

Artworkers Award

1. - TITLE

This Award shall be known as the Artworkers Award.

1B. - MINIMUM ADULT AWARD WAGE

- (1) No employee aged 21 or more shall be paid less than the minimum adult award wage unless otherwise provided by this clause.
- (2) The minimum adult award wage for full-time employees aged 21 or more working under an award that provides for a 38 hour week is \$760.00 per week.

The minimum adult award wage for full-time employees aged 21 or more working under awards that provide for other than a 38 hour week is calculated as follows: divide \$760.00 by 38 and multiply by the number of ordinary hours prescribed for a full time employee under the award.

The minimum adult award wage is payable on and from the commencement of the first pay period on or after 1 January 2021.

- (3) The minimum adult award wage is deemed to include all State Wage order adjustments from State Wage Case Decisions.
- (4) Unless otherwise provided in this clause adults aged 21 or more employed as casuals, part-time employees or piece workers or employees who are remunerated wholly on the basis of payment by result, shall not be paid less than pro rata the minimum adult award wage according to the hours worked.
- (5) Employees under the age of 21 shall be paid no less than the wage determined by applying the percentage prescribed in the junior rates provision in this award (if applicable) to the minimum adult award wage, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.
- (6) The minimum adult award wage shall not apply to apprentices, employees engaged on traineeships or government approved work placement programs or employed under the Commonwealth Government Supported Wage System or to other categories of employees who by prescription are paid less than the minimum award rate, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.
- (7) Liberty to apply is reserved in relation to any special category of employees not included here or otherwise in relation to the application of the minimum adult award wage.
- (8) Subject to this clause the minimum adult award wage shall –
 - (a) Apply to all work in ordinary hours.
 - (b) Apply to the calculation of overtime and all other penalty rates, superannuation, payments during any period of paid leave and for all purposes of this award.
- (9) Minimum Adult Award Wage

The rates of pay in this award include the minimum weekly wage for employees aged 21 or more payable under the 2020 State Wage order decision. Any increase arising from the insertion of the minimum wage will be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such above award payments include wages payable pursuant to enterprise agreements, consent

awards or award variations to give effect to enterprise agreements and over award arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases under previous State Wage Case Principles or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset the minimum wage.

(10) Adult Apprentices

- (a) Notwithstanding the provisions of this clause, the minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for a 38 hour week is \$649.40 per week.
- (b) The minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for other than a 38 hour week is calculated as follows: divide \$649.40 by 38 and multiply by the number of ordinary hours prescribed for a full time apprentice under the award.
- (c) The minimum adult apprentice wage is payable on and from the commencement of the first pay period on or after 1 January 2021.
- (d) Adult apprentices aged 21 years or more employed on a part-time basis shall not be paid less than pro rata the minimum adult apprentice wage according to the hours worked.
- (e) The rates paid in the paragraphs above to an apprentice 21 years of age or more are payable on superannuation and during any period of paid leave prescribed by this award.
- (f) Where in this award an additional rate is expressed as a percentage, fraction or multiple of the ordinary rate of pay, it shall be calculated upon the rate prescribed in this award for the actual year of apprenticeship.

2. - ARRANGEMENT

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3. - AREA, SCOPE AND TERM

This Award shall apply to Artworkers, employers of Artworkers, and the union and shall apply throughout the State of Western Australia for a term of 12 months.

3A. - AWARD MODERNISATION

- (1)
 - (a) The parties are committed to modernising the terms of the award so that it provides for more flexible working arrangements, improves the quality of working life, enhances skills and job satisfaction and assists positively in the restructuring process.
 - (b) The parties recognise the obligations imposed by the State Wage Case decision of September 1989 and will negotiate to ensure the industry operates as efficiently as practicable in order to meet customer demand and is consistent with providing employees with access to more varied, fulfilling and better paid jobs.
- (2) In conjunction with testing a new award structure, the parties are prepared to discuss matters raised for increased flexibility. Discussions are premised on the understanding that prior to introducing any change-
 - (a) The majority of employees must genuinely agree.
 - (b) No employee will lose ordinary income as a result of the change.
 - (c) The union must be party to the agreement.
 - (d) The union will not unreasonably oppose any agreement.
 - (e) Agreements will be ratified by the Commission.
 - (f) The disputes procedure will apply if agreement can not be reached in the implementation process on a particular issue.
- (3) The parties agree that under this heading and until the structural efficiency agreement is concluded, any award matter can be raised for discussion.
- (4) An employer may direct an employee to perform a wider range of duties as is within the limits of the employee's skill, competence and training including work which is incidental or peripheral to his/her main tasks or functions, provided that such duties are not designed to promote de-skilling.

4. - DEFINITIONS

In this Award -

- (1) Union means the "The Construction, Forestry, Mining and Energy Union of Workers".
- (2) "Artworkers" means a person:

- (a) Engaged in painting, applying paint or its substitutes or any preparation by any means, including, without limiting the generality of the foregoing, plastic relief work, paperhanging, decorating, graining, marbling, varnishing, enamelling, gilding, lacquering or spraypainting; and
- (b) Whose work is primarily artistic in nature or purpose.

5. - CONTRACT OF SERVICE

- (1) Except in the case of an employee engaged as a casual employee in accordance with the provisions of this clause, the contract of service shall be weekly.
- (2)
 - (a) A contract of service to which this award applies may be terminated in accordance with the provisions of this clause and not otherwise but this subclause does not operate so as to prevent any party to a contract from giving a greater period of notice than is hereinafter prescribed or an employer and an employee agreeing to waive such notice. Provided that this subclause does not operate so as to affect an employer's right to dismiss an employee without notice for misconduct and an employee so dismissed shall be paid wages for the time worked up to the time of dismissal only.
 - (b) Subject to the provisions of this clause, a party to a contract of service may, on any day give to the other party the appropriate period of notice of termination of the contract prescribed in subclause (5) of this clause and the contract terminates when that period expires. Provided that where such notice is given at or before the commencement of the ordinary hours of duty of any day, that day shall be counted as the first day of a week of notice, or the day, in the case of a day of notice.
- (3) In lieu of giving the notice referred to in subclause (2) of this clause, an employer may pay the employee concerned his/her ordinary wages for the period of notice to which he/she would otherwise be entitled.
- (4)
 - (a) Where an employee leaves his/her employment:
 - (i) without giving the notice referred to in subclause (2) of this clause; or
 - (ii) having given such notice, before the notice expires

he/she forfeits his/her entitlement to any monies owing to him/her under this extent that those monies exceed his/her ordinary wages for the period of notice which should have been given.
 - (b) In a case to which paragraph (a) of this subclause applies:
 - (i) the contract of service shall, for the purposes of this award, be deemed to have terminated at the time of which the employee was last ready, willing and available for work during ordinary working hours under the contract; and
 - (ii) the provisions of subclause (2) of this clause shall be deemed to have been complied with if the employee pays to the employer, whether by forfeiture or otherwise, an amount equivalent to the employee's ordinary wages for the period of notice which should have been given.
- (5) The period of notice referred to in subclause (2) of this clause is:
 - (a) in the case of a casual employee, one hour;
 - (b) in any other case -
 - (i) during the first month of employment under the contract, one day; and

- (ii) after the first month of such employment, one week.
- (6) (a) On the first day of engagement an employee shall be notified by his/her employer or by the employer's representative whether the duration of his/her employment is expected to exceed one month and, if he/she is hired as a casual employee, he/she shall be advised accordingly.
- (b) An employee shall, for the purposes of this award, be deemed to be a casual employee -
 - (i) if the expected duration of the employment is less than one month; or
 - (ii) if the employee is engaged to work less than 15 hours per week; or
 - (iii) if the notification referred to in paragraph (a) of this subclause is not given and the employee is dismissed through no fault of his/her own within one month of commencing employment.
- (7) The employer shall be under no obligation to pay for any day not worked upon which the employee is required to present himself/herself for duty, except when such absence from work is due to illness and comes within the provisions of Clause 12 of this award or such absence is on account of holidays, annual leave, long service leave or bereavement leave to which the employee is entitled under the provisions of this award.
- (8) A casual employee shall be paid a proportion of the ordinary weekly rate of wage prescribed by this award for the calling in which he or she is engaged, according to the number of hours actually worked plus twenty percentum of that amount.
- (9) A casual employee, other than as deemed in 6(b)(ii) above, shall be engaged for not more than four weeks continuous service.

