

IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

and

Public Service Arbitration Act 1920

NATIONAL WAGE CASE - DECEMBER 1978 AND MARCH 1979 QUARTERS

In the matter of an application by The Australian Public Service Association (Fourth Division Officers) to vary the

AUSTRALIAN TELECOMMUNICATIONS COMMISSION CLERICAL,
MANIPULATIVE AND OTHER GRADES (SALARIES AND SPECIFIC CONDITIONS
OF EMPLOYMENT) AWARD 1977 [Print D3594]

(C No. 510 of 1979)

And in the matter of an application by The Association of Professional Engineers, Australia to vary the

METAL INDUSTRY AWARD 1971 - PART III - PROFESSIONAL ENGINEERS
[163 CAR 388]

(C No. 514 of 1979)

And in the matter of an application by The Municipal Officers Association of Australia to vary the

BRISBANE CITY COUNCIL SALARIED STAFF AWARD 1978 [Print D6494]

(C No. 525 of 1979)

And in the matter of an application by the Electrical Trades Union of Australia and others to vary

METAL INDUSTRY AWARD 1971 [Print D1611]

(C No. 534 of 1979)

And in the matter of a direction by the President pursuant to section 15A of the Public Service Arbitration Act concerning

THE AUSTRALIAN PUBLIC SERVICE ASSOCIATION (FOURTH DIVISION
OFFICERS)

and

THE MINISTER FOR DEFENCE and another

in relation to wage rates
SIR JOHN MOORE, PRESIDENT
MR JUSTICE WILLIAMS
MR JUSTICE ROBINSON
MR JUSTICE LUDEKE
MR DEPUTY PRESIDENT ISAAC
MR ACTING PUBLIC SERVICE
ARBITRATOR WATSON
MR COMMISSIONER STANTON

MELBOURNE, 27 JUNE 1979

REASONS FOR DECISION

For reasons which will become clear, we do not propose to follow the usual course of detailing the claims and attitudes of the various parties as a background to our decision. These are to be found in Appendix A.

Instead, we will set out the circumstances which have taken us to the brink of announcing today the abandonment of indexation. Shortly put, the actions and attitudes of various participants in the system are incompatible with its effective operation and have forced us to the conclusion that the system of wage fixation based on indexation is simply not working.

We have pulled back from the brink so that all concerned can consider the proposal which we will make in conjunction with our decision on the unions' claims. If our initiative fails to achieve a satisfactory consensus, there would seem to be little point in persisting with the package. An orderly centralised system of wage fixation cannot survive on a voluntary basis unless the participants demonstrate a firm commitment to its essential requirements. That commitment is lacking.

There are a number of interacting factors which have contributed to the present crisis.

- .. The ACTU, some other peak councils and individual unions have authorised campaigns for increases which are clearly outside the guidelines. Past partial indexation decisions and the move to six monthly hearings are said to have contributed to an increase in industrial unrest.
- .. Individual unions have accompanied claims for wage increases with costly and protracted strikes, bans or limitations aimed at softening up the employers in negotiation and the Commission in arbitration. Despite two successive full indexation decisions the official statistics show an increase in man days lost of some 50 per cent for the seven months to February 1979 as compared with the same period twelve months ago. These figures on their own are an inadequate representation of the state of industrial disruption. Recent railway strikes in most States, including a ten day stoppage in New South Wales, widespread restrictions in Telecom, the 48-hour stoppage in metal trades, and the advertised threats of industrial action by bank employees if full indexation is not granted, are examples of the disruption which now accompanies many wage claims. They have or will have a significant impact on the economy and inflation.

