

Monumental Masonry Industry Award, 1989

1. – TITLE

This Award shall be known as the Monumental Masonry Industry Award, 1989.

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 is \$569.70 per week payable on and from the first pay period on or after 1 October 2009.
- (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 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 to the minimum adult award wage.
- (6) The minimum adult award wage shall not apply to apprentices, employees engaged on traineeships or Jobskill placements 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 2009 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, an apprentice, 21 years of age or more, shall not be paid less than \$497.60 per week on and from the commencement of the first pay period on or after 1 October 2009.

- (b) The rate paid in the paragraph above to an apprentice 21 years of age or more is payable on superannuation and during any period of paid leave prescribed by this award.
- (c) 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.
- (d) Nothing in this clause shall operate to reduce the rate of pay fixed by the award for an adult apprentice in force immediately prior to 5 June 2003.

2. - ARRANGEMENT

- 1. Title
- 1B. Minimum Adult Award Wage
- 2. Arrangement
- 3. Area and Scope
- 4. Term
- 5. Definitions
- 6. Contract of Service
- 7. Wages
- 8. Superannuation
- 9. Special Rates and Conditions
- 10. Fares and Travelling Time
- 11. Payment of Wages
- 12. Hours
- 13. Shift Work
- 14. Overtime
- 15. Holidays and Annual Leave
- 16. Long Service Leave
- 17. Absence Through Sickness
- 18. Bereavement Leave
- 19. Maternity Leave
- 20. Protection of Tools
- 21. Records
- 22. Representative Interviewing Employees
- 23. Posting of Union Notices
- 24. Shop Stewards
- 25. Board of Reference
- 26. No Reduction
- 27. Dispute Settlement Procedure
- 28. Notification of Change
- 29. Redundancy
- 30. Under-Rate Employees
- 31. Protective Clothing and Footwear
- 32. Consultative Procedures

Appendix - Resolution of Disputes Requirements

Schedule A - Parties to the Award

Schedule B - Schedule of Respondents

Appendix - S.49B - Inspection Of Records Requirements

3. - AREA AND SCOPE

- (1) all employees including apprentices and junior employees employed in any of the callings set out in Clause 7. - Wages of this Award in the manufacturing industry of monumental masonry including fixing work performed in a cemetery; but shall not apply to construction sites; and

This Award shall apply throughout the State of Western Australia to –

- (2) all employers employing those employees; and
- (3) The Construction, Mining and Energy Workers' Union of Australia - Western Australian Branch.

4. – TERM

The term of this Award shall be for a period of three years from 12 December 1989.

5. – DEFINITIONS

Union means The Construction, Mining and Energy Workers' Union of Australia - Western Australian Branch.

Monumental mason means a tradesperson engaged in carving or shaping stone of any kind for any purpose.

Monumental fixer means an employee in the assembly of monuments either in the factory or cemetery.

Assistant monument fixer means an employee who directly assists a monumental fixer.

Primary saw operator means an employee who operates a primary saw for the purpose of cutting stone blocks.

Secondary saw operator means an employee who operates a secondary saw for the purpose of trimming stone to a prescribed dimension.

Polishing machine operator means an employee who operates a machine for the purpose of polishing stone.

Stone engraving operator means an employee who operates a letter cutting machine.

Monumental concrete moulder means an employee engaged in the casting of concrete or terrazzo products for monumental purposes.

Casual employee means an employee who is employed for a period of less than one month.

Junior employee means an employee under the age of 19 who is not an apprentice.

Leading hand means an employee who is given by the employer, or his/her agent, the responsibility of directing or supervising the work of others or, in the case of only one employee, the specific responsibility of directing or supervising the work of that employee.

6. - CONTRACT OF SERVICE

- (1) One week's notice on either side shall be necessary to terminate the contract of service of any employee, other than a casual employee (where the notice shall be one hour) or an apprentice. If the required notice of termination is not given, one week's wages, or in the case of a casual employee one hour's wages, shall be paid or forfeited.
- (2) The employer shall upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of employment and the classification or the type of work performed by the employee.
- (3) Standing Down of Employees:

The employer shall be entitled to deduct payment for any day or portion of a day upon which the employee cannot be usefully employed because of industrial action by the employees or by any breakdown of the employer's machinery or any stoppage of work from any cause which the employer cannot reasonably prevent.

(4) Absence From Duty:

The employer shall be under no obligation to pay for any day not worked upon which the employee is required to present for duty, except when such absence is due to illness and comes within the provisions of Clause 17. - Absence Through Sickness of this Award or such absence is on account of holidays or paid leave to which the employee is entitled under the provisions of this Award.

(5) This clause does not affect the employer's right to dismiss an employee for misconduct and an employee so dismissed shall be paid wages up to the time of dismissal.

(6) An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training.

7. – WAGES

(1) (a) The rates of wages payable to the employees covered by this Award (other than duly registered apprentices and junior employees) shall be as follows:

Classification	Minimum Weekly Base Rate \$	Supplementary Payment \$	Arbitrated Safety Net Adjustment \$	Total Rate (Exclusive of Industry Allowance) \$
Monumental Mason	365.20	52.00	246.30	663.50
Monumental Fixer	345.20	49.30	244.30	638.80
Monumental Employee Grade 4 A Grade 3 employee who has attained a high level of skill in at least one function or who is regularly required to perform more than two of the functions contained in Grade 3	318.90	45.50	244.30	608.70
Monumental Employee Grade 3 Employee who has been performing work at Grade 2 level for more than six months	301.40	43.00	244.30	588.70
Monumental Employee Grade 2 Employee who is performing one or more of the following functions and who has been performing such work for less than six months - - Primary Saw Operator - Secondary Saw Operator - Polishing Machine Operator - Stone Engraving Operator - Assistant Monumental Fixer - Monumental Concrete Moulder				569.70
Monumental Employee Grade 1 Employee who is engaged to perform work not covered by any of the above classifications.				569.70

- (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.