6. - WAGES

- (1) It is a term of this Award that the Union undertakes, for the duration of the Principles determined by the Commission in Court Session in Application No. 1940 of 1989, not to pursue any extra claims, award or overaward, except when consistent with the State Wage Principles.
- (2) (a) The rate of wages payable to the employees covered by the award shall be as follows:

	Rate Per Week\$	Supplementary Payment\$	Total Rate\$
Artworker	543.71	462.69	1006.40

- (b) The rates of pay in this award include arbitrated safety net adjustments available since December 1993, under the Arbitrated Safety Net Adjustment Principle.

These arbitrated safety net adjustments may be offset against any equivalent amount in the rate of pay received by employees since 1 November 1991 above the rate prescribed in the Award, except where such absorption is contrary to the terms of an industrial agreement.

Increases in rates of pay otherwise made under the State Wage Case Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated safety net adjustments.

- (3) Artworker Allowances:

- (a) Equipment Allowance 32.20

Provided that the equipment allowance shall not be paid where the employer supplies an employee with all necessary equipment

- (b) Studio Allowance 52.10

Provided that such allowance shall only be payable where an artworker is directed by the employer to carry out his/her work primarily in his/her own studio.

- (c) Construction Allowance \$18.34

An employee shall not be entitled to this construction allowance except when required to work "on site" or any work in connection with the erection of a building or to carry out work which the employer and the union agree is construction work or in default of agreement, that is so declared by a Board of Reference.

7. - SPECIAL RATES AND PROVISIONS

- (1) Confined Space

An employee required to work in a confined space, being a place the dimensions or nature of which necessitates working in a cramped position or without sufficient ventilation, shall be paid 54 cents per hour or part thereof in addition to the rates otherwise prescribed in this award.

- (2) Toxic Substances

(a) An employee required to use toxic substances or materials of a like nature shall be informed by the employer of the health hazards involved and instructed in the correct and necessary safeguards which must be observed in the use of such materials.

(b) An employee using such materials will be provided with and shall use all safeguards as are required by the appropriate government Authority or in the absence of such requirement such safeguards as are determined by a competent authority or person chosen by the union and the employer.

(c) An employee using toxic substances or materials of a like nature shall be paid 54 cents per hour extra. Employees working in close proximity to employees so engaged shall be paid 42 cents per hour extra.

(d) For the purpose of this subclause all materials which include or require the addition of a catalyst hardener and reactive additives or two pack catalyst system shall be deemed to be materials of a like nature.

- (3) Wet Work

An employee required to work in a place where water is continually dripping on him/her so that his/her clothing and boots become wet or where there is water underfoot shall be paid 44 cents per hour or part thereof in addition to the rates otherwise prescribed in this award.

- (4) Dirty Work

An employee engaged on dirty work shall be paid 44 cents per hour or part thereof in addition to the rates otherwise prescribed in this award.

- (5) Spray Application - Painters

A painter engaged on all spray applications carried out in other than a properly constructed booth, approved by the Department of Labour and Industry, shall be paid 44 cents per hour or part thereof in addition to the rates otherwise prescribed in this award.

- (6) Height Money

An employee required to work on a chimney stack, spire, tower, radio or television mast or tower, air shaft, cooling tower, water tower or silo, where the construction exceeds fifteen metres in height shall be paid for all work above fifteen metres, 44 cents per hour or part thereof, with an additional 44 cents per hour or part thereof for work above each further fifteen metres in addition to the rates otherwise prescribed in this award.

(7) Swing Scaffold

(a) An employee employed -

(i) on any type of swing scaffold or any scaffold suspended by rope or cable, or bosun's chair or cantilever scaffold; or

(ii) on a suspended scaffold requiring the use of steel or iron hooks or angle irons at a height twenty feet or more above the nearest horizontal plane,

shall be paid \$3.19 for the first four hours or part thereof and 66 cents for each hour thereafter on any day in addition to the rates otherwise prescribed in this award.

(b) A solid plasterer when working off a swing scaffold shall be paid an additional 9 cents per hour.

(8) Site Allowances

Where an employee is engaged on a construction site where the parties have agreed to a site allowance to compensate for all special factors and/or disabilities on a project, he/she shall be paid such site allowance. Provided that where it has been agreed that such site allowance shall be paid in lieu of any of the special rates above, such rates shall not be paid.

(9) Travel Allowance

A fares allowance of \$13.30 per day shall be paid to employees required to work away from their usual place of employment.

8. - HOURS

(1) The ordinary hours of work shall be 38 per week, to be worked Monday to Friday, between the hours of 6.30am and 6.00pm with an interval of not less than forty-five minutes for lunch but the meal break may be altered by agreement between the employer and the employee.

(2) The ordinary hours of work shall not exceed ten hours on any day.

9. - STRUCTURAL EFFICIENCY

(1) (a) An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this award provided that such duties are not designed to promote de-skilling.

(b) Any direction issued by an employer shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

(2) The parties to this award are committed to establishing consultative mechanisms and procedures at each work place, appropriate to the size, structure and needs of the enterprise.

(3) The purpose of such consultative mechanisms and procedures is to facilitate the efficient operation of the work place according to its particular needs.

- (4) The parties to this award are committed to the establishment of a skills based classification structure which provides employees with career paths based on nationally accredited training, and employers with a more flexible, skilled work force.

10. - HOLIDAYS

- (1) (a) The following days or the days observed in lieu shall, subject to this clause and to subclause (5) of Clause 10. - Overtime of this award, be allowed as holidays without deduction of pay, namely -
- New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Labour Day, Foundation Day, Sovereign's Birthday, Christmas Day and Boxing Day.
- Provided that another day may be taken as a holiday by agreement between the parties in lieu of any of the days named in this subclause.
- (b) When any of the days mentioned in paragraph (a) hereof falls on a Saturday or a Sunday, the holiday shall be observed on the next succeeding Monday, and when Boxing Day falls on a Sunday or a Monday, the holiday shall be observed on the next succeeding Tuesday. In each case the substituted day shall be a holiday without deduction of pay and the day for which it is substituted shall not be a holiday.
- (2) On any public holiday not prescribed as a holiday under this award, the employer's establishment or place of business may be closed, in which case an employee need not present himself/herself for duty and payment may be deducted, but if work be done ordinary rates of pay shall apply.

11. - OVERTIME

- (1) Overtime shall mean all time worked beyond or in excess of the ordinary hours of duty prescribed in Clause 8. - Hours of this award, and except as hereinafter provided, shall be paid for at the rate of time and one half for the first two hours and double time thereafter. Such rates shall be calculated on an employee's hourly award rates.
- (2) Where an employee is required to work overtime and such overtime is worked for a period of at least two hours in excess of and continuous with the required daily hours of work, the employee shall be provided with a meal free of cost, or shall be paid the sum of \$9.90 as meal money.
- (3) Overtime work on Saturday shall be paid for at the rate of time and a half for the first two hours and double time thereafter.
- (4) All time worked on Sundays shall be paid for at the rate of double time.
- (5) An employee who works on any holiday named herein shall be paid at the rate of double time for the time worked on that day.

12. - PART-TIME EMPLOYEES

- (1) A part-time employee may be engaged to work for a constant number of hours each week which having regard to the various ways of arranging ordinary hours shall average less than 38 hours per week but not less than 15 hours per week.
- Provided that on any one day an employee is engaged and paid for a minimum of three hours' work.
- (2) An employee so engaged shall be paid per hour one thirty-eighth of the weekly wage prescribed.

(3) An employee engaged on a part-time basis shall be entitled in respect of annual leave, holidays, sick leave and bereavement leave arising under this award payment on a proportionate basis calculated as follows:

(a) Annual Leave

Where a part-time employee is entitled to a payment either on termination or for the purpose of annual leave or at a close-down, for continuous service in any qualifying twelve monthly period then the payment of 2.923 hours' pay prescribed by subclause (2) of Clause 13. - Annual Leave and Annual Leave Loading shall be in respect of each cumulative period of 38 ordinary hours worked during the qualifying period.

(b) Holidays

A part-time employee shall be allowed the holidays prescribed by Clause 9. - Holidays without deduction of pay in respect of each holiday which is observed on a day ordinarily worked by the part-time employee.

(c) Absence Through Sickness

Notwithstanding the provisions of paragraph (a) of subclause (1) of Clause 12. - Sick Leave, the accrual of one-sixth of a week for each completed month of service shall be calculated on the average number of ordinary hours worked each week for every completed month of service.

(d) Bereavement Leave

Where a part-time employee would normally work on either or both of the two working days following the death of a close relative which would entitle an employee on weekly hire to bereavement leave in accordance with Clause 16. - Bereavement Leave of this award, the employee shall be entitled to be absent on bereavement leave on either or both of those two working days without loss of pay for the day or days concerned.