- .. Over the past twelve months, driver classifications under numerous awards have received the same or similar increases, general increases have been granted to aircraft industry workers, airlines transport workers, stevedoring industry, oil industry and paint industry employees. Without criticising the amounts awarded or the reasons given in the various cases, it is clear that an ever increasing range of occupations in an ever widening range of industries is receiving increases which conform to a fairly standard pattern. In many other industries, including Telecom, Australia Post, vehicle and metal trades, claims have been made for general wage increases. The impact in economic terms of these developments is clearly not negligible.
- .. Many employers have insufficiently resisted claims outside indexation. Some have participated in contrived arrangements for increases in pay or allowances or improvement in conditions.
- .. In a desire to meet the wishes of the parties in conciliation proceedings, approval has been given to some settlements which are in conflict with the Principles.
- .. Despite scrupulous adherence to the Principles in many cases, Principles 7(a) and 8 are in danger of being transformed by the joint action of unions, employers and tribunals into a fresh source of general award wage increases.
- .. While there are deficiencies in the figures as set out in Appendix B, a significant earnings drift appears to have taken place since June 1978. Taken as an average of four quarters, Average Weekly Ordinary Time Earnings rose by 9.4 per cent in 1978 while Minimum Weekly Wage Rates rose by 6.9 per cent. A similar gap in movement is shown for the average of the four quarters ending March 1979.
- .. The latest figure for Average Weekly Ordinary Time Earnings, seasonally adjusted, shows an increase of 9.1 per cent for the March quarter 1979 on the same quarter of the previous year. In the twelve months since March 1978, there have been only two national wage decisions: 1.3 per cent in June and 4 per cent in December. On the face of these figures, increases outside national wage decisions have contributed to the movement of earnings over this period on a scale inconsistent with the package.
- .. Important supporting mechanisms such as tax indexation and the Prices Justification Tribunal have been reduced in effectiveness.
- .. Personal income tax rates and indirect taxes were both increased by the 1978/79 Budget.
- .. Contrary to the earlier policy of gradualism, in August 1978 petroleum prices were moved to import parity in one step. On the Government's own submissions, this decision, together with the net effect of the indirect tax measures, contributed some 1.9 per cent to the December 1978 Consumer Price Index movement of 2.3 per cent.
- .. The progressive decline in the rate of CPI increases noted in earlier decisions has stopped and there is a serious risk that the inflation rate may accelerate. This tendency is also happening in other countries. The main sources for the resurgence of price increases in Australia are oil, food, minerals and Commonwealth indirect taxes.

- .. Contrary to expectations the decline in the rate of inflation has not been accompanied by falling unemployment, which is still higher than a year ago.
- .. The Commonwealth expects that inflation and unemployment could still be at their present levels in a year's time. This implies, on the argument advanced, that real wages may have to fall continuously over that period. Such a prospect is presented despite the virtual disappearance, on any reasonable assumption, of the "wage overhang", a term used to characterise the rise of real wages ahead of productivity. In past cases this concept was the basis of the Commonwealth's submissions in support of lower real wages: the "overhang", it was said, reflected an imbalance between labour costs and productivity and economic recovery depended on its elimination. In this case it formed no part of the Commonwealth's submission.

It will be apparent that no one group can be held responsible for the present crisis and any attempt to apportion blame would be fruitless. Experience has demonstrated that any action which may be regarded as a sign of weakened commitment will give encouragement to other actions inconsistent with the effective operation of the package.

The incompatible attitudes of the parties to the operation of the system can be simply illustrated. While alleged inadequacies of indexation decisions are being used by the unions to justify the upsurge in wage claims and industrial disruption, the same decisions are said by the Commonwealth and private employers to be a significant cause of continuing inflation and unemployment. If the system is at one and the same time the cause of industrial disruption, earnings drift, unemployment, inflation and continuing economic recession, it should be abandoned.

When indexation was introduced in April 1975, the Commission emphasised the fragile nature of the package and the importance of consensus and commitment generally - from unions, employers, governments, tribunals and the public at large. The Commission also emphasised the importance of supporting mechanisms in relation to various actions and measures which were outside its control but on which the viability of the indexation principles depended. The Commission concluded that indexation could have far-reaching consequences for the good of the country but that if the conditions set down were not met, it could be seriously detrimental.

One year later the Commission was able to report in the May 1976 decision

"Although there were significant differences of opinion as to the structure and content, there was for the first time unanimous support for a system of wage fixation based upon indexation. This degree of consensus is in stark contrast to the position twelve months ago." [Print C5500 p.3]

Despite the progressive refinement of the Principles, the high degree of consensus on the requirements of the system which prevailed in earlier years has gradually evaporated. An important factor is the strong disagreement among those appearing before us on the appropriate economic policy for dealing with the continuing and serious unemployment problem and the part to be played by wages in that connection.

