

Municipal Employees (Western Australia) Award 2021

PART 1 – APPLICATION AND OPERATION OF AWARD

1. - AWARD TITLE

This award shall be known as the Municipal Employees (Western Australia) Award 2021.

2. - ARRANGEMENT

PART 1 – Application and Operation of Award

1. Award Title
2. Arrangement
3. Area and Scope
4. Commencement
5. Definitions
6. Minimum Adult Award Wage

PART 2 - Award Flexibility

7. Enterprise Flexibility
8. Index of Facilitative Provisions

PART 3 - Dispute resolution

9. Dispute Settlement Procedures

PART 4 - Employer and Employees Duties, Employment Relationship and Related Matters

10. Notice of Termination
11. Full-time Employees
12. Part-time Employees
13. Casual Employees
14. Redundancy

PART 5 - Wages and Related Matters

15. Classification definitions
16. Wages
17. Extra rates for ordinary hours
18. Payment of wages
19. Allowances

PART 6 - Hours of Work

20. Hours of Duty
21. Overtime
22. Shift Work

PART 7 - Holidays and Leave

23. Annual Leave
24. Public Holidays
25. Sick Leave
26. Bereavement Leave
27. Family Leave

28. Parental Leave

PART 8 - Miscellaneous

- 29. Superannuation
- 30. Posting of Award
- 31. Named Parties to Award
- 32. Named Respondents

3. - AREA AND SCOPE

- 3.1 This award shall apply throughout the State of Western Australia to all local government authorities and their agencies and their employees whether members of the Union/s or not.
- 3.2 This award shall not apply to employees employed by employers who are national system employers, as defined by the *Fair work Act 2009*.

4. - COMMENCEMENT

This award shall come into operation on a date to be specified by the Commission.

5. - DEFINITIONS

- 5.1 An Aboriginal person is a person who identifies as such and furthermore is regarded as an Aboriginal person by members of his or her community.
- 5.2 Commission means the Western Australian Industrial Relations Commission.
- 5.3 Commissioner means a Commissioner appointed under the *Industrial Relations Act 1979*
- 5.4 Employee means any person employed by a respondent in any of the classifications, callings or occupations specified by this award.
- 5.5 Employer means any respondent to this award.
- 5.6 Headquarters shall mean and include a permanent place wherein are stored or kept, plant equipment and materials or a place where vehicles are parked.
- 5.7 Horticulture tradesperson shall mean an employee who has successfully completed a recognised apprenticeship in the Gardening or Landscape Gardening or Turf Management or Nurseryperson branches of the Horticulture Trade, and who produces proof satisfactory to the employer of such qualification, or who has by other means achieved a standard of knowledge equivalent thereto and is appointed in writing as such by the employer.
- 5.8 Horticultural tradesperson/curator means an employee who is in charge or has care and control over a park, garden, botanical garden, tennis court ground, cricket ground, golf course or other sporting ground or any other ground or similar area, but who does not directly supervise other employees other than apprentices in training or to supervise employees as a leading hand and who does not perform the normal duties of a caretaker.
- 5.9 Member means a financial member of the Union.
- 5.10 Registrar means the Industrial Registrar or a Deputy Industrial Registrar of the Western Australian Industrial Relations Commission.
- 5.11 Shift work

- 5.11.1 Day shift means any shift starting at or after 6.00 a.m. and finishing at or before 5.00 p.m.
- 5.11.2 Afternoon shift means any shift finishing after 5.00 p.m. and at or before midnight.
- 5.11.3 Night shift means any shift finishing after midnight and at or before 6.00 a.m.
- 5.12 Union means the Western Australian Municipal, Administrative, Clerical and Services Union of Employees and/or the Western Australian Municipal, Road Boards, Parks and Racecourse Employees' Union of Workers, Perth.

6. - MINIMUM ADULT AWARD WAGE

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

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

The minimum adult award wage is payable on and from the commencement of the first pay period on or after 1 January 2021.
- 6.3 The minimum adult award wage is deemed to include all State Wage order adjustments from State Wage Case Decisions.
- 6.4 Unless otherwise provided in this clause adults aged 21 or more employed as casuals, part-time employees or piece workers or employees who are remunerated wholly on the basis of payment by result, shall not be paid less than pro rata the minimum adult award wage according to the hours worked.
- 6.5 Employees under the age of 21 shall be paid no less than the wage determined by applying the percentage prescribed in the junior rates provision in this award (if applicable) to the minimum adult award wage, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.
- 6.6 The minimum adult award wage shall not apply to apprentices, employees engaged on traineeships or government approved work placement programs or employed under the Commonwealth Government Supported Wage System or to other categories of employees who by prescription are paid less than the minimum award rate, provided that no employee shall be paid less than any applicable minimum rate of pay prescribed by the *Minimum Conditions of Employment Act 1993*.
- 6.7 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.
- 6.8 Subject to this clause the minimum adult award wage shall –
 - 6.8.1 Apply to all work in ordinary hours.
 - 6.8.2 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.
- 6.9 Minimum Adult Award Wage

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

award. Such above award payments include wages payable pursuant to enterprise agreements, consent awards or award variations to give effect to enterprise agreements and over award arrangements. Absorption which is contrary to the terms of an agreement is not required.