(e) Overtime

A part-time employee who works in excess of the hours fixed under the contract of employment shall be paid overtime in accordance with Clause 10. - Overtime of this award.

13. - SICK LEAVE

(1) (a) An employee who is unable to attend or remain at his/her place of employment during the ordinary hours of work by reason of personal ill health or injury shall be entitled to payment during such absence in accordance with the following provisions.

(b) Entitlement to payment shall accrue at the rate of one-sixth of a week for each completed month of service with the employer.

(c) If in the first or successive years of service with the employer an employee is absent on the ground of personal ill health or injury for a period longer than his/her entitlement to paid sick leave, payment may be adjusted at the end of that year of service, or at the time the employee's services terminate, if before the end of that year of service, to the extent that the employee has become entitled to further paid sick leave during that year of service.

(2) The unused portions of the entitlement to paid sick leave in any one year shall accumulate from year to year and subject to this clause may be claimed by the employee if the absence by reason of personal ill health or injury exceeds the period for which entitlement has accrued during the year at the time of the absence. Provided that an employee shall not be entitled to claim payment for any period exceeding ten weeks in any one year of service.

- (3) To be entitled to payment in accordance with this clause the employee shall as soon as reasonably practicable advise the employer of his/her inability to attend for work, the nature of his/her illness or injury and the estimated duration of the absence. Provided that such advice, other than in extraordinary circumstances shall be given to the employer within 24 hours of the commencement of the absence.
- (4) The provisions of this clause do not apply to an employee who fails to produce a certificate from a medical practitioner dated at the time of the absence or who fails to supply such other proof of the illness or injury as the employer may reasonably require provided that the employee shall not be required to produce a certificate from a medical practitioner with respect to absences of two days or less unless after two such absences in any year of service the employer requests in writing that the next and subsequent absences in that year if any, shall be accompanied by such certificate.
- (5)
 - (a) Subject to the provisions of this subclause, the provisions of this clause apply to an employee who suffers personal ill health or injury during the time when he/she is absent on annual leave and an employee may apply for and the employer shall grant paid sick leave in place of paid annual leave.
 - (b) Application for replacement shall be made within seven days of resuming work and then only if the employee was confined to his/her place of residence or a hospital as a result of his/her personal ill health or injury for a period of seven consecutive days or more and he/she produces a certificate from a registered medical practitioner that he/she was so confined. Provided that the provisions of this paragraph do not relieve the employee of the obligation to advise the employer in accordance with subclause (3) of this clause if he/she is unable to attend for work on the working day next following his/her annual leave.
 - (c) Replacement of paid annual leave by paid sick leave shall not exceed the period of paid sick leave to which the employee was entitled at the time he/she proceeded on annual leave and shall not be made with respect to fractions of a day.
 - (d) Where paid sick leave has been granted by the employer in accordance with paragraphs (a), (b) and (c) of this subclause, that portion of the annual leave equivalent to the paid sick leave is hereby replaced by the paid sick leave and the replaced annual leave may be taken at another time mutually agreed to by the employer and the employee or, failing agreement, shall be added to the employee's next period of annual leave or, if termination occurs before then, be paid for in accordance with the provisions of Clause 13. - Annual Leave and Annual Leave Loading.
 - (e) Payment for replaced annual leave shall be at the rate of wage applicable at the time the leave is subsequently taken provided that the annual leave loading prescribed in Clause 13. - Annual Leave and Annual Leave Loading shall be deemed to have been paid with respect to the replaced annual leave.
- (6) Where a business has been transmitted from one employer to another and the employee's service has been deemed continuous in accordance with subclause (3) of Clause 2 of the Long Service Leave provisions published in volume 66 of the Western Australian Industrial Gazette at pages 1-6, the paid sick leave standing to the credit of the employee at the date of transmission from service with the transmittor shall stand to the credit of the employee at the commencement of service with the transmittor and may be claimed in accordance with the provisions of this clause.
- (7) The provisions of this clause with respect to payment do not apply to employees who are entitled to payment under the Workers' Compensation and Assistance Act 1981 nor to employees whose injury or illness is the result of the employee's own misconduct.
- (8) The provisions of this clause do not apply to casual employees.

14. - ANNUAL LEAVE AND ANNUAL LEAVE LOADING

- (1) Except as hereinafter provided, a period of four consecutive weeks leave with payment of ordinary wages as prescribed shall be allowed annually to an employee by his/her employer, after a period of 12 months'

continuous service with such employer. The employer shall give at least four weeks' notice to an employee of the date he/she requires the employee to commence his/her annual leave.

- (2) If any award holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day, there shall be added to that period one day being an ordinary working day for each such holiday observed as aforesaid.
- (3) Any time in respect of which an employee is absent from work except time for which he/she is entitled to claim sick pay or time spent on holidays or annual leave as prescribed by this award, shall not count for the purpose of determining his/her right to annual leave.
- (4) In special circumstances and by mutual consent of the employer, the employee and the union party to this award, annual leave may be taken in not more than two periods.
- (5) If, after one month's continuous service in any qualifying twelve monthly period, an employee lawfully leaves his/her employment or his/her employment is terminated by the employer through no fault of the employee, the employee shall be paid 3.08 hours pay at his/her ordinary rate of wage as prescribed by subclause (7) of this award (excluding the 17% loading) in respect of each completed week of continuous service.
- (6) An employee whose employment terminates after he/she has completed a twelve month qualifying period and who has not been allowed the leave prescribed under this award in respect of that qualifying period shall be given payment in lieu of that leave or in a case to which subclause (4) of this clause applies, in lieu of so much of that leave as has not been allowed, unless -
 - (a) he/she has been justifiably dismissed for misconduct and
 - (b) the misconduct for which he/she has been dismissed occurred prior to the completion of that qualifying period.
- (7) For the purpose of this clause (except as provided in subclause (5) hereof) the ordinary rate of wage shall be the rate as prescribed by Clause 6. - Wages of this award to which shall be added a loading of 17 percentum.
- (8) Where an employer closes down his/her business, or a section or sections thereof, for the purposes of allowing annual leave to all or the bulk of the employees in the business, or section or sections concerned, the following provisions shall apply:-
 - (a) He/she may by giving not less than four weeks' notice of his/her intention so to do, stand off for the duration of the close-down all employees in the business, or section or sections concerned.
 - (b) An employer may close down his/her business for one or two separate periods for the purpose of granting annual leave in accordance with this subclause. If the employer closes down his/her business in two separate periods one of those periods shall be for a period of at least three consecutive weeks.

Provided that where the majority of the employees in the business or section or sections concerned agree, the employer may close down his/her business in accordance with this subclause in two separate periods neither of which is of at least three consecutive weeks, or in three separate periods. In such cases the employer shall advise the employees concerned of the proposed date of each close-down before asking them for their agreement.
- (9)
 - (a) An employer may close down his/her business, or a section or sections thereof for a period of at least three consecutive weeks and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster.
 - (b) An employer may close down his/her business, or a section or sections thereof for a period of less than three consecutive weeks and allow the balance of the annual leave due to an employee in one or two continuous periods, either of which may be in accordance with a roster. In such a case the granting and taking of annual leave shall be subject to the agreement of the employer

and the majority of the employees in the business, or a section or sections thereof respectively and before asking the employees concerned for their agreement, the employer shall advise them of the proposed date of the close-down or close-downs and the details of the annual leave roster.

- (c) In the event of an employee being employed by an employer for portion only of a year, he/she shall only be entitled to such leave on full pay as is proportionate to his/her length of service during that period with such employer, and if such leave is not equal to the leave given to the other employees he/she shall not be entitled to work or pay whilst the other employees of such employer are on leave on full pay.
- (10) Annual leave shall be taken within twelve months of being due.
- (11) The provisions of this clause shall not apply to casual employees.

15. - LONG SERVICE LEAVE

The Long Service Leave provisions published in volume 66 of the Western Australian Industrial Gazette at pages 1 to 4 both inclusive are hereby incorporated in and shall be deemed part of this award.

