

**THE ALBANY HARBOUR MASTER-MARINE PILOTS  
SALARY AGREEMENT 1995**

**NO. AG 24 OF 1996**



SCHEDULE

1. - TITLE

This agreement shall be referred to as The Albany Harbour Master-Marine Pilots Salary Agreement 1995.

2. - ARRANGEMENT

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3. - PARTIES

- (1) This agreement shall be binding on the Merchant Service Guild of Australia, Western Australian Branch, Union of Workers (the union), its officers and members and The Albany Port Authority.
- (2) The number of officers covered by this agreement is one.

#### 4. - PREAMBLE

This agreement is intended to supersede the Department of Marine and Harbours, Harbour Masters, Relieving Harbour Masters and Assistant Harbour Masters Award, 1984. It is designed to accommodate, amongst other things, working arrangement and the interface of relevant officers covered by this agreement with the Integrated Port Labour Force. This will enhance the operation of a multi-skilled workforce with the competency to perform port, marine and stevedore work in the Port of Albany.

This agreement is the result of discussion between the parties with a view to continuing and enhancing the fundamental restructuring of operations in Western Australian Regional Ports and the unique and specialised functions performed by the Harbour Master/Pilot, consistent with:

- \* those findings of the Interstate Commission report on the waterfront industry endorsed by the Federal and Western Australian Governments;
- \* introduction of the Integrated Port Labour Force in Albany in 1992 and renegotiation of Integrated Port Labour Force Albany Agreement in 1995;
- \* ensuring that working patterns and arrangements enhance flexibility and efficiency of regional ports;
- \* being commercially efficient in terms of port authority functions;
- \* the section 118A Order, Mis 072/95 Print M2421 handed down on 31 May 1995.

This agreement also has regard to developments in 1993 where, as a consequence of the merge of several state government departments, including Marine and Harbours, a new department was created, known as the Western Australian Department of Transport. In 1993 an agreement was negotiated between Marine and Harbours and the Albany Port Authority whereby Marine and Harbours would cease to provide pilotage services to the Port of Albany and persons employed as Harbour Masters/Pilots by Marine and Harbours would have their contracts of employment transferred to the Albany Port Authority, thus ceasing to be officers of Marine and Harbours and become officers of the Albany Port Authority.

The Albany Port Authority since 1993 has, as a consequence, had responsibility of the provision of pilotage services in that Port.

In 1994 the Albany Port Authority became a respondent to the Federal Marine Pilots Award 1991.

#### 5. - AMBIT

This agreement shall:

- (1) Provide the basis of payment of annual salaries and various allowances by the Albany Port Authority to relevant officers who are members of the Merchant Service Guild of Australia, Western Australian Branch, Union of Workers.
- (2) Supersede previous memorandum of agreement between the parties.
- (3) Shall be read in conjunction with the Department of Marine and Harbours, Harbour Masters, Relieving Harbour Masters and Assistant Harbour Masters Award, 1984 and the Marine Pilots Award 1991 and, in the event of any inconsistency, the terms of this agreement shall take precedence over the terms of the aforementioned agreement and awards.

#### 6. - AGREEMENT

This agreement shall be effective on and from the 23rd day of February 1996 and shall continue for a period of one year.

#### 7. - REVIEW

The terms and conditions of this agreement shall be reviewed three months prior to the expiry of this agreement.

#### 8. - SALARIES

- (1) Harbour Master/Marine Pilots shall receive an annual salary of \$69,679.00.
- (2) The amount in subclause (1) of this clause shall be an aggregated analysed salary for performance of all duties specified in this agreement.

#### 9. - HOURS OF DUTY

- (1) Hours

The salaries and allowances in this agreement are based upon hours being 75 hours at an average of 37.5 hours per week over a two week cycle.

In the event that any such duties do not require the presence of the Harbour Master at the office, the Harbour Master may choose not to attend the office, subject to the Albany Port Authority being advised where the Harbour Master can be contacted.

The Harbour Master can leave the port provided that there are no duties requiring his/her attention and or immediate presence, subject to the Albany Port Authority being advised where he/she can be contacted.

- (2) Roster

Harbour Masters/Pilots shall be employed on a self organised basis which shall provide for four days off duty (RDO) each calendar fortnight. RDOs not able to be taken by the time of the officer's annual leave shall be taken in addition to such annual leave.

(3) Fatigue - Exhaustion Break

Harbour Masters/Marine Pilots shall not be required to perform any duties having been on duty for 16 hours without an eight hours' exhaustion break between the time of completing and returning to duty.

#### 10. - DUTIES

- (1) Pilotage of vessels for the Port of Albany.
- (2) Liaise with ship agents regarding departure and arrival arrangements for vessels having regard to tides, weather, sea states and draught/channel limitation of the port.
- (3) Co-ordination and development of port emergency plans.
- (4) Involvement in the planning, construction and maintenance of marine structures.
- (5) Management of port navigational aids.
- (6) Sea search and rescue as required by State and Federal Maritime Agencies.
- (7) Control of marine oil pollution operations within the port boundaries and supervise ongoing maintenance of equipment and initial response in Albany.
- (8) Undertake matters relating to hydrographic surroundings as required.
- (9) Advise and liaise regarding port state control matters with AMSA.
- (10) The engagement of tugs.
- (11) Berthing Master/Wharf Manager functions under the Port Authority Act.
- (12) Stevedoring duties will be carried out when and where required.
- (13) Other duties commensurate with technical qualifications and experience.