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

6.10 Adult Apprentices

6.10.1 Notwithstanding the provisions of this clause, the minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for a 38 hour week is \$649.40 per week.

6.10.2 The minimum adult apprentice wage for a full-time apprentice aged 21 years or more working under an award that provides for other than a 38 hour week is calculated as follows: divide \$649.40 by 38 and multiply by the number of ordinary hours prescribed for a full time apprentice under the award.

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

6.10.4 Adult apprentices aged 21 years or more employed on a part-time basis shall not be paid less than pro rata the minimum adult apprentice wage according to the hours worked.

6.10.5 The rates paid in the paragraphs above to an apprentice 21 years of age or more are payable on superannuation and during any period of paid leave prescribed by this award.

6.10.6 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.

PART 2 - AWARD FLEXIBILITY

7. - ENTERPRISE FLEXIBILITY

7.1 Where an employer or employees wish to pursue an agreement at the enterprise or workplace about how the award should be varied so as to make the enterprise or workplace operate more efficiently accordingly to its particular needs the following process shall apply.

7.1.1 A consultative committee mechanism and procedures appropriate to the size, structure and needs of the enterprise or workplace shall be established.

7.1.2 For the purpose of the consultative process the employees may nominate the Union or another body or individual to represent them.

7.1.3 Where agreement is reached an application for registration shall be made to the Commission.

7.2 Where an agreement affects more than one employee, a valid majority of employees must vote in favour of the agreement through a secret ballot process. A secret ballot must also be conducted where a variation to an agreement is proposed or where the termination of the agreement is proposed by employees.

7.3 The secret ballot must be conducted by a person mutually agreed between the employer and the employees.

7.4 The terms and conditions of employment in an agreement shall not, when viewed as a whole, be less favourable than the entitlements otherwise available under the award or other standard condition established by the Commission.

8. - INDEX OF FACILITATIVE PROVISIONS

8.1 A facilitative provision is one which provides that the standard approach in an award provision may be departed from by agreement between an individual employer and the Union and/or an employee, or the majority of employees, in the enterprise or workplace concerned.

8.2 Facilitative provisions in this award are contained in the following clauses:

Clause title	Clause number
Alternative method of payment	18.5
Hours of duty – spread of hours	20.1.2(1) and 20.1.5(1)
Annual leave – leave to be taken	23.6.1
Public holidays – substitute days	24.4.1(1)
Parental leave – commencement of leave	28.3.4

PART 3 - DISPUTE RESOLUTION

9. - DISPUTE SETTLEMENT PROCEDURES

9.1 Subject to the provisions of the *Industrial Relations Act 1979*, any grievance, complaint, claim or dispute, or any matter which is likely to result in a dispute, including wage level classification appeals, between a respondent employer and the Union or a respondent employer and his/her employees, shall be settled in accordance with the procedures set out herein.

9.2 Where the matter is raised by an employee, or a group of employees, the following steps shall be observed:

9.2.1 The employee(s) concerned shall discuss the matter with the immediate supervisor. If the matter cannot be resolved at this level the supervisor shall, within three days, refer the matter to a more senior officer nominated by the employer and the employee(s) shall be advised accordingly.

9.2.2 The senior officer shall, if he/she is able, answer the matter raised within one week of it being referred to him/her and, if he/she is not so able, refer the matter to the employer for its attention, and the employee(s) shall be advised accordingly.

9.2.3 If the matter has been referred in accordance with 9.2.2, the employee(s) or his/her shop steward shall notify the Union Secretary or his/her nominee, so that he/she may have the opportunity of discussing the matter with the employer.

9.2.4 The employer shall, as soon as practicable after considering the matter before it, advise the employee(s) or, where necessary the Union of its decision. Provided, that such advice shall be given within five weeks of the matter being referred to the employer.

9.2.5 Where the person chosen by the employee to act as the representative is employed by the particular employer the employee selected shall suffer no loss of wages or other benefit arising from his or her presence and/or representation made at any stage of the dispute settlement procedure.

