9

INDUSTRIAL CONDITIONS

INTRODUCTION

In Victoria, the last fifty years have witnessed the continued evolution of many aspects of industrial conditions, especially in relation to industrial regulation and jurisdiction, industrial organisations, such as trade unions and employer associations, industrial disputation, wage rates and earnings, hours of work, leave, and workers compensation provisions. This Chapter traces these aspects. With the rapid growth in the size and complexity of the labour force in the post-war years (aided by the significant influx of migrants and women), and the economic difficulties experienced since the mid-1970s, major changes have become far more pronounced in the last fifteen years as attempts have been made to find practical solutions to meet long standing and newly emerging problems.

In the field of industrial jurisdiction, the relative power of the Federal system in the setting of minimum wages and the settling of industrial disputes has continued to grow while the State system has declined, with the development of the Commonwealth Conciliation and Arbitration Commission and the Commonwealth Industrial Court (now known as the Federal Court of Australia).

The long standing, complementary Victorian system of Wages Boards and an Industrial Appeals Court was replaced by a new co-ordinating body — the Industrial Relations Commission — in 1981.

The major non-government bodies involved with the industrial jurisdiction system — trade unions and employer associations — have been characterised by steady growth in their membership levels, a strong trend towards the formation and growth of national bodies, and a tendency towards amalgamation, more especially among trade unions. Increasingly, trade unions have come to see their role as not strictly limited to seeking higher wages and better conditions for their members, and have broadened their horizons into looking at ways of enhancing the general welfare, safety, and social well being of their members.

The period under review has seen many new developments in major conditions of employment such as wages, hours of work, and leave provisions. Notable events concerning wage fixing principles have included the replacement of the historically long standing "basic" wage and margins concept by the total wage concept in 1967, implementation of "equal pay for work of equal value" principles during the early 1970s, and the development of wage indexation guidelines in the mid-1970s and their abandonment and restoration in the early 1980s.

Significant reductions in standard hours of work have occurred. While the extension of the 44 hour week was delayed because of the severe economic Depression of the early 1930s, by the end of the 1930s the new standard had come to apply generally. In 1948, a 40 hour week became the norm, and by the late 1970s standard hours in many industries had moved downwards to as low as 35 per week, accompanied by increasing trade union pressure for a standard 35 hour week to be adopted. In addition to a reduction in the total number of working hours there was also a change in the pattern of working hours, with the growing emergence of a variety of flextime arrangements. Leave provisions applicable to workers such as annual leave (including a loading on pay), long service leave, sick leave, and maternity leave have been gradually and significantly liberalised, especially in the post-war era.

The increasing participation of women in the labour force has been recognised by the developments in equal pay and maternity leave and especially by the promotion of equality of opportunity between men and women and the passing of anti-discrimination measures at work on the basis of sex and marital status.

There has been growing recognition of the importance of the maintenance of the occupational safety and health of the labour force, both in terms of its impact on individual workers (through appropriate workers compensation payments) and the adverse effects which a significant incidence of industrial accidents and diseases can have on the efficiency of industry and the economy at large. The responsibilities of the Victorian Government in this field have been expanded significantly.

INDUSTRIAL REGULATION

Jurisdiction

Introduction

In Victoria conditions of employment are regulated partly by awards made pursuant to Commonwealth legislation and partly as a result of State law. The power of the Commonwealth Parliament to legislate on industrial matters is limited by section 51 Placitum XXXV of the Commonwealth of Australia Constitution Act to laws with respect to "Conciliation and Arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State". The power of the State Parliament to legislate with respect to industrial conditions is unlimited.

Section 109 of the Australian Constitution has the effect that a law of the Commonwealth prevails over any law of the State which is inconsistent with the Commonwealth legislation. As interpreted by decisions of the High Court, this provision has resulted in Federal awards being accorded the force of Commonwealth law and thus prevailing over awards or determinations of State industrial authorities which cover the same subject matters.

The Federal system has developed to the present stage where it is predominant in the sphere of industrial regulation throughout Australia. Figures in 1976 showed that Federal awards covered 50.1 per cent of Victorian employees compared with 37.0 per cent under State determinations. The balance of 12.9 per cent were either covered by unregistered collective agreements or were not affected by awards, etc. Key areas where industrial conditions are solely or primarily regulated by State determinations include hospitals, shops, and commercial clerks.

Federal jurisdiction

In 1934, the Commonwealth system of conciliation and arbitration was administered by a tribunal consisting of a Chief Judge, three judges (of whom one had been seconded to other duties), and a Conciliation Commissioner. The tribunal, known as the Commonwealth Court of Conciliation and Arbitration, commonly referred to as the Arbitration Court, exercised both arbitral and judicial functions, and the judges were appointed for life in accordance with section 72 of the Constitution. Basic wage inquiries and variations of standard hours of work were undertaken by the Full Court comprising all three judges. Other matters were, in general, handled by a single judge or the Conciliation Commissioner.

In 1947, an amending Act prescribed that the power to make awards altering standard hours, the basic wage, the period of annual leave, and minimum rates for adult females in an industry was exercisable by the Full Court only. With the exception of purely legal matters and certain matters of practice or procedure, all other matters came within the exclusive jurisdiction of a Conciliation Commissioner sitting alone. Sixteen Conciliation Commissioners were appointed to handle this section of the tribunal's business. Originally there was no appeal from an award of a Conciliation Commissioner, but limited rights of appeal and of referring matters of importance in the public interest to the Full Court were introduced in 1952.

In 1956 in the Boilermakers Case the High Court held that certain sections of the Conciliation and Arbitration Act, which provided for the exercise by the Arbitration Court of powers which were essentially judicial in character, were invalid. To overcome this

situation the judicial and non-judicial functions previously exercised by the Court were split and allocated to two new tribunals established by the *Conciliation and Arbitration Act* 1956. The judicial functions which included the making of orders restraining organisations or persons from committing breaches of the Act or an award, giving interpretations of awards, imposing penalties for breaches of awards, and giving directions for the performance of organisations' rules were vested in the Commonwealth Industrial Court. The Commonwealth Conciliation and Arbitration Commission was established to exercise the non-judicial functions.

Initially, both the Court and Commission operated through the same Registries and the Industrial Registrar fulfilled the duties of Registrar to both tribunals. However, following the establishment in 1976 of the Federal Court of Australia, the jurisdiction and powers vested in the Australian Industrial Court were transferred to the new Court to be exercised in its Industrial Division. Thus, the separation of functions, members, and staff of the two tribunals became complete.

When it commenced on 14 August 1956, the Commission consisted of the President and three Deputy Presidents, all of whom had been and remained judges of the Arbitration Court, and the Senior Commissioner and seven other Commissioners, all of whom had previously held office as Conciliation Commissioners. In addition, the 1956 Act provided for the appointment of conciliators whose functions were limited to conciliation and who were not members of the Commission. Three conciliators were appointed during the Commission's first year. The Act provided that disputes in the maritime and stevedoring industries and in the Snowy Mountains area should be dealt with by a Presidential member assigned by the President. Except for work in those industries the operations of Presidential members were as members of Full Benches either in respect of matters such as basic wage inquiries which were required by the Act to be dealt with by the Commission in Presidential Session, or in reference or appeal proceedings where the Bench was comprised of Presidential members and a Commissioner. Apart from those which the Act required to be assigned to Presidential members, the particular industries or groups of industries which came within the Commission's sphere were allocated by the President among the Commissioners, so that, in general, each industry was handled solely by the one Commissioner.

Following the Act of 1972 the conciliators became members of the Commission as required by the Act. The Commissioners were designated as Arbitration Commissioners or Conciliation Commissioners with their respective functions limited to each area. By the same Act the qualifications for appointment as Deputy President were widened, so that not only legally qualified barristers and solicitors, but also those possessing tertiary education qualifications in law, commerce, and industrial relations, or special experience in industry, commerce, or government service could also be appointed.

The 1972 Act also introduced the panel system of allocation of industries whereby the President places members of the Commission into panels consisting of a Presidential member as panel leader and at least one Commissioner. Industries or groups of industries are assigned to the panels and it is the duty of the panel leader to allocate the work of the members of the panel.

In 1973, the distinction between "arbitration" and "conciliation" Commissioners was repealed. Since then there has been little separation between the functions of conciliation and arbitration which are exercised by all members, both Presidential and Commissioners. However, a member of the Commission who has exercised the powers of the Commission with respect to conciliation shall not take part in arbitration with respect to the same dispute if any party to the proceedings objects to his doing so.

In 1978, the Industrial Relations Bureau was established. Its function as set out in the Conciliation and Arbitration Act is to secure the observance of the Act and the regulations and of awards. It has taken over the functions previously exercised by the Arbitration inspectorate, with more extensive powers.

Since 1934, the Arbitration Court and its successor, the Commission, have been concerned in many cases having wide implications for workers in all States. Included among these were:

(1) the basic wage inquiries which took place in 1934, 1937, 1940 and in almost every post-war year until the introduction of the total wage in 1967;

(2) the Metal Trades Margins cases of 1952, 1957, 1959, and 1967;
(3) the Standard Hours — 40 hour week case of 1947;
(4) the Long Service Leave cases;
(5) the Equal Pay cases of 1969 and 1972;
(6) the Maternity Leave case of 1978-79; and
(7) the Indexation and National Wage Fixation Principles cases of 1975 and succeeding years.

At 31 August 1982, the Commission consisted of the President, 12 Deputy Presidents, and 26 Commissioners. Its proceedings take place in all States and Territories of the Commonwealth and the matters which are lodged in its various registries for attention are increasing with every year of its operation.

Victorian jurisdiction

Since 1896 there has been a system of determination of minimum rates of pay for employees in the private sector in Victoria by Boards consisting of equal numbers of employer representatives and employee representatives together with an independent chairman.

By 1 January 1934, the powers of Wages Boards (as they were then called) had been extended to deal not only with wages but also with a wide range of conditions. One hundred and eighty-one Wages Boards were then in existence, affecting approximately 182,000 workers. Representatives were required to be *bona fide* and actual employers or employees in the trade concerned, and appeals from determinations were heard by the Court of Industrial Appeals. This Court consisted of a President, being a judge of the Supreme Court, and an employers' representative and an employees' representative nominated in writing by the interests they represented and empowered to act only in respect of the appeal for which they were appointed.

The legislation regulating the system of Wages Boards and the Court of Industrial Appeals was contained within the *Factories and Shops Act* 1928, and the administration was generally under the control of the Department of Labour. In 1936, the powers of the Boards were widened to empower a Board to determine any industrial matter whatsoever, and provision was made for the appointment of general Wages Boards for specified trades in respect of which no Wages Board determination was operative.

The classes of persons qualified to act as representatives were gradually widened. In 1934, provision was made for an employers' representative to be nominated to represent employers being corporations or public bodies, and it was provided that where such a nomination was made so that the employers' representative was not a *bona fide* employer in the trade, then one of the employees' representatives should be an officer of a trade union. In 1941, this was further widened to the present prescription whereby employers' representatives were to be either *bona fide* (one who has been nominated in writing and who must have been engaged in the trade concerned for at least six months during the three years immediately preceding his nomination), or actual employers in the trade, or officers of an association of employers or a person nominated to represent employers which are corporations or public bodies, and employees' representatives were to be either *bona fide* and actual employees in the trade, or officers of trade unions.