(2) Industry Allowance:

An industry allowance at the rate of \$14.70 per week shall be paid for all purposes to each adult employed in the workshop to compensate for the following disabilities associated with monumental masonry –

- (a) Working in wet conditions with water underfoot.
- (b) Working on dirty work.
- (c) The use of acid or other corrosive substances when cleaning down stone.
- (d) Working in a dusty atmosphere.

Before exercising a power of inspection the representative shall give notice of not less than 24 hours to the employer.

(3) Leading Hands:

- (a) An employee specifically appointed to be a leading hand who is placed in charge of –
 - (i) not more than one employee, other than an apprentice, shall be paid \$14.00 per week; or
 - (ii) more than one and not more than five other employees shall be paid \$31.10 per week; or
 - (iii) more than five and not more than ten other employees shall be paid \$40.40 per week; or
 - (iv) more than ten other employees shall be paid \$52.60 per week in each case, in addition to the rate prescribed for the highest classification of employee supervised or his/her own rate, whichever is the highest.

(4) Apprentices:

- (a) (i) Wages per week - An apprentice shall receive the following percentage of the Monumental Mason's weekly minimum rate and industry allowance contained in subclauses (1) and (2) of this clause.

(aa) Four year term -	%
First year	42
Second year	55
Third year	75
Fourth year	88
(bb) Three and a half year term -	%
First six months	42

Next year	55
Next following year	75
Final year	88

(cc) Three year term - %

First year	55
Second year	75
Third year	88

(ii) Tool allowance (per week) - A tool allowance of one-third of the amount (if any) payable to a tradesperson shall be paid to an apprentice to that trade in his/her first year of apprenticeship and of two-thirds of that amount in his/her second year and of the same amount (if any) as is payable to a tradesperson in the remaining period of his/her apprenticeship.

(iii) Provision of Tools –

An employer may, by agreement with the apprentice's parent or guardian, elect to provide the apprentice with a kit of tools subject to establishing the value of the tools at the time of so providing, deduct the tool allowance until the cost of the kit of tools is reimbursed.

In the event of an apprentice being dismissed or leaving his/her employment before the cost of the tool kit has been reimbursed the employer shall be entitled to –

(aa) deduct from any monies owing to the apprentice, the amount that is owing;
or

(bb) by agreement retain tools at the originally nominated value to the amount still owing.

(5) Junior Employees –

Wages per week - A junior employee shall receive the following percentage of the adult weekly minimum rate and industry allowance contained in subclauses (1) and (2) of this clause appropriate to the work performed.

Under 16 years	42%
16 years of age	55%
17 years of age	75%
18 years of age	88%
19 years of age	100%

(6) Tool Allowance (\$ per week) –

\$

(a) Monumental masons \$22.50

Tool allowance shall not be paid where the employer supplies an employee with all necessary tools.

(b) No other employee shall be required to supply tools.

(7) Casual Employees –

A casual employee shall receive a loading of 20% in addition to the rates prescribed in subclauses (1) and (2) of this clause.

- (8) It is a term of this award arising from the decision of the Commission in Court Session in the State Wage Case of 17 June 1991, that the union will not pursue prior to 17 January 1992 any extra claims, award or overaward except when consistent with the State Wage Principles.

8. – SUPERANNUATION

(1) Application:

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

- (a) Subject to the provision of subclause (4) - Exemptions of this clause, each employer to whom this Award applies shall execute an agreement to become a participating employer in the preferred or approved Occupational Superannuation Scheme, within one month of the enactment of this clause.
- (b) For the purpose of this Award the preferred Occupational Superannuation Scheme is Westscheme.
- (c) For the purpose of this Award an approved Occupational Superannuation Scheme is one which complies with the standards for occupational schemes under the Occupational Superannuation Standards Act 1987 and Regulations made thereunder.

(2) Contributions:

- (a) Subject to the provisions of subclause (4) - Exemptions of this clause, each employer shall make monthly contributions to the fund in respect of all eligible employees at the rate of 9% of ordinary time earnings.
- (b) Eligible employees are all full-time and part-time employees to whose employment this Award applies and whose length of employment with the employer exceeds one month.
- (c) Subject to the provisions of subclauses (3) and (4) of this clause, contributions shall be made in respect of each current eligible employee from the date the employer executes the fund trust deed. Contributions in respect of all other eligible employees shall be made from commencement of employment with the employer but in no case prior to the date of the employer executes the fund trust deed.
- (d) Ordinary time earnings shall include base rate, industry allowance, supplementary payments, overaward payments, shift allowance and leading hand allowance.
- (e) Contributions shall be paid for all periods during which the eligible employee is in receipt of payments from the employer under the Workers' Compensation and Assistance Act and during which the employee is employed by the employer.
- (f) Subject to the trust deed an employer shall not be required to contribute during periods of unpaid leave in excess of 38 hours.
- (g) Subject to the trust deed an employer shall not be required to contribute during periods of unauthorised absence in excess of eight hours.

(3) Employee Entry into Fund:

- (a) On executing the fund trust deed the employer shall provide each current employee with an application form and documentation explaining the fund.
- (b) If an employee fails to return to the employer a completed application form to join the fund within two weeks of receipt the employer shall provide a reminder notice together with an application form and documentation explaining the fund to the employee.

- (c) If the employee fails to complete and return the application to join the fund within two weeks of receipt of the second form, no contribution needs to be made in respect of that employee until such time as a completed application form is received by the employer.
- (d) It shall be the responsibility of the employer to ensure that all new employees complete an application to join the fund during the first month of employment.

Provided that where an eligible employee refuses to complete an application to join the fund the employer shall notify the union in writing of the employee's refusal to do so.

