

**SOUTH AUSTRALIA**

**IN THE SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL**

**IN THE MATTER** of proceedings under sections 69, 90 and 100(1) of the *Fair Work Act 1994* for the adoption of principles affecting the determination of remuneration, allowances and recreational leave loading.

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**UNITED TRADES AND LABOUR COUNCIL (SA UNIONS)**

**Annexure- A1**

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## Orders Sought

### Declarations:

1. The South Australian Employment Tribunal (SAET) declares pursuant to s 100 of the *Fair Work Act 1994* (the Act) that it adopts with modifications the decision of the Minimum Wage Panel of the Fair Work Commission in the Annual Wage Review 2019-20 [2020] FWCFB 3500, in the form set out hereunder.
2. SAET makes this Declaration pursuant to s 100(3)(c) of the Act on the basis that it applies to specified awards. The awards are set out in schedule A, appended hereto.
3. This declaration will come into force on the first pay period to commence on or after 1 July 2020 and remain in force until further order of SAET.
4. In addition, pursuant to s 90 of the Act the SAET will vary work-related allowances in the awards set out in schedule A, in the form set out hereunder, from the first pay period to commence on or after 1 July 2020.
5. In addition, pursuant to s 90 of the Act the SAET will vary the *Public Service (Recreation Leave Loading) Award*, in the form set out hereunder, from the first pay period to commence on or after 1 July 2020.
6. The Registrar will settle the variations to each of the awards in schedule A in accordance with s 98 of the Act.

### Orders

1. **THAT** existing adult Award wages are to be increased by 1.75 percent. Provided that where any such rate, once increased, is less than the State Minimum Award Wage, such rate will be varied to reflect this rate (\$745.10 per week).
2. **THAT** proportionate adjustments are to apply to juniors, trainees and other employees as set out in the relevant Award, subject to the result being no less favourable than the relevant rates in the *Declaration of the Minimum Standard for Remuneration*.
3. **THAT** in the case of piecework or session rates, the increase shall be calculated in accordance with the provisions of the relevant Award, or where the award is silent on the method of adjustment, such rates will be increased by 1.75 percent.
4. **THAT** the State Minimum Award Wage and the Minimum Standard of Remuneration (MSR) for an adult be increased by 1.75 percent to \$745.10 per week.
5. **THAT** the minimum amount payable under the supported wage provisions in those Awards that contain the supported wage provisions be increased to \$88.40 per week.
6. **THAT** in relation to those Awards that have had work related allowances and service increments adjusted in accordance with *State Wage Case and Minimum Standard for Remuneration decisions*, work related allowances and service increments will be increased by 1.75 percent.

7. **THAT** the maximum loading to be applied to an employee during a period of recreation leave or pro rata recreation leave under clause 1.5.2 of the *Public Service (Recreation Leave Loading) Award* be increased by 1.75 percent to \$956.80.
8. **THAT** the Awards set out in Schedule A be varied from the first pay period commencing on or after 1 July 2020.

**The reasons for and grounds upon which the application is made are:**

1. The United Trades and Labor Council of South Australia (SA Unions) is able to commence these applications under s 69(3)(b), s 90 and s 100 of the *Fair Work Act 1994*.
2. In the State Wage Case and Minimum Standard for Remuneration [2012] SAIRComm 9 the Full Bench of the Industrial Relations Commission of South Australia considered whether to “flow on” the 2011-2012 *Annual Wage Review* decision of the Fair Work Commission.
3. The Full Commission decided that the State Minimum Award Wage should be increased by the same percentage that was applied by the Fair Work Commission in the *Annual Wage Review* and should operate from the same date (the first pay period to commence on or after 1 July).
4. Each year thereafter the Full Commission, or its successor, the SAET, has decided to increase the State Minimum Award Wage and the Minimum Standard of Remuneration (MSR) by the same percentage as determined by the Fair Work Commission in the *Annual Wage Review*.
5. On 19 June 2020 the Expert Panel ("the Panel") of the Fair Work Commission handed down its decision in the *2019-2020 Annual Wage Review* [2020] FWCFB 3506.
6. The Panel made a national minimum wage order and varied modern award minimum wages by 1.75% operative from 1 July 2020 in respect of certain awards (the first tranche awards). In respect of certain other awards in industries more affected by the Covid-19 pandemic, the operative date of the increase is later (the subsequent tranche awards).
7. In making this application SA Unions has adopted as its claim the decision of the Panel in respect of the amount of the increase to the State Minimum Award Wage and the MSR and seeks the “flow on” of that increase.
8. In making this application SA Unions has adopted as its claim the date of operation of the first tranche awards determined by the Panel. SA Unions states that the industries covered by the Awards set out in Schedule A are comparable with the first tranche awards. SA Unions further states that the industries covered by the Award set out in Schedule A are not as affected by the Covid-19 pandemic as other industries.
9. There is currently no other application before the South Australian Employment Tribunal to adjust minimum award wages or to adjust the MSR.