The provisions for the appointment of chairmen of Wages Boards were changed significantly in 1941. Prior to that year the Act required the employers' and employees' representatives to nominate some other person to be chairman of the Board, and in the event of no such nomination being received within 14 days after the appointment of the members then the Minister should appoint the chairman. This was changed by the *Factories and Shops Act* 1941 which provided for a panel of two chairmen to be appointed by the Governor in Council for a period of five years, and for the Minister to appoint a chairman to each Wages Board from that panel. In 1950, an amending Act provided for the number of chairmen in the panel to be "not more than 3". However, it was not until 1969 that a third chairman was appointed.

The 1941 Act also altered the composition of the appellate court which was renamed the Industrial Appeals Court. It provided that the President would be a judge of the County Court and that the two other members would be persons having industrial experience

appointed by the Governor in Council. In practice the employer representatives and deputies have been senior officers of the Victorian Chamber of Manufactures and the Victorian Employers Federation and the employee representatives have been senior trade union officials. In the 1960s and 1970s, the areas of operation of the Court were extended considerably by legislation, but it remained a part-time tribunal sitting for only a limited period in each month.

Far reaching changes were made by the *Industrial Relations Act* 1979 which came into operation on 1 November 1981. This Act established the Industrial Relations Commission of Victoria, a new body which replaced the Industrial Appeals Court and the Wages Boards with a system under the direction of a President having the status of a judge of the Supreme Court.

All members of the Commission are now full-time officers, and all functions of the Industrial Appeals Court together with a number of additional ones have been taken over by the President and two Commissioners sitting either in full session or alone. The Act renamed the Wages Boards as Conciliation and Arbitration Boards and granted to these Boards further powers to settle industrial disputes by conciliation or arbitration in addition to the primary functions of making awards. The chairmen of the Boards are members of the Commission.

Other important changes effected by the 1979 Act included provision for the making and registration of industrial agreements, the certification of "Recognised Associations" of employers or employees, and the establishment of an independent Registrar.

In the Victorian Public Service there were significant changes in 1940 and 1946. As a result the old Board of three Commissioners was replaced in 1946 by a three member Public Service Board vested with powers of appointment and wage and salary fixing responsibilities which had previously been the prerogative of the Victorian Parliament and the Executive. The functions and powers of this Board were last revised in the *Public Service Act* 1974.

An Industrial Relations Task Force which is a Cabinet Sub-committee was set up in 1982, comprising six members, five of whom were Ministers. Its objective was to co-ordinate and deal with industrial matters involved in major government projects.

INDUSTRIAL ORGANISATIONS

Overview

In Victoria, most of the trade unions and the major employer associations are registered organisations under the Commonwealth Conciliation and Arbitration Act. As there is no provision within the State system for the registration of associations as industrial entities, Victoria has not experienced any of the problems of dual Federal and State registration of organisations which are typified by the case of *Moore v Doyle*, where it was held that the Transport Workers Union of Australia, New South Wales Branch, was a separate legal entity distinct from the Federal organisation, the Transport Workers Union of Australia.

Since 1934 there has been a steady growth in the membership of trade unions and employer associations, and the period has been characterised by a strong trend towards the formation and growth of national bodies.

Trade unions

In 1934, trade unions were in a weakened condition by reason of the economic depression and resultant deterioration of industrial conditions. Large-scale unemployment and wage cuts had led to a marked decline in membership. Since that year the situation of trade unions in Victoria has strengthened considerably. Of the 173 unions in Victoria in 1980, 93 unions were affiliated with the Victorian Trades Hall Council (VTHC), representing over 500,000 members, and there are eight provincial trades and labour councils associated with the Council.

The majority of unions affiliated with the VTHC are national unions registered as organisations under the Commonwealth Conciliation and Arbitration Act. However, in certain areas such as breadmaking, cigarette manufacture, and the printing of metropolitan daily newspapers, the unions concerned were not registered under the Federal Act during

most of the period since 1934, but they were affiliated with the VTHC. Other non-registered affiliates include unions of secondary and technical school teachers.

Prior to 1934 employee representatives on Wages Boards were restricted to actual and *bona fide* employees in the trade. However, amendments made to the Factories and Shops Act in 1934 and 1941 widened the qualifications of such representatives to include officers of an association of employees connected with the trades. The increasing practice since then has been for union officials to be appointed as employee representatives. After the Industrial Appeals Court was reconstituted in 1941 the employee representative of the Court and his deputy were invariably the Secretary of the VTHC or a senior trade union official. Most of the advocacy on behalf of employees in appeals to the Court against Wages Board determinations has been undertaken by union officers. The role of trade unions in the State system was further acknowledged by Part V of the *Industrial Relations Act* 1979 which provides that associations recognised under the Act are entitled to nominate persons for appointment to Boards, to be kept informed of proceedings of such Boards, to appear before the Board, and to enter into an industrial agreement.

In the public sector the Victorian Public Service Association which represents most officers and employees in Victorian Government departments and the Hospital Employees Federation have throughout the period been actively concerned in proceedings before the Public Service Board. The Police Association has represented its members before the Police Service Board, while the Associations of State School and Technical Teachers have been increasingly active in supporting the claims of their members.

A feature of post-war years has been the diminishing of some old craft unions and the tendency of unions to amalgamate. A notable example is the Amalgamated Metal Foundry and Shipwrights Union which is an amalgamation in total of at least seven trade unions which in 1934 covered the separate crafts of fitter, boilermaker, blacksmith, sheetmetal worker, agricultural implement maker, oven and stove maker, and shipwright. That organisation became the largest trade union in Australia in 1972 when the merger of three unions was completed, and following further mergers its membership by October 1983 stood at approximately 162,000.

The national organisation of trade unions has developed enormously. Although by 1934 the Australian Council of Trade Unions (ACTU) had become recognised as the official voice of the unions before the Arbitration Court, it was then only seven years old. It had no full-time officers and the largest union in Australia, the Australian Workers Union, was not affiliated with it. Union membership was low and by the commencement of the war it amounted to little more than 10 per cent of all union members.

Industrial activity during wartime and the immediate post-war years resulted in a big increase in the activity of the ACTU which was the co-ordinating body of the union movement in major cases for increased pay and shorter working hours. In 1943 its first full-time officer position, that of Secretary, was created. In 1947 Congress was made the supreme governing body of the ACTU and the provision requiring ratification by State branches of the decisions of Congress was deleted. In 1949 the second full-time position, that of President, was created. In 1956 the ACTU was reconstructed with the halving of representation of the State Councils and the addition of representatives of six industry and service groupings elected by Congress delegates within those groupings. In 1967 the Australian Workers Union sought and obtained affiliation with the ACTU and was allocated an industry grouping and hence direct representation on the executive.

The ACTU expanded its activities to include certain business ventures. In 1970 it entered into an arrangement for the joint ownership of Bourkes Pty Ltd, a discount retail store in Melbourne. This arrangement was discontinued in 1980. In 1973 it ventured into the provision of holiday and travel services, and in 1978 this was further expanded when ACTU Jetset Travel Service was formed. In 1975 it entered the field of discount petrol selling when ACTU-SOLO was formed.

Social and education activities of trade unions in Victoria have included the establishment of a Trade Union Clinic and Medical Research Centre, and the inauguration of an Arts and Creative Arts Committee of the VTHC. Trade union training courses have been in operation at the Victorian Centre of the Trade Union Training Authority (TUTA) in Carlton since 1977 and at the Clyde Cameron College in Wodonga. A major initiative, in

an attempt to reduce the incidence of industrial accidents and diseases, was taken in 1981 with the establishment of the ACTU-VTHC Occupational Health and Safety Unit.

There has been a marked growth of white collar workers as a proportion of the total labour force since 1934 as well as a large increase in the membership of white collar unions in such fields as banking and insurance. A number of active unions such as the Association of Architects, Surveyors and Draughtsmen (now named "Association of Draughting Supervisory and Technical Employees"), and the Federation of Air Pilots was formed during the period, including in 1956 the Australian Council of Salaried and Professional Associations (ACSPA). This became the peak central labour organisation for white collar workers. In 1979 it had 16 affiliated associations within its Victorian division.

Since 1934, there has been a large growth in the Commonwealth Public Service with a consequent increase in the membership of Public Service unions. Throughout this period there has been a peak council of Public Service unions originally named the High Council of Commonwealth Public Service Unions, but later called the Council of Australian Government Employee Organisations (CAGEO). In September 1981, CAGEO ceased to exist and the member unions affiliated with the ACTU, forming the Australian Government Employees (AGE) section of the ACTU. In 1983, the AGE section comprised 24 unions with a total union membership of 229,000.

In September 1979, ACSPA merged with the ACTU and was granted three executive positions on the Council. However, one of the largest ACSPA affiliates, the Australian Bank Employees' Union voted against affiliation and did not join the ACTU, and teachers' unions in Tasmania and South Australia also withdrew. Nevertheless, the merger brought the total of unionists affiliated to the ACTU to more than two million.

TRADE UNIONS: NUMBER AND MEMBERSHIP, VICTORIA, 1935 TO 1982

Year	Number of separate unions	Members			Percentage of wage and salary earners *(a)*		
		Male	Female	Persons	Male	Female	Persons
		'000	'000	'000			
1935*(b)*	147	159.1	40.0	199.1	36	23	32
1940*(c)*	147	190.2	42.1	232.3	39	22	35
1945	139	232.5	74.2	306.6	43	34	40
1950	152	325.2	81.1	406.3	61	35	53
1955*(d)*	160	357.5	88.9	446.4	41	37	54
1960	157	381.1	98.1	479.2	58	35	51
1965	156	418.0	119.8	537.8	56	37	50
1970*(e)*	169	439.9	155.2	595.1	52	34	46
1975	171	507.5	218.9	726.5	59	43	54
1980*(f)*	173	523.6	246.6	770.1	59	45	53
1981	173	522.9	248.8	771.7	58	45	53
1982	175	533.4	256.7	790.1	61	46	55

(a) The estimated total number of employees, including juniors, in receipt of wages or salaries. This includes persons such as those in professional occupations who may not be eligible for membership in trade unions. In addition, persons who were unemployed were included in this figure up to 1950. Due to the changes which occurred in the calculation of the total number of wage and salary earners [see footnotes *(b)* to *(f)*], and the difficulty in obtaining a standardised reporting system from the trade unions, the figures should be only regarded as approximate and comparisons between different periods prior to 1975 should be avoided.

(b) For 1935 the number of wage and salary earners was calculated by using estimates derived from the 1921 Population Census.

(c) From 1940 to 1950 the number of wage and salary earners was based on data obtained largely from the National Register of 1939, the Civilian Register of 1943, the Occupation Survey of 1945, records of the Defence Forces, and details from the latest available Population Census.

(d) From 1955 to 1978, the number of wage and salary earners was based on payroll tax data and estimates for the rural industry and female private domestic services were obtained from the latest available Population Census. From 1955 persons who are unemployed are excluded.

(e) Figures from 1970 were subject to a review which resulted in a few additional unions being included which had previously been excluded due to their status as unions being in doubt, new unions being created, and some existing unions reporting for the first time.

(f) From 1979, the number of wage and salary earners has been based on the Labour Force Survey.

Employer associations

Industrial relations formed a comparatively minor portion of the activities of employer associations in 1934. At that time business was starting to recover from the Depression, but unemployment was still high, and membership of employer bodies was small. Very few employer associations were registered as organisations under the Commonwealth Conciliation and Arbitration Act, and employer representation on State Wages Boards was limited to "bona fide and actual employers in the trade concerned".