(4) Exemptions:

- (a) Employers of eligible employees who are covered by a Superannuation Order or Award made pursuant to the Industrial Relations Act 1979 shall be exempted from the provisions of this clause in respect of those employees to whose employment the said Order or Award applies.
- (b) Employers of eligible employees who contribute to a Superannuation Fund, in accordance with an Order or Award made pursuant to the Industrial Relations Act 1979, the Conciliation and Arbitration Act 1904 or the Industrial Relations Act 1988 for a majority of employees and, at the date of issue of this Award, makes payment for eligible employees covered by this Award in accordance with that Order or Award shall be exempt from the provisions of this clause.
- (c) Employers of eligible employees who are covered by the Local Government Superannuation Act 1980 shall be exempt from the provisions of this clause in respect of those employees to whose employment the said Act applies.
- (d) Where an employer intends to join an approved Occupational Superannuation Scheme other than Westscheme, the employer shall notify the appropriate union(s) prior to doing so. In the event of a dispute the matter shall be referred to the Western Australian Industrial Relations Commission.
- (e) An employer may make application to the Western Australian Industrial Relations Commission for exemption from the provisions of this clause and until proceedings before the Western Australian Industrial Relations Commission are finalised the provisions of this clause shall be deemed to have been complied with. Within one calendar month of the delivery of this Award each employee to whom this Award applies shall execute the fund trust deed. 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 to be made;
- (f) The employer shall not unreasonably refuse to agree to a change of complying superannuation fund or scheme requested by a 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.

9. - SPECIAL RATES AND PROVISIONS

- (1) General conditions under which a special rate is payable:
 - (a) The special rates prescribed in this clause shall be paid irrespective of the times at which work is performed and shall not be subject to any premium or penalty conditions.
 - (b) Where more than one of the following rates provides a payment for disabilities of substantially the same nature then only the highest of such rates shall be payable.
- (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 shall 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) 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) Computing Quantities:

An employee, other than a leading hand, who is regularly required to compute or estimate quantities of materials in respect of the work performed by others shall be paid \$3.27 per day or part thereof in addition to the rates otherwise prescribed in this Award.
- (4) Fumes:

An employee required to work in a place where offensive fumes are present, other than those arising from the use of acids or other corrosive substances when cleaning down stone, as referred to in

placitum (c) of subclause (2) of Clause 7. - Wages, of this Award, shall be paid such rates as are agreed upon between the employee and the employer and failing agreement, such amount as is determined by a Board of Reference."

(5) First Aid Kit:

The employer shall provide a suitable first aid kit within each shop or factory which is readily accessible to all employees.

(6) Water and Soap:

Water and soap shall be provided at each shop or factory by the employer for use by all employees.

(7) Provision of Boiling Water:

The employer shall provide boiling water at each shop or factory for the use of all employees at lunch time.

(8) An employee holding a Third Year First Aid Medallion of the St. John Ambulance Association, appointed by the employer to perform first aid duties, shall be paid at the rate of \$8.81 per week in addition to the prescribed rate.

10. - FARES AND TRAVELLING TIME

- (1) (a) An employee, who on any day, or from day to day is required to work at a job away from the factory or cemetery shall, at the direction of the employer, present for work at such job at the usual starting time.
- (b) An employee to whom paragraph (a) of this subclause applies shall be paid at ordinary rates for the time spent in travelling between the employee's home and the job and shall be reimbursed for any fares incurred in such travelling, but only to the extent that the time so spent and the fares so incurred exceed the time normally spent and the fares normally incurred in traveling between the employee's home and the factory or cemetery.
- (c) An employee who, with the approval of the employer, uses a personal means of transport for travelling to or from outside jobs shall be paid the amount of excess fares and travelling time which the employee would have incurred in using public transport unless the employee has an arrangement with the employer for a regular allowance.
- (2) For travelling during working hours from and to the employer's place of business or from one job to another, an employee shall be paid by the employer at ordinary rates. The employer shall pay all fares and reasonable expenses in connection with such travel.

11. - PAYMENT OF WAGES

- (1) Wages shall be paid weekly in cash or, at the election of the employer, by electronic funds transfer.
- (2) 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) where an employer is required to make payments to the Construction Industry Long Service Leave Board, a certificate or other documentation from the 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 Occupational Superannuation Scheme number and the contribution returns by the employer to the Scheme on behalf of the employee, where such benefit applies; and
- (2.1) In addition, the employer shall record the location of the job if it is outside the Perth Metropolitan area.
- (2.2) The employer shall provide evidence of the employer's current Workers Compensation Policy or other satisfactory proof if insurance such as renewal certificate.
- (2.3) Subject to subclause (2.5) of this clause, all records and documentation referred to in subclauses (2), (2.1) and (2.2), 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.
- (2.4) Subject to subclause (2.5) of this clause, upon request the employer shall within 7 days make copies available for the union of the record maintained under subclause (2) 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.
- (2.5) 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.
- (3) No deduction shall be made from an employee's wages, unless the employee has agreed to such deduction in writing, or the deduction is authorised by the Award.
- (4) When an employee is dismissed (other than for misconduct) or lawfully terminates his/her service, the employee shall be paid all wages due before leaving the job, unless that payment is prevented because of circumstances beyond the control of the employer. Otherwise all moneys due shall be posted on the next working day to the employee's last known address or such other address as may be nominated by the employee.
- (5) Payment of wages shall be made on or before Friday of each week at or before the usual finishing time on the normal pay day of each week.
- (6) Wages shall not be paid in the meal time.
- (7) Subject to subclause (4) hereof, where an employee is required to spend time in waiting for wages or attending the employer's office on a subsequent day, he shall be paid at the ordinary rate of pay for the time so spent, in addition to any fares incurred. Provided that this subclause shall not apply where such

waiting or attending was due to an underpayment caused by a genuine mistake or by a genuine dispute as to the amount due.

12. – HOURS

(1) Hours of Work:

- (a) Except as provided elsewhere in this Award, the ordinary working hours shall be 38 per week.
- (b) The ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases.
 - (i) 38 hours within a work cycle not exceeding seven consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding 28 consecutive days.