16. - MATERNITY LEAVE

- (1) Eligibility for Maternity Leave

An employee who becomes pregnant shall, upon production to her employer of a certificate from a duly qualified medical practitioner stating the presumed date of her confinement, be entitled to maternity leave provided that she has had not less than 12 months' continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

For the purposes of this clause:

- (a) An employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work.
 - (b) Maternity leave shall mean unpaid maternity leave.
- (2) Period of Leave and Commencement of Leave
 - (a) Subject to subclauses (3) and (6) hereof, the period of maternity leave shall be for an unbroken period of from 12 to 52 weeks and shall include a period of six weeks' compulsory leave to be taken immediately before the presumed date of confinement and a period of six weeks' compulsory leave to be taken immediately following confinement.
 - (b) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.
 - (c) An employee shall give not less than four weeks' notice in writing to her employer of the date upon which she proposes to commence maternity leave, stating the period of leave to be taken.
 - (d) An employee shall not be in breach of this order as a consequence of failure to give the stipulated period of notice in accordance with paragraph (c) hereof if such failure is occasioned by the confinement occurring earlier than the presumed date.
 - (3) Transfer to a Safe-Job

Where in the opinion of a duly qualified medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to

a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a duly qualified medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (7), (8), (9) and (10) hereof.

(4) Variation of Period of Maternity Leave

- (a) Provided the addition does not extend the maternity leave beyond 52 weeks, the period may be lengthened once only, save with the agreement of the employer, by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened.
- (b) The period of leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(5) Cancellation of Maternity Leave

- (a) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.
- (b) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed four weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

(6) Special Maternity Leave and Sick Leave

- (a) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:
 - (i) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, or
 - (ii) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.
- (b) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.
- (c) For the purposes of subclauses (7), (8) and (9) hereof, maternity leave shall include special maternity leave.
- (d) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (3) of this clause, to the position she held immediately before such transfer.

Where such position no longer exists but there are other positions available, for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

(7) Maternity Leave and Other Leave Entitlements

Provided the aggregate of leave including leave taken pursuant to subclauses (3) and (6) hereof does not exceed 52 weeks -

- (a) An employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is then entitled.
- (b) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during her absence on maternity leave.

(8) Effect of Maternity Leave on Employment

Notwithstanding any award, or other provision to the contrary, absence on maternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of the award.

(9) Termination of Employment

- (a) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.
- (b) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(10) Return to Work After Maternity Leave

- (a) An employee shall confirm her intention of returning to her work by notice in writing to the employer given not less than four weeks prior to the expiration of her period of maternity leave.
- (b) An employee, upon the expiration of the notice required by paragraph (a) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (3), to the position which she held immediately before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

(11) Replacement Employees

- (a) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.
- (b) Before an employer engages a replacement employee under this subclause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (c) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this clause, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (d) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
- (e) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

- (1) An employee shall, on the death of the spouse, father, mother, brother, sister, child or stepchild, or guardian of dependent children of the employees be entitled to leave up to and including the day of the funeral of such relation; such leave, for a period not exceeding two days in respect of any such death shall be without loss of any ordinary pay which the employee would have received if he/her had not been on such leave.
- (2) The right to such paid leave shall be dependent on compliance with the following conditions:-
 - (a) The employee shall give the employer notice of his/her intention to take such leave as soon as reasonably practicable after the death of such relation, and in respect of a death overseas of a prescribed relative, the employee shall provide to his/her employer such evidence that he/her is attending the funeral.
 - (b) Satisfactory evidence of such death shall be furnished by the employee to his/her employer.
 - (c) The employee shall not be entitled to leave under this clause in respect of any period which coincides with any other period of leave entitlement under this award or otherwise.

18. - LIVING AWAY FROM HOME - DISTANT WORK

- (1) Where an employee is directed by the employer to proceed to work at such a distance that the employee cannot return to his/her home at the place of engagement each night and the employee does so, the employer shall provide the employee with suitable board and lodging or shall pay the expenses reasonably incurred by the employee for board and lodging.
- (2) The provisions of subclause (1) of this clause do not apply with respect to any period during which the employee is absent from work without reasonable excuse and in such a case, where the board and lodging is supplied by the employer, the employer may deduct from monies owing or which may become owing to the employee an amount equivalent to the value of that board and lodging for the period of the absence.
- (3)
 - (a) The employer shall pay all reasonable expenses including fares, transport of tools, meals and, if necessary, suitable overnight accommodation incurred by an employee who is directed by the employer to proceed to work pursuant to subclause (1) of this clause and who complies with such direction.
 - (b) The employee shall be paid at ordinary rate of payment for the time up to a maximum of eight hours in any one day incurred in travelling pursuant to the employer's direction.
- (4) An employee, to whom the provisions of subclause (1) of this clause apply, shall be paid an allowance of \$27.10 for any weekend that the employee returns home from the job, but only if -
 - (a) the employee advises the employer or the employer's agent of the intention no later than the Tuesday immediately preceding the weekend in which the employee so returns;
 - (b) the employee is not required for work during that weekend;
 - (c) the employee returns to the job on the first working day following the weekend; and
 - (d) the employer does not provide, or offer to provide, suitable transport.

19. - MOTOR VEHICLE ALLOWANCES

- (1) Where an employee is required and authorised to use his/her own personal motor vehicle in the course of the employee's duties the employee shall be paid an allowance not less than that provided for in the table set out hereunder. Notwithstanding anything contained in this subclause the employer and the employee may make any other arrangement as to car allowance not less favourable to the employee.

- (2) Where an employee in the course of a journey travels through two or more of the separate areas, payment at the rates prescribed herein shall be made at the appropriate rate applicable to each of the separate areas traversed.
- (3) A year, for the purpose of this clause, shall commence on the 1st day of July and end on the 30th day of June next following.

Rates of Hire for Use of Employee's Own Vehicle on Employer's Business

Area Details	Engine Displacement (in cubic centimetres)		
	Over 2600cc	Over 1600cc - & 2600cc	1600cc & Under
	Rate per kilometre (Cents)		
Metropolitan Area	60.9	49.0	42.6
South West Land Division	56.9	50.2	43.8
North of 23.5o South Latitude	63.3	56.2	49.0
Rest of the State	58.8	51.8	45.0
Distance travelled during a year on Official Business		Rate per Kilometre (Cents)	
Motor Cycles All areas of the State			19.2

- (4) "Metropolitan Area" means that area within a radius of fifty kilometres from the Perth Railway Station.
- "South West Land Division" means the South West Land Division as defined by Section 28 of the Land Act 1933-1971 excluding the area contained within the Metropolitan Area.

20. - LOCATION ALLOWANCES

- (1) Subject to the provisions of this clause, in addition to the rates prescribed in the wages clause of this award, an employee shall be paid the following weekly allowances when employed in the towns prescribed hereunder. Provided that where the wages are prescribed as fortnightly rates of pay, these allowances shall be shown as fortnightly allowances.

<u>TOWN</u>	<u>PER WEEK</u>
Agnew	\$22.30
Argyle	\$59.70
Balladonia	\$23.10
Barrow Island	\$38.90
Boulder	\$9.50
Broome	\$35.90
Bullfinch	\$10.40
Carnarvon	\$18.40
Cockatoo Island	\$39.30
Coolgardie	\$9.50
Cue	\$22.90
Dampier	\$31.30
Denham	\$18.40
Derby	\$37.30
Esperance	\$6.50
Eucla	\$25.00
Exmouth	\$32.80
Fitzroy Crossing	\$45.30
Halls Creek	\$52.40
Kalbarri	\$8.00
Kalgoorlie	\$9.50
Kambalda	\$9.50
Karratha	\$37.60

Koolan Island	\$39.30
Koolyanobbing	\$10.40
Kununurra	\$59.70
Laverton	\$22.80
Learmonth	\$32.80
Leinster	\$22.30
Leonora	\$22.80
Madura	\$24.10
Marble Bar	\$57.90
Meekatharra	\$19.80
Mount Magnet	\$24.80
Mundrabilla	\$24.60
Newman	\$21.40
Norseman	\$19.80
Nullagine	\$57.80
Onslow	\$38.90
Pannawonica	\$29.10
Paraburdoo	\$28.90
Port Hedland	\$31.10
Ravensthorpe	\$11.70
Roebourne	\$43.30
Sandstone	\$22.30
Shark Bay	\$18.40
Southern Cross	\$10.40
Telfer	\$53.20
Teutonic Bore	\$22.30
Tom Price	\$28.90
Whim Creek	\$37.20
Wickham	\$35.90
Wiluna	\$22.50
Wyndham	\$55.90

- (2) Except as provided in subclause (3) of this clause, an employee who has:
- (a) a dependant shall be paid double the allowance prescribed in subclause (1) of this clause;
 - (b) a partial dependant shall be paid the allowance prescribed in subclause (1) of this clause plus the difference between that rate and the amount such partial dependant is receiving by way of a district or location allowance.
- (3) Where an employee:
- (a) is provided with board and lodging by his/her employer, free of charge; or
 - (b) is provided with an allowance in lieu of board and lodging by virtue of the award or an order or agreement made pursuant to the Act;
- such employee shall be paid $66\frac{2}{3}$ per cent of the allowances prescribed in subclause (1) of this clause.
- (4) Subject to subclause (2) of this clause, junior employees, casual employees, part time employees, apprentices receiving less than adult rate and employees employed for less than a full week shall receive that proportion of the location allowance as equates with the proportion that their wage for ordinary hours that week is to the adult rate for the work performed.
- (5) Where an employee is on annual leave or receives payment in lieu of annual leave he/she shall be paid for the period of such leave the location allowance to which he/she would ordinarily be entitled.