In 1941, amendments were made to the Factories and Shops Act which significantly

increased the role of employer associations in the Victorian industrial system. The classes of eligibility for appointment as representatives of employers on Wages Boards were widened to include officers of an organisation of employers concerned with the trade concerned, and provision was made for nominations for prospective appointees to be made by an association of employers. As a result of these provisions an increasing number of employer representatives were made on the nomination of an employers' association and the influence of employer associations on the proceedings of Wages Boards has increased considerably.

The other significant amendments concerned the reconstitution of the appellate court as the Industrial Appeals Court. Provision was made for appointment as a member of the Court of a person having industrial experience to represent employers. This provision granted the appointee a continuous tenure for a period of five years which contrasted with the pre-existing position whereby the employer and employee representatives were appointed for the particular appeal only from representatives of the Wages Board from which the appeal was derived. The practice since 1941 has been for senior industrial officers of the Victorian Chamber of Manufactures and the Victorian Employers Federation to be appointed as employer representative and deputy representative. The participation of employer associations in the system has been acknowledged by the provisions as to the certification of recognised associations in Part V of the *Industrial Relations Act* 1979.

There has been a steady increase in the participation of employer associations in the Commonwealth system of conciliation and arbitration since 1934. Most of the larger of these associations have become registered as organisations under the Commonwealth Conciliation and Arbitration Act. The Victorian Chamber of Manufactures achieved registration in 1941, and the Victorian Employers Federation in 1961. Other associations which have registered as organisations under the Federal Act since 1934 include the Victorian Automobile Chamber of Commerce, the Master Builders Association of Victoria, and the Retail Traders Association of Victoria. All of these associations are also members of unregistered national federations of associations such as the Associated Chambers of Manufactures of Australia.

Victorian employer associations have been slower to merge or to form national registered organisations than have trade unions. However, in the area of agricultural industry substantial amalgamations have been achieved, culminating in a merger in 1979 of the Victorian Farmers Union, the United Dairy Farmers of Victoria, and the Graziers Association of Victoria to form the Victorian Farmers and Graziers Association. Examples of the formation of national employer organisations which, since 1970, have included Victorian associations within their branches have been the Printing and Allied Trades Employers Federation and the Metal Trades Industry Association of Australia.

There was a marked development towards national employer co-ordination in industrial matters after the Second World War. National industrial cases such as the 40 hour week standard hours inquiry in 1947 and the basic wage and margins cases in the early post-war years caused employers to form a group to determine policy and plan employer submissions. Originally this was administered through a steering committee chaired by the chief industrial officer of the Victorian Chamber of Manufactures. In 1961 the National Employers Association (NEA) was formally constituted, comprising some 36 employer associations. The NEA formulated broad policies, but operated mainly through two committees, the National Employers' Policy Committee (NEPC) and the National Employers' Industrial Committee (NEIC). The NEPC directed the conduct of employer submissions in national wage cases and became recognised as the employers' equivalent of the ACTU.

In the 1970s there was a substantial merging at national level of the various manufacturers' organisations. The Associated Chambers of Manufactures of Australia and the Australian Council of Employers Federations formed the Central Industrial Secretariat to consolidate the industrial activities of both organisations. In 1977 the organisations merged fully to form the Confederation of Australian Industry (CAI). In addition to the various chambers of manufactures and employers' federations which were foundation members, the CAI admitted as inaugural members the bulk of the national associations affiliated with NEA. In industrial matters it operates through its Industrial Council. The CAI has supplanted NEA as the national employer umbrella organisation in industrial matters.

INDUSTRIAL DISPUTES

Introduction

As Australia entered the 1980s it was operating at a high plateau of industrial disputation and Victoria was no exception. This development had occurred despite the continued operation of the system which was established to prevent or settle disputation by conciliation or arbitration. Direct action has become more sophisticated. Unions now give more attention to the use of selective bans, work to rules, go slows, and other methods which allow all or most of their members to remain at work but which have a major impact on output.

A feature of the most recent period has been the increasing incidence of strikes as an element in bargaining whether the disputes concern wages or any other issue. Many such stoppages have caused widespread inconvenience to the public and brought about stand downs of employees in other industries. The secondary effects of industrial disputes such as rail and power strikes, can be substantial and significant. Another development has been the use of stoppages as a protest against unpopular legislation affecting unionists. In Victoria, a campaign in 1980 by the Trades and Labour Council against amendments to the Workers Compensation Act used successive 24 hour strikes by different unions in seeking to persuade the Victorian Government to reverse the changes.

Studies show that Victoria was experiencing a much higher plateau of industrial disputation during the late 1970s and early 1980s than at any other time during this century. The number of working days lost due to the effects of industrial accidents and diseases was greater than the number lost due to the occurrence of industrial disputes.

Evaluation of disputes

Data which would allow a detailed evaluation of industrial disputes over the whole period under review are limited. Comparisons of such indicators as numbers of disputes, workers involved, and working days lost may be misleading over long periods, unless related to changes occurring in the numbers of wage and salary earners employed.

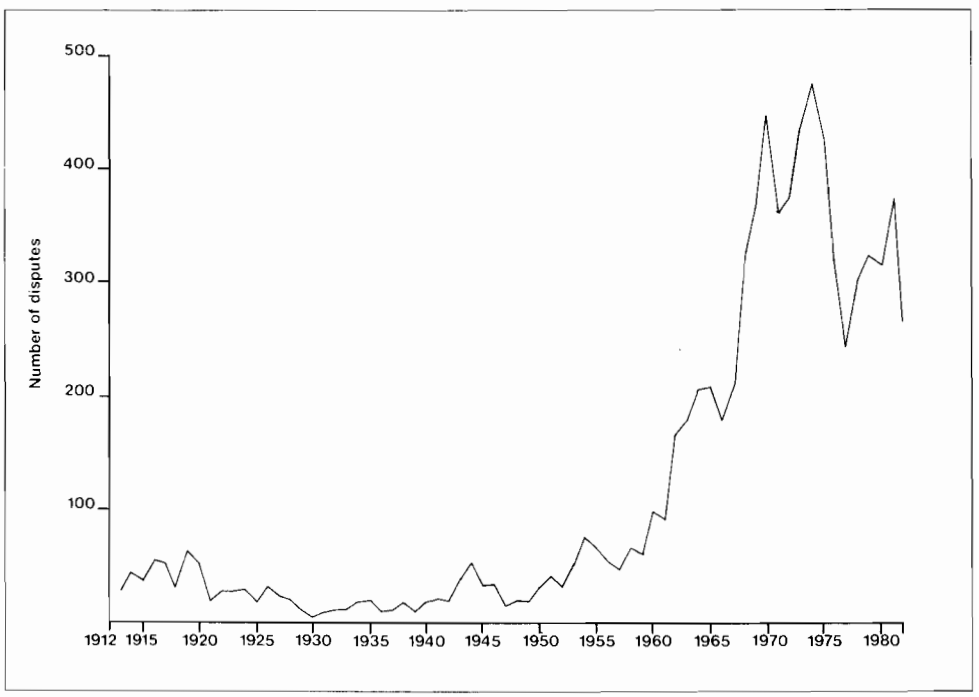

FIGURE 10. Victoria—Number of industrial disputes, 1913 to 1982.

Comparisons of wages lost needs to be seen not only in the context of changes in total employment but also movements in average earnings. Official statistics which would allow precise studies to be made along these lines are not available for the full period from 1934 to 1982.

Some observations need to be made on the limitations of the statistics that are available. They do not reflect stoppages of less than ten man days, stand downs of employees except at establishments where the stoppages occur, due to disputes, bans, or limitations on performance of work, or the economic impact of any form of industrial action, and do not count secondary effects.

Although each aspect of the published statistics holds interest, lost time statistics provide a helpful indicator of change in the level of industrial disputation. Despite the gaps that exist and the qualifications that have to be made on the data used, annual figures of working days lost give a perspective of changing employment levels.

Statistics set out in the following table showing number of disputes and workers involved confirm the acceleration which started in the 1960s and continued in the 1970s:

INDUSTRIAL DISPUTES: VICTORIA, 1935 TO 1982 *(a)*

Year	Number of disputes	Workers involved *(b)*	Working days lost		
			Number	Average days per worker involved	Working days lost per 1,000 employees *(c)*
		'000	'000		
1935	20	7.9	45.7	5.8	n.a.
1940	19	8.7	108.0	12.5	n.a.
1945	34	29.2	51.2	1.8	*(d)* 93
1950	33	74.0	1,208.4	16.3	1,658
1955	66	35.5	138.5	3.9	171
1960	98	86.0	102.8	1.2	112
1965	208	121.8	214.3	1.8	206
1970	447	333.0	510.8	1.5	410
1975	424	570.9	1,221.7	2.1	910
1980	315	538.3	1,115.4	2.1	*(e)* 792
1981	376	405.0	1,235.5	3.1	865
1982	266	117.2	368.0	3.1	260

(a) Refers only to disputes involving a stoppage of work of 10 man-days or more.
(b) Includes workers indirectly involved, i.e., those out of work at the establishments where the stoppages occurred but who were not themselves parties to the dispute.
(c) The formula used for the calculation of these was: $\frac{\text{total number or working days lost x 1,000}}{\text{total number of wage and salary earners}}$
(d) The Australian Bureau of Statistics (ABS) wage and salary earners series commenced in July 1941. The series relates only to civilian wage and salary earners and thus excludes employers, self employed persons, unemployed persons, unpaid helpers, and the defence forces. Also excluded are employees in agriculture and private domestic service. However, working days lost due to disputes in agriculture are included in the calculations.
(e) Figures from 1979 are based on estimates of the labour force as derived from the ABS Labour Force Survey.
NOTE. Estimates in the above table may be affected by breaks in the wage and salary earners series. For details of the breaks see footnote to the "Civilian employees" table. For this reason figures presented in the above table should be treated with caution and should be regarded as showing broad estimates only.

Since the 1930s, there have been substantial changes in the contribution of different industries to the level of industrial disputation. These changes are difficult to quantify due to the industry classifications being altered significantly from 1968-69 to conform with the Australian Standard Industrial Classification (ASIC).

Trends in disputes

In the earlier years one or two long running disputes would tend to dominate the statistics. For instance, in 1934 a single dispute over an allegation of underpayment by wheelers at the State Coal Mine, Wonthaggi, ran for four months and accounted for 70,000 man-days of lost production in a State total for the year of about 109,000. Taken in the context of the period in which each occurred, five individual years of peak strike activity stand out, namely 1946, 1947, 1950, 1974, and 1979. The first two were the result of wage claims particularly in metal trades and public transport following the relaxation of wartime controls. The first year when over one million man-days were lost (1,208,365 lost days) occurred in 1950 and was mainly due to a 59 day bus and tram stoppage and a 55 day rail stoppage (1,157,785 lost days). The total days lost in stoppages for 1950 were

greater than the combined total days lost for the years 1951 to 1963. The next million mark year was not reached until 1974 (2,386,600 lost days). This was the last year of a concerted campaign for higher wages which commenced in the early 1970s. The campaign which was backed by industrial action coincided with a rapid acceleration of the inflation rate. Metal trades stoppages alone exceeded 1,000,000 lost days in that year.

It was not until the 1960s that annual working days lost moved permanently into six figures. Indeed as late as 1957 the total days lost was only 13,444. In the ten years to 1960 the average annual result was 85,349 working days lost. In the next ten years the average had risen to 271,871 and in the ten years ending 1980 the average exceeded 1,000,000.