(c) Day Employees:

The ordinary hours of work may be worked on any or all days of the week, Monday to Friday, inclusive, and except in the case of shift workers, shall be worked between the hours of 6.00 a.m. and 6.00 p.m. with an interval of not less than 45 minutes for lunch but the meal break of 45 minutes may be reduced by agreement between the employer and employees.

- (d) The ordinary hours of work shall not exceed 10 hours on any day.

Provided that in any arrangement of ordinary working hours, where such ordinary hours are to exceed eight hours on any day, the arrangement of hours shall be subject to the agreement between the employer and the majority of employees in the employer's premises or section or sections concerned.

(e) Shift Work:

Subject to the provisions of subclause (2) - Implementation of 38 Hour Week and subclause (3) - Procedures for In-house Discussions, ordinary hours of shift employees shall average 38 per week (inclusive of crib time) and shall not exceed 152 hours in 28 consecutive days.

(2) Implementation of 38 Hour Week:

- (a) Except as provided in paragraph (c) hereof, the method of implementation of the 38 hour week may be any one of the following:
 - (i) by employees working less than eight ordinary hours each day; or
 - (ii) by employees working less than eight ordinary hours on one or more days each week; or
 - (iii) by fixing one day of ordinary working hours on which all employees will be off duty during a particular work cycle; or
 - (iv) by rostering employees off duty on various days of the week during a particular work cycle so that each employee has one day of ordinary hours off duty during that cycle.
- (b) In cases where agreement cannot be reached in-house in the first instance or where problems arise after initial agreements or understandings have been achieved in-house, a formal

monitoring procedure shall apply. The basic steps in this procedure for settling such a problem are –

- (i) Consultation shall take place within the particular establishment concerned.
 - (ii) If it is unable to be resolved at establishment level, the matter shall be referred to the State Secretary of the union concerned or an assistant secretary, at which level a conference of the parties shall be convened without delay.
 - (iii) In the absence of agreement the provisions of Clause 30. - Dispute Settlement Procedure shall apply.
- (3) (a) Subject to the provisions of this paragraph, a rest period of seven minutes from the time of ceasing work to the time of resumption of work shall be allowed each morning.
- (b) The rest period shall be counted as time off work without deduction of pay and shall be arranged at a time and in a manner to suit the convenience of the employer.
- (c) Refreshments may be taken by the employees during the rest period but the period of seven minutes shall not be exceeded under any circumstances.

13. - SHIFT WORK

- (1) An employer may work any job on shifts but before doing so shall give at least seven days' notice of his/her intention to the union and the employees concerned and of the intended starting and finishing times of ordinary working hours of the respective shifts.
- (2) (a) Where work on any job is carried out on shifts and less than five consecutive shifts (other than day shift) are worked on that job, then the employees employed on such afternoon or night shifts shall be paid at overtime rates.
- Provided that where the ordinary hours of work normally worked in an establishment are worked on less than five days then the provisions of paragraph (a) of this subclause shall be as if four consecutive shifts were substituted for five consecutive shifts.
- (b) The sequence of work shall not be deemed to be broken under the paragraph (a) of this subclause by reason of the fact that work on the job is not carried out on a Saturday or Sunday or any other day that the employer observes a shut down for the purpose of allowing a 38 hour week or on any holiday.
- (3) Where a shift commences at or after 11.00 p.m. on any day, the whole of that shift shall be deemed, for the purposes of this Award, to have been worked on the following day.
- (4) A shift employee when on afternoon or night shift shall be paid for such shift 15% more than the employee's ordinary rate prescribed by this Award.
- (5) (a) All work performed on a rostered shift, when the major portion of such shift falls on a Saturday, Sunday or on a holiday, shall be paid for as follows –
Saturday - at the rate of time and one-half.
Sunday - at the rate of time and three-quarters.
Holidays - at the rate of double time.
- (b) These rates shall be paid in lieu of the shift allowances prescribed in subclause (5) of this clause.

14. – OVERTIME

- (1)
 - (a) Subject to the provisions of Clause 12. - Hours and Clause 13. - Shift Work, all work performed outside of ordinary hours of work on any day shall be paid for at the rate of time and a half for the first two hours and double time thereafter except that all work performed after 12 noon on a Saturday and all work performed on a Sunday shall be paid for at the rate of double time.
 - (b) In computing overtime each day shall stand alone but when an employee works overtime which continues beyond midnight on any day, the time worked after midnight shall be deemed to be part of the previous day's work.
 - (c) All employees will be required to work reasonable overtime when requested by the employer.
- (2) Any employee who is recalled to work after the usual ceasing time for less than one hour shall receive payment for one hour at overtime rates.
- (3)
 - (a) An employee shall not be compelled to work for more than five hours without a meal interval.
 - (b) When an employee is required to work during the employee's usual meal interval and the employee's meal interval is thereby postponed for more than half an hour, the employee shall be paid at overtime rates until the employee gets the meal interval.
- (4)
 - (a) Subject to the provisions of paragraph (b) of this subclause, an employee required to work overtime for more than two hours shall be supplied with a meal by the employer or be paid \$9.90 for a meal and if owing to the amount of overtime worked, a second and subsequent meal is required the employee shall be supplied with each such meal by the employer or be paid \$6.70 for each meal so required.
 - (b) The provisions of paragraph (a) of this subclause do not apply –
 - (i) in respect of any period of overtime for which the employee has been notified of the requirement on the previous day or earlier;
 - (ii) to any employee who lives in the locality in which the place of work is situated in respect of any meal for which the employee can reasonably go home.
- (5)
 - (a) When overtime work is necessary it shall, whenever reasonably practicable, be so arranged that an employee has at least ten consecutive hours off duty between the work of successive days.
 - (b) An employee (other than a casual employee) who works so much overtime between the termination of the employee's ordinary work on one day and the commencement of the employee's ordinary work on the next day that the employee has not at least ten consecutive hours off duty between those times shall, subject to paragraph (c) of this subclause, be released after completion of such overtime until the employee has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
 - (c) If, on the instructions of the employer, such an employee resumes or continues work without having had such ten consecutive hours off duty, the employee shall be paid at double rates until released from duty for such period of ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (6) The provisions of this clause do not operate so as to require payment of more than double time rates, or double time and a half on a holiday prescribed under this Award, for any work performed.