#### 11. - DEFINITIONS

- (1) "Officer" means Harbour Masters and Marine Pilots employed by the Albany Port Authority.
- (2) "Permanent Head" means the General Manager of the Albany Port Authority.

- (3) “Union” means the Merchant Service Guild of Australia, Western Australian Branch, Union of Workers.
- (4) “Employer” means the Albany Port Authority.

## 12. - CONTRACT OF SERVICE

- (1) Every person appointed by the Albany Port Authority as a permanent officer shall be on probation for a period not exceeding six months, unless otherwise determined by the General Manager.
- (2) At any time during the period of probation the General Manager, or such other person authorised by the Albany Port Authority to act on its behalf, may annul the appointment and terminate the services of the appointee.
- (3) As soon as possible after the expiry of the period of probation the General Manager, or such other authorised person, shall:
  - (a) confirm the appointment; or
  - (b) extend the period of probation for up to six months; or
  - (c) annul the appointment and terminate the services of the appointee.
- (4) Every person appointed as a permanent officer shall, either before commencing duty or during the period of probation, satisfy the following conditions unless the General Manager or such other authorised person otherwise determines.
  - (a) Provide evidence of age in the form of an Extract of Birth Entry or a certified copy of Birth Registration or other evidence acceptable to the General Manager; and
  - (b) Undertake a medical examination by a registered medical practitioner, nominated by the Albany Port Authority, to satisfy the General Manager that the appointee is in a fit condition to fulfil the duties of the office to be filled. The fee for the examination and certificate of the registered medical practitioner shall be paid by the appointee.
- (5) Except where the Albany Port Authority approves of a shorter period of notice, an officer shall give the Albany Port Authority written notice of intention to resign of not less than:
  - (a) one month in the case of a permanent officer; or
  - (b) one week in the case of a temporary officer.
- (6) The General Manager may terminate the contract of service of any permanent officer by one month’s notice given in writing.

- (7) The foregoing provisions of this clause do not affect the General Manager's right to dismiss an officer without notice for misconduct, and, in such a case, the salary of the officer shall be paid up to the time of dismissal only.
- (8) (a) Where the General Manager considers that a position occupied by an officer is no longer necessary and no other employment is available to that officer, the union shall be notified in writing to that effect.
- (b) The union may, within seven days of the date upon which that notification is given, request the General Manager to review that decision, but where an agreement is not reached in discussion between the employer and the union, the contract of service may be terminated in accordance with the provisions of subclause (6) of this clause.
- (9) Where the General Manager seeks to terminate the services of an officer in accordance with subclauses (6) and (7) of this clause, upon written request the officer shall be supplied with a written statement setting out details of the incident, circumstance, event or matters upon which the General Manager based his/her decision.

### 13. - PAYMENT OF SALARIES

- (1) Salaries shall be paid fortnightly.
- (2) Unless otherwise agreed, salaries shall be paid by direct transfer to an account in a bank or other financial institution nominated by the officer and acceptable to the employer.
- (3) Salaries may be paid in such other manner as is agreed between the employer and the union in a particular case.
- (4) Where salaries are paid in accordance with subclause (2) of this clause the employer shall reimburse each officer in respect of any taxes, charges, duties or fees incurred, an amount of \$40.00 per year.
- (5) On pay day officers shall be given written advice showing the gross amount of salaries or allowances due and deductions.
- (6) In the event of an underpayment of salaries an officer's pay shall be adjusted as soon as practicable but in any event no later than the subsequent pay period.
- (7) The employer may make deductions from an officer's salary with the written consent of the officer, but shall not make deductions without such written consent.

### 14. - ANNUAL LEAVE

- (1) Each officer shall be entitled to 42 consecutive days of recreation leave on full pay for each year of service, consisting of 28 calendar days of normal annual leave and 14 calendar days of annual leave in lieu of public holidays and public service holidays.



- (2) Annual leave shall be calculated on a pro rata calendar year basis commencing on the first day of employment with the Albany Port Authority.
- (3) Pro rata annual leave shall be calculated according to the following formula:

<u>Completed Calendar Months of Service</u>	<u>Pro Rata Annual Leave (Working Days)</u>
1	2
2	3
3	5
4	7
5	8
6	10
7	12
8	13
9	15
10	17
11	18

Provided that, in the first and last months of an officer's service, the officer is entitled to pro rata annual leave of one working day for each two completed weeks of service.

For the purposes of this subclause, an officer who commences on the first working day of a month and works for the remainder of the month and an officer who has worked throughout a month and terminates on the last working day of a month shall be regarded as having completed that calendar month of service.