It is interesting to note that the average days lost per striking worker markedly declined until the 1970s and even the recent figures are well below the pre-Second World War era. In the 21 year period prior to 1934 the annual average was 18.5 lost days per striking worker. The lowest ranking period was 1957 to 1972 when the range of annual figures fell between 1.1 and 2.2 days and averaged 1.6 days over the 16 years. Figures since 1972 have ranged between 2.1 to 4.9 lost days per striking worker and seem to be on a rising trend. The relatively low number of days lost per worker is consistent with Australia's reputation of having a high incidence of strikes of short duration. The latter fact is partly attributed to the operation of the conciliation and arbitration system which intervenes to assist in the resolution of the issues giving rise to the dispute.

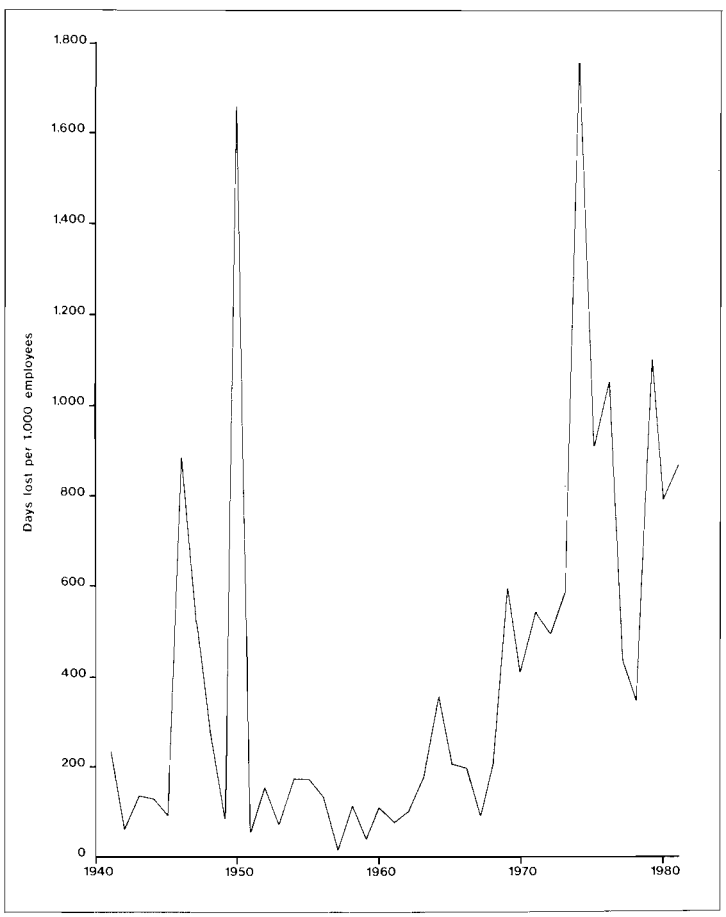

FIGURE 11. Victoria—Working days lost per 1,000 employees, 1941 to 1981.

WAGE RATES AND EARNINGS

Introduction

The years since 1934 have seen a number of important changes in wage fixing principles. In 1953, automatic quarterly cost of living adjustment was discontinued; the total wage came into being in 1967; by 1975 equal pay for the sexes became a reality; between 1975 and 1981, a coherent set of rules, known as the indexation principles formed the basis of wage determination; in July 1981, these principles were abandoned and the fixing of wages reverted to a more decentralised arrangement. In the September 1983 National Wage Case the wage indexation principles were restored and the fixing of wages reverted to a centralised arrangement.

Until 1967, award wage rates generally consisted of two distinct components — basic wage and secondary wage or margin. The basic wage was not only the lowest wage payable for unskilled work, but also the common "foundational" element in all award rates. Skill, responsibility, and other special requirements to work attracted a margin additional to the basic wage. In 1967, the two parts of the wage were compounded into a single "total wage" for each award classification. The minimum wage concept introduced the previous year as an interim measure to protect the "low wage earner" was confirmed as constituting the limit below which no adult male under a Federal award should be paid.

Although the "foundational" aspect of the basic wage was an important factor in the development of national wage adjustments for "economic reasons", its abandonment in 1967 did not impair the continuance of what had by then become a well established practice. National wage adjustments were henceforth applied to total wages. The new approach was justified by the Commission in the following terms:

> "This new approach will ensure that under our awards wage and salary earners will annually have applied to them the increases for economic reasons which it is common ground they may normally expect and the increases will be applied to the whole wage instead of only to part as at present. We are sure that in work-value cases the fixation of total wages will bring to award-making both greater flexibility and greater reality. The minimum wage will give better protection to those whose needs are greatest, namely, those whose take-home pay would otherwise be below the standard assessed by the Commission and will give the Commission more flexibility in assisting them because we will have more scope to give them special consideration." (118 Commonwealth Arbitration Reports p.658)

Basic wage, 1934 to 1967

The significance of the basic wage as the instrument of national wage adjustments for "economic reasons" goes back to 1931 when Federal award rates were reduced by 10 per cent. The basic wage was first determined in the 1907 Harvester case by Mr Justice Higgins as a "fair and reasonable" wage to meet the "normal needs of the average employee regarded as a human being living in a civilized community". Prior to 1931, the basic wage stood at its original 1907 Harvester level in real terms plus an amount of 30 cents, known as the "Powers 3 shillings", named after Mr Justice Powers who awarded it in 1921 to compensate wage earners for the lag in wage adjustment behind price increases. Between 1914 and 1922, the Harvester real equivalent was maintained by annual adjustment in the basic wage in relation to changes in an index of retail prices covering food, groceries and rents of all houses, known as the "A" Series; and in 1923 (17 Commonwealth Arbitration Reports p.376), the practice of automatic quarterly adjustments in relation to this index came to be applied generally.

The progressive extension in the jurisdiction of the Court and its indirect influence on the determinations of State jurisdictions, meant that a basic wage change and the resulting change in the general level of wages could have important national economic implications. Accordingly, in coming to its decision to cut wage rates under its award by 10 per cent in 1931, the Court took account of the depressed capacity of the economy to recover. Since then, although the "needs" aspect of the basic wage has not been discarded, basic wage decisions have emphasised national economic capacity considerations. This is evident from a succession of basic wage inquiries since 1931.

Building workers march up Bourke Street, Melbourne, to protest against increased health insurance charges in 1981.

Australian Building Construction Employees and Builders' Labourers Federation

Mr Clarrie O'Shea, Victorian Secretary of the Tramway and Motor Omnibus Union, being escorted to Pentridge Prison on 15 May 1969 for "Contempt of Court". His arrest resulted in nation-wide union protest and ultimately led to the repeal of the penal provisions of the Commonwealth Conciliation and Arbitration Act.

The Herald and Weekly Times Ltd

Last Week's Daily Net Sales—354,071

OFFICIAL FORECAST. — City: Cooler, some showers.

BOOMERANG

The Herald

108th Year

FINAL LAST EXTRA

MITCHELL'S BRUSHWARE AT ALL STORES

No. 21,934 | MELBOURNE, MONDAY, SEPTEMBER 8, 1947 | 32 PAGES. Price 2d.

40-HOUR WEEK FROM JANUARY

But Court Says "No Overtime Ban"

JUDGMENT AFTER 2-YEAR HEARING

Forty hours will be Australia's standard working week from the first pay period in January.

This is the decision of the Federal Arbitration Court, announced today.

The court, however, added that reasonable overtime should be worked, and that there should be no overtime bans.

The court did not specify the number of days in which the 40-hour week should be worked; but left it to the judge or commissioner in charge of each industry.

Explaining why the court had fixed January for introducing the 40-hour week, the judges said that it had long been considered that it would be necessary to steady

Took Big Mass Of Evidence

INTRODUCING the judgment, the three judges point out that more than 22 months have passed since the case began in November, 1945.

READING THE JUDGMENT on the 40-hour case, Judge Foster was photographed in his chambers today before entering the court. He is surrounded by piles of transcript and shorthand evidence which comprised nearly 4½ million words. The case was the biggest ever heard by the Arbitration Court. The hearing began in November, 1945.

NSW Eggs Hatched In U.S.

Australian Associated Press

UPLAND (California),

17 Arrested In Plot To Bomb London

Shortage Of Power For Years—P.3.

Jews Land At Hamburg

PRICE OF TIN INCREASED

FOURSOMES GOLF

Newspaper headlines announce the granting of the 40 hour week to Australian workers in 1947.

The Herald and Weekly Times Ltd

Sir John Moore (centre), President of the Conciliation and Arbitration Commission, reads out a wage indexation decision.

The Herald and Weekly Times Ltd

BASIC WAGE: WEEKLY RATES, FIXED BY THE CONCILIATION AND ARBITRATION COMMISSION, MELBOURNE, 1935 TO 1967

Operative at 31 December	Weekly adult rate	
	Males	Females
	$	$
1935	6.60	*(a)*
1940	8.40	*(a)*
1945	9.80	*(a)*
1950	16.20	12.15
1955*(b)*	23.50	17.60
1960*(c)(d)*	27.50	20.60
1965*(d)(e)*	30.70	23.00
1967	*(f)*	*(f)*

(a) Prior to December 1950, the relationship of female basic wages to male basic wages varied from award to award but was generally between 54 and 56 per cent. As a result of the 1949-50 basic wage inquiry the then Commonwealth Court of Conciliation and Arbitration fixed the basic weekly wage for adult females at 75 per cent of the corresponding male rate.
(b) The basic wage in 1955 remained at the level reached at the August 1953 quarterly adjustment. The 1953 adjustment represented the end of the system of regular quarterly adjustments which was introduced in 1921.
(c) The basic wage in 1960 remained at the level reached at the June 1959 adjustment.
(d) Rates declared subsequent to any inquiry as distinct from automatic adjustments in accordance with a price index.
(e) The basic wage in 1965 remained at the same level reached at the June 1964 adjustment.
(f) In July 1967, basic wages and margins were eliminated from Commonwealth awards and total wages introduced. Following this decision, award rates for adult males and adult females have been increased at various times by granting general increases in award total wages.

Basic wage inquiries

1934. This marked a "fresh starting point" for the basic wage. Economic recovery since 1931 made possible restoration of a substantial proportion of the 10 per cent cut, allowing the basic wage to revert to the Harvester level in real terms. Quarterly automatic adjustments were henceforth to be based on the "C" Series Retail Price Index — a more comprehensive and more representative index of wage earners' consumption patterns than the "A" Series.

1937. On the evidence of improved economic capacity, the Court restored the 1929 pre-Depression purchasing power of the average basic wage for the six capital cities. The increase averaged about 7 per cent and was awarded as a "prosperity loading".

1940. The importance of economic considerations was given added force with the outbreak of the Second World War. In the words of the Chief Judge, "More than ever before wage fixation is controlled by the economic outlook". Union applications for an increase in the real value of the basic wage were deferred indefinitely. The Court commended the proposed child endowment scheme announced by the Commonwealth as a means of alleviating the hardship being experienced by lower paid wage earners with families.

1946. The applications stood over in 1940 were relisted. The Court awarded an increase of 70 cents (7 per cent) in the basic wage as an interim amount pending the completion of the unions' claim for shorter standard hours.