15. - HOLIDAYS AND ANNUAL LEAVE

- (1)
 - (a) Subject as hereinafter provided the following days shall be regarded as holidays and shall be observed without deduction of pay. The days observed as New Year's Day, Australia Day,

Good Friday, Easter Monday, Anzac Day, Labour Day, Foundation Day, Sovereign's Birthday, Christmas Day and Boxing Day.

- (b) When any of the days mentioned in paragraph (a) of this subclause falls on a Saturday or a Sunday, the holiday shall be observed on the next succeeding Monday provided that 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.
 - (c) Where an employee is absent from work on the working day before or the working day after a public holiday without reasonable cause, proof whereof shall be upon the employee, or without the consent of the employer, the employee shall not be entitled to payment for such a holiday.
 - (d) An employer shall not terminate the employment of an employee within a period of seven days preceding a holiday prescribed in this Award for the purpose of avoiding the obligation imposed by this clause.
 - (e) Where a holiday prescribed in paragraph (a) hereof falls on a Tuesday, Wednesday or Thursday it may be substituted for any other day by agreement between the employer and majority of employees.
- (2) All employees required to work on the days named in subclause (1) of this clause shall be paid double and one-half time rate for all time worked on any such day.
- (3) 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.
- (4) (a) Except as hereinafter provided, a period of four consecutive weeks' leave, inclusive of any rostered day off arranged and agreed in accordance with the provisions of Clause 12. - Hours, with payment as prescribed in paragraph (b) hereof shall be allowed annually to an employee by the employer after a period of 12 months' continuous service with that employer.
- (b) (i) An employee before going on leave shall be paid the wages the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on leave during the relevant period.
 - (ii) Subject to paragraph (c) hereof an employee shall, where applicable, have the amount of wages to be received for annual leave calculated by including the following where applicable –
 - (aa) The rate applicable as prescribed in Clause 7. - Wages of this Award including leading hand rates.
 - (bb) Subject to paragraph (c) hereof the rate prescribed for work in ordinary time by Clause 13. - Shift Work of the Award according to the employee's projected roster including Saturday and Sunday shifts.
 - (cc) Any other rate to which the employee is entitled in accordance with the employee's contract of employment for ordinary hours of work; provided that this provision shall not operate so as to include any payment which is of a similar nature to or is paid for the same reasons as or is paid in lieu of those payments prescribed by Clause 10. - Fares and Travelling or Clause 14. - Overtime of this Award, nor any payment which might have become payable to the employee as reimbursement for expenses incurred.
- (c) During a period of annual leave an employee shall receive a loading calculated on the rate of wage prescribed by paragraph (b)(ii)(bb) of this subclause. The loading shall be as follows –

- (i) Day Employees - An employee who would have worked on day work had the employee not been on leave - a loading of 17½%.
- (ii) Shift Employees - An employee who would have worked on shift work had the employee not been on leave - a loading of 17½%.

Provided that where the employee would have received shift loadings prescribed by Clause 13. - Shift Work had the employee not been on leave during the relevant period and such loadings would have entitled the employee to a greater amount than the loading of 17½%, then the shift loadings shall be added to the rate of wage prescribed by the said paragraph (b)(ii)(aa) hereof in lieu of the 17½% loading. Provided further, that if the additional loading would have entitled him/her to a lesser amount than the loading of 17½%, then such loading of 17½% shall be added to the rate of wage prescribed by subclause (b)(ii)(aa) hereof in lieu of the shift loadings. The loading prescribed by this subclause shall not apply to proportionate leave on termination.

- (5) 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.
- (6) Proportionate Leave on Termination

If after one month's continuous service in any qualifying 12 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 2.923 hours' pay at the rate of wage prescribed by Clause 7. - Wages, in respect of each completed week of continuous service.
- (7) Any time in respect of which an employee is absent from work, except time for which the employee is entitled to claim sick pay, and except for any public holiday on which the employee is absent from work or time spent on holidays, annual leave or long service leave as prescribed by this Award, shall not count for the purpose of determining the employee's right to annual leave.
- (8) In addition to any payment to which the employee may be entitled under subclause (6) of this clause, an employee whose employment terminates after the employee has completed a 12 monthly 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 (9) or (10) of this clause applies, in lieu of so much of that leave as has not been allowed unless –
 - (a) the employee has been justifiably dismissed for misconduct; and
 - (b) the misconduct for which the employee has been dismissed occurred prior to the completing of that qualifying period.
- (9) Where requested by an employee an employer may grant up to five days to be taken as non consecutive periods of annual leave. The remaining period of leave may be taken in two periods where mutually agreed between the employer, the employee and the union. The employee's eligibility for leave loading under paragraph (4)(c) of this clause is not affected by anything contained in this subclause.
- (10) Notwithstanding anything else contained herein an employer who observes a Christmas close down for the purpose of granting annual leave may require an employee to take annual leave in not more than two periods but neither of such periods shall be less than one week.
- (11) The provisions of this clause shall not apply to casual employees.

16. - LONG SERVICE LEAVE

The Long Service Leave provisions set out in Volume 66 of the Western Australian Industrial Gazette at pages 1 to 4 both inclusive, are hereby incorporated in and form part of this Award.

17. - ABSENCE THROUGH SICKNESS

- (1)
 - (a) An employee who is unable to attend or remain at the 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 provisions of this clause.
 - (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 the 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 personal ill health or injury for a period of seven consecutive days or more and the employee 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 15. - Holidays and Annual Leave.
 - (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 15. -

Holidays and Annual Leave 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 1-4, 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 Act nor to employees whose injury or illness is the result of the worker's own misconduct.
- (8) The provisions of this clause do not apply to casual employees.