This lack of consensus is shown up by the submissions before us. Most unions want full indexation, catch-up for past partial indexation and a return to quarterly indexation, and their claims are being backed up by action in the field on an increasing scale. The private employers, the Commonwealth and Western Australia ask that no increase at all should be given.

The attitudes and actions which we have set out in some detail are symptomatic of the lack of commitment to the package and are in sharp contrast to the formal declarations of support made before us for continuation of an orderly centralised system of wage fixation. It appears that one side wants indexation without restraints while the other wants restraints without indexation.

The Commission has no vested interest in indexation or any other system of wage fixation. In accordance with its statutory obligations, it seeks to apply that system which provides a viable balance between industrial and economic considerations. But we do not lightly contemplate the abandonment of indexation. We believe that a centralised and orderly system of wage fixation which gives priority to the maintenance of living standards should operate in the best industrial, social and economic interests of the community.

The persistence of economic uncertainty on a national and international scale raises the question whether expectations of an early return to the circumstances of the 1960s, namely, full employment, sustained economic growth and steady improvement in living standards are any longer realistic. This environment suggests that an orderly system based on equitable sharing of burdens and benefits should continue to be the dominant element of wage fixation. This can only be achieved if wage and salary earners are treated simultaneously and collectively while claims for sectional increases are given a low priority and limited incidence. The alternative would seem to be the disorder, inequity and disruption of 1974.

However an indexation system cannot survive if unreasonable demands are made on it, whether by unions, employers or governments. As the Commission said in April 1975 when introducing the system -

“Moreover, the success of indexation rests heavily on the supporting mechanisms which are outside the Commission’s control. The Commission does not operate in an institutional vacuum and the outcome and the future of indexation will, therefore, depend not only on the Commission’s decisions but also on the extent to which unions, employers, the Australian and State Governments and ultimately the public at large are prepared to lend their weight to the conditions necessary for the success of indexation.”[167 CAR 18 at p.39]

We have said that a firm commitment to the requirements of indexation is lacking. The nature of that commitment was aptly put by the Commonwealth in submissions made three years ago and quoted in the May 1976 Decision. We repeat part of that passage -

“The wage indexation package could easily be destroyed, it is not something the Commission can unilaterally sustain; its whole basis rests upon the active and responsible co-operation of all parties concerned, be they government, tribunal, employer, union or individual nester of the community.

.....

By and large, parties, tribunals and governments are sensitive to the notion that there are limits on behaviour beyond which they cannot go as individuals or as organised groups without doing damage to the very foundations of the system.” [Print C5500 p.8]

Although the limits on behaviour may be incapable of precise definition, there can be no quarrel with the concept. There must be a preparedness by unions, employers, governments and tribunals to conduct their affairs in a way which puts the least strain on the effective operation of the package.

In the light of what we have already said we think it imperative that those concerned should closely examine their attitudes so that the possibility of fresh consensus can be explored.

We therefore call a Conference of all parties and interveners to consider as a matter of urgency whether indexation has a future. It will commence in Melbourne next Wednesday, 4 July 1979, and be chaired by the President.

We expect the Conference to be short. In the circumstances the present Principles should continue to apply until the President is in a position to report on the outcome of the Conference.

We now consider the unions’ applications in respect of the 4 per cent CPI increase.

It will be clear that the considerations which led us to the conclusion that the indexation package may have to be abandoned include developments after we reserved our decision on the unions’ applications. As to the claims themselves we will confine our attention to the material submitted in the proceedings. Subsequent developments will be relevant in the Conference discussion on the future of indexation.