1949-50. The case begun in 1940 was finally concluded by this inquiry which followed the reduction of standard hours from 44 to 40 a week in 1948. By a majority decision, the basic wage was increased by $2 (14 per cent) and the prosperity loading of 1937 was compounded into the adjustable portion of the wage. Economic considerations were once again paramount and it was repeated that the basic wage should be fixed at the highest level which the economy could sustain. However, for the first time in its history, the Court was confronted with having to determine economic capacity in peacetime in circumstances of low unemployment, prosperity — especially in the export sectors — and serious inflation. While the inflation did not deter the majority of the Bench from awarding a substantial basic wage increase, the dissenting Chief Judge was of the opinion that in these conditions, any rise in the basic wage standard would endanger the economy.

1952-53. In September 1953, the system of automatic quarterly adjustments of the basic wage, which had been applied since 1923, was discontinued. The Court reasoned that acceptance of "economic capacity" as the main principle in basic wage determination had made such a system inappropriate because "there is no ground for assuming that the capacity to pay will be maintained at the same level or that it will rise or fall co-incidentally with the purchasing power of money" (77 Commonwealth Arbitration Reports p. 497), especially in an economy highly dependent on exports and imports. The Court also supported its decision to abandon the automatic system on the ground that "It has undoubtedly been an accelerating factor in the rapid increase in prices which has afflicted Australia, notably in the years 1951 and 1952". (77 Commonwealth Arbitration Reports p. 498)

Since 1956, the Court (and its successor, the Commission) began the system of annual national wage inquiries in which various economic indicators, including price movements, formed the basis of the tribunal's assessment of national economic capacity to sustain general wage increases. The unions continued to press for a restoration of automatic quarterly "cost of living" adjustments and in 1961 the Commission announced a system by which the level of the real basic wage would be determined on the basis of "a review of the economy generally and in particular of productivity increases" to be undertaken every three or four years. In the intervening years, the basic wage would be adjusted annually to the movement in the Consumer Price Index (CPI) unless the Commission was "persuaded to the contrary by those seeking to oppose the change". Because of the stability in the CPI during 1962 and 1963 no change was made in the basic wage, but in 1964 the Commission reverted to the principle of annual reviews. This principle was continued following the move to the total wage in 1967.

Margins

The history of margins determination is outlined in the 1954 Metal Trades Case. In the years between 1934 and 1967, margins were adjusted from time to time on a case-by-case basis, with metal trades margins as the pace-setter for margins generally. Recognition by the Court of this fact and of the increased speed of flow-on from metal trades margins, led to a shift of primary emphasis from consideration of the economic capacity of the metal industry to that of industry generally. The effect of the leading margins decisions since 1934 has been to correct the compression of relativities between skilled and unskilled wages caused mainly by the intervening increases in the basic wage element. In particular, the 1954 Metal Trades Case resulted in the "2 ½-times" formula which was generally applied to restore the 1937 relativities between skilled and unskilled rates.

Total wage

The logic of the move to the total wage concept referred to earlier, lay in a recognition that the determination of both the basic wage and the pace-setting metal trades margins were in the nature of national wage cases, resulting in general wage adjustments based on national economic reasons. It was intended that annual total wage adjustments would result in only minor adjustments in local wage cases. However, large increases in wages at industry and plant levels persisted, thus duplicating the economic increases being awarded in annual national wage cases. In its 1972 national wage decision, the Commission referred with some concern to the continuance of "a three-tiered wage system whereby the overall movements may come from national wage cases, industry cases and overaward payments", a state of affairs it described as a problem which may be insoluble except by some consensus of view reached between the interested parties either inside or outside national wage proceedings.

In 1974, in rejecting the unions' claim for the restoration of automatic quarterly adjustments, the Commission noted that in the "absence of an acceptable consensus", it had little alternative "but to treat indexation as adding a new tier to the available methods of wage fixation". (157 Commonwealth Arbitration Reports p. 293) It called for a conference of the principal parties, chaired by the President, "to see whether consensus can be reached on the two interacting issues — wage fixation methods and indexation". However, the conference failed to establish consensus.

MINIMUM WEEKLY WAGE RATES FIXED BY THE COMMONWEALTH CONCILIATION AND ARBITRATION COMMISSION: MELBOURNE, 1967 TO 1975

Operative date *(a)*	Wage rates for adults	
	Males	Females
	$	$
1967 — 1 July	37.45	*(b)*
1968 — 25 October	38.80	*(b)*
1969 — 19 December	42.30	*(b)*
1971 — 1 January	46.30	*(b)*
1972 — 19 May	51.00	*(b)*
1973 — 29 May	60.00	*(b)*
1974 — 23 May	68.00	*(c)* 57.80
— 30 September	..	*(d)* 61.20
1975 — 1 January	76.00	68.40
— 15 May	*(e)*	*(e)*

(a) Rates are operative from the beginning of the first pay period commencing on or after the date shown.
(b) Minimum wages for adult females were introduced for the first time on 23 May 1974.
(c) The Commonwealth Conciliation and Arbitration Commission set the female minimum wage at 85 per cent of the adult male minimum amount.
(d) The female minimum wage was set at 90 per cent of the adult male minimum amount.
(e) A system of wage indexation was introduced at this date.

Indexation, 1975 to 1983

In April 1975, subject to substantial compliance by the parties, the Commission tentatively proposed a set of principles which included: quarterly wage adjustments in respect of movements in the Consumer Price Index, annual adjustments based on national productivity movements, catch-up for 1974 community wage movements, and pay increases on account of work value changes. These "indexation principles", as they came to be called, were confirmed in September 1975. A number of refinements were made in reviews of the principles in May 1976, September 1978, and March 1980. Half-yearly instead of quarterly Consumer Price Index adjustments were introduced in September 1978.

The indexation principles, have generally also been followed by State tribunals and mark a major step in the direction of an orderly and centralised system of wage determination. In embarking on this step the Commission noted that the submissions of the parties implied that:

"The Commission should act in a way which will promote economic recovery in a socially equitable and industrially harmonious way. To strike the right balance between economic, social and industrial considerations is a difficult task, particularly when important differences exist on the causes of the economic difficulties and how the Commission should act in the current economic circumstances. But this is the task which is reposed in the Commission by the Act under which it works." (167 Commonwealth Arbitration Reports p.18)

The national wage decisions of the Commission since April 1975 are contained in the following table:

AWARD WAGE RATES: FEDERAL AWARDS, MELBOURNE, 1975 TO 1983

Operative date *(a)*	Adult males and females	
	General increase in weekly award total wage	Minimum weekly wage
		$
1975–15 May	3.6 per cent	80.00
30 June *(b)*	..	80.00
18 September	3.5 per cent	82.80
1976–15 February	6.4 per cent	88.10
1 April	$5.00	93.10
15 May	3.0 per cent	95.90

AWARD WAGE RATES: FEDERAL AWARDS, MELBOURNE, 1975 TO 1983—*continued*

Operative date *(a)*	Adult males and females	
	General increase in weekly award total wage	Minimum weekly wage
		$
15 August	1.5 per cent	98.40
22 November	2.2 per cent	100.60
1977–31 March	$5.70	106.30
24 May	1.9 per cent	108.30
22 August	2.0 per cent	110.50
12 December	1.5 per cent	112.20
1978–28 February	1.5 per cent	113.90
7 June	1.3 per cent	115.40
12 December	4.0 per cent	120.00
1979–27 June	3.2 per cent	123.80
1980– 4 January	4.5 per cent	129.40
14 July	4.2 per cent	134.80
1981– 9 January	3.7 per cent	139.80
7 May	3.6 per cent	144.80
1983– 6 October	4.3 per cent	151.00

(a) Operative from the beginning of the first pay period commencing on or after the date shown.
(b) Final stage introduction of the minimum weekly adult male wage for adult females. The female minimum wage was $72.00 at 15 May 1975 and was brought into line with the male rate at 30 June 1975.

By 1976, national wage increases accounted for 95 per cent of male award wage movement and 94 per cent for females. These percentages remained high until 1979 when the male percentage fell to 71 per cent and in 1982 the figure was 82 per cent while the female percentage had dropped to 70 per cent.

The wage indexation principles were discontinued on 31 July 1981. In its decision in this connection, the Commission said:

"The essential feature of such a system was the need to regulate and limit wage increases outside National Wage to allow high priority to be given to the maintenance of real wages. It was accepted by all that a set of rules would be necessary to achieve this priority.

"The viability of the system depended on the voluntary co-operation of all participants in industrial relations including those not directly represented at National Wage hearings. Monitoring of sectional claims through the processes of conciliation and arbitration was fundamental to its operation.

"From time to time since 1975, the Commission has pointed to the fragility of the package and in June 1979 the Commission came to the brink of abandoning the system. A decision about whether we should persist with the system was given as recently as April this year. The Commission refashioned some of the principles to strengthen the priority for the maintenance of real wages but the essential requirements of the package were otherwise unaltered.

"The events since April have shown clearly that the commitment of the participants to the system is not strong enough to sustain the requirements for its continued operation. The immediate manifestation of this is the high level of industrial action in various industries including the key areas of Telecom, road transport, the Melbourne waterfront and sectors of the Australian Public Service. In many cases action was taken on the pretext that the claims could not be processed because of the principles. Some of these disputes have resulted in substantial increases being agreed to without regard to the test of negligible cost or the implications of flow-on.

"To accommodate these strong pressures the ACTU and the Commonwealth proposed widening the safety valve provided by the principles dealing with anomalies and inequities. The belief that the answer lies in greater flexibility of the kind proposed is illusory. Such flexibility would resolve sectional claims at the expense of national adjustments and destroy the priority expected of a centralised system. It cannot be otherwise.

"For these reasons we have decided that the time has come for us to abandon the indexation system." (Print E7300, p.2)

From 31 July 1981 until 23 December 1982 award adjustments were made on a case by case approach. Due to the seriousness of the economic situation arising from the combined effect of a deep and prolonged international recession, a serious drought, and a substantial increase in labour costs, the Arbitration Commission, on 23 December 1982, applied a six-months' pause on improvements in wages and conditions. The pause was specifically continued on 28 June 1983 until rescinded or altered by the National Wage Bench. On 29 September 1983 the National Wage Bench made a decision to return to a centralised wage fixation system and granted a 4.3 per cent wage increase.

The return to National Wage Cases was made subject to certain principles on the basis that the great bulk of wage and salary movements will emanate from national adjustments to CPI movements and national productivity.

WOMEN'S WAGES

Since 1934, the determination of women's wages has moved through a number of phases leading ultimately to equal pay for equal work.

Until 1942, the prevailing practice was for a base wage for women to be fixed industry by industry as a proportion of the male basic wage depending on the nature and general circumstances of the industry to be covered. This proportion was generally 54 per cent, but in some cases it was as high as 56 per cent. The justification for the lower rate for women was the assumption made by Mr Justice Higgins in 1912 (6 Commonwealth Arbitration Reports p.72) and accepted by the Court in later cases that the responsibilities and needs of female workers were less than those of male workers. It was succinctly expressed by the Court in 1934 as follows:

"The Court does not think it necessary or desirable, at any rate at the present time, to declare any wage as a basic wage for female employees. Generally speaking they carry no family responsibilities. The minimum rate should, of course, never be too low for the reasonable needs of the employee, but those needs may vary in different industries." (33 Commonwealth Arbitration Reports p.156)

The war years saw a significant increase in women's wages in certain industries considered necessary for war purposes as a result of the activities of the Women's Employment Board (1942 to 1944) and the proclamation of National Security Regulations affecting the Court's authority. (For an outline of the relevant cases in this period, see Commonwealth Bureau of Census and Statistics, *Labour Report*, No. 43, 1954.) The Board was set up in conjunction with wartime measures to encourage women to undertake work normally performed by men, and it was required to fix wages of women within its jurisdiction on the basis of their efficiency and productivity in relation to men engaged in such work, provided that such wages should not be less than 60 per cent nor more than 100 per cent of the male rate. National Security Regulations provided that in respect of "vital" industries specified by the Minister, the pay of women should not be less than 75 per cent of the corresponding minimum male rate.