- (6) Where an employee is on long service leave or other approved leave with pay (other than annual leave) he/she shall only be paid location allowance for the period of such leave he/she remains in the location in which he/she is employed.
- (7) For the purposes of this clause:
- (a) "Dependant" shall mean -
- (i) a spouse or defacto partner; or
- (ii) a child where there is no spouse or defacto partner;
- who does not receive a location allowance or who, if in receipt of a salary or wage package, receives no consideration for which the location allowance is payable pursuant to the provisions of this clause.
- (b) "Partial Dependant" shall mean a "dependant" as prescribed in paragraph (a) of this subclause who receives a location allowance which is less than the location allowance prescribed in subclause (1) of this clause or who, if in receipt of a salary or wage package, receives less than a full consideration for which the location allowance is payable pursuant to the provisions of this clause.
- (8) Where an employee is employed in a town or location not specified in this clause the allowance payable for the purpose of subclause (1) of this clause shall be such amount as may be agreed between Australian Mines and Metals Association, the Chamber of Commerce and Industry of Western Australia and UnionsWA or, failing such agreement, as may be determined by the Commission.
- (9) Subject to the making of a General Order pursuant to s.50 of the Act, that part of each location allowance representing prices shall be varied from the beginning of the first pay period commencing on or after the 1st day in July of each year in accordance with the annual percentage change in the Consumer Price Index (excluding housing), for Perth measured to the end of the immediately preceding March quarter, the calculation to be taken to the nearest ten cents.

21. - PAYMENT OF WAGES

- (1) Wages shall be paid either weekly or fortnightly by cheque, direct transfer or cash at the employer's discretion following consultation with employees.
- (2) No deductions shall be made from an employee's wage unless the employee has agreed to such deduction in writing or the deduction is authorised by the Award.

22. - TIME AND WAGES RECORD

- (1) In addition to the requirements of the Industrial Relations (General) Regulations 1997, each employer shall keep a record, on a separate page for each employee, from which can be readily ascertained the following:
- (a) the name of each employee and his/her classification;
- (b) each day worked, the hours worked each day, including time of starting and finishing work each day, overtime hours worked and meal breaks taken;
- (c) the gross amount of ordinary wages, overtime wages, special rates and specific allowances paid each pay week;
- (d) the amount of each deduction and the nature thereof;

- (e) the net amount of wages and allowances paid each pay week;
 - (f) any relevant records which detail taxation deductions and remittances to the Australian Taxation Office, including those payments made as PAYE tax whether under a Group Employer's Scheme or not;
 - (g) a certificate or other documentation from the Construction Industry Long Service Leave Payments Board which will confirm the employer's registration, the date of the last payment, and the period for which that payment applies;
 - (h) the employer's and the employee's Construction & Building Union Superannuation number or other occupational superannuation number and the contribution returns by the employer to the Construction & Building Union Superannuation or other occupational superannuation schemes on behalf of the employee, where such benefit applies; and
- (2) In addition, the employer shall record the location of the job if it is outside the Perth Metropolitan area.
 - (3) The employer shall provide evidence of the employer's current Workers Compensation Policy or other satisfactory proof of insurance such as a renewal certificate.
 - (4) Subject to subclause (6) of this clause, all records and documentation referred to in subclauses (1), (2) and (3), or copies thereof, shall be available for inspection by a duly accredited official under the rules of an organisation of employees bound by this Award during the usual office hours, at the employer's office or other convenient place. This is subject to reasonable notice of not less than 24 hours of the intention to inspect the records being given to the employer by the union or duly accredited union official.
 - (5) Subject to subclause (6) of this clause, upon request the employer shall within 48 hours make copies available for the union of the record maintained under subclause (1) of this clause if the Secretary of the Union reasonably suspects that a breach of the Award has been committed. If agreed between the parties, copies of the records shall be sent to the union office. Otherwise, the union shall arrange for copies of the records to be collected.
 - (6) The employer may refuse the representative access to the records if the employer:
 - (a) is of the opinion that access to the records by a duly accredited official of the organisation of employees would infringe the privacy of persons who are not members of the union;
 - (b) undertakes to produce the records to an Industrial Inspector within 48 hours of being notified of the requirements to inspect by the Union official; and
 - (c) complies with the undertaking to produce the records to an Industrial Inspector.

23. - POSTING OF AWARD AND UNION NOTICES

- (1) A copy of this award if supplied by the union shall be exhibited by each employer on its business premises in such a place where it may be conveniently and readily seen by each employee.
- (2) The Secretary of the Union, or any other duly accredited representative of the union, shall be permitted to post notices relating to union business in such a place where it may be conveniently and readily seen by each employee.

24. - INTERVIEWS

Subject to this clause and consistent with the terms of the Labour Relations Legislation Amendment Act 1997 and S.23(3)(c)(iii) of the Industrial Relations Act a representative of the Union shall not exercise the rights under this clause with respect to entering any part of the premises of an employer unless the employer is the employer or former employer of a member of the Union.

- (a) On arrival at the workplace the representative shall seek permission to enter the premises from the employer or the senior representative of the employer.
- (b) Agreement between the representative and the employer shall be sought as to where and subject to what conditions the employee may be interviewed or work inspected.

25. - BOARD OF REFERENCE

- (1) The Commission hereby appoints for the purpose of this Award, a Board of Reference consisting of a Chairperson and two other members who shall be appointed pursuant to regulation 25 of the Industrial Relations Commission Regulations 1985.
- (2) The Board of Reference is hereby assigned the function of determining any dispute between the parties in relation to any matter which under this Award may be allowed, approved, fixed, determined or dealt with by a Board of Reference.

26. - COPYRIGHT

The parties may agree matters relating to Copyright in accordance with the provisions of the Copyright Act 1968.

27. - DISPUTES SETTLEMENT PROCEDURE

- (1) Subject to the provisions of the Industrial Relations Act 1979 (as amended) and the Occupational Health, Safety and Welfare Act 1984 (as amended) any grievance, complaint, claim or dispute, or any matter which is likely to result in a dispute, between an employer and the union or an employer and employees, shall be settled in accordance with the procedures set out herein.
- (2) Where the matter is raised by the employee(s), the following steps shall be observed:
 - (a) The employee(s) concerned shall discuss the matter with the immediate supervisor and if the matter cannot be resolved at this level the supervisor shall, within 3 days, refer the matter to a more senior officer nominated by the employer and the employee(s) shall be advised accordingly.
 - (b) The senior officer shall, if able, answer the matter raised within 3 days of it being referred and, if not so able, shall refer the matter to the employer for attention and the employee(s) shall be advised accordingly.
 - (c)
 - (i) If the matter has been referred in accordance with paragraph (b) above, the employee(s) or the shop steward shall notify the union so that the union may have the opportunity of discussing the matter with the employer.
 - (ii) The employer shall, as soon as practicable after considering the matter before it, advise the employee(s) or, where necessary the union of its decision, provided that such advice shall be given within 1 week of the matter being referred to the employer unless a longer time period is agreed between the parties to the dispute. If a longer time period is agreed the union is to be notified.
 - (d) Should the matter remain in dispute after the above processes have been exhausted either party may refer the matter to the Commission.
- (3) Nothing in this clause shall limit the right of an individual employee to seek advice from, or be represented by, a shop steward or an appropriate union representative.
- (4) The settlement procedures provided by this clause shall be applied to all manner of disputes referred to in subclause (1) hereof, and no party, or individual, or group of individuals, shall commence any other action, of whatever kind, which may frustrate a settlement in accordance with these procedures and work

shall continue while the matters in dispute are being dealt with in accordance with this clause. Observance of these procedures shall in no way prejudice the right of any party, or individual, in dispute to refer the matter for resolution by the Commission.