9.2.6 Should the matter remain in dispute after the above processes have been exhausted either party may refer the matter to the Commission for resolution.

- 9.3 Nothing in this clause shall limit the right of an individual employee to seek advice from, or be represented by, a shop steward, an appropriate union representative or other person.
- 9.4 Employees may elect to have an elder from a shared cultural background represent them on such occasions.
- 9.5 The settlement procedures provided by this clause shall be applied to all manner of dispute referred to in 9.1, and no party, or individual, or group of individuals, shall commence any other action, of whatever kind, which may frustrate a settlement in accordance with its procedures. Observance of these procedures shall in no way prejudice the right of any party, or individual, in dispute to refer the matter for resolution by the Commission. Provided that such reference cannot occur until this dispute resolution procedure has been fully observed.
- 9.6 While the parties are attempting to resolve the dispute the parties will continue to work in accordance with the award and their contract of employment unless the employee has a reasonable concern about an imminent risk to his or her health and safety. Subject to the provision of any applicable occupational health and safety law, even if the employee has a reasonable concern about an imminent risk to his or her health or safety, the employee must not unreasonably fail to comply with a direction by his or her employer to perform other work, whether at the same location or another location, that is safe and appropriate for the employee to perform.
- 9.7 Settlement of dispute – training leave
- 9.7.1 A Union delegate/shop steward (or other employee workplace representative) shall be entitled to, and the employer shall grant, up to five days' leave each year, non-cumulative, to attend courses conducted by an accredited training provider and, approved by the Union on the following conditions:
- (1) The scope, content and level of the courses are directed to the enhancement of the operation of the settlement of dispute/dispute resolution procedure.
 - (2) Reasonable notice is given by the Union delegate/shop steward or another workplace representative; reasonable notice being 30 days or such other notice as agreed between the Union and the Employer.
 - (3) The taking of leave is arranged having regard to the operational requirements of the employer.
 - (4) The Union delegate/shop steward or another workplace representative taking such leave shall be paid all ordinary time earnings which normally become due and payable during the period of leave;
 - (5) Leave of absence granted pursuant to this clause shall count as service for all purposes of this award.

PART 4 - EMPLOYER AND EMPLOYEES DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED MATTERS

10. - NOTICE OF TERMINATION

- 10.1 Notice of termination by employer
- 10.1.1 In order to terminate the employment of an employee the employer must give to the employee the period of notice specified in the table below:

Period of continuous service

Period of notice

1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

10.1.2 In addition to the notice in 10.1.1, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, are entitled to an additional week's notice.

10.1.3 Payment in lieu of the prescribed notice in 10.1.1 and 10.1.2 must be made if the appropriate notice period is not required to be worked. Provided that employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.

10.1.4 The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:

- (1) the employee's ordinary hours of work (even if not standard hours); and
- (2) the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and
- (3) any other amounts payable under the employee's contract of employment.

10.1.5 The period of notice in this clause does not apply:

- (1) in the case of dismissal for serious misconduct;
- (2) to apprentices;
- (3) to employees engaged for a specific period of time or for a specific task or tasks;
- (4) to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or
- (5) to casual employees.

10.1.6 For the purposes of this clause, continuity of service shall be the same as defined in Regulation 5 of the *Local Government (Long Service Leave) Regulations 1977*, as amended from time to time.

10.2 Notice of termination by an employee

10.2.1 The notice of termination required to be given by an employee is the same as that required of an employer, save and except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.

10.2.2 If an employee fails to give the notice specified in 10.1.1 the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 10.1.4.

10.3 Job search entitlement

Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

10.4 Engagement of Aboriginal persons

On request, employers engaging a multi cultural workforce shall provide appropriate cultural training that recognises the diversity of its workforce and shall include recognition of their indigenous beliefs and culture.

10.5 Transmission of business

Where a business is transmitted from one employer to another, as set out in Clause 14. - Redundancy, the period of continuous service that the employee had with the transmittor or any prior transmittor is deemed to be service with the transmittee and taken into account when calculating notice of termination. However, an employee shall not be entitled to notice of termination or payment in lieu of notice for any period of continuous service in respect of which notice has already been given or paid for.

11. - FULL-TIME EMPLOYEES

A full time employee shall mean an employee who is engaged to work the standard ordinary hours of a local government authority in accordance with Clause 20. – Hours of Duty.

12. - PART-TIME EMPLOYEES

12.1 A part-time employee shall mean an employee who works regularly from week to week for less than the standard ordinary hours in any week. Such employee shall be paid the appropriate hourly rate of pay for each hour worked.