The industry by industry approach came to an end following an amendment to the Conciliation and Arbitration Act in 1949 empowering the Court to determine or alter a "basic wage for adult females". In the 1949-50 basic wage inquiry, a single female basic wage corresponding conceptually to the male basic wage was determined for the first time, and its value was fixed at 75 per cent of the male basic wage. This was followed by three decisions of the Court's successor, the Commission, which, over the period from 1969 to 1975 established the basis for the full realisation of equal pay for the sexes in federal awards.

In 1969, following the lead of a number of States, the Commission formulated a set of principles to give effect to the concept of "equal pay for equal work". In essence, the principles provided that equal pay would apply where the work performed by adult males and females was of the same or like nature and of equal value and where the males and females concerned were working under the terms of the same award or determination. The move to equality was in stages, and applied fully by 1 January 1972.

In December 1972, the Commission determined a new set of principles based on the more liberal concept "equal pay for work of equal value", the effect of which was that female rates would be determined by work value comparisons without regard to the sex of the employees concerned and if necessary by work comparisons with classifications

outside the award under consideration. The Commission stated that the eventual outcome should be a single rate for an occupational group or classification regardless of whether the employee performing the work was male or female. Finally in 1974, the Commission decided to extend the adult male minimum wage to adult females. The resulting increase in pay under the new principles was to be applied in three equal instalments, the last being no later than 30 June 1975.

As a consequence of these decisions, the percentage of adult female minimum wage rates as compared to the male equivalent rose from 75.3 per cent in Victoria for 1972 to 93.4 per cent for 1982.

VICTORIAN WAGE DETERMINATIONS

Wages Board determinations have generally followed Federal awards in relation to basic wage, total wage, and minimum wage. Amendments to the Factory and Shop Acts in 1934 and 1937 directed Wages Boards to include in their determinations appropriate provisions of relevant Commonwealth awards. A departure from this practice occurred in the period November 1953 to August 1956 when, following the abandonment of automatic quarterly cost of living adjustments by the Commonwealth Court, an amendment of the Labour and Industry Act (section 33) required Wages Boards to continue these adjustments. Section 33 was further amended in 1956 to provide that Wages Boards be required to take into consideration the relevant awards and certified agreements of the Commonwealth Conciliation and Arbitration Commission.

It will be seen from the following tables that by 1959, Wages Boards determinations on the basic wage had moved into line with the Federal basic wage, the difference existing in 1956 having been progressively narrowed in the intervening years.

The fixation by the Commission of the minimum wage for adult males in 1966 and the establishment of the total wage concept in 1967 referred to above were also applied by Wages Boards, as have been the subsequent movements in the minimum wage and total wage.

The 1969 and 1972 Equal Pay decision of the Commission and the extension of the adult male minimum wage to adult females in 1974 were progressively reflected in Wages Boards determinations. By 1976, almost all Wages Boards had prescribed wage rates without reference to sex. The few which had not done so were inactive Boards or those which had not received applications to review wages or conditions of employment. It is most likely that persons nominally covered by these Boards are now effectively covered by Federal awards or determinations of other Wages Boards.

BASIC AND TOTAL WAGE RATES: VICTORIAN STATE WAGES BOARD DETERMINATIONS, ADULT MALES, MELBOURNE, 1935 TO 1975

Year	Wage rate	Year	Wage rate	Year	Wage rate
	$		$		$
1935	6.60	1950	16.20	1965*(c)*	30.70
1940	8.40	1955*(a)*	24.60	1970*(d)*	42.30
1945	9.80	1960*(b)*	27.50	1975	*(e)*

(a) Automatic adjustments continued after adjustments for Federal Awards ceased in August 1953.
(b) The basic wage remained at the level reached at the June/July 1959 adjustment. This adjustment represented the period when the State Wages Boards adopted the Commonwealth basic wage rates again.
(c) The basic wage remained at the level reached at the June/July 1964 adjustment.
(d) In July 1967, total wages were introduced. The figure for 1970 represents the minimum weekly wage rate for males. The figure remained the same as the December 1969 adjustment.
(e) After an adjustment on 1 January 1975 which set the minimum wage rate for males at $76.00, wage indexation was introduced.

WAGE RATES

The following tables show movements in weekly and hourly wage rates for adult males and females from 1935 to 1982. From 1935, statistics are taken from the nominal weekly rates of pay series. Nominal weekly rates of pay indexes were based on weighted rates of wages prevailing in different industries, as paid in the capital city of each State. However, with certain industries, such as mining, rates were taken for places other than the capital cities. The weighted rates were derived by using industry weights which were current in or about 1911.

In 1960, the Nominal Indexes were replaced by the Minimum Wage Rates Indexes. Generally, the overall trends of the Nominal and the Minimum Wage Rates Indexes show comparatively little divergence from each other. Minimum weekly wage rates of pay were based on the occupation structure existing in 1954, and include improved weighting and important changes in industry classification. The "miscellaneous" group in the early series was split into "wholesale and retail trade" and "public administration and professional". New groups of "road and air transport" and "communication" were added. "Domestic, hotels, etc." now includes amusement, sport, and recreation, but not domestic. Because of coverage difficulties, "rural industry" was dropped from the index. Altogether Minimum Wage Rates Indexes cover 15 industrial groups for adult males and 8 for adult females.

The wage rates used are the lowest rates for a full week's work (excluding overtime) prescribed for a selected range of representative occupations. For some occupations, general loadings of various kinds are included. Loadings, etc., which are not applicable to all workers in a specified award occupation (e.g., those payable because of length of service; working in wet or confined places; excess fares incurred due to location of building site) are not included in the wage rates indexes. In the majority of cases the rates used are those prescribed in representative awards or determinations of Commonwealth or State industrial authorities or in collective agreements registered with them. Rates prescribed in unregistered collective agreements are used where these are dominant in the particular industries to which they refer. The indexes are designed to measure movements in minimum wage rates as distinct from salaries. Those awards, determinations, and agreements which relate solely or mainly to salary earners are excluded.

Since 1954, the industrial structure in Australia has undergone changes which are likely to have had some effects on the representativeness of the regimen of the indexes. These effects are mitigated because occupations in new or expanding industries are often covered by existing awards and the wage rates for new occupations usually conform very closely to those of existing occupations. Also, where an entirely new award has been made and the number of employees affected has warranted such action, occupations from new awards have been introduced into the indexes. These latter cases have not been of marked significance.

From September 1982, a new wage rates index has been introduced based on the occupation structure that existed in 1976. The new series relates to a representative sample of both wage and salary earners who are full-time adults and whose rates of pay are normally varied in accordance with awards, determinations, or registered collective agreements. The previous series relates mainly to wage earners.

WEEKLY WAGE RATES: VICTORIA AND AUSTRALIA, 1935 TO 1982 *(a)*

Year	Rates of wage *(b)* $		Index numbers *(c)*	
	Victoria	Australia	Victoria	Australia
		ADULT MALES		
1935	7.98	8.30	28.3	29.4
1940*(d)*	10.09	10.18	35.7	36.0
1945	12.11	12.06	42.9	42.7
1950	20.18	20.20	71.4	71.5
1955	29.56	29.70	104.7	105.2
1960	34.99	35.50	123.9	125.7
1965	40.34	40.76	142.8	144.3
1970	53.68	54.20	190.1	191.9
1975	117.32	117.95	415.4	417.6
1980	185.95	187.09	658.4	662.5
1981	r215.65	216.16	763.6	765.4
1982*(e)*	*(f)*231.70	*(f)*231.73	*(f)*820.5	*(f)*820.5
		ADULT FEMALES		
1935	4.42	4.50	22.2	22.6
1940	5.34	5.42	26.8	27.2
1945	7.56	7.34	38.0	36.8
1950	14.29	14.04	71.7	70.5
1955*(g)*	21.04	20.69	105.7	103.9
1960	24.66	25.17	123.9	126.4

WEEKLY WAGE RATES: VICTORIA AND AUSTRALIA, 1935 TO 1982 *(a)—continued*

Year	Rates of wage *(b)* $		Index numbers *(c)*	
	Victoria	Australia	Victoria	Australia
		ADULT FEMALES—*continued*		
1965	28.46	29.10	143.0	146.2
1970	38.65	39.68	194.2	199.3
1975	109.20	108.61	548.5	545.6
1980	174.61	174.07	877.1	874.4
1981	r197.85	r198.19	993.8	995.5
1982*(e)*	*(f)*217.79	*(f)*215.35	*(f)*1,039.9	*(f)*1,081.7

(a) Weighted average minimum weekly rates (all groups) payable for a full week's work (excluding overtime) and index numbers of wage rates, as prescribed in awards, determinations, and collective agreements. For mining, the average rates of wage on which index numbers are based are those prevailing at the principal mining centres.
(b) The amounts shown should not be regarded as actual current averages, but as indexes expressed in money terms, indicative of trends.
(c) Base: weighted average minimum weekly wage rate for Australia, 1954 = 100.
(d) In 1960, the minimum weekly wage rate series was introduced. This new series was backdated for adult males to 1939. The baekdated figures appear in this table. The figures exclude rural industries.
(e) Preliminary figures only.
(f) At August 1982 only. These figures are the last to be published in this series.
(g) In 1960, the minimum weekly wage rate series was introduced. This new series was backdated for adult females to 1951. The backdated figures appear in this table.

HOURLY WAGE RATES: VICTORIA AND AUSTRALIA, 1935 TO 1982 *(a)*

Year	Rates of wage (cents)		Index numbers *(b)*	
	Victoria	Australia	Victoria	Australia
		ADULT MALES		
1935	17.50	18.75	24.8	26.5
1940*(c)*	22.22	22.52	31.4	31.8
1945	27.54	27.54	38.9	38.9
1950	50.48	50.58	71.4	71.5
1955	74.06	74.47	104.7	105.3
1960	87.57	88.92	123.8	125.7
1965	100.95	102.07	142.7	144.3
1970	133.91	135.35	189.3	191.3
1975	292.02	294.06	412.8	415.6
1980	463.95	467.74	655.8	661.1
1981	538.43	540.77	761.0	764.3
1982*(d)(e)*	586.88	586.12	829.5	828.4
		ADULT FEMALES		
1935	9.79	10.00	19.5	19.9
1940	12.08	12.29	24.1	24.5
1945	17.09	16.67	34.1	33.2
1950	35.63	35.21	71.0	70.2
1955*(f)*	52.86	52.16	105.3	104.0
1960	61.94	63.44	123.5	126.4
1965	71.50	73.36	142.5	146.2
1970	97.10	100.03	193.5	199.4
1975	274.31	273.78	546.8	545.7
1980	438.62	438.80	874.3	874.6
1981	497.02	499.59	990.7	995.8
1982*(d)(e)*	549.24	544.83	1,094.8	1,086.0

(a) Weighted average minimum hourly rates payable. Excludes rural industry, and shipping and stevedoring.
(b) Base: weighted average hourly wage rate for Australia, 1954 = 100.
(c) In 1960, a new series was introduced. Figures were backdated for adult males to 1939. The backdated figures appear in this table.
(d) Preliminary figures only.
(e) At August 1982 only. These figures are the last to be published in this series.
(f) In 1960, a new series was introduced. Figures were backdated for adult females to 1951. The backdated figures appear in this table.