28. - LIBERTY

Liberty is reserved for the Union to apply to vary the Award with respect to:

- (1) Distant Work Provisions
- (2) Superannuation

29. - REDUNDANCY

(1) Definitions

- (a) "Redundancy" means a situation where an employee ceases to be employed by an employer, respondent to this award, other than for reasons of misconduct or refusal of duty.
- (b) "Redundant" has a corresponding meaning.
- (c) "Continuous Service" for the purposes of this clause means all service of the employee with his or her employer and shall include an employee's absence from work for any of the following reasons:
 - (i) Paid sick leave;
 - (ii) Paid annual leave;
 - (iii) Long service leave;
 - (iv) Bereavement leave;
 - (v) Public holidays;
 - (vi) Jury service;
 - (vii) Where called up for military service for up to 3 months in any qualifying 12 month period;
 - (viii) Injury received during the course of employment for and up to a maximum of 26 weeks for which he/she received workers' compensation; and
 - (ix) Any reason satisfactory to the employer. In the event of dispute, the matter may be referred to the Western Australian Industrial Relations Commission.

Provided that service by the employee with a business which has been transmitted from one employer to another and the employee's service has been deemed continuous in accordance with paragraph (3) of subclause (2) of the Long Service Leave Provisions published in Volume 73 of the Western Australian Industrial Gazette at pages 1-4 shall also constitute continuous service for the purpose of this clause.

- (d) "Weeks Pay" means the ordinary time rate of pay at the time of termination for the employee concerned.
- (2) Discussions to Precede Redundancy

Where an employer has decided to make an employee redundant, the employee shall be entitled to be informed, by the employer, as soon as reasonably practicable after the decision has been made to effect the redundancy. The employee shall be entitled to discuss with the employer the likely effects of the redundancy in respect of him or her.

(3) Redundancy Pay

A redundant employee shall receive redundancy/severance payments, calculated as follows, in respect of all continuous service (as defined in this Clause) with his or her employer provided that any service prior to 8 September 1994 shall not be counted as service for the purposes of this clause.

PERIOD OF CONTINUOUS SERVICE WITH AN EMPLOYER	REDUNDANCY/SEVERANCE PAY
1 year or more but less than 2 years	2.4 weeks pay plus, for all service in excess of 1 year, 1.75 hours pay per completed week of service up to a maximum of 4.8 weeks pay.
2 years or more but less than 3 years	4.8 weeks pay plus, for all service in excess of 2 years, 1.6 hours pay per completed week of service up to a maximum of 7 weeks pay.
3 years or more but less than 4 years	7 weeks pay plus, for all service in excess of 3 years, 0.73 hours pay per completed week of service up to a maximum of 8 weeks pay.
4 years or more	8 weeks pay

Provided that an employee employed for less than twelve (12) months shall be entitled to a redundancy/severance payment of 1.75 hours per completed week of service if, and only if, redundancy is occasioned otherwise than by the employee.

(4) Casuals

Any period of service as a casual (as defined in this award) shall not entitle an employee to accrue service in accordance with this clause for that period.

(5) Fund

An employer bound by this award may utilise a fund to meet all or some of the liabilities created by this clause. Where an employer utilises such a fund:

- (a) payments made by a fund designed to meet an employer's liabilities under this clause, to employees eligible for redundancy/severance pay shall be set off against the liability of the employer under this clause, and the employee shall receive the fund payment or the award benefit whichever is the greater but not both; or
- (b) where a fund, which has been established pursuant to an agreement between unions and employers, does not make payments in accordance with this clause, contributions made by an employer on behalf of an employee to the fund shall, to the extent of those contributions, be set off against the liability of the employer under this clause, and payments to the employee shall be made in accordance with the rules of the fund or any agreement relating thereto and the employee shall be entitled to the fund benefit or the award benefit whichever is the greater but not both.

(6) Employee Leaving During Notice

An employee whose employment is to be terminated in accordance with subclause (1)(a) of this clause may terminate his or her employment during the period of notice and if this occurs, shall be entitled to

the provisions of this clause as if the employee remains with the employer until expiry of such notice. Provided that in such circumstances, the employee shall not be entitled to payment in lieu of notice.

(7) Leave for Job Interviews

- (a) An employee who has been informed that he or she has been, or will be, made redundant is entitled to paid leave of up to 8 hours for the purpose of being interviewed for further employment.
- (b) The 8 hours need not be consecutive.
- (c) An employee who claims to be entitled to paid leave under paragraph (a) above is to provide to the employer evidence that would satisfy a reasonable person of the entitlement.

(8) Disputes Settling Procedure

Any dispute in relation to this clause may be referred to the Western Australian Industrial Relations Commission.

30. - SUPERANNUATION

(1) The Superannuation provisions contained herein operate subject to the requirements of the hereinafter prescribed provision titled - Compliance, Nomination and Transition.

(2) Definitions

For the purpose of this clause:

- (a) "Eligible employee" shall mean an employee who is entitled to receive employer superannuation contributions in accordance with the superannuation legislation.
- (b) "Fund" means a complying fund, as defined in the superannuation legislation.
- (c) "Ordinary Time Earnings" (which, for the purposes of the Superannuation Guarantee (Administration) Act 1992, will operate to provide a notional earnings base) shall mean the actual ordinary rate of pay the employee receives for ordinary hours of work including but not limited to tool allowance, industry allowance, trade allowances, shift loading, special rates, qualification allowances, (fares and travel allowance), leading hand allowances, in charge or plant allowance and supervisory allowances where applicable. The term includes any regular over-award pay as well as casual rates received for ordinary hours or work.
- (d) "Superannuation Legislation" means the Federal legislation as varied from time to time, governing the superannuation rights and obligations of the parties, which includes the Superannuation Guarantee (Administration) Act 1992, the Superannuation Guarantee Charge Act 1992, the Superannuation Guarantee Industry (Supervision) Act 1993 and the Superannuation (Resolution of Complaints) Act 1993.
- (e) "The Relevant Fund" means the fund selected in respect of an employee pursuant to subclause (4) hereof.

(3) Contributions

- (a) In accordance with the Superannuation legislation and subject to the Trust Deed of the relevant fund, an employer shall contribute an amount on behalf of each eligible employee into a relevant superannuation fund, which reflects the employer's liability as prescribed in Part 3 of the Superannuation Guarantee (Administration) Act 1992 (as set out in (b) below).
- (b) The level of contributions required under the Superannuation Guarantee (Administration) Act 1992 are as follows:

Percentage	Financial Year (1 July - 30 June)
6	1996 - 1997
6	1997 - 1998
7	1998 - 1999
7	1999 - 2000
8	2000 - 2001
8	2001 - 2002
9	2002 - 2003

(4) Employee Contributions

- (a) Subject to the rules of the fund, employees of a respondent employer who wish to make contributions to the fund additional to those being paid pursuant to subclause (2) hereof, shall be entitled to do so. Such employees may either forward their own contribution directly to the fund administrators or, where it is practicable to do so, authorise the employer to pay into the fund from the employee's wages, amounts specified by the employee.
- (b) Employee contributions to the fund deducted by the employer at the employee's request shall be held in trust on the employee's behalf and be subject to the following conditions:
 - (i) The amount of contributions shall be expressed in whole dollars.
 - (ii) Employees shall have the right to adjust to the level of contributions made on their own behalf from the first of the month following the giving of three months' written notice to the employer. Provided that by agreement with the employer, employees may vary their additional contributions in extenuating circumstances at other times.
 - (iii) Contributions deducted under this clause shall be forwarded to the fund at the same time as contributions under subclause (2) hereof.

(5) Superannuation Fund

- (a) The employer shall make superannuation contributions, or improvements to this clause, to any of the following funds:
 - (i) C+BUS, CTRF, the WEST-SCHEME Superannuation Scheme; Building Employees Superannuation trust; or
 - (ii) Any fund agreed between the employer and eligible employees, and the union or unions, where applicable; or
 - (iii) Any fund which has application to employees in the principal business of the employer, where eligible employees covered by this award are a minority of award-covered employees, or
 - (iv) Any other approved occupational superannuation fund to which an employer or eligible employee who is a member of the religious fellowship known as The Exclusive Brethren elects to contribute.
- (b) Provided that an employer shall not be required to contribute to more than one fund in respect of eligible employees employed under this award.
- (c) Subject to the terms of this clause, where there is a dispute over the choice of fund in respect of one or more employees, the matter shall be referred to the Western Australian Industrial Relations Commission for determination.

(6) Fund Membership

The employer shall make an eligible employee aware of his/her entitlements under this clause and shall arrange for such eligible employees the opportunity to become a member of the relevant fund. An eligible employee shall, within a period of 30 days from commencement of employment, complete the necessary application forms to become a member of the relevant fund, to the satisfaction of the trustees of that fund, in order to be entitled to the contributions prescribed in subclause (2) hereof.