18. - BEREAVEMENT LEAVE

- (1) An employee, other than a casual employee, shall on the death within Australia of a wife, husband, father, mother, brother, sister, child or step-child, be entitled on notice of leave up to and including the day of the funeral of such relation and such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the worker in two ordinary working days. Proof of such death shall be furnished by the worker to the satisfaction of the employer.
- (2) Payment in respect of bereavement leave is to be made only where the employee otherwise would have been at work and shall not be granted in any case where the employee concerned would not have been at work in accordance with any shift roster, or on long service leave, annual leave, sick leave, workers' compensation, leave without pay or on a public holiday.
- (3) For the purposes of this subclause, the words "wife" and "husband" shall include a person who lives with the employee as a de facto wife or husband.
- (4) For the purposes of this clause the pay of an employee on shift work shall be deemed to include any usual shift allowance.

19. - 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 a 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), 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.

20. - PROTECTION OF TOOLS

- (1) The employer shall provide a waterproof and reasonably secure place where the employee's tools (when not in use) may be locked up apart from the employer's plant or material.
- (2) The employer shall indemnify an employee in respect of any tools of the employee's stolen, if the employer's failure to comply with this clause is a material factor in contributing to the stealing of the tools.

21. - RECORDS

- (1) The employer shall make and keep a record or records showing –
 - (a) The name and classification of each employee.
 - (b) The starting and finishing times on each day.
 - (c) The hours worked.
 - (d) The wages and overtime (if any) paid.
 - (e) The amount of allowances and fares and travelling time paid.
 - (f) Any deductions made.
 - (g) The composition of any payment made in respect of any period of paid leave of any kind.
 - (h) The composition of any termination payment.
- (2) The record or records shall be available for inspection by any official or duly accredited employee of the union at any time during working hours at the employer's business premises, and such person may take extracts therefrom.

Provided that if such records are not available when demanded for any cause beyond the employer's control, the employer shall, within 24 hours, notify the union of a reasonable time and place at which they may be inspected.

- (3) Details of how his/her wages are made up shall be available to the employee at the time of payment.
- (4) Any system of automatic recording by machines shall be deemed a record for the purposes of this clause.

22. - REPRESENTATIVE INTERVIEWING EMPLOYEES

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 the employer unless the employer is the employer, or former employer of a member of the Union.

On notifying the employer or his/her representative, any authorised officer or employee of the union shall have the right to visit and inspect any shop, place or factory at any time when work is being carried on whether

during or outside the ordinary working hours and to interview the employees covered by this Award provided that the union representative does not unduly interfere with the work in progress.

23. - POSTING OF UNION NOTICES

The union shall be entitled to post a copy of this Award and any union notice or poster, not exceeding 50 cm by 30 cm in a place within the employer's premises agreed by the employer where it may readily be seen by employees to whose employment this Award applies.

24. - SHOP STEWARDS

An employee appointed as a shop steward shall, upon notification in writing by the union to the employer, be recognised as an accredited representative of the union to which he/she belongs, and shall be allowed all necessary time during working hours to submit to the employer matters affecting the employees he/she represents.

25. - BOARD OF REFERENCE

- (1) There shall be a Board of Reference consisting of a Chairman and an equal number of employers' and employees' members who shall be appointed pursuant to section 48 of the Industrial Relations Act 1979 and Regulation 16 of the Industrial Commission Relations 1980.
- (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. - NO REDUCTION

Notwithstanding the provisions of Clause 7. - Wages of this Award, the rate of wage of any employee shall not be reduced if that employee, at the date of delivery of this Award, was being paid a higher wage than the maximum prescribed in the said clause for the employee's class of work.

27. - DISPUTE SETTLEMENT PROCEDURE

- (1) Matters of concern to an employee and/or steward shall be raised with the foreman, supervisor or employer as the case requires.

In all cases of dispute the following procedure shall apply –
- (2) All such matters are to be dealt with as soon as practicable following upon that matter being raised by or on behalf of the employee/s concerned.
- (3) If the matter is not resolved, discussions involving the union shall take place as soon as practicable thereafter.
- (4) If the matter remains unresolved it shall be referred to the Western Australian Industrial Relations Commission for conference and, if necessary, for hearing and determination.

28. - NOTIFICATION OF CHANGE

- (1) Employer's Duty to Notify
 - (a) Where an employer has made a definite decision to introduce major changes in production, programme, organisation, structure or technology that are likely to have significant effects on

employees, the employer shall notify the employees who may be affected by the proposed changes and their union.

- (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and restructuring of jobs. Provided that where the Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have "significant effects".

(2) Employer's Duty to Discuss Change

- (a) The employer shall discuss with the employees affected and the union, the introduction of the changes referred to in subclause (1) of this clause among other things, the effects the changes are likely to have on employees, measures to avert or minimise the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees and/or their union in relation to the changes.
- (b) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in subclause (1) of this clause.
- (c) For the purposes of such discussion, the employer shall provide to the employees concerned and the union, all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on employees and any other matters likely to affect employees provided that the employer shall not be required to disclose confidential information the disclosure of which would be inimical to the employer's interests.

29. – REDUNDANCY

(1) Discussions Before Terminations:

- (a) Where an employer had made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment, the employer shall hold discussions with the employees directly affected and with the union.
- (b) The discussion shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of paragraph (a) of this subclause and shall cover among other things, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to minimise any adverse effect of any terminations on the employees concerned.
- (c) For the purpose of such discussion the employer shall provide in writing to the employees concerned and the union all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number of categories of employees likely to be affected and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would be inimical to the employer's interests.

(2) Employees Exempted:

This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal including malingering, inefficiency or neglect of duty or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks.

(3) Employees with less than one year's service:

This clause shall not apply to employees with less than one year's service and the general obligation on employers shall be to give the relevant employees an indication of the impending redundancy at the first reasonable opportunity and to take such steps as may be reasonable to facilitate the obtaining by employees of suitable alternative employment.