- (4) The additional two weeks' leave granted in lieu of public holidays shall be credited on a pro rata basis according to the following formula:

<u>Completed months of service</u>	<u>Pro rata annual leave (working days)</u>  <u>10 additional days</u>
1	Nil
2	1
3	2
4	3
5	4
6	5
7	5
8	6
7	7
10	8
11	9

- (5) A permanent officer may take annual leave during the calendar year in which it accrues, but the time during which the leave may be taken is subject to the approval of the General Manager.
- (6) A temporary officer may not take annual leave before it accrues. The General Manager may approve a temporary officer taking pro rata annual leave. The time during which any annual leave may be taken is subject to the approval of the General Manager.
- (7) Annual leave shall be taken in one period unless otherwise approved by the General Manager.
- (8) On written application an officer shall be paid salary in advance when proceeding on annual leave:
  - (a) When the convenience of the Albany Port Authority is served, the General Manager may approve the deferment of the commencing date for taking annual leave, but such approval shall only remain in force for a period of one year.
  - (b) The General Manager may renew the approval referred to in paragraph (a) of this subclause for a further period of one year or further periods of one year but so that an officer does not at any time accumulate more than three years' entitlement.
  - (c) Where the convenience of the Albany Port Authority is served, the General Manager may approve the deferment of the commencement date for taking annual leave so that an officer accumulates more than three years' entitlement.
  - (d) When an officer who has received approval to defer the commencement date for taking annual leave under paragraphs (a), (b) or (c) of this subclause next proceeds on annual leave, the annual leave first accrued shall be the first leave taken.
- (9) An officer who has been permitted to proceed on annual leave and who ceases duty before completing the required continuous service to accrue the leave, must refund the value of the unearned pro rata portion, calculated at the rate of salary as at the date the leave was taken, but no refund is required in the event of the death of an officer.
- (10) On application to the General Manager a lump sum payment for the money equivalent to pro rata annual leave shall be made to an officer who resigns, retires, is retired or in respect of an officer who dies, but not to an officer who is dismissed.
- (11) When computing the annual leave due under this clause, no deduction shall be made from such leave in respect of the period the incumbent is on annual leave, observing a holiday prescribed by this agreement, absent through sickness with or without pay. This provision applies except for that portion of an absence that exceeds three months, absence on sick leave or exceeds six months on workers' compensation, or any period exceeding two weeks during which the incumbent is absent on leave without pay.

#### 15. - ANNUAL LEAVE LOADING

- (1) Subject to the provisions of subclauses (2) and (4) of this clause, a loading equivalent to 17.5% of normal salary shall be paid to officers proceeding on annual leave, including accumulated annual leave.
- (2) Subject to the provisions of subclause (4) of this clause the loading is to be paid on a maximum of four weeks' annual leave. Payment of the loading shall not be made for additional leave granted for any other purpose. The maximum payment shall not exceed the Average Weekly Earnings Per Employed Male Unit in Western Australia, as published by the Australian Bureau of Statistics, for the September quarter of the year immediately preceding that in which the leave commences.
- (3) Annual leave commencing in any year and extending without a break into the following year shall attract the loading calculated on the salary applicable on the day the leave commences.
- (4) The loading payable on approved accumulated annual leave shall be at the rate applicable at the date the leave is taken. Under these circumstances, an officer may receive up to the maximum loading for the approved accumulated annual leave, in addition to loading for the current year's entitlement.
- (5) A pro rata loading shall be paid on periods of approved annual leave of less than four weeks.
- (6) The loading shall be calculated on the officer's ordinary rate of salary.
- (7) Where payment in lieu of accrued or pro rata annual leave is made on the death, resignation or retirement of an officer, a loading calculated in accordance with the terms of this clause for annual leave accrued after January 1, 1974 is to be paid.
- (8) An officer who has been permitted to proceed on annual leave and who ceases duty before completing the required continuous service to accrue the leave must refund the value of the unearned pro rata portion, but no refund is required in the event of the death of an officer.

#### 16. - LONG SERVICE LEAVE

- (1) An officer shall be entitled to thirteen weeks' long service leave on full pay if he/she has completed seven years' continuous service with the Albany Port Authority.
- (2) For each and every subsequent period of seven years' continuous service an officer shall be entitled to an additional thirteen weeks' long service leave on full pay.
- (3) Upon application by an officer, the General Manager may approve of the taking by the officer:
  - (a) of double the period of long service leave entitlement on half pay, in lieu of the period of long service leave entitlement on full pay;
  - (b) of any portion of his/her long service leave entitlement on full pay or double such period on half pay; or