10. Pursuant to s 90 of the Act, and out of an abundance of caution in case s 100 of the Act does not provide jurisdiction, SA Unions seeks that the work-related allowances set out in the Awards set out in Schedule A also be increased by 1.75%, and also from the first pay period on or after 1 July 2020. By virtue of s 149 of the *Fair Work Act 2009 (Cth)* the effect of the Panel's decision is that work-related allowances in Modern Awards are automatically increased by 1.75% at the same time as wages are increased. SA Unions therefore seeks that that same increase be "flowed on" to the Awards set out in Schedule A.
11. Pursuant to s 90 of the Act, SA Unions seeks that the maximum loading set out in clause 1.5.2 of the *Public Service (Recreation Leave Loading) Award* also be increased by 1.75% to \$956.80. Save for the years commencing 1 July 2018 and 1 July 2019 (in respect of which increases to this maximum loading have not yet been implemented by virtue of the litigation resulting in *Treasurer for the State of South Australia v United Trades and Labour Council (trading as SA Unions)* [2020] SASCFC 42), this maximum loading has been increased by the same amount as the increase in minimum award wages as part of the State Wage Case in each year since before the turn of the century.
12. The amount of \$956.80 referred to in the above paragraph assumes that the maximum loading under clause 1.5.2 will have been increased in line with the increases in the minimum award wages in the 2018 and 2019 State Wage Cases.
13. The application is consistent with, and furthers the objects of the Act, set out in sections 3(1)(a)(b)(c)(ca)(e)(f) and particularly s.3(1)(fa).

## SCHEDULE A

<b><i>NAME OF AWARD</i></b>
Aboriginal Education Workers (DECS) Award
Adelaide Cemeteries Authority Officers Award
Adelaide City Corporation Award
Caretakers and Cleaners Award
Cemetery Employees Award
Central Linen Employees Award
Chauffeurs (Ministerial) Public Service Award
Clerks (Clubs, Hotels and Motels) Award
Clerks' (South Australia) Award
Clothing Trades Award
Early Childhood Workers Award
Firefighting Industry Employees (South Australian Metropolitan Fire Service) Award 2007
Government Stores Employees Interim Award
Health Recreation and Fitness Award
Hotels, Clubs, Etc., Award
Intellectual Disability Services Award
Live Theatre and Concert (Adelaide Festival Centre Trust) Award
Local Government Cafes, Restaurants and Snack Bars Award
Local Government Employees Award
Local Government (Health Services) Award
Medical Scientists (South Australian Public Sector) Award
Municipal Employees (Adelaide City Council) Award, 2012
Natural Resources Management Boards Award
Nurses (South Australian Local Government Sector) Award
Nurses (South Australian Public Sector) Award 2002
Part-Time Interpreters or Translators (Public Service) (SA) Award

### **SCHEDULE A (Cont)**

Performing Arts Centre (Adelaide Festival Centre Trust) Award
Personal Assistants to Members of the Parliament of South Australia 1989
Police Officers Award
Pre-School (Kindergarten) Teaching Staff Award
ReturntoWorkSA Award 2015
SA Public Sector Cafes and Restaurants Adelaide Convention Centre Award
S.A. Public Sector Live Performance Award
S.A. Public Sector Plumbers and Gasfitters Award
S.A. Public Sector Salaried Employees Interim Award
School Services Officers (Government Schools) Award
South Australian Ambulance Service Award
South Australian Government Building Trades Award
South Australian Government Civil Construction And Maintenance Award
South Australian Government Departments and Instrumentalities (Metal Trades) Award 2007
South Australian Government Health Etc. Ancillary Employees Award
South Australian Government Printing Interim Award
South Australian Government Services Award
South Australian Government Transport Workers Award 1994
South Australian Medical Officers Award
South Australian Municipal Salaried Officers Award
TAFE (Educational Staff) Interim Award
Teachers (DECS) Award