12.2 Payment for annual leave and absence through sickness for such employees, pursuant to Clauses 23. – Annual Leave and Clause 25. – Sick Leave, or any other appropriate clause providing such entitlements, shall be in the proportion that the hours regularly worked each week bears to the standard ordinary hours.

13. - CASUAL EMPLOYEES

13.1 A casual employee shall mean an employee who is engaged and paid as such and, except as otherwise provided for in this award, such employee shall be paid the ordinary hourly rate prescribed for the classification of work performed with the addition of 20%.

13.2 A casual employee who works outside the ordinary hours of work prescribed by Clause 21. - Overtime, shall be entitled to overtime payments in accordance with Clause 21. – Overtime, based on their ordinary casual rate.

13.3 Caring responsibilities

13.3.1 Subject to evidentiary and notice requirements in 27.1.5 casual employees are entitled to not be available to attend work, or to leave work:

- (1) If they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or due to the birth of a child; or
- (2) Upon the death in Australia of an immediate family or household member.

13.3.2 The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not

attend work for up to 48 hours (two days) per occasion. The casual employee is not entitled to any payment for the period of non attendance.

- 13.3.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

14. - REDUNDANCY

14.1 Definitions

14.1.1 Business includes trade, process, business or occupation and includes part of any such business.

14.1.2 Redundancy occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.

14.1.3 Small employer means an employer who employs fewer than 15 employees.

14.1.4 Transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.

14.1.5 Week's pay means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

- (1) overtime;
- (2) penalty rates;
- (3) disability allowances;
- (4) shift allowances;
- (5) special rates;
- (6) fares and travelling time allowances;
- (7) bonuses; and
- (8) any other ancillary payments of a like nature.

14.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

14.3 Severance pay

14.3.1 Severance pay - other than employees of a small employer

An employee, other than an employee of a small employer as defined in 14.1.3, whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*

2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

*Week's pay is defined in 14.1.5

14.3.2 Severance pay - employees of a small employer

An employee of a small employer as defined in 14.1.3 whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and over	8 weeks' pay

*Week's pay is defined in 14.1.5

14.3.3 Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

14.3.4 Continuity of service shall be calculated in the manner prescribed by Clause 10. – Notice of Termination. Provided that service prior to the date of operation of this subclause, by order of the Commission, shall not be taken into account in calculating an entitlement to severance pay for an employee of a small employer pursuant to 14.3.2.

14.3.5 Application may be made for variation of the severance pay provided for in this clause in a particular redundancy situation in accordance with the Western Australian Industrial Relations Commission's Termination, Change and Redundancy General Order [2005 WAIRC 01715].

14.4 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate his/her employment during the period of notice set out in Clause 10. – Notice of Termination. In this

circumstance the employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the employer until the expiry of the notice, but will not be entitled to payment in lieu of notice.

14.5 Alternative employment

14.5.1 An employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

14.5.2 This provision does not apply in circumstances involving transmission of business as set out in 14.7.

14.6 Job search entitlement

14.6.1 During the period of notice of termination given by the employer in accordance with Clause 10. – Notice of Termination an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

14.6.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

14.6.3 The job search entitlements under this subclause apply in lieu of the provisions of clause 10.3.

14.7 Transmission of business

14.7.1 The provisions of this clause are not applicable where a business is before or after the date of this award, transmitted from an employer (in this subclause called the transmittor) to another employer (in this subclause called the transmittee), in any of the following circumstances:

- (1) Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee; or
- (2) Where the employee rejects an offer of employment with the transmittee:
 - (a) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
 - (b) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.

14.7.2 The Commission may vary 14.7.1(2) if it is satisfied that this provision would operate unfairly in a particular case.

14.8 Employees exempted

This clause does not apply to:

14.8.1 employees terminated as a consequence of serious misconduct that justifies dismissal without notice;

14.8.2 probationary employees;

14.8.3 apprentices;

14.8.4 trainees;

14.8.5 employees engaged for a specific period of time or for a specified task or tasks; or

14.8.6 casual employees.

14.9 Incapacity to pay

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for such variation may be made by an employer or a group of employers.

14.10 Redundancy Disputes Procedure

14.10.1 Paragraphs 14.10.2 and 14.10.3 impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises (a redundancy dispute). These additional obligations do not apply to employers who employ fewer than 15 employees.

14.10.2 Where a redundancy dispute arises, and if it has not already done so, an employer must provide affected employees and the relevant union or unions (if requested by any affected employee) in good time, with relevant information including:

- (1) the reasons for any proposed redundancy;
- (2) the number and categories of workers likely to be affected; and
- (3) the period over which any proposed redundancies are intended to be carried out.

