

## 4. OTHER MATTERS

### 4.1 TRAINEES AND APPRENTICES

#### 4.2.1 Gap-Filling for Apprentices/Trainees

187. ACCI supported the gap-filling process commenced in 2006 for school-based apprentices and trainees in transitional awards, and to the extent that this has not completed, continues to support this process.

188. In the 2006 AIRC W&A Review, the Commonwealth sought to ensure the transitional award variation process also updated awards to fill gaps in the coverage of the standard supported wage and school based apprentice/trainee provisions. This applied to awards not varied to include established test case provisions.

189. In respect of school-based apprenticeships, the Commission stated para [54] of PR02006:

As a general rule the model clause relating to school-based apprentices should be included in any transitional award where an apprenticeship can potentially be undertaken.

190. Similarly, in respect of school-based traineeships, the Commission determined at para [57]:

The Commonwealth proposed that the NTW award be incorporated by reference into all transitional awards where a traineeship can potentially be undertaken. It also acknowledged that there may be transitional awards in which it would be inappropriate to incorporate the whole of the NTW award. In such cases the award might simply adopt the school-based trainee provisions of the NTW award. We agree with that approach.

191. The gap-filing process for school-based trainees and apprentices was strongly supported by ACCI and other employer parties and to the extent that any transitional award gaps were not filled last year to redress this concern, ACCI again supports the variation of awards on this basis.

## 4.2 SUPPORTED WAGE SYSTEM

### 4.3.1 AFPC SWS Decision

192. A supplementary decision by the AFPC (Wage-setting decision 5/2007) was issued subsequent to the main 2007 AFPC decision. This decision increases the minimum amount payable in the SWS model clause to \$66 to maintain its equivalence to the Income Test Free Area for the Disability Support Pension.
193. ACCI supported this increase for constitutional corporations. ACCI can see no reason why this Commission should not flow-on the equivalent amount to transitional awards. This is consistent with the decision in PR02006 (para [46]):

The Commonwealth proposed that the minimum amount payable in the SWS model clause should be increased to \$64 to maintain its equivalence to the Income Test Free Area for the Disability Support Pension and achieve consistency with the AFPC wage-setting decision. There was no opposition to that course. We think it is appropriate. The variation should be dealt with in the settlement of the orders.

194. The Full Bench should:
- a. Treat the additional AFPC decision(s) as an indivisible part of the primary decision it is considering giving effect to in this matter.
  - b. Deem all award variation applications which may have been made to give effect to the 2007 AFPC decision to include an application to increase the SWS minimum payment amount (this should be followed by individual AIRC members flowing on any decision in this matter). Thus, there should be an assumption of a consent variation to applications to add this amount unless any party raises objections in relation to a particular award application.

### 4.3.2 Gap-Filling for SWS

195. In the 2006 AIRC W&A Review the Commonwealth proposed that the Commission adopt a policy to provide access to the Supported Wage System in all transitional awards.
196. At paras [44] to [45] of the Commission's decision, the Full Bench stated:

We think the Commonwealth's position has merit. The Commission has generally supported the formulation of the model SWS provisions and their inclusion in awards. 3 We also note that in its recent decision the AFPC has extended SWS provisions to all federal wage instruments. We are under a statutory requirement to exercise our functions and powers to vary transitional awards so that wages are not inconsistent with the AFPC's wage-setting decisions. Further cl.62(1)(c) of Schedule 6 to the WR Act requires the Commission, when making a transitional award-related order, to ensure, if appropriate, that the order includes SWS provisions.

As a general rule supported wage system provisions should be included in all transitional awards. The existing model clause should be used, unless there is justification for departure from it. The model clause is contained in Appendix A to this decision. Any unresolved objection to the inclusion of the model clause in any of the awards before us will be dealt with by this Full Bench after the other aspects of the relevant orders have been finalised.

197. This was supported by ACCI and to the extent that not all transitional awards have included the model provision, we continue to support its insertion.