AVERAGE WEEKLY EARNINGS

The figures in this section are derived from particulars of employment and of wages and salaries recorded in payroll tax returns, from other direct collections, and from estimates of the unrecorded balance. The figures relate only to civilians.

Particulars of weekly wages and salaries paid are not available for males and females separately from these sources prior to September 1981. Average weekly earnings have, therefore, been calculated in terms of male units, i.e., in Victoria total male employees

plus a percentage of female employees. This proportion is derived from the estimated ratio of female to male earnings. The number of male units used in calculating Australian average weekly earnings is the sum of the estimates for the States, and a separate ratio for Australia as a whole is not used.

The statistics have gone through a number of changes since the first series was published in 1941. Although the figures in the different series are not strictly comparable with each other, some idea of the magnitude of the increase in earnings since the 1940s may be obtained from the following table. The method of obtaining data on average weekly earnings was fundamentally changed in September 1981 when a sample survey of employers was introduced.

AVERAGE WEEKLY EARNINGS PER EMPLOYED MALE UNIT: VICTORIA AND AUSTRALIA, 1941-42 TO 1981-82 *(a)*
($)

Period	Average weekly earnings per employed male unit *(b)*	
	Victoria	Australia
1941-42*(b)*	11.40	11.20
1944-45	13.50	13.10
1949-50*(c)*	20.20	19.40
1954-55*(d)*	35.30	34.30
1959-60	45.50	43.90
1964-65	56.40	55.50
1969-70*(e)*	78.40	76.30
1974-75*(f)*	147.80	148.30
1979-80	248.80	247.90
1980-81	280.60	281.30
1981-82*(g)*	292.40	307.00

(a) Average weekly earnings are calculated in terms of male units, i.e., total male employees plus a percentage of female employees. This proportion is derived from the estimated ratio of female to male earnings. Reference should be made to the following footnotes for details of these calculations. The earnings include, in addition to wages at award rates, earnings of salaried employees, overtime earnings, over-award and bonus payments, payments made in advance or retrospectively, during the period specified, etc. The averages may be affeeted not only by changes in the level of earnings by employees but also by changes to the overall composition of the labour force such as employment levels, occupational distribution, and the proportions of part-time, casual, and junior employees.
This collection has involved a number of different series. Each of the footnotes *(b)* to *(g)* refers to the beginning of a new series. For each series, the estimates relate only to civilians.
For a number of reasons, average weekly earnings per employed male unit cannot be compared with the minimum weekly wage rates.

(b) The employment totals were based on the 1945 Occupational Survey. This series fixed the male equivalent ratio for females at 45 per cent.

(c) From 1949-50 to 1980-81 each series calculated estimates for average weekly earnings from particulars of employment and wages recorded on payroll tax returns, from other direct collections, and from estimates of the unrecorded balance. The male equivalent ratio for females was set at 55 per cent.

(d) A new serics was introduced. The features mentioned in footnote *(c)* still applied for this series.

(e) This series revised the system of calculating the male equivalent ratio for females. Separate ratios were calculated for each State with a weighted average of these being used for Australia.

(f) A new series was introduced. This series is only a slight modification of the series mentioned in footnote *(e)*.

(g) Figures from 1981-82 are not comparable with those for earlier years. From September 1981, a new series was introduced based on a sample survey which obtained, from employers, information on earnings in respect of a specific pay week each quarter for males and females separately. The figures relate to earnings of all males instead of earnings per employed male unit and are subject to sampling error.

HOURS OF WORK

In fixing weekly wage rates most industrial tribunals prescribe the number of hours, referred to as "standard hours", to constitute a full week's work for the wage rates determined. By the turn of the century, 48 hours had become the standard working week

in most industries. In the early 1920s, standard hours in a number of industries including engineering were reduced to 44 for a short time but because of adverse economic conditions the awards reverted to 48 hours.

In the 1927 main hours case, the Commonwealth Conciliation and Arbitration Court once again reduced standard hours in the engineering industry to 44 following an application by the Amalgamated Engineering Union and it indicated its willingness to extend the new standard to others: "Employees under similar disadvantages in other industries may be entitled to a similar reduction, but no justification has been shown for a general reduction of the standard week of 48 hours". (24 Commonwealth Arbitration Reports p. 756) Claims for other industries were treated individually in the light of the nature and economic circumstances of the industry. The extension of the 44 hour week was delayed because of the economic depression but by the end of the 1930s the new standard came to apply generally.

Unlike earlier cases, the 1945 applications of the unions for a 40 hour week were treated as a national test case for reduced standard hours. In September 1947, the Court awarded a 40 hour week to operate from January 1948. (59 Commonwealth Arbitration Reports p. 581) Victorian Wages Boards followed suit by which time standard hours of nearly all employees covered by industrial tribunals were 40 or less. A major exception which persisted until 1978 was in the pastoral industry where the Federal tribunal refused to reduce standard hours below 44 because of seasonal factors affecting the nature of this industry. But in 1978, the Commission awarded a 40 hour week to the pastoral industry, noting that this industry was the only one in Australia for which standard hours were still greater than 40 while some industries had moved down to 35 hours.

Attempts by employers in 1952-53 (77 Commonwealth Arbitration Reports p. 477) and 1962 (97 Commonwealth Arbitration Reports p. 376) to persuade the Federal tribunal to increase standard hours failed. Since then manual workers in the coal industry, the oil industry, and on the waterside have succeeded in obtaining a 35 hour week.

It should be noted that white collar and professional workers, especially those in the Public Service, generally have a shorter working week. In the Victorian Public Service the weekly hours are 38 while in the Commonwealth Public Service a 36¾ hour week has applied for many years. The 36¾ hour standard was extended in the Federal jurisdiction during 1976 and 1977 to other employees in Telecom, Australia Post, and some other Commonwealth establishments to bring them into line with the white collar employees in these establishments. The shorter week in these establishments was based on "productivity bargaining" between the parties which involved changes in work practices resulting in higher productivity to offset the increase in cost of the shorter working week. A similar arrangement formed the basis of the reduction of weekly hours in power generation to 37½. Following the reduction in standard hours to 38 in the metal industry award by consent of the parties in December 1981, weekly hours in many other awards, both State and Federal, were also reduced to 38 by consent. These reductions were generally based on productivity bargaining and similar cost offsetting arrangements.

Statistics for the average weekly hours worked are calculated for each State and Australia according to the weighted average standard weekly hours of work (excluding overtime) for a full week in industries, except for the agricultural industry and shipping and stevedoring for both males and females, and also for mining and quarrying and building and construction for females. These statistics show that the average weekly hours worked by males in Victoria dropped from 46.9 in December 1931 to 40.0 in December 1948. At December 1981, this figure stood at 39.9 hours. Average weekly hours worked by females in Victoria dropped from 45.4 in December 1931 to 40 in December 1948. At December 1981, this figure stood at 39.7 hours.

In recent years, in a number of public and private establishments, employees have been allowed greater discretion, in line with their individual leisure preferences, to vary the pattern of working hours within the constraint of standard hours and certain "core" times during which the employee is required to be at work. There are a variety of such "flextime" schemes in operation, some of which enable employees, generally white collar, the choice of earlier or later daily starting times, longer working days, and varying number of working days weekly, fortnightly, or monthly.

LEAVE PROVISIONS

Annual leave

One week's annual leave on full pay was first awarded by the Commonwealth Court of Conciliation and Arbitration in 1936 to employees in the commercial printing industry. (36 Commonwealth Arbitration Reports p. 738) This provision was subsequently extended to other awards. The Federal award standard was raised to two weeks in 1945 and to three weeks in 1963 following New South Wales legislation in each case for two weeks and three weeks annual leave, respectively, to all workers in that State.

In 1974, the standard moved to four weeks following the decision of the Commonwealth Government to grant its employees four weeks annual leave and agreement between the parties to the Metal Industry Award to adopt this standard.

In their determinations, Victorian Wages Boards have generally adopted the standard of the Federal awards. However, for the small number of employees not covered by Wages Board determinations, the minimum provision of three weeks provided by the Labour and Industry (Annual Holidays) Order 1967, still applies. From 1 January 1973 employees of the Victorian Public Service and government instrumentalities were granted four weeks annual leave.

In 1972, the Federal tribunal rejected applications for an annual leave "bonus" of one week's pay. However, by agreement between the parties to the Metal Industry Award, the Commission ratified, later that year, a 17.5 per cent loading on pay for the period of annual leave. By 1974, this provision had become a standard feature of awards and determinations. At December 1976, there were 176 determinations which provided for the loading. Officers of the Victorian Public Service were awarded the 17.5 per cent loading from 31 December 1973.

It is an established principle that additional annual leave should be granted to employees subject to special disabilities. For example, seven day shift workers generally receive an extra week annual leave.

Long service leave

Long service leave for workers in Victoria was first provided by the *Factories and Shops (Long Service Leave) Act* 1953. The content of this Act was later incorporated in the Labour and Industry Act which provided for thirteen weeks' paid leave after twenty years continuous service with the same employer and thereafter, an additional 3¼ weeks for each additional five years of continuous service.

Until 1963, the Federal tribunal had been reluctant to award long service leave except by consent of the parties. The first arbitrated Federal award was made in 1964 in respect of the Metal Trades and Graphic Arts Awards which provided for 13 weeks' leave for 15 years' unbroken contract of employment with an employer; thereafter, for each ten year period, employees would be entitled to an additional *pro rata* period of leave calculated on the same basis. Those who had served between 10 and 15 years and whose employment was terminated by death or by the employer for any cause other than serious and wilful misconduct, or by the employee on account of illness, incapacity or domestic or other pressing necessity, would be entitled to *pro rata* payment. In 1977, the Commission amended this provision allowing, as from January 1979, *pro rata* entitlement after 10 years service where the employee terminates for any reason. It was further provided that continuous service would include service with related companies.

Following the 1964 Federal awards, the Victorian Labour and Industry Act was amended to provide for 13 weeks leave after 15 years continuous service, with further periods of 5 years service entitling the employee to additional 4⅓ weeks leave. Another amendment entitled an employee with between 10 and 15 years continuous service to *pro rata* payment so long as his employment was terminated for reasons other than by the employer for serious and wilful misconduct.

Commonwealth and Victorian Public Servants enjoy a more generous entitlement: 3 months after 10 years' service and thereafter cumulatively at the rate of 3/10 month each year for Commonwealth and 1½ months every 5 years for Victorian Public Servants.

Sick leave

Awards and determinations generally provide for paid sick leave entitlement. The prevailing Federal and Victorian standard for manual workers is 5 days in the first year and 8 days in each of the following years but in the building industry the entitlements are 8 and 10 days a year, respectively. Unused sick leave is generally allowed to accumulate to a certain limit but many awards and determinations provide for unlimited accumulation.

White collar and professional employees generally enjoy a greater entitlement than manual workers. Commonwealth and Victorian Public Servants, for example, are entitled to 10 days on full pay and 10 days on half pay a year.