(7) Exemption

This clause shall be deemed to be satisfied by an employer, who as at 1 December 1991 or at the date of becoming respondent to this award, is already satisfying and continues to satisfy the requirements of subclause (2) hereof by providing superannuation contributions which reflects the employer's liability as prescribed in Part 3 of the Superannuation Guarantee (Administration) Act 1992, or any higher amount as prescribed by the Trust Deed of the relevant fund.

(8) Absence From Work

Subject to the Trust Deed of the fund of which an employee is a member, the following provisions shall apply.

(a) Paid Leave

Contributions shall continue whilst the member of a fund is absent on paid annual leave, sick leave, long service leave, public holidays, jury service, bereavement leave, or other paid leave.

(b) Unpaid Leave

Contributions shall not be required in respect of any period of absence from work without pay of one day or more.

(c) Work Related Injury or Illness

In the event of an eligible employee's absence from work being due to work related injury or work related illness, contributions at the normal rate shall continue for the period of the absence provided that:

- (i) the member of the funds is receiving workers' compensation payments or is receiving regular payments directly from the employer in accordance with statutory requirements or the provisions of this award.
- (ii) The person remains an employee of the employer.

(9) Compliance, Nomination and Transition

Notwithstanding anything contained elsewhere herein which requires that contribution be made to a superannuation fund or scheme in respect of an employee, on and from 30 June 1998 -

- (a) Any such fund or scheme shall no longer be a complying superannuation fund or scheme for the purposes of this clause unless:
 - (i) the fund or scheme is a complying fund or scheme within the meaning of the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth; and
 - (ii) under the governing rules of the fund or scheme, contributions may be made by or in respect of the employee permitted to nominate a fund or scheme;
- (b) The employee shall be entitled to nominate the complying superannuation fund or scheme to which contributions are to be made by or in respect of the employee;

- (c) The employer shall notify the employee of the entitlement to nominate a complying superannuation fund or scheme as soon as practicable;
- (d) A nomination or notification of the type referred to in paragraphs (b) and (c) of this subclause shall, subject to the requirements of regulations made pursuant to the Industrial Relations Legislation Amendment and Repeal Act 1995, be given in writing to the employer or the employee to whom such is directed;
- (e) The employee and employer shall be bound by the nomination of the employee unless the employee and employer agree to change the complying superannuation fund or scheme to which contributions are made;
- (f) The employer shall not unreasonably refuse to agree to a change of complying superannuation fund or scheme requested by an employee;

Provided that on and from 30 June 1998, and until an employee thereafter nominates a complying superannuation fund or scheme -

- (g) if one or more complying superannuation funds or schemes to which contributions may be made be specified herein, the employer is required to make contributions to that fund or scheme, or one of those funds or schemes nominated by the employer;
- or
- (h) if no complying superannuation fund or scheme to which contributions may be made be specified herein, the employer is required to make contributions to a complying fund or scheme nominated by the employer.

APPENDIX - RESOLUTION OF DISPUTES REQUIREMENTS

- (1) This Appendix is inserted into the award/industrial agreement as a result of legislation which came into effect on 16 January 1996 (Industrial Relations Legislation Amendment and Repeal Act 1995) and further varied by legislation which came into effect on 23 May 1997 (Labour Relations Legislation Amendment Act 1997).
- (2) Any dispute or grievance procedure in this award/industrial agreement shall also apply to any questions, disputes or difficulties which may arise under it.
- (3) With effect from 22 November 1997 the dispute or grievance procedures in this award/industrial agreement is hereby varied to include the requirement that persons involved in the question, dispute or difficulty will confer among themselves and make reasonable attempts to resolve questions, disputes or difficulties before taking those matters to the Commission.

SCHEDULE OF RESPONDENTS

Town of Narrogin

Avon Valley Arts Society

VARIATION RECORD

ARTWORKERS AWARD NO.

A 30 OF 1987

Delivered 23/05/90 at 70 WAIG 1696
Consolidated for Section 93(6) 19/12/94 at 75 WAIG 236

CLAUSE NO.	EXTENT OF VARIATION	ORDER NO.	OPERATIVE DATE	GAZETTE REFERENCE
1. Title				
(1A. State Wage Principles)				
	Ins. Cl.	1752/91	31/01/92	72 WAIG 191
	Cl. & Title	1457/93	24/12/93	74 WAIG 198
(1A. State Wage Principles December 1993)				
	Cl. & Title	985/94	30/12/94	75 WAIG 23
(1A. Statement of Principles December 1994)				
	Cl. & Title	1164/95	21/03/96	76 WAIG 911
(1A. Statement of Principles March 1996)				
	Cl & Title	915/96	7/08/96	76 WAIG 3368
(1A Statement of Principles - August 1996)				
	Cl & Title	940/97	14/11/97	77 WAIG 3177
(1A. Statement of Principles - November 1997)				
	Cl & Title	757/98	12/06/98	78 WAIG 2579
(1A. Statement of Principles - June, 1998)				
	Del. Cl.	609/99	06/07/99	79 WAIG 1847
1B. Minimum Adult Award Wage				
	Ins. 1B	940/97	14/11/97	77 WAIG 3177
	Cl.	1175/98	31/07/98	78 WAIG 3758
	Min. Wage Rate & text.	609/99	01/08/99	79 WAIG 1847
	Cl	752/01	01/08/01	81 WAIG 1721

Cl.	797/02	01/08/02	82 WAIG 1369
Cl.	569/03	5/06/03	83 WAIG 1899 & 1955
(9)	1197/03	1/11/03	83 WAIG 3537
Cl	570/04	4/06/04	84 WAIG 1521
Cl.	576/05	07/07/05	85 WAIG 2083 & 2129
Cl.	957/05	07/07/06	86 WAIG 1631 & 1684
Cl.	1/07	01/07/07	87 WAIG 1487 & 1544
Cl	115/07	01/07/08	88 WAIG 773 & 819
Cl	1/09	01/10/09	89 WAIG 735 & 1231
Cl	2/10	01/07/10	90 WAIG 568 & 762
Cl	2/11	01/07/11	91 WAIG 1008 & 1182
Cl	2/12	01/07/12	92 WAIG 991
Cl.	1/13	01/07/13	93 WAIG 661
Cl.	1/14	01/07/14	94 WAIG 883
Cl.	1/15	01/07/15	95 WAIG 878
Cl.	1/16	01/07/16	96 WAIG 738
Cl.	1/17	01/07/17	97 WAIG 802
Cl.	1/18	01/07/18	98 WAIG 263 & 506
Cl	1/19	01/07/19	99 WAIG 509 & 832

2. Arrangement

Cl.	998/90(R)	22/10/91	71 WAIG 2820
Ins. 1A	1752/91	31/01/92	72 WAIG 191
1A. Title	1457/93	24/12/93	74 WAIG 198
1A. Title	985/94	30/12/94	75 WAIG 23
Cl.	346/95	23/05/95	75 WAIG 2150
Ins. 29	1222/93	10/10/95	75 WAIG 3171
1A. Title	1164/95	21/03/96	76 WAIG 911
Ins. Appendix - Resolution...	693/96	16/07/96	76 WAIG 2768
Ins. Appendix - S.49B...	694/96	16/07/96	76 WAIG 2789
1A. Title	915/96	7/08/96	76 WAIG 3368
1A	940/97	14/11/97	77 WAIG 3177

Ins. 1B	940/97	14/11/97	77 WAIG 3177
Del. App S49B - Inspect	491/98	16/04/98	78 WAIG 1471
1A	757/98	12/06/98	78 WAIG 2579
Ins. 30.	2006/97	05/05/98	78 WAIG 3483
Del. 1A.	609/99	06/07/99	79 WAIG 1847

3. Area, Scope and Term

3A. Award Modernisation

Ins. Cl.	998/90(R)	22/10/91	71 WAIG 2820
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4. Definitions

(1)	767/95	17/08/95	75 WAIG 2799
(1)	619/02	28/06/02	82 WAIG 2136

5. Contract of Service

6. Wages

Cl.	998/90(R)	22/10/91	71 WAIG 2820
Cl.	346/95	23/05/95	75 WAIG 2150
Cl.	767/95	17/08/95	75 WAIG 2799
Cl.	1086/96	20/09/96	77 WAIG 474
(1) & (2)	1087/96	14/10/96	77 WAIG 474
Rates & Ins. Text	940/97	14/11/97	77 WAIG 3177
Cl	1829/97	21/11/97	78 WAIG 458
Cl.	1175/98	31/07/98	78 WAIG 3758
(3)	2010/98	23/12/98	79 WAIG 821
Corr	2010/98	22/03/99	79 WAIG 1171
Rates (2)(a), (c) text.	609/99	01/08/99	79 WAIG 1847
(3)(c)	818/99	02/12/99	80 WAIG 166
(3)(c)	1135/00	01/11/00	80 WAIG 5518
Cl	752/01	01/08/01	81 WAIG 1721