- (c) or may allow the incumbent to take the leave in not more than three separate periods, subject to the portion of long service leave being taken on full or half pay, shall be not less than four weeks' entitlement and portions in excess of four weeks shall be in multiples of one week's entitlement and providing also that a minimum balance of long service leave of four weeks on full pay is available for utilisation.
- (4) Continuous service shall not include the period during which an officer is on long service leave or any period exceeding two weeks an officer is absent on leave without pay or any service an officer may have before reaching the age of eighteen years.
- (5) An officer who resigns or is dismissed, shall not be entitled to long service leave or payment for long service other than that leave that had accrued to him/her prior to the date on which he/she resigned or the date of the offence for which the officer is dismissed.
- (6) Any public holiday occurring during the period in which an officer is on long service leave will be treated as part of the long service leave, and extra days in lieu thereof shall not be granted.
- (7) Long service leave shall be taken as it falls due at the convenience of the General Manager but within seven years next after becoming entitled thereto: Provided that the General Manager may approve the accumulation of long service leave not exceeding six months in all in any particular case.
- (8) A lump sum payment for long service leave accrued in accordance with this clause and for pro rata long service leave shall be made in the following cases:
- (a) To an officer who retires at or over the age of fifty five years or who has retired on the grounds of ill health, provided that no payment shall be made for pro rata long service leave unless the officer has completed not less than twelve months' continuous service.
- (b) To an officer who has retired for any other cause: Provided that no payment shall be made for pro rata long service leave unless the officer had completed not less than three years' continuous service before the date of his/her retirement.
- (c) Where the officer dies after having served up to the date of death continuously for not less than twelve months and leaves a dependant spouse, children, parent or invalid brother or sister in which case the payment shall be made to such a spouse or other dependant.
- (9) A calculation of the amount due for long service leave accrued and for pro rata long service leave shall be made at the rate of salary of an officer at the date of retirement, resignation or death, whichever applies and no such payment shall exceed the equivalent of twelve months' salary.
- (10) Long service leave accrued prior to the issue of this agreement shall remain to the credit of each officer.
- (11) The expression "continuous service" in this clause includes any period during which an officer is absent on full pay or part pay, from his/her duties in the Albany Port Authority's service, but does not include -

- (a) any period exceeding two weeks during which the officer is absent on leave without pay;
- (b) any period during which the officer is taking his/her long service leave entitlement or any portion thereof;
- (c) any service of the officer prior to his/her attaining the age of eighteen years;

#### 17. - SICK LEAVE

In the case of illness or injury of an officer, the General Manager shall grant the officer leave of absence on the following conditions:

- (1) An application for leave of absence on the grounds of illness or injury exceeding two consecutive working days shall be supported by the certificate of a registered medical practitioner or, where the nature of the illness or injury consists of a dental condition and the period of absence does not exceed five consecutive working days, by a certificate of a registered dentist.
- (2) The number of days' leave of absence which may be granted without production of the certificate required by subclause (1) of this clause shall not exceed, in the aggregate, five working days in any one calendar year.
- (3) An officer who is unfit for duty as a consequence of an illness or injury shall inform the Permanent Head, or arrange for him/her to be so informed, forthwith and shall, as soon as reasonably possible thereafter, make a formal application for sick leave to cover his/her absence from duty.
- (4) The basis for determining the entitlement to leave of absence on the grounds of illness or injury which an officer may be granted shall be ascertained by crediting the officer concerned with the following cumulative periods:

	<u>Leave on Full Pay</u> <u>Working Days</u>	<u>Leave on Half Pay</u> <u>Working Days</u>
On date of appointment	5	2
On completion of six months' service	5	3
On completion of twelve months' service	10	5
On completion of each additional twelve months' service	10	5

- (5) Where an officer suffers illness or injury during the period of his/her -  
annual leave for recreation - for a period of at least seven consecutive days; or  
long service leave - for a period of at least fourteen consecutive days;  
and produced at the time, or as soon as possible thereafter, medical evidence satisfactory to the General Manager that he/she is, or was, as a result of his/her illness or injury, confined to his/her place of residence or a hospital, he/she may, with the approval of the General Manager, be granted, at a time convenient to the Albany Port Authority, additional leave equivalent to the period during which he/she was so confined.
- (6) Where an officer is duly absent on account of illness or injury and his/her entitlement to sick leave on full pay is exhausted, he/she may, with the approval of the General Manager, elect to convert any part of his/her entitlement to sick leave on half pay to sick leave on full pay, but so that his/her sick leave entitlement on half pay is reduced by two days for each day of sick leave on full pay that he/she receives by the conversion.
- (7) An officer who is unable to resume duty on the expiration of an approved period of sick leave shall thereupon apply for a further period of sick leave, and any such application shall be supported by a certificate from a registered medical practitioner.
- (8) An officer who is duly absent on leave without pay is not eligible for leave of absence on the account of illness or injury under this clause during the currency of that leave without pay.
- (9) This clause shall not apply where the officer is entitled to compensation under the Workers' Compensation and Rehabilitation Act, 1981.
- (10) No leave of absence on account of illness or injury shall be granted with pay if the illness or injury has been caused by the misconduct of the officer or in any case of absence from duty without sufficient cause.
- (11) Where the General Manager has occasion to doubt the case of illness or injury or the reason for the absence, he/she may send a registered medical practitioner to attend on and

examine the officer, or may direct the officer to attend the medical practitioner for examination.

If the report of the medical practitioner does not confirm that the officer is ill or injured, or if the officer is not available for examination at the time of the visit of the medical practitioner, or the officer fails, without reasonable cause, to attend the medical practitioner when directed to do so, the fee payable for the examination, appointment or visit shall be paid by the officer.

