

The old and new regimes compared in relation to minimum wage fixation

Former provisions of WRA 1996 relevant to wage fixing [summarised, not reproduced in full]	Current provisions of WRA 1996 as affected by Work Choices relevant to wage fixing [summarised, not reproduced in full]
<p>Objects</p>	<p>Objects</p>
<p>Section 3 - Principal objects of Act</p> <p>To provide framework for cooperative workplace relations which promotes economic prosperity and welfare of people of Australia by</p> <ul style="list-style-type: none"> (a) encouraging pursuit of high employment, improved living standards, low inflation and international competitiveness through higher productivity and a flexible and fair labour market; (aa) (b) .. (c) (d) providing the means: <ul style="list-style-type: none"> (i) for wages and conditions of employment to be determined as far as possible by the agreement of employers and employees at the workplace or enterprise level, upon a foundation of minimum standards; and (ii) to ensure the maintenance of an effective award safety net of fair and enforceable minimum wages and conditions of employment; and (e)... (f)... (g) ... (h)... (i)... (j)... (k)... 	<p>Section 3 – Principal objects of Act</p> <p>Preamble the same</p> <ul style="list-style-type: none"> (a) same (b) establishing and maintaining a <u>simplified national system of workplace relations</u>; and (c) providing an <u>economically sustainable safety net of minimum wages and conditions</u> for those whose employment is regulated by this Act; and (d) ensuring that, as far as possible, the primary responsibility for determining matters affecting the employment relationship rests with the employer and employees at the workplace or enterprise level; and (e) .. (f) .. (g) ensuring that awards provide <u>minimum safety net entitlements for award-reliant employees which are consistent with Australian Fair Pay Commission decisions and which avoid creating disincentives to bargain at the workplace level</u>; (h) .. (i) .. (j) .. (k) .. (l) .. (m) .. <p>Section 23</p> <p>Wage setting parameters: the AFPC is required to promote the economic prosperity of the people of Australia having regard to:</p> <ul style="list-style-type: none"> (a) the capacity for the unemployed and low paid to obtain and remain in employment; (b) employment and competitiveness across the economy; (c) providing a safety net for the low



	<p>paid;</p> <p>(d) 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.</p>
Constitution of AIRC	Constitution of AFPC
s8 – a President, 2 VPs, a number of Senior Deputy Presidents, Deputy Presidents, Commissioners.	Established by s20 Comprised of the AFPC Chair and 4 Commissioners
Functions of AIRC	Functions of AFPC
s8A: AIRC has the functions conferred by the Act The functions include arbitration of disputes (s105) and making awards in settlement of disputes (s111(1)(e)).	<p>s21: AFPC has the following functions:</p> <ul style="list-style-type: none"> (a) the wage setting function in s22 (b) any other functions conferred under the Act (c) any functions conferred by regulations (d) activities to promote public understanding of matters relevant to wage setting and other functions <p>s22 - Wage setting function AFPC to conduct wage reviews and exercise wage setting powers as necessary depending on the outcome of wage reviews</p>
Residual functions of the AIRC	Residual functions of the AIRC
	The wage fixing functions of the AIRC will be confined to those in relation to transitional employees or employees covered by federal awards who are not within the jurisdiction of the AFPC, which is comprised of employees employed by employers not subject to the Cth's legislative control: see clause 8 Schedule 13 and the decision of the Full Bench in National Wage Case: Print PR 966840
Process	Process
s104: Commission to arbitrate industrial disputes	<p>s24</p> <p>The AFPC may determine:</p> <ul style="list-style-type: none"> (a) the timing and frequency of wage reviews; (b) the scope of particular wage reviews; (c) the manner in which those reviews are to be conducted; (d) when wage setting decisions are to come into effect
Procedure	Procedure
<p>s110</p> <p>Procedure of Commission</p> <ul style="list-style-type: none"> (1) Deal with industrial disputes carefully and quickly inquire into all matters etc. (2) In hearing and determination, procedures 	<p>s24(2): For the purposes of performing its wage setting functions, the AFPC may “inform itself in any way it thinks appropriate” including by undertaking or commissioning research; consulting with any other person, body or organization or monitoring or evaluating the impact of its wage setting</p>



<p>subject to the Act and rules but otherwise within the AIRC's discretion</p> <p>(3) Not bound to act in formal manner; not bound by rules of evidence, but may inform itself in any manner in such manner as considers just</p> <p>(4) Shall act according to equity, good conscience and substantial merits of the case without regard to technicalities and legal forms.</p> <p>In practice, the AIRC regarded itself as bound to afford natural justice. It developed a body of principles relevant to award simplification, wage fixing and the safety net. Hearings were conducted in a formal manner on the basis of oral and written evidence.</p>	<p>decisions.</p> <p>s27 AFPC to determine its own procedures in performing its functions</p> <p>s22(4) AFPC's wage setting decisions to be in writing, and include reasons for decision.</p> <p>s26(2) AFPC must publish its decisions and other information about its wage setting functions which it thinks appropriate:</p> <p>But there is no obligation to hold hearings or give notice or afford natural justice.</p>
<p>Representation and intervention AIRC</p> <p>s42 – parties able to be legally represented by leave of Commission</p> <p>s43 – Organization, person or Minister could seek leave to intervene; Commission could grant leave where of opinion the person “should be heard”.</p> <p>s44 – Minister able to intervene in the public interest:</p> <p>(1) in any matter before a FB</p> <p>(2) in a matter involving public sector employment</p> <p>s45 Appeals to FB available with leave</p>	<p>Representation and intervention AFPC</p> <p>No right of representation, hearing or intervention.</p> <p>What right of review ?</p>