of minimum wage outcomes**

<b>Jurisdiction</b>	<b>Increase to minimum wage</b>	<b>New minimum weekly wage</b>
NSW	\$27 per week for minimum award rates (C14) and \$20 per week for all other award classifications.	\$531.40
WA	\$24 per week (to all award rates).	\$528.40
Federal	\$10.26 per week up to a weekly rate of \$700 per week then \$5.32 per week above that.	\$522.12
South Australia	Stage 1: \$10.40 Stage 2: application to align with federal jurisdiction rates.	Stage 1: \$511.90 Stage 2: \$522.12 (if granted)
Tasmania	\$22.70 (to all award rates).	\$527.10
Queensland - Union applications	\$28.00 to QMW and award rates.	\$531.80
Queensland Government response	\$24.60 increase to the QMW and award rates.	\$528.40
QCCI Proposal	\$18.32 increase to QMW.	\$522.12

In awarding the greatest ever increase in the WA minimum wage and award rates, the Western Australian Industrial Relations Commission took "judicial notice" of the positive outlook for the Australian economy<sup>17</sup> and, in particular, the strong performance of the WA economy:

*"We take into account the buoyant state of the economy compared to the national economy. We consider that in the context of such strong performance from the WA economy there is unlikely to be any effect upon the national economy of the minimum wage decision arising from these proceedings."*<sup>18</sup>

and, in relation to the effect on the State's economy:

<sup>17</sup> 2007 WAIRC 00517,13 June 2007, para 27.

<sup>18</sup> Ibid para 30.

*"The economic evidence before us on that occasion (2006 State Wage Case) was that the strength of the WA economy would 'swamp' any increase in the WA minimum wage given the small numbers of employees affected. That appears to have been the case. There is no evidence before us that the increase we gave on that occasion had any negative consequences. We have been similarly assured on this occasion that the strength of the State economy is such that an increase in the minimum wage beyond mere maintenance of its real value would similarly have little effect."*<sup>19</sup>

The magnitude of the quantum in the Tasmanian decision - the largest ever awarded by the Tasmanian Industrial Commission - was considered appropriate this year given the current buoyancy of that State's economy. The Full Bench in that State said:

*"Of particular relevance to this decision is the performance of the Tasmanian economy in the national context."*<sup>20</sup>

and

*"Tasmania's estimated average SGP growth over the past five years has been 3.7 % compared with the equivalent Australian figure of 3.3%. During this period only Western Australia and Queensland have had higher average annual growth rates."*<sup>21</sup>

and

*"We are quite satisfied that in terms of aggregate outcomes, given the limited application of this decision, a wage increase of the magnitude we propose, will not impact negatively on the Tasmanian economy."*<sup>22</sup>

In NSW the \$27 per week increase to the Award Review Classification Rate (the equivalent of C14 in that State's Engineering Award) was also the highest such increase ever awarded by the New South Wales Industrial Relations Commission (NSWIRC). A lesser increase (of \$20 per week) was awarded at other levels having regard to the NSWIRC's consideration of the state of the NSW economy, which the NSWIRC found was not performing as well as several other State economies - particularly Queensland and Western Australia.

### Economic Situation

The economic material referred to above leaves little room for doubt that the Queensland economy is performing extremely strongly, as has been the case for a number of years.

Unemployment levels are at record lows with the trend unemployment rate falling to 3.4% in June 2007, representing a 29 year low in the history of the monthly labour force series. The labour force participation rate has also risen to an historic high in excess of 67%.

Employment has also grown considerably to be an average rate of 4.1% for the 5 years 2006-07 and is estimated to strengthen to an above-average rate of 4.75% in 2006-07, representing the creation of more than 90,000 jobs over the year, before returning to its long-run average of around 3% growth in 2007-08. This will represent the creation of more than 150,000 jobs over the 2 year period.

Queensland Government forecasts suggest that there will be strong wages growth in 2006-07, with the WPI estimated to grow by 4.5%. Tight labour market conditions, as well as strong terms of trade, have allowed an above-average wages growth for employees in a number of sectors, but most particularly in the resource, trade and construction related sectors. Sustained demand for labour is forecast to see growth in the WPI remain solid at 4.25% in 2007-08, supported by an anticipated pick-up in labour productivity growth and on-going high profitability.

Overall, wages growth is forecast to remain above inflation in both 2006-07 and 2007-08. While earnings have been relatively strong for employees in areas with significant skills shortages, employees in areas such as retail and hospitality have struggled with below average wage increases. This is perhaps due to the high award reliance of such sectors *vis a vis* other parts of the community (see Table 9).