- (12) Where an officer, who has resigned, is subsequently reappointed, he/she shall, for the purposes of this clause, be regarded as a new appointee as from the date of his/her reappointment.
- (13) Where an officer who has been retired due to ill-health resumes duty his/her sick leave entitlement at the date of his/her retirement shall be reinstated.
- (14) An officer who is appointed subject to a medical examination, and whose appointment is deferred for a stated period on the recommendation of the appropriate Medical Officer, shall not be granted sick leave with pay during that period.
- (15) If the General Manager has reason to believe that an officer is in such a state of health as to render him/her a danger to his/her fellow workers or the public, he/she may require the officer to obtain and furnish a report as to his/her condition from a registered medical practitioner or may require him/her to submit himself/herself for examination by the medical practitioner.
- (16) Upon receipt of the medical report, the General Manager may direct the officer to absent himself/herself from his/her duties for a specified period, or if already on leave of absence, direct him/her to continue on leave for a specified period, and the officer's absence will be regarded as absence on leave owing to illness.

#### 18. - SHORT LEAVE

- (1) The General Manager may, upon sufficient cause being shown, grant an officer short leave on full pay not exceeding two consecutive working days, but any leave granted under the provisions of this clause shall not exceed, in the aggregate, three working days in any one calendar year.
- (2) An officer who desires short leave shall make written application in a form approved by the General Manager for the purpose.

#### 19. - LEAVE WITHOUT PAY

- (1) Subject to the provisions of subclause (2) of this clause, the General Manager may grant an officer leave without pay for any period.
- (2) Every application for leave without pay will be considered on its merits and may be granted provided that the following conditions are met:

- (a) the work of the Albany Port Authority is not inconvenienced; and
- (b) all other leave credits of the officer are exhausted.

#### 20. - TRAVEL ALLOWANCE

The Albany Port Authority will reimburse all reasonable expenses of an officer who travels on official Port Authority business, including and not limited to, travel, accommodation, meal and incidental expenses.

#### 21. - MOTOR VEHICLE ALLOWANCE

An executive standard vehicle or other such vehicle as mutually agreed will be supplied by the Albany Port Authority for business.

#### 22. - TELEPHONES

A telephone shall be installed in the residence of each officer and the rental and the cost of Albany Port Authority calls shall be paid by the Albany Port Authority.

#### 23. - UNIFORMS

- (1) Officers shall be supplied uniforms as agreed between the parties in an exchange of letters.
- (2) Uniforms shall be replaced on a fair wear and tear basis as is considered necessary by the Permanent Head.
- (3) The Permanent Head may require uniforms to be worn at all times when considered necessary.

#### 24. - PROTECTIVE CLOTHING

An officer will be supplied with wet weather gear of good and suitable quality and safety shoes at all times, and an officer engaged on work which requires the provision of protective clothing shall be provided with such protective clothing.

#### 25. - COPIES OF AGREEMENT

Every officer covered by this agreement shall be entitled to have access to a copy of this agreement. Sufficient copies shall be made available by the Permanent Head for this purpose.

#### 26. - PARENTAL LEAVE



Subject to the terms of this clause officers are entitled to maternity and paternity leave in connection with the birth of a child.

#### PART A - MATERNITY LEAVE

(1) Nature of Leave

Maternity leave is unpaid leave.

(2) Definitions:

For the purposes of this subclause:

(a) “Child” means the child of the officer or the officer’s spouse under the age of one year.

(b) “Spouse” includes a de facto or a former spouse.

(c) “Continuous service” means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part time employment worked in accordance with this clause;  
or

(iii) any period of leave or absence authorised by the employer or by the award.

(3) Eligibility for Maternity Leave

An officer who becomes pregnant shall, upon production to her employer of the certificate required by subclause (4) of this clause, be entitled to a period of up to 52 weeks’ maternity leave provided that such leave shall not extend beyond the child’s first birthday. This entitlement shall be reduced by any period of paternity leave taken by the officer’s spouse in relation to the same child and, apart from paternity leave of up to one week at the time of confinement, shall not be taken concurrently with paternity leave.

Subject to subclauses (6) and (9) of this clause the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks’ compulsory leave.

The officer must have had at least twelve months’ continuous service with the employer immediately preceding the date upon which she proceeds upon such leave.

(4) Certification

At the time specified in subclause (5) of this clause the officer must produce to her employer:

- (a) a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement;
- (b) a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

(5) Notice Requirements

- (a) An officer shall, not less than ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (4)(a) of this clause.
- (b) An officer 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 and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (4)(b) of this clause.
- (c) The employer, by not less than 14 days' notice in writing to the officer, may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.
- (d) An officer shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (b) of this subclause if such failure is occasioned by the confinement occurring earlier than the presumed date.

(6) Transfer to a Safe Job

Where, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy, or hazards connected with the work assigned to the officer, make it inadvisable for the officer to continue at her present work, the officer 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 officer may, or the employer may require the officer to, take leave for such period as is certified necessary by a registered medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (10), (11), (12) and (13) of this clause.

(7) Variation of Period of Maternity Leave

- (a) Provided the maximum period maternity leave does not exceed the period to which the officer is entitled under subclause (3) of this clause:
  - (i) the period of maternity leave may be lengthened once only by the officer giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened;
  - (ii) the period may be further lengthened by agreement between the employer and the officer.
- (b) The period of maternity leave may, with the consent of the employer, be shortened by the officer giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

## (8) Cancellation of Maternity Leave

- (a) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an officer terminates other than by the birth of a living child.
- (b) Where the pregnancy of an officer then on maternity leave terminates other than by the birth of a living child, it shall be the right of the officer 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 officer to the employer that she desires to resume work.