We have referred to the renewed rise in inflation after a progressive decline since indexation began. This comes at a time when a number of encouraging signs are appearing in the economy. There has been a strong recovery in rural income after years of serious recession. Export income, the balance of payments and the international competitiveness of Australian industry have all improved, and a modest increase in private employment including manufacturing employment has taken place. Although the Commonwealth has said that the economy is now “*basically sounder than it has been for some years*”, it is still too early for optimism about sustained general recovery in the immediate future. The recovery is narrowly based and unemployment remains high.

It is in this economic setting that we must decide on the unions’ claims for the six months ending March 1979.

The indexation package gives high priority to the maintenance of the standard of living of wage and salary earners. This is implicit in Principle 1 which is the basis of the applications before us. Available evidence would indicate that over the last twelve months a substantial body of employees, possibly the vast majority, have neither participated in industrial action nor obtained increases other than national wage increases. In the circumstances, it would be unjust to deprive this body of people of any increase.

The resurgence of inflation can hardly be blamed on national wage increases which, since the beginning of 1978 have been -

February	1.5% to a plateau of \$170 per week
June	1.3%
December	4.0%

Indeed, these increases are consistent with a continued fall in inflation. Furthermore, the move to half-yearly CPI adjustments must have resulted in important saving of costs.

However, we have before us statistics suggestive of earnings drift and a substantial increase outside national wage to which we alluded earlier. Added to that is the economic cost of industrial disputes for which we have no measurement. We have been asked to take these factors into account in making our decision.

Detailed submissions were made to us on discounting for various policy induced price increases arising from the 1978/79 Commonwealth Budget. We point out that the Budget also caused a decrease in the price of health insurance which was reflected in the CPI. There was strong disagreement both as to principle and the appropriate figure for discounting. Because of the conclusion we have come to on the indexation package and the proposal we make for a Conference to consider its future, we will not review these submissions.

There is however widespread understanding and acceptance of the need to conserve oil in the face of a continuing world scarcity. The increase in the price of petroleum and heating oil flowing from the increase in excise is not only a reflection of the energy crisis but also an important means of mitigating it. In the present economic circumstances we are concerned about passing on the excise to wage costs. Accordingly we have decided that on this occasion, and subject to the qualifications we make, the only policy induced price increase which should be taken into account is that relating to the increased excise on oil.

But we note a change in rationale has taken place in Government policy on petroleum pricing. Revenue raising considerations appear to have become a significant element of the more recent Government decisions on oil. The use of discounting to offset a price increase induced by policy action designed primarily for revenue raising is fraught with industrial risks which, given its statutory obligations, the Commission cannot ignore.

The ACTU has argued that the 0.8 percentage points attributed by the Statistician to the total increase in retail prices of petroleum products overstates the contribution of the excise duty. The evidence is limited to Victorian retail prices and it is not clear therefore to what extent there is overstatement for Australia as a whole.

Although we consider there may be some substance in the material submitted by the ACTU, it was argued strongly by other parties that the evidence justified a downward adjustment to the 4 per cent on account of the apparent earnings drift and the economic cost of industrial disputation. Here again there are statistical difficulties in identifying the real magnitude of these factors.

In view of the statistical problems associated with making fine adjustments for earnings drift, the effects of industrial disputes and the movement in oil prices due to excise, and in view of the forthcoming Conference, we have decided to award an increase of 3.2 per cent.

The increase awarded will operate from the beginning of the first pay period to commence on or after today.

Overaward payments may be dealt with the terms of the Commission's decision of 12 December 1978.

Claims for catch-up are refused as are all applications which directly or indirectly seek to alter the present Principles.

Form of Orders

The variations of the awards and determination will operate from the first pay period to commence on or after 27 June 1979. The variations of the awards will operate until 27 December 1979.

Minimum wages will be increased by 3.2 per cent.

Additional rates prescribed for leading hands will be increased by 3.2 per cent, as will shift allowances which are expressed in money terms, rounded off to the nearest one cent if on a daily or shift basis. Other allowances may be adjusted in accordance with the provisions of Principles 8(a)(ii) and 8(c)(i).

Junior rates prescribed as money amounts will be increased by 3.2 per cent.

Weekly rates will be calculated to the nearest ten cents and annual rates to the nearest dollar.