Maternity and paternity leave

Maternity and paternity leave were introduced for Commonwealth employees by the Maternity Leave (Australian Government Employees) Act in 1973. The Act provided *inter alia* for up to 52 weeks leave for a pregnant employee including 12 weeks paid leave and paid paternity leave of one week for male employees. The Act was amended in 1978 abolishing paternity leave and providing for a qualifying period of 12 months before paid leave entitlement is available for maternity leave.

Following a test case before the Australian Conciliation and Arbitration Commission in 1979, in order to promote job security for women who are absent from work for maternity purposes, the Commission provided for up to 52 weeks unpaid maternity leave for full-time and permanent part-time employees, including a compulsory period of 6 weeks immediately following confinement. Maternity leave will not break continuity of service of an employee but such leave will not count as time worked in calculating the period of service for any purpose of any relevant award or agreement.

The standard awarded by the Commission in 1979 was adopted with minor variations in Federal awards and Victorian determinations where a significant number of women are employed.

Equality of opportunity

The developments in equal pay for the sexes were noted above. A related matter concerns the promotion of equality of opportunity between men and women and the prevention of discrimination on the basis of sex and marital status. To this end the Victorian Parliament passed the *Equal Opportunity Act* 1977. Subject to various exceptions provided in the Act and special exemptions granted by the Equal Opportunity Board set up under the Act, it is unlawful to discriminate on the grounds of sex or marital status in respect of:

(1) Employment, including appointments, promotions, conditions of appointment, and training opportunities — except where the employer employs less than five persons, or where employment is offered in connection with a private household, or where the offer of employment relates to actors or performers.

(2) Education, including choice of subjects, and sporting or other facilities offered to boys and girls in schools — except in respect of a school or college established wholly or mainly for students of the one sex.

(3) Provision of goods and services, including banking, insurance, credit, and public facilities.

(4) Accommodation, including the conditions under which accommodation is offered — except where accommodation is provided for less than seven persons in the same premises apart from the family providing the accommodation.

Certain other areas are also excluded by the Act, the main one being pensions, superannuation, and some insurance policies based on actuarial data; some provisions in wills; internal policies of religious bodies; and membership of clubs and sporting organisations.

Although discrimination in the above matters is prohibited against men and women, the Act is of particular importance to women against whom discrimination has been rather more marked than men.

Public holidays

Federal awards and Victorian Wages Boards determinations provide for 10 paid public holidays a year.

Bereavement leave

In recent years, paid bereavement or compassionate leave has become a common provision in awards and determinations. The provisions vary from 2 to 3 days paid leave for the death of a spouse, child, brother, sister, parent, or parent-in-law.

OCCUPATIONAL SAFETY, HEALTH, AND WELFARE

Introduction

While the determination of rates of pay and other non-physical conditions of employment is vested in the various State Conciliation and Arbitration Boards, the safety, health, and comfort of employees has generally been prescribed in legislation setting out the minimum conditions under which work can be performed. The primary legislation is the *Industrial Safety, Health and Welfare Act* 1981 and regulations made thereunder, a consolidation of safety, health, and welfare enactments previously provided under the various Factories and Shops Acts since 1873 and more recently the *Labour and Industry Act* 1958.

Safety

The earliest attempt at regulating the conditions of labour in Victoria was made by the passing of an Act dated 11 November 1873, forbidding the employment of any female in a factory for more than eight hours in any day. Since then legislative enactments have covered the safety, health, and comfort of workers.

A Board of Inquiry representing government, trade union, and employer interests was set up in 1940 to examine and report on the need for changes to the then existing Factories and Shops Acts. Due to wartime exigencies, the Board sat intermittently over a nine year period and issued its Final Report in 1950. Widespread changes to the legislation were recommended in the Report, the majority of which were adopted by the Victorian Government and incorporated in the *Labour and Industry Act* 1953.

Although a Department of Labour was formed for administrative purposes in 1915, the Department of Labour and Industry was formally established by the 1953 statute to co-ordinate the administration and development of the new legislation. The power to make regulations under the Act was expanded so that changing circumstances affecting the interests of workers could be dealt with speedily.

The inaugural Victorian Industrial Safety Convention was held in 1958 and has been an important triennial industrial safety event since. The Conventions provide a forum for the exchange of opinions and ideas on modern concepts of industrial accident control from the wide range of persons engaged in that field.

A further development occurred in 1960 with the establishment of the Industrial Safety Advisory Council. The Council comprised eight members who had expertise in safety administration and who represented the interests of private industry, trade unions, and government departments. The Council acted in a consultancy capacity to prepare reports and recommendations to the Minister of Labour and Industry and generally to offer suggestions to the Minister on the prevention of industrial accidents and the promotion of occupational safety.

There were many changes to the legislation following the 1958 consolidation to reflect changing labour standards. As a result, the Minister of Labour and Industry appointed a Committee for Review of the Labour and Industry Act on 17 March 1975. Committee members included representatives of the Department of Labour and Industry, employers' organisations, and trade unions. In its First Report, the Committee recommended that the Labour and Industry Act be split into several new statutes, each dealing with one broad subject.

The Fourth Report, presented on 31 March 1978, dealt specifically with the matter of industrial safety, health, and welfare. At the end of 1981, and on the basis of recommendations of the Committee for Review, the Victorian Parliament passed new

industrial safety, health, and welfare legislation which replaced the safety provisions of the *Labour and Industry Act* 1958.

The Industrial Safety, Health and Welfare Act adopts a more broadly based approach to industrial safety, health and welfare, and covers employees in both the public and private sector including self-employed persons, partnerships, contractors, and sub-contractors. The Act contains three key features — broad statements of principle, a clear outline of the responsibilities of employers and employees, and extensive regulation-making powers.

The legislation placed specific responsibilities and duties on the occupier of workplaces, the manufacturers and installers of all equipment used in the workplace, and the sellers and hirers of machinery. In addition, all employees are required to work in a safe manner, to ensure the safety of their workmates, and to co-operate with all safety requirements. Employers must prepare and display a written statement of general policy on the safety and health at work of persons employed in the workplace.

There is provision in the legislation for extensive consultation on safety matters within a workplace through safety representatives and safety committees and more widely through a key tripartite body, the Industrial Safety Advisory Council. The new Council which was established on 22 March 1982 under the Industrial Safety, Health and Welfare Act comprises a chairman and ten members and has the same broad representation as the previous Council, with the addition of the agricultural industry.

In 1982, the Victorian Government announced that a Health and Safety Commission would be established as a means of amalgamating and rationalising the operations of existing agencies dealing with occupational health and safety.

Health

By 1934, the Victorian Government had recognised the special problems associated with occupational health and in 1937 an Industrial Hygiene Division was established within the Health Department. As the range of available services developed and became known, requests for investigation and advice continued to grow so that by 1955, some 1,500 inquiries per year were being received from medical practitioners, management, union officials, government officers, and individuals. The Division had also taken responsibility for the initiation of regulations made under the Health Act.

The role of the Division has changed from one primarily concerned with toxicology to that of overviewing the problems of occupational health in the community, but the wider toxicological problems posed by the use of such substances as lead and asbestos, and their impact on the environment, are subjects on which the Division's advice is often sought. Executive health, psychological stress, noise pollution, and alcoholism in the working community are all new but important aspects of occupational and environmental health.

The Health Commission of Victoria, incorporating the previous Health Department, was established in 1978 following the recommendations of the Syme-Townsend Report into Hospital and Health Services in Victoria.

Workers compensation

Comprehensive details of the history of, and recent significant amendments to, workers compensation legislation in Victoria were provided in the *Victorian Year Book* 1981, pages 224-8.

Legislation to provide for workers compensation in Victoria was first introduced in 1914. The *Workers Compensation Act* 1914 gave certain workers in industry, or in the case of death, their dependants, the right to claim limited compensation from their employer, without proof of negligence or breach of statutory duty by the employer, in respect of accidental injuries sustained by them arising out of and in the course of their employment.

Since then, the impact of the compensatory benefits has become extended significantly as a result of both legislative change and judicial interpretation. Payments have also been increased in line with movements in average community wage levels (although different indices have been used over the years) and have been widened to include medical and hospital costs and allowances for dependent children.

The *Workers Compensation Act* 1958, consolidated the previous legislation. The general principle of the legislation is to provide coverage for workers who have entered into or

work under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise. Such workers are also covered during travel to and from work, during recess periods, and from injury by recurrence, aggravation, acceleration, exacerbation, or deterioration of any pre-existing injury or disease where employment is a contributing factor.

By the mid-1970s, it had become clear that there had arisen many contentious issues and difficulties in the field of workers compensation in Victoria, largely because the present legislation had evolved as a matter of course over many years, rather than by deliberate direction.

The Report of the Board of Inquiry into Workers Compensation in Victoria, submitted in 1977, recommended a complete restructuring of the legislation. The Report stated that "workers compensation in Victoria has developed into an elaborate but rather disordered scheme for social security benefits". It noted that the system now provided financial benefits not only for the typical workplace injury to the traditional worker, but for disabilities sometimes only slightly related to work, and for individuals quite outside the accepted labour force. The level of benefits show considerable fluctuations because of the existence of a great number of subjective decisions required regarding the cause and extent of the injury. The Board of Inquiry also found that overhead costs of the system were enormous and capable of substantial reduction and that insurance premiums were at very high levels yet benefits were low in comparison with the other States. The Report recommended that, until further developed, the rate of weekly benefits should be revised in accordance with movements in the average weekly earnings index as seasonally adjusted, and furthermore such adjustments should be made regularly, at not more than annual intervals.

Legislation was passed to amend the principal Act in line with many of the Board's comments and recommendations. Among other things, the *Workers Compensation (Miscellaneous Provisions) Act* 1979 increased weekly compensation and death benefits by approximately 44 per cent and provided for annual adjustment of such benefits. However, the act eliminated "split action" claims whereby families could be compensated twice upon the death of the breadwinner through the expedient of different dependants taking separate action, under the Workers Compensation Act on the one hand and common law (Wrongs Act) on the other, and altered the definition of "injury" in order to tighten the guidelines for assessing damages, especially those based on heart attack or stroke cases. These amendments led to an unprecedented level of industrial unrest as the Victorian Trades Hall Council sought to have the latter two amendments reversed. The loss of wages and production was estimated to be about $120m. After some nine months, agreement was reached between the unions and the Victorian Government to eliminate the requirement that the employment must "contribute substantially" to the injury or disease and substitute a requirement of contribution "to a recognisable degree".

The Victorian Government made various changes to the Workers Compensation Act in 1981. A new Division relating to industrial deafness was inserted into the Act. This Division is the sole basis for compensation for industrial deafness and is not dissimilar to the existing provisions in the Act covering industrial diseases. The Division determines when the industrial deafness will be deemed to have occurred, permits the worker to claim against one employer only, and provides that the amount of compensation will be in accordance with the existing provisions of the Act.

In 1981, the legislation was also altered to provide for uniformity of protection for Victorian workers employed outside Victoria whether they are in private or public employment.

Another amendment passed during 1981 was the *Workers Compensation (Actions) Act* 1981, which among other things, gave the claimant the option of seeking compensation under the Workers Compensation Act or instituting proceedings under common law while still being assured of receiving in total no less than that allowed under the *Workers Compensation Act* 1958.

Insurance premiums which cover both statutory and common law claims have risen well in excess of the rate of inflation. This has occurred for a number of interacting reasons including decisions of the High Court and Victorian Supreme Court which raised the permissible level of lump sum payments in common law cases for loss of income.