Whilst not as strong as the Queensland economy, the national economy is nonetheless performing relatively strongly with a total of 61 consecutive quarters of positive growth since the last negative GDP quarter in September 1991.

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<sup>19</sup> Ibid para 31.

<sup>20</sup> Tasmanian Industrial Commission, T12940 of 2007, para 41 .

<sup>21</sup> Ibid para 43.

<sup>22</sup> Ibid para 63.



Unemployment levels nationally remained at 4.5% in June 2007, a 29 year low.

Wages growth nationally was also more moderate than in Queensland with the movement in the WPI being 4.1% over the year 2 March 2007. Similarly, other measures used to record wage movements show healthy increases as follows:

- average weekly earnings of non-farm wage and salary earners increased by 4.4% to \$846.70 nationally for the year to November 2006;
- average weekly ordinary time earnings increased over the same period by 3% to \$1058.90, rising to \$1070.40 as at May 2007 with the Queensland figure at \$1008.50;
- Average Earnings on a National Accounts basis grew by 4.2%, seasonally adjusted, or 4.0% trend, nationally for the year to December 2006.

Notwithstanding such strong wages growth, the healthy economic conditions currently prevailing saw reasonably healthy increases in profitability in many Queensland industries, with moderate increases in others, as disclosed in the following table (Table 13).

**Table 13: Change in profitability in Queensland industries 2004/05-2005/06**

Industry	GOS & GMI 2004-05 (\$m)	GOS & GMI 2005-06 (\$m)	Profitability Increase (\$m)	Profitability Increase (%)
Mining	10073	17126	7053	70.0
Education	88	115	27	30.7
Finance & Insurance	4152	4947	795	19.1
Health & Community Services	1304	1533	229	17.6
Electricity, Gas & Water	1854	2109	255	13.8
Construction	6182	6915	733	11.9
Accommodation, Cafes & Restaurants	1474	1608	134	9.1
Retail Trade	2976	3107	131	4.4
Wholesale Trade	2842	2934	92	3.2
Personal & Other Services	215	221	6	2.8
Manufacturing	5802	5951	149	2.6
Property & Business Services	6235	6362	127	2.0
Cultural & Recreational Services	560	571	11	2.0
Agriculture, Forestry & Fishing	5208	5293	85	1.6
Transport & Storage	3113	3026	-87	-2.8
Communication Services	2565	2473	-92	-3.6

Source: ABS *State Accounts* Cat. No. 5220.0.

The above data, especially that for the accommodation, café and restaurants sector as well as the retail trade sector, do not suggest that the Commission's 2006 State Wage Case decision has had a major effect on profitability within the major award-reliant sectors. The same can be said in respect of employment levels in those same sectors (see Table 10).

Importantly, from our perspective, none of the economic material and data advanced by QCU and/or the Queensland Government was challenged in any respect by any of the other Respondents. Indeed, QCCI acknowledged that the Queensland Government was in the best position to advance such material and supported its overall accuracy.

#### Social and Economic Dimension

As was stressed by QCU and the Queensland Government, and acknowledged in its submission by QCCI, any decision by the Commission has to be made in both a social and an economic context. Given its legislative charter, the Commission is required to arrive at a decision which balances a number of competing factors, including:

- the interests of employees;
- the interests of employers;
- economic factors (such as strong economic growth, high employment etc.);
- improving living standards;
- ensuring wages provide fair standards in relation to living standards prevailing in the community; and
- ensuring equal remuneration for men and women employees for work of equal or comparable value.

Taking all of these factors into consideration we are, on this occasion, favourably disposed to granting the quantum of increase proposed by the Queensland Government. In so deciding we particularly rely on the reasons advanced by the Government in its Outline of Submissions, and its assurances contained therein, as follows:

"The Queensland economy clearly has the capacity to absorb and sustain an increase of \$24.60 per week for employees under State awards and for employees who are covered by the QMW.

The granting of a \$24.60 increase to State award rates of pay and the QMW will serve to ensure Queensland maintains a strong and viable industrial relations system based on fair and reasonable wages and conditions. By awarding reasonable increases to award rates and the QMW, the Commission can ensure that low paid workers with little or no bargaining power are not unduly disadvantaged in the labour market.

The proposed increase will provide a real benefit to the lowest paid employees in Queensland. At the level of the QMW, the \$24.60 increase translates to a 4.9% increase in nominal terms and a real increase of 2.1% (*reduced to 1.9% after the recent adjustment to inflation expectations by RBA*). At the C10 level of the *Engineering Award - State 2002* it represents a nominal increase of 4.1% and a real increase of 1.3% (*reduced to 1.1%*).