The form of the orders necessary to give effect to the decision under the Conciliation and Arbitration Act will be settled by the Registrar with recourse to a member of this Bench. The form of the determination will be settled by the Public Service Arbitrator.

APPENDIX A

THE ATTITUTUES OF THE PARTIES AND INTERVENERS

Australian Council of Trade Unions	)	4% plus
	)	catchup
Council of Australian Government Employee Associations	)	Return to
	)	quarterly
Australian Council of Salaried and Professional Associations	)	adjustments
South Australia	)	4%
	)	Return to quarterly
New South Wales	)	adjustments
)	
Australian Public Service Federation)	
Council of Professional Associations	)	4%
)	
Tasmania)	
Master Builders Federation		2.1%
Queensland		Percentage increase less than 4%
Northern Territory		Moderate percentage increase
Victoria		Approximately 1% return to quarterly adjustments
Commonwealth	)	Nil
)	
Western Australia)	
)	
Commonwealth Public Service Board)	
)	
Private Employers)	

APPENDIX B

PERCENTAGE MOVEMENTS IN EARNINGS AND MINIMUM WAGE RATES

Quarter	Annual percentage change Quarter on Quarter of Previous Year AWOTE(1)		MWWR(2)
	Seasonally adjusted		
	Original		
1977 - March	11.0	12.9	11.9
June	10.0	10.3	11.6
September	10.1	9.5	10.9
December	7.5	9.0	10.0
1978 - March	12.0	10.6	10.2
June	9.7	9.4	6.4
September	7.8	9.8	5.6*
December	8.3	8.3	5.5*
1979 - March	8.8	9.1	6.8*
<u>Average of four quarters</u>			
March, June, Sept., Dec. 1976 on 1977	9.4	9.4	6.9
June, Sept., Dec., March 1978/79 on 1977/78	8.6	9.0	6.1

Source: Commonwealth Exhibit MA5

1. (AWOTE) Average weekly ordinary time earnings for full-time adult non-managerial employees

2. (MUIR) Weighted average minimum weekly wage rates - adult males

* Includes supplementary payments in the Metal Industry Award, Part 1. Excluding supplementary payments which absorbed overaward payments, the figures are 5.5, 5.4 and 6.7% respectively.

Appearances:

R. A. Jolly, R. Overall, I. Watson and R. Luckman for the Electrical Trades Union of Australia and others.

R. L. Gradwell and G. McGill for The Australian Public Service Association (Fourth Division Officers).

G. D. John for the Association of Professional Engineers, Australia.

B. C. Hartnett, W. Richardson and B. Durham for The Municipal Officers Association of Australia.

B. J. Maddern, of counsel, for the Metal Trades Industry Association of Australia and others.

L. P. Doyle, J. M. Fristacky and A. Djoneff for the Australian Public Service Board.

D. F. Charleston for the Australian Telecommunications Commission.

M. D. Marks, Q.C., and A.R.O. Rowlands, of counsel, for the Minister of State for Industrial Relations (intervening).

J. Shaw, of counsel, and K. Crooks for Her Majesty the Queen in right of the State of New South Wales (intervening).

P. Dalton, Q.C., and F. Turner, of counsel, for Her Majesty the Queen in right of the State of Victoria and others (intervening).

J. W. Johnston for Her Majesty the queen in right of the State of Queensland (intervening).

C. Haskett for Her Majesty the Queen in right of the State of South Australia (intervening).

A. Pearce for Her Majesty the Queen in right of the State of Tasmania. (intervening).

J. G. Carrigg for Her Majesty the Queen in right of the State of Western Australia (intervening).

J. S. Luckman for the Master Builders Association of Australia (intervening).

J. R. Andrews and M. Burgess for the Australian Public Service Federation. (intervening).

R. L. Gradwell and C. McGill for the Council of Australian Government Employee Organizations (intervening).

B. Hartnett, W. Richardson and B. Durham for the Australian Council of Salaried and Professional Associations.

G. D. John for the Council of Professional Associations (intervening).

Date and place of hearing:

1979.

Melbourne,

May 8-11, 15, 16, 22, 23, 30, 31;

June 1.