14.10.3 Where a redundancy dispute arises and discussions occur in accordance with this clause the employer will, as early as possible, consult on measures taken to avert or to minimise any proposed redundancies and measures to mitigate the adverse affects of any proposed redundancies on the employees concerned.

PART 5 - WAGES AND RELATED MATTERS

15. - CLASSIFICATION DEFINITIONS

15.1 Municipal employee - level 1

15.1.1 Qualifications, training and experience

- (1) An employee at this level will need to undertake industry induction and training which may include information on the industry, organisations, conditions of employment, skill formation and career path opportunities, planning and layout of work, documentation procedures, occupational health and safety, equal opportunity and performance appraisal incorporating quality control and assurance.
- (2) No previous work experience is required at this level.
- (3) "A" Class Licence may be required.

15.1.2 Specialist knowledge of skills

- (1) General

Indicative but not exclusive of the skills required of an employee at this level are:

- (a) Use of a limited range of hand tools.

(b) Drive a light vehicle.

(2) Communication skills

Basic oral and written literacy and numeracy skills to enable liaison with immediate work group.

(3) Complexity/multi-skilling

Tasks are simple and non-complex.

15.1.3 Responsibility and accountability

Employees at this level:

(1) Work under direct supervision.

(2) Are responsible for the quality and completion of their own work subject to detailed direction.

(3) Are responsible for care of tools and equipment in their use.

15.1.4 Decision making and problem solving

(1) Judgement is limited as work is repetitive and generally coordinated by others.

(2) Work is clearly defined and of a routine and basic nature with established procedures, guidance and close supervision.

(3) Required to exercise basic judgement relating to own work and personal safety as required by relevant legislation and Council safety procedures.

15.2 Municipal employee - level 2

15.2.1 Qualifications, training and experience

An employee at this level will have satisfactorily completed the requirements of level 1 and will be undertaking structured and/or on-the-job training (including appropriate safety training) or possess appropriate and relevant equivalent experience in some or all of the following areas:

(1) Basic construction and/or maintenance, i.e., basic concreting and/or basic bitumen handling.

(2) Safe operation and user maintenance of minor plant.

(3) Safe operation and user maintenance of light vehicles.

(4) Selected hand tools.

(5) Parks maintenance.

(6) Basic stores work.

(7) Two-way radio operation.

(8) "A" Class licence may be required.

(9) Certificate of competency in minor plant operation may be required.

(10) Basic labouring skills.

15.2.2 Specialist knowledge of skills

(1) General

Indicative but not exclusive of the skills required of an employee at this level are:

(a) Plant operation skills:

- (i) Use of a variety of selected hand tools and use of minor plant and equipment requiring basic operation rather than technical skills.
- (ii) Operator's skills level low some experience preferred.
- (iii) Single function equipment.
- (iv) Operator machine maintenance low complexity.
- (v) Minimal dimensional control on works required other than pre-set by plant.

Examples: Small/large rollers (sub-grade), ride-on mowers, chipper/mulcher, mowers, brush cutters, brick cutters, jack hammers, small concrete cutters.

(b) Drive vehicles requiring "A" class licence.

(c) General gardening including parks and grounds maintenance and minor repair to reticulation systems.

(d) Basic store work, including receiving, despatching, distributing, sorting, checking and packing.

(e) Basic inventory control of documenting and recording of goods, materials and components.

(f) Basic keyboard skills where required.

(g) Concrete and bitumen work.

(h) Sound knowledge of Council safety policy requirements as they relate to the job being undertaken.

(2) Communication

Basic oral and written literacy and numeracy skills to enable liaison with work groups and communication with members of the public.

(3) Complexity/multi-skilling

Tasks are of limited complexity.

15.2.3 Responsibility and accountability

(1) Works under routine (general) supervision either individually or in a team environment.

(2) Responsible for the quality and completion of their own work subject to routine direction.

(3) Responsible for materials, tools, equipment and minor plant in their use.

15.2.4 Decision making and problem solving

- (1) Problems at this level may require limited personal judgement. Work procedures are already well established. The individual must apply existing known techniques to the work with decision making being within existing routines, procedures and practices.
- (2) Required to make operational decisions relating to own safety and work as required by relevant legislation and Council safety procedures.

15.3 Municipal employee - level 3

15.3.1 Qualifications, training and experience

An employee at this level will have satisfactorily completed structured and/or on-the-job training (including appropriate safety training) or possess appropriate and relevant