(4) Dispute Settling Procedures:

Any dispute under these provisions shall be dealt with in accordance with Clause 27. - Dispute Settlement Procedure.

30. - UNDER-RATE EMPLOYEES

- (1) Any employee who by reason of old age or infirmity is unable to earn the minimum wage may be paid such lesser wage as may from time to time be agreed upon in writing between the union and the employer.
- (2) In the event of no agreement being arrived at the matter may be referred to the Board of Reference for determination.
- (3) After application has been made to the Board, and pending the Board's decision, the employee shall be entitled to work for and be employed at the proposed lesser rate.

31. - PROTECTIVE CLOTHING AND FOOTWEAR

- (1) Each employee working with water shall be provided with waterproof footwear for use at work. The footwear shall be replaced on a fair wear and tear basis.
- (2) The employer shall provide an adequate number of full length waterproof aprons for use by employees working with water.
- (3) The employer shall supply full length waterproof gloves to those employees working with water.
- (4) The employer shall supply appropriate respiratory masks to employees.

32. - CONSULTATIVE PROCEDURES

At each plant or enterprise a consultative mechanism may be established by the employer or shall be established upon request of the employees. The form, structure and method of implementing consultative practices shall be determined at the enterprise level by agreement between the employer and employees and where appropriate the union. The consultative mechanism and procedure shall be appropriate to the size, structure and needs of the plant or enterprise.

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 A - PARTIES TO THE AWARD

The following organisation is a party to this award:

The Construction, Mining, Energy, Timberyards, Sawmills and Woodworkers Union of Australia - Western Australian Branch

SCHEDULE B - SCHEDULE OF RESPONDENTS

Bellevue Monumental Works Pty Ltd
83 Great Eastern Highway
BELLEVUE WA 6056

Catholic Monumental Works
483 Great Eastern Highway
REDCLIFFE WA 6104

Claremont Monumental Works
504 Railway Road
KARRAKATTA WA 6010

Fremantle Monumental Works
Stockdale Road
O'CONNOR WA 6163

G.C. Smith & Co.
Stockdale Road
O'CONNOR WA 6163

Midland Monumental Works
83 Great Eastern Highway
BELLEVUE WA 6056

Returned Soldiers Monumental Works
504 Railway Road
KARRAKATTA WA 6010

Peters and Gillies
508 Railway Road
KARRAKATTA WA 6010

Karrakatta Monumental Works
59 Carrington Street
NEDLANDS WA 6009

APPENDIX - S.49B - INSPECTION OF RECORDS REQUIREMENTS

- (1) Where this award, order or industrial agreement empowers a representative of an organisation of employees party to this award, order or industrial agreement to inspect the time and wages records of an employee or former employee, that power shall be exercised subject to the Industrial Relations (General) Regulations 1997 (as may be amended from time to time) and the following:
- (a) The employer may refuse the representative access to the records if: -
 - (i) the employer is of the opinion that access to the records by the representative of the organisation would infringe the privacy of persons who are not members of the organisation; and
 - (ii) the employer undertakes to produce the records to an Industrial Inspector within 48 hours of being notified of the requirement to inspect by the representative.
 - (b) The power of inspection may only be exercised by a representative of an organisation of employees authorised for the purpose in accordance with the rules of the organisation.
 - (c) Before exercising a power of inspection, the representative shall give reasonable notice of not less than 24 hours to an employer.

-

VARIATION RECORD

MONUMENTAL MASONRY INDUSTRY AWARD, 1989

No. A 36 of 1987

Delivered 01/03/90 at 70 WAIG 1357.

Consolidated 09/12/96 at 76 WAIG 5070

CLAUSE NO.	EXTENT OF VARIATION	ORDER NO.	OPERATIVE DATE	GAZETTE REFERENCE
1. Title				
	as delivered	A 36/87	01/03/90	70 WAIG 1357
(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. & Title	609/99	06/07/99	79 WAIG 1843
------------------	--------	----------	--------------

1B. Minimum Adult Award Wage

Ins. 1B	940/97	14/11/97	77 WAIG 3177
(2),(3), & (5) rates & text	609/99	01/08/99	79 WAIG 1843
Cl.	654/00	01/08/00	80 WAIG 3379
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 & 2451
(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 2089 & 2681
Cl.	957/05	07/07/06	86 WAIG 1631 & 2203
Cl.	1/07	01/07/07	87 WAIG 1487 & 2102
Cl	115/07	01/07/08	88 WAIG 773 &1325
Cl	1/09	01/10/09	89 WAIG 735 & 1744

2. Arrangement

as delivered	A 36/87	01/03/90	70 WAIG 1357
Cl.	2111/90	14/01/92	72 WAIG 332
Ins. 1A	1752/91	31/01/92	72 WAIG 191
Del. Sch. Resp; Ins Sch. A & Sch. B	612/93	04/05/93	73 WAIG 1639
1A. Title	1457/93	24/12/93	74 WAIG 198

1A. Title	985/94	30/12/94	75 WAIG 23
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	07/08/96	76 WAIG 3368
1A	940/97	14/11/97	77 WAIG 3177
Ins. 1B	940/97	14/11/97	77 WAIG 3177
1A. Title	757/98	12/06/98	78 WAIG 2579
Del. 1A	609/99	06/07/99	79 WAIG 1843

(2A. State Wage Principles – September 1989)

as delivered	A 36/87	01/03/90	70 WAIG 1357
Deleted	2111/90	14/01/92	72 WAIG 332

3. Area and Scope

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

4. Term

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

5. Definitions

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

6. Contract of Service

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

Ins. (6)	2111/90	14/01/92	72 WAIG 332
----------	---------	----------	-------------