Female employees outnumber male employees in unincorporated private sector organisations in Queensland. They are also far more reliant on award wages than males. Given the significant numbers of female workers reliant on minimum wage adjustments, any adjustment will have a disproportionate effect upon women as a group. Therefore real wage increases through the State Wage Case may go some way to addressing the gender pay gap in Queensland.

The estimated cost impact of a \$24.60 increase is ... responsible and affordable. The impact of a \$24.60 increase would increase total average earnings growth by 0.16%. In terms of the impact on that sector of the economy where the wage increases will apply, that is private sector unincorporated businesses, the increase is estimated to contribute between 0.68% and 0.74% to average earnings growth.

... it is appropriate to provide an increase in real terms this year rather than just maintaining wage rates around the level of inflation. The economic prosperity that Queensland is currently enjoying should be shared in by the lowest paid and award-reliant employees.

A \$24.60 increase can be awarded without adverse employment impacts. There is no credible evidence to suggest that past state, or national, wage cases have had any significant measurable impact, either to employment in the State generally or to the specific industries which are most award-reliant. A \$24.60 increase this year would be compatible with continuing strong employment growth and historically low levels of unemployment.

Taking all of these factors into account ... a \$24.60 increase provides an appropriate balance between the economic and social objectives underpinning the Act, particularly the Principal Object of the Act, to provide a framework for industrial relations that supports economic prosperity and social justice." (*our notations to reflect new RBA data*).

As has been the case in the majority of State Wage Case decisions since 1998 we have decided to continue the practice of awarding a common level of increase to all classifications, including the QMW. In this way the greatest benefit will be felt at the lower classification levels.

We are conscious that an increase of \$24.60 in both the QMW and in award rates is the highest increase ever awarded by the Commission. However, such increase has to be considered in the context that other State Industrial Tribunals have also seen fit, this year, to award their highest ever increases based upon the healthy state of their respective State economies as well as the National economy.

In addition, whilst the *nominal* level of increase we have determined is the highest awarded at the QMW level since 1998, in real terms it is less than the increases awarded in 1999 and 2004 and only 0.1% in excess of the increase awarded in 2002 (see Table 3).

In any event, we have reached the conclusions that the economic environment is such that, on this occasion, we can take the step of providing real wage increases to most award-reliant wage earners and, in doing so, taking a small step towards addressing the increasing difference between minimum wage movements compared with AWOTE, as disclosed in Tables 4 and 5, respectively. The increase we have granted should also impact positively on the gender pay gap.

The vast majority of parties support the preservation of 1 September as the operative date for wage increases and allowance adjustments granted by State Wage Case decisions. In order to make certain this date is preserved in the future, the Commission would expect that applications would be filed in sufficient time to ensure the twin objectives are met of conduct of the case in a timely manner and adequate notice to employers of the adjustments granted.

**Decision Summary**

In all of the circumstances, and for all of the reasons outlined above, we announce the following decision:

- a \$24.60 per week increase in award wage rates;
- a \$24.60 increase in the level of the QMW, as it applies to all employees, bringing it to \$528.40;
- an increase in existing award allowances which relate to work or conditions which have not changed, and service increments, by 4.1%; and
- an operative date for the respective increases of 1 September 2007.

A formal Declaration of General Ruling will issue at the same time as the release of these reasons for decision, thereby giving effect to this decision.

**Wage Fixing Principles**

The parties were in agreement that the current Statement of Principles, through a Statement of Policy, should remain with the necessary amendments to reflect changes to the operative date, the quantum of wage and allowance adjustments awarded in this decision, and other consequential amendments. A new Statement of Policy with respect to wage fixing principles will issue concurrently with this decision.

The Commission determines and orders accordingly.

A.L. BLOOMFIELD, Deputy President.

G.K. FISHER, Commissioner.

J.M. THOMPSON, Commissioner.

*Hearing Details:*

2007 9 July (Directions Hearing)

20 August (Hearing)

Released: 24 August 2007

*Appearances:*

Ms D. Ralston for Queensland Council of Unions.

Mr D. Broanda for The Australian Workers' Union of Employees, Queensland.

Ms V. Semple for the Queensland Government.

Mr S. Shepherd for Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers.

Mr G. Trost for Queensland Cane Growers' Association Union of Employers.

Ms D. Mogg for Queensland Fruit and Vegetable Growers, Union of Employers.

Mr K. Law for The Restaurant and Caterers Employers Association of Queensland Industrial Organisation of Employers.

Mr N. Tindley for National Retail Association Limited, Union of Employers.

Mr J. Dwane for Queensland Master Hairdressers' Industrial Union of Employers.

Mr J. Moore for Queensland Hotels Association, Union of Employers.

Ms R. Scott for Queensland Motel Employers Association, Industrial Organisation of Employers.