## (9) Special Maternity Leave and Sick Leave

- (a) Where the pregnancy of an officer 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 registered 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 officer not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered 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 the period to which the officer is entitled under subclause (3) of this clause.
- (c) For the purposes of subclauses (10), (11) and (12) of this clause, maternity leave shall include special maternity leave.
- (d) An officer 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 officer who was transferred to a safe job pursuant to subclause (6) of this clause, to the position she held immediately before such transfer.  
Where such position no longer exists, but there are other positions available which the officer is qualified for and is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

## (10) Maternity Leave and Other Leave Entitlements

- (a) Provided the aggregate of any leave, including leave taken under this subclause, does not exceed the period to which the officer is entitled under subclause (3) of this clause, an officer 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 absences (excluding annual leave or long service leave), shall not be available to an officer during her absence on maternity leave.

(11) Effect of Maternity Leave on Employment

Subject to this clause, notwithstanding any award or other provision to the contrary, absence on maternity leave shall not break the continuity of service of an officer but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(12) Termination of Employment

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

(13) Return to Work After Maternity Leave

- (a) An officer shall confirm her intention of returning to 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 officer, upon returning to work after maternity leave or the expiration of the notice required by paragraph (a) of this subclause, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of any officer who was transferred to a safe job pursuant to subclause (6) of this clause, to the position which she held immediately before such transfer or, in relation to an officer who has worked part time during the pregnancy, the position she held immediately before commencing such part time work.

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

(14) Replacement Officers

- (a) A replacement officer is an officer specifically engaged as a result of an officer proceeding on maternity leave.
- (b) Before an employer engages a replacement officer the employer shall inform that person of the temporary nature of the employment and of the rights of the officer who is being replaced.
- (c) Before an employer engages a person to replace an officer temporarily promoted or transferred in order to replace an officer 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 officer who is being replaced.

- (d) Nothing in this subclause shall be construed as requiring an employer to engage a replacement officer.

## PART B - PATERNITY LEAVE

### (1) Nature of Leave

Paternity leave is unpaid leave.

### (2) Definitions:

For the purposes of this subclause:

- (a) “Child” means a child of the officer or the officer’s spouse under the age of one year.
- (b) “Spouse” includes a de facto or a former spouse.
- (c) “Primary care giver” means a person who assumes the principal role of providing care and attention to a child.
- (d) “Continuous service” means service under an unbroken contract of employment and includes:
  - (i) any period of leave taken in accordance with this clause;
  - or
  - (ii) any period of part time employment worked in accordance with this clause;
  - (iii) any period of leave or absence authorised by the employer or by the award.

### (3) Eligibility for Paternity Leave

- (a) A male officer shall, upon production to his employer of the certificate required by subclause (4) of this clause, be entitled to one or two periods of paternity leave, the total of which shall not exceed 52 weeks, in the following circumstances:
  - (i) an unbroken period of up to one week at the time of confinement of his spouse;
  - (ii) a further unbroken period of up to 51 weeks in order to be the primary care giver of a child provided that such leave shall not extend beyond the child’s first birthday. This entitlement shall be reduced by any period of maternity leave taken by the officer’s spouse and shall not be taken concurrently with that maternity leave.
- (b) The officer must have had at least twelve months’ continuous service with the employer immediately preceding the date upon which he proceeds upon either period of leave.

(4) Certification

At the time specified in subclause (5) of this clause the officer must produce to his employer:

- (a) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place;
- (b) in relation to any period to be taken under subparagraph (3)(a)(ii) of this clause, a statutory declaration stating:
  - (i) he will take that period of paternity leave to become the primary care giver of a child;
  - (ii) particulars of any period of maternity leave sought or taken by his spouse; and
  - (iii) for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

(5) Notice Requirements

- (a) The officer shall, not less than ten weeks prior to each proposed period of leave, give the employer notice in writing stating the dates on which he proposed to start and finish the period or periods of leave and produce the certificate and statutory declaration required in subclause (4) of this clause.
- (b) The officer shall not be in breach of paragraph (a) of this subclause as a consequence of failure to give the notice required if such failure is due to:
  - (i) the birth occurring earlier than the expected date; or
  - (ii) the death of the mother of the child; or
  - (iii) other compelling circumstances.
- (c) The officer shall immediately notify his employer of any change in the information provided pursuant to subclause (4) of this clause.

(6) Variation of Period of Paternity Leave

- (a) Provided the maximum period of paternity leave does not exceed the period to which the officer is entitled under subclause (3) of this clause:
  - (i) the period of paternity leave provided by subparagraph (3)(a)(ii) of this clause may, with the consent of the employer, be lengthened by the officer giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened.

(ii) The period of leave may be further lengthened by agreement between the employer and the officer.

(b) The period of paternity leave taken under subparagraph (3)(a)(ii) of this clause may, with the consent of the employer, be shortened by the officer giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(7) Cancellation of Paternity Leave

Paternity leave, applied for under subparagraph (3)(a)(ii) of this clause but not commenced, shall be cancelled when the pregnancy of the officer's spouse terminates other than by the birth of a living child.

