

IN THE INDUSTRIAL RELATIONS COMMISSION OF NSW  
Matter Number: 2024/211169

FILED  
07 Aug 2024



**State Wage Case 2024**

**SUBMISSIONS FOR UNIONS NSW**  
**in respect of Stage 1, Category 1 awards**  
**7 August 2024**

**A. Introduction**

1. Unions NSW makes these submissions pursuant to the Industrial Relations Commission's revised Summons to Show Cause issued on 5 July 2024, the directions issued on 10 July 2024 in *State Wage Case 2024* [2024] NSWIRComm 1 at [10(a)], and the amended directions issued on 31 July 2024.
2. These submissions are in respect of the first five awards listed in sub-principle 4.2 of the Wage Fixing Principles and in these proceedings known as the Stage 1 "**Category 1 awards**":
  - a. Security Industry (State) Award;
  - b. Miscellaneous Workers - Kindergartens and Child Care Centres, &c. (State) Award;
  - c. Health, Fitness and Indoor Sports Centres (State) Award;
  - d. Transport Industry (State) Award; and
  - e. Clerical and Administrative Employees (State) Award.
3. For the Category 1 awards, the principles and provisions of the *Annual Wage Review 2023-2024 Decision* [2024] FWCFB 3500 ("**AWR 2024**") should be adopted in full, including these provisions at paragraphs [174]-[176] of that decision:
  - a. **Quantum**: Award minimum wages will be increased by 3.75 per cent, and be at least the national minimum wage, being \$915.90 or \$24.10 per hour.
  - b. **Timing of increase**: These increases are to take effect from 1 July 2024.

## B. Applicable principles and default position

4. Section 50(1) of the *Industrial Relations Act 1996* (NSW) (“**IR Act**”) provides:

### **50 Adoption of National decisions**

*(1) As soon as practicable after the making of a National decision, a Full Bench of the Commission must give consideration to the decision and, unless satisfied that it is not consistent with the objects of this Act or that there are other good reasons for not doing so, must adopt the principles or provisions of the National decision for the purposes of awards and other matters under this Act.*

[underline added]

5. Sub-principle 4.1 of the Wage Fixing Principles provides:

*4.1. Following the completion of an Annual Wage Review by the Fair Work Commission, the Commission will issue a notice to show cause why that decision should not be flowed on to relevant New South Wales awards (as per 4.2 of this Principle) in the New South Wales industrial jurisdiction.*

[underline added]

6. Therefore, in respect of the Category 1 awards, the **default position** is (or there is a presumption) that the AWR 2024 must be adopted for the purposes of (or “flowed on” to) those awards in full unless a party shows:
- a. That it is not consistent with the objects of the IR Act to do so; or
  - b. There are other good reasons not to do so.

## C. Positions of the parties

7. Unions NSW’s position is the default position, being the position described in paragraph [3] above. It is consistent with the objects of the IR Act to adopt, and there are no good reasons to not adopt, the principles and provisions of the AWR 2024 in full.
8. The Industrial Relations Secretary (“**IR Secretary**”), being the only employer of employees covered by the Category 1 awards, has not expressed whether it will seek to depart from the default position, and if it seeks to do so, what its reasons would be for that proposed departure.

9. On 5 August 2024, Unions NSW wrote to the IR Secretary's representatives to ascertain the IR Secretary's position. As at the time of writing, the IR Secretary has not provided his position.

**D. Conclusion and further directions**

10. If the IR Secretary adopts the default position, the parties should within a short period confer and file proposed consent orders and variations to the awards, given the increases are to have already taken effect from 1 July 2024.
11. If the IR Secretary wishes to depart from the default position, Unions NSW will seek an appropriate period for its response to the IR Secretary's submissions at the directions hearing on 9 August 2024.

**Unions NSW**

**7 August 2024**