7. Wages

as delivered	A 36/87	01/03/90	70 WAIG 1357
(1);(2);(3)(8)	1124/90(R2)	17/09/90	70 WAIG 4405
(1)(2)(3)(8)	2111/90	14/01/92	72 WAIG 332
Amd. Sup. Payment Monumental Empl. Gd 2	Cor 2111/90	14/01/92	72 WAIG 333
(6)(a) rate	1358/92	20/01/93	73 WAIG 366
(6)(a) rate	1234/93	06/10/93	73 WAIG 2704
(6)(a) rate	894/94	10/10/94	74 WAIG 2747
(I)	581/95	01/07/95	75 WAIG 2835
(1)	498/96	02/08/96	76 WAIG 4308
Rates & Ins. Text	940/97	14/11/97	77 WAIG 3177
(2) Ins text.	491/98	16/04/98	78 WAIG 1471
(1)(a) Rates, (1)(d) insert text	609/99	01/08/99	79 WAIG 1843
Cl.	654/00	01/08/00	80 WAIG 3379
(1)(a), (2), (3)(a)(i)(ii)(iii)(v) & (6)(a)	1228/00	01/11/00	80 WAIG 5599
Cl	752/01	01/08/01	81 WAIG 1721
(2), (3)(a)	1356/01	17/09/01	81 WAIG 2753
(6)(a)	1831/01	03/12/01	81 WAIG 3076
(1) (a)	797/02	01/08/02	82 WAIG 1369
(2), (3)(a)	1195/02	14/10/02	82 WAIG 2955
(6)(a)	1627/02	16/12/02	83 WAIG 142
Cl.	569/03	5/06/03	83 WAIG 1899 & 2451

(2) & (3)	1149/03	22/10/03	83 WAIG 3633
(6)	1383/03	12/01/04	84 WAIG 262
Cl	570/04	4/06/04	84 WAIG 1521 & 1931
(2)&(3)	878/04	7/10/04	84 WAIG 3307
Cl.	576/05	07/07/05	85 WAIG 2089 & 2681
Cl.	957/05	07/07/06	86 WAIG 1631 & 2203
Cl.	1/07	01/07/07	87 WAIG 1487 & 2102
(1)	16/08	27/05/08	88 WAIG 513 & 526
Cl	115/07	01/07/08	88 WAIG 773 &1325
Cl	1/09	01/10/09	89 WAIG 735 & 1744

8. Superannuation

as delivered	A 36/87	01/03/90	70 WAIG 1357
Ins. Text	599/98	30/06/98	78 WAIG 2559
(2)(a)	1228/00	01/11/00	80 WAIG 5599
(2)(a)	1195/02	14/10/02	82 WAIG 2955

9. Special Rates and Conditions

as delivered	A 36/87	01/03/90	70 WAIG 1357
Amounts (3) & (8).	1124/90(R2)	17/09/90	70 WAIG 4405
(3), (8)	1228/00	01/11/00	80 WAIG 5599
(3), (8)	1356/01	17/09/01	81 WAIG 2753
(3), (8)	1195/02	14/10/02	82 WAIG 2955
(3) & (8)	1149/03	22/10/03	83 WAIG 3633

(3)& (8)	878/04	7/10/04	84 WAIG 3307
----------	--------	---------	--------------

10. Fares and Travelling Time

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

11. Payment of Wages

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

(2)	1228/00	01/11/00	80 WAIG 5599
-----	---------	----------	--------------

12. Hours

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

13. Shift Work

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

.(2)(a)	1124/90(R2)	17/09/90	70 WAIG 4405
---------	-------------	----------	--------------

14. Overtime

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

Ins. (1)(c)	2111/90	14/01/92	72 WAIG 332
-------------	---------	----------	-------------

(4)(a) amounts	1358/92	20/01/93	73 WAIG 366
----------------	---------	----------	-------------

(4)(a)	1234/93	06/10/93	73 WAIG 2704
--------	---------	----------	--------------

(4)(a)	1228/00	01/11/00	80 WAIG 5599
--------	---------	----------	--------------

(4)(a)	1831/01	03/12/01	81 WAIG 3076
--------	---------	----------	--------------

(4)(a)	1627/02	16/12/02	83 WAIG 142
--------	---------	----------	-------------

(4)(a)	1383/03	12/01/04	84 WAIG 262
--------	---------	----------	-------------

15. Holidays and Annual Leave

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

Ins. (1)(e); (9)	2111/90	14/01/92	72 WAIG 332
------------------	---------	----------	-------------

16. Long Service Leave

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

17. Absence Through Sickness

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

18. Bereavement Leave

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

19. Maternity Leave

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

20. Protection of Tools

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

21. Records

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

22. Representative Interviewing Employees

as delivered	A 36/87	01/03/90	70 WAIG 1357
Ins. para	2053/1/97	22/11/97	77 WAIG 3138

23. Posting of Union Notices

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

24. Shop Stewards

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

25. Board of Reference

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

26. No Reduction

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

27. Dispute Settlement Procedure

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

28. Notification of Change

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

29. Redundancy

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

30. Under-Rate Employees

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

31. Protective Clothing and Footwear

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

32. Consultative Procedures

Ins Cl.	2111/90	14/01/92	72 WAIG 332
---------	---------	----------	-------------

Appendix - Resolution of Disputes Requirements

Ins. Appendix	693/96	16/07/96	76 WAIG 2768
---------------	--------	----------	--------------

App	2053/97	22/11/97	77 WAIG 3079
-----	---------	----------	--------------

Schedule A - Parties to the Award

Ins. Sch.	612/93	04/05/93	73 WAIG 1639
-----------	--------	----------	--------------

(Schedule of Respondents)

as delivered	A 36/87	01/03/90	70 WAIG 1357
--------------	---------	----------	--------------

Del. Sch. Resp; Ins Sch. A & Rename Sch.	612/93	04/05/93	73 WAIG 1639
---	--------	----------	--------------

Schedule B - Schedule of Respondents**Appendix - S.49B - Inspection of Records Requirements**

Ins. Appendix	694/96	16/07/96	76 WAIG 2789
---------------	--------	----------	--------------

(1) ins. Text	2053/97	22/11/97	77 WAIG 3138
App.	491/98	16/04/98	78 WAIG 1471