(3)(c)	1359/01	07/09/01	81 WAIG 2732
(2)(a)	797/02	01/08/02	82 WAIG 1369
(3)(c)	1200/02	14/10/02	82 WAIG 2924
Cl.	569/03	5/06/03	83 WAIG 1899 & 1955
(3)(c)	1153/03	21/10/03	83 WAIG 3595
Cl (3)(c)	570/04	4/06/04	84 WAIG 1521 & 1564
Cl (3)(c)	882/04	7/10/04	84 WAIG 3514
Cl.	576/05	07/07/05	85 WAIG 2083 & 2129
Cl.	957/05	07/07/06	86 WAIG 1631 & 1684
Cl.	1/07	01/07/07	87 WAIG 1487 & 1544
Cl	115/07	01/07/08	88 WAIG 773 & 819
Cl	1/09	01/10/09	89 WAIG 735 & 1231
Cl	2/10	01/07/10	90 WAIG 568 & 762
Cl	2/11	01/07/11	91 WAIG 1008 & 1182
Cl	2/12	01/07/12	92 WAIG 991
Cl.	1/13	01/07/13	93 WAIG 661
Cl.	1/14	01/07/14	94 WAIG 883
Cl.	1/15	01/07/15	95 WAIG 878
Cl.	1/16	01/07/16	96 WAIG 738
Cl.	1/17	01/07/17	97 WAIG 802
Cl.	1/18	01/07/18	98 WAIG 263 & 506
Cl	1/19	01/07/19	99 WAIG 509 & 832

7. Special Rates and Provisions

Cl.	998/90(R)	22/10/91	71 WAIG 2820
(1),(2)(c),(3),(4),(5),(6),(7)(a) & (9) del. Amounts	346/95	23/05/95	75 WAIG 2150
(9) rates	1182/95	6/12/95	76 WAIG 168
Cl.	1086/96	20/09/96	77 WAIG 474
(9)	1087/96	14/10/96	77 WAIG 474
Cl.	1175/98	31/07/98	78 WAIG 3758
(1)-(7)	818/99	02/12/99	80 WAIG 166
(1), (2)(c), (3), (4), (5), (6) & (7)(a)(ii)	1135/00	01/11/00	80 WAIG 5518

(9)	1614/00	16/02/01	81 WAIG 839
Cl.	1359/01	07/09/01	81 WAIG 2732
(9)	1777/01	3/12/01	81 WAIG 72
Cl	1200/02	14/10/02	82 WAIG 2924
Cl (1)-(7)(a)	1153/03	21/10/03	83 WAIG 3595
Cl (1)-(7)(a)	882/04	7/10/04	84 WAIG 3514

8. Hours

9. Structural Efficiency

Ins Cl.	346/95	23/05/95	75 WAIG 2150
(9. Holidays)			
Renum. Cl.	346/95	23/05/95	75 WAIG 2150

10. Holidays

(10. Overtime)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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11. Overtime

(2)	1087/96	14/10/96	77 WAIG 474
(2)	1447/99	02/12/99	80 WAIG 166
(2)	1614/00	16/02/01	81 WAIG 839
(2)	1777/01	3/12/01	81 WAIG 72
(2)	1638/02	16/12/02	83 WAIG 93
(2)	1382/03	19/01/04	84 WAIG 245

(11. Part-Time Employees)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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12. Part-Time Employees

(12. Sick Leave)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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13. Sick Leave

(13. Annual Leave and Annual Leave Loading)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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14. Annual Leave and Annual Leave Loading

(14. Long Service Leave)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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15. Long Service Leave

(15. Maternity Leave)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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16. Maternity Leave

(16. Bereavement Leave)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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17. Bereavement Leave

(17. Living Away From Home - Distant Work)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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18. Living Away From Home - Distant Work

(4) amounts	346/95	23/05/95	75 WAIG 2150
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(4) rates	1182/95	6/12/95	76 WAIG 168
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(4)	1087/96	14/10/96	77 WAIG 474
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(4)	1614/00	16/02/01	81 WAIG 839
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(4)	1777/01	3/12/01	81 WAIG 72
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(18. Motor Vehicle Allowances)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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19. Motor Vehicle Allowances

(3)	346/95	23/05/95	75 WAIG 2150
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(3)	1614/00	16/02/01	81 WAIG 839
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(3)	1777/01	3/12/01	82 WAIG 72
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(19. Location Allowances)

Cl.	778/90 &		
	1065/90	01/07/90	70 WAIG 2995
(1)	1049/91	01/07/91	71 WAIG 2753
Cl.	851/92	01/07/92	72 WAIG 2498
Cl.	943/93	01/07/93	73 WAIG 1989
Cl.	714/94	01/07/94	74 WAIG 1869
Cl	641/95	01/07/95	75 WAIG 2125
Renum. Cl.	346/95	23/05/95	75 WAIG 2150

20. Location Allowances

Cl.	911/96	01/07/96	76 WAIG 3365
Cl.	1400/97	01/07/97	77 WAIG 2547
Cl.	975/98	01/07/98	78 WAIG 2999
Cl.	690/99	01/07/99	79 WAIG 1843
Cl.	718/01	01/07/01	81 WAIG 1559
Cl.	686/02	01/07/02	82 WAIG 1721
Cl.	570/03	01/07/03	83 WAIG 1657
Cl.	696/04	01/07/04	84 WAIG 2145
Cl.	458/05	01/07/05	85 WAIG 1893
Cl.	59/06	01/07/06	86 WAIG 1471
Cl.	53/07	01/07/07	87 WAIG 2435
Cl.	9/08	01/07/08	88 WAIG 689
Cl.	24/09	01/07/09	89 WAIG 729
Cl.	24/09	01/07/09	89 WAIG 2483
Cl.	117/10	01/07/10	90 WAIG 561
Cl.	24/11	01/07/11	91 WAIG 995
Cl.	6/12	01/07/12	92 WAIG 725
Cl.	7/13	01/07/13	93 WAIG 461
Cl.	11/14	01/07/14	94 WAIG 669
Cl.	118/15	01/07/15	95 WAIG 700

Cl.	15/16	01/07/16	96 WAIG 631
Cl.	20/17	01/07/17	97 WAIG 585
Cl.	20/18	01/07/18	98 WAIG 415
Cl	24/19	01/07/19	99 WAIG 615

(20. Payment of Wages)

Delivered	A30/87	09/05/90	70 WAIG 1696
Renum. Cl.	346/95	23/05/95	75 WAIG 2150

21. Payment of Wages

(21. Time and Wages Record)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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22. Time and Wages Record

Cl.	864/98	10/11/98	79 WAIG 234
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(22. Posting of Award and Union Notices)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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23. Posting of Award and Union Notices

(23. Interviews)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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24. Interviews

Delete & Ins. Txt	2053(1)/97	22/11/97	77 WAIG 3138
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(24. Board of Reference)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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25. Board of Reference

(25. Copyright)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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26. Copy right

(26. Liberty)

Cl. & Title	998/90(R)	22/10/91	71 WAIG 2820
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(26. Disputes Settlement Procedure)

Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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27. Disputes Settlement Procedure

(27. Liberty)

Ins. Cl.	998/90(R)	22/10/91	71 WAIG 2820
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Renum. Cl.	346/95	23/05/95	75 WAIG 2150
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28. Liberty

29. Redundancy

Ins. Cl.	1222/93	10/10/95	75 WAIG 3171
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30. Superannuation

Ins. Cl.	2006/97	05/05/98	78 WAIG 3483
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(3)(b)	1447/99	02/12/99	80 WAIG 166
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(3)(b)	1777/01	3/12/01	81 WAIG 72
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Appendix - Resolution of Disputes Requirements

Ins. Appendix	693/96	16/07/96	76 WAIG 2768
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App	2053/97	22/11/97	77 WAIG 3079
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Schedule of Respondents

(Appendix - S.49B - Inspection of Records Requirements)

Ins. Appendix	694/96	16/07/96	76 WAIG 2789
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(1) ins. Text	2053/97	22/11/97	77 WAIG 3138
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Delete App.	491/98	16/04/98	78 WAIG 1471
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