(8) Paternity Leave and Other Entitlements

(a) Provided the aggregate of any leave, including leave taken under this subclause, does not exceed the period to which the officer is entitled under subclause (3) of this clause, an officer may, in lieu of or in conjunction with paternity leave, take any annual leave or long service leave or any part thereof to which he is then entitled.

(b) paid sick leave or other paid authorised absences (excluding annual leave or long service leave), shall not be available to an officer during his absence on paternity leave.

(9) Effect of Paternity Leave on Employment

Subject to this subclause, notwithstanding any award or other provision to the contrary, absence on paternity leave shall not break the continuity of service of an officer but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(10) Termination of Employment

(a) An officer on paternity leave may terminate his employment at any time during the period of leave by notice given in accordance with this agreement.

(b) An employer shall not terminate the employment of an officer on the ground of his absence on paternity leave, but otherwise the rights of the employer in relation to termination of employment are not hereby affected.

(11) Return to Work After Paternity Leave

(a) An officer shall confirm his intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of paternity leave provided by subparagraph (3)(a)(ii) of this clause.

(b) An officer, upon returning to work after paternity leave or the expiration of the notice required by paragraph (a) of this subclause, shall be entitled to the position which he held immediately before proceeding on paternity leave or, in relation to an officer who has worked part time under this clause, to the position he held immediately before commencing such part time work.

Where such position no longer exists but there are other positions available which the officer is qualified for and is capable of performing, he shall be entitled to a position as nearly comparable in status and pay to that of his former position.

(12) Replacement Officers

- (a) A replacement officer is an officer specifically engaged as a result of an officer proceeding on paternity leave.
- (b) Before an employer engages a replacement officer the employer shall inform that person of the temporary nature of the employment and of the rights of the officer who is being replaced.
- (c) Before an employer engages a person to replace an officer temporarily promoted or transferred in order to replace an officer exercising his 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 officer who is being replaced.
- (d) Nothing in this subclause shall be construed as requiring an employer to engage a replacement officer.

27. - SALARY CONTINUANCE

The parties agree to develop a salary continuance to be included under this clause. Such clause shall provide salary continuance at a rate not less than the officers' salary for the period of illness. It is the intention that all sick leave accrued under Clause 17. - Sick Leave of this agreement remain accredited after such agreement has been reached.

28. - COMPASSIONATE LEAVE

- (1) An officer shall, on the death of the spouse, defacto, father, mother, father-in-law, mother-in-law, child, stepchild, brother, sister, stepfather, stepmother, grandfather or grandmother of the officer be entitled to leave that the funeral of such relation is held on one of those days of leave granted. Such leave, for a period not exceeding three days in respect of any such death, shall be without loss of any ordinary pay which the officer would have received if he/she had not been on such leave.
- (2) The right to such paid leave shall be dependent on compliance with the following conditions:
  - (a) The officer shall give the employer notice of intention to take such leave as soon as reasonably practicable after the death of such relation.
  - (b) Satisfactory evidence of such death shall be furnished by the officer to the employer.



- (c) The officer 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 agreement or otherwise.
- (3) The provisions of this clause shall apply in respect of the incapacitating illness of the spouse or dependent child of the officer when the officer establishes, to the satisfaction of the employer by production of a medical certificate, if required, that the spouse or child is in need of the assistance of the officer and that no other person is available for this purpose.
- (4) The employer may also, upon sufficient cause being shown, grant an officer paid leave not exceeding two consecutive working days for such other reason, provided that the total leave available to officers under this clause shall not exceed three working days in any one calendar year subject to subclause (1).

### 29. - STUDY LEAVE

- (1) At the discretion of the Albany Port Authority an officer may be granted time off with pay for part time study purposes.
- (2) Time off with pay may be granted up to a maximum of five hours per week including travelling time:
  - (a) where subjects of approved courses are available during normal working hours;
  - (b) where approved study by correspondence is undertaken where the approved course is outside the State of Western Australia.
- (3) Officers shall be granted sufficient time off, with pay, to travel to, and sit for, the examinations of any approved course of study.
- (4) In every case the approval of time off to attend lectures and tutorials will be subject to:
  - (a) Albany Port Authority's convenience;
  - (b) the course being undertaken on a part time basis;
  - (c) officers undertaking an acceptable formal study load in their own time;
  - (d) the course being relevant to the officers' career at the Albany Port Authority; and
  - (e) officers making satisfactory progress with their studies.
- (5) Leave of absence will be granted at the ordinary rate of pay and shall not include penalty rates or overtime.

### 30. - TRAINING

- (1) The parties to this agreement are committed to external, industry and enterprise training of officers to achieve:
  - higher skills relevant to the needs of the Albany Port Authority;
  - multi-skilling of officers to the level required for operational efficiency and flexibility;
  - a career path within the Albany Port Authority;
  - retraining to maintain pre-existing skills;
  - adjustment to technological change;
  - greater efficiency and job satisfaction.
- (2) All costs associated with standard fees, prescribed text books and materials incurred by the officer in connection with training required by the Albany Port Authority shall be reimbursed upon the production of receipts.
- (3) Travelling costs incurred by an officer undertaking training required by the Albany Port Authority which exceed those normally incurred in travelling to and from work shall be reimbursed.

### 31. - SUPERSESSSION

It is a term of this agreement that all rights and entitlements accrued by an officer formally covered by the Department of Marine and Harbours, Harbour Masters, Relieving Harbour Masters and Assistant Harbour Masters Award, 1984, shall be carried over into this agreement.

### 32. - SALARY SACRIFICE

The parties undertake to develop and agree a salary sacrifice provision to be included under this clause.

The salary sacrifice clause shall be developed in accordance with the statutory and taxation provisions so as to enable officers to authorise the employer to pay additional superannuation contributions to approved funds on behalf of the officer and to reduce salary paid directly to the officer accordingly, having regard to the level of superannuation contributions and relevant statutory and taxation provisions.

### 33. - DISPUTES AVOIDANCE PROCEDURE

- (1) Subject to the Public Sector Management Act, the union and the employer undertake to take all necessary steps to ensure that the following procedure herein applies in the event

of a question, dispute or difficulty arising under this agreement; the intention being that any or all disputes shall be promptly resolved by conciliation in good faith.

(2) Matters Likely to Become Industrial Disputes

The employer and the union shall respectively notify each other as soon as possible of any industrial matter which, in the opinion of the party notifying, might give rise to an industrial dispute including consultation prior to the introduction of a new method of work or new technology.

(3) Disputes at Job Level

- (a) In the event of a dispute arising at the job level, the officer/s and the General Manager shall confer immediately.
- (b) If not resolved the union and officer/s involved and the General Manager shall attempt to resolve the issue without delay.
- (c) Where this fails to resolve the matter in dispute, the party in dispute shall notify the other party in writing of the nature of such dispute and the parties shall enter into further discussions in endeavouring to resolve the dispute.

(4) Reference to Conciliator

If agreement has not been reached in accordance with subclause (3) of this clause the employer or the union officer may, where agreed, submit the matter to a mutually agreed independent local conciliator who shall endeavour to reconcile the parties in dispute and for this purpose may make a recommendation or, where the parties agree, arbitrate the matter. The conciliator shall, in all cases, make a written summary of the matters in dispute including the facts as he/she sees them. A copy of such record shall be available for any further non-judicial proceedings between the parties relating to the matters in dispute.

(5) Final Reference

- (a) Should the foregoing steps fail to resolve the issue within a reasonable time, the matter(s) in dispute shall be referred by either party to the Western Australian Industrial Relations Commission.
- (b) The dispute settlement procedures shall not preclude the right of either party to refer a dispute to the Western Australian Industrial Relations Commission at any stage of this procedure if the procedures are not being observed or are otherwise inappropriate in the circumstances.

Provided that with effect from 22 November, 1997 it is required that persons involved in the question, dispute or difficulty shall confer among themselves and make reasonable attempts to resolve questions, disputes or difficulties before taking those matters to the Commission.

34. - SIGNATORIES

Signed on behalf of Albany Port Authority

BOB EMERY

GENERAL MANAGER

by Authority of the Albany Port Authority dated 22 January 1996

TERRY ENRIGHT

CHAIRMAN

Signed on behalf of Merchant Service Guild of Australia, Western Australian Branch, Union of  
Workers

TREVOR JOHNSON

16/1/1996

**VARIATION RECORD****THE ALBANY HARBOUR MASTER-MARINE PILOTS  
SALARY AGREEMENT 1995****No. AG 24 of 1996**Delivered 28/02/1996 at 76 WAIG 646  
Consolidated

CLAUSE NO.	EXTENT OF VARIATION	ORDER NO.	OPERATIVE DATE	GAZETTE REFERENCE
<b>1. Title</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>2. Arrangement</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>3. Parties</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>4. Preamble</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>5. Ambit</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>6. Agreement</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>7. Review</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>8. Salaries</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>9. Hours of Duty</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>10. Duties</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>11. Definitions</b>	As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646

**12. Contract of Service**

As delivered

No. AG 24/1996

23/02/1996

76 WAIG 646

**13. Payment of Salaries**

As delivered

No. AG 24/1996

23/02/1996

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<b>14. Annual Leave</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>15. Annual Leave Loading</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>16. Long Service Leave</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>17. Sick Leave</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>18. Short Leave</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>19. Leave Without Pay</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>20. Travel Allowance</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>21. Motor Vehicle Allowance</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>22. Telephones</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>23. Uniforms</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>24. Protective Clothing</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>25. Copies of Agreement</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>26. Parental Leave</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>27. Salary Continuance</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>28. Compassionate Leave</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>29. Study Leave</b>				
As delivered	No. AG 24/1996	23/02/1996	76 WAIG	646
<b>30. Training</b>				

As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>31. Supersession</b>			
As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>32. Salary Sacrifice</b>			
As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
<b>33. Disputes Avoidance Procedure</b>			
As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646
(5) Ins. text	2053/97	22/11/97	77 WAIG 3079
<b>34. Signatories</b>			
As delivered	No. AG 24/1996	23/02/1996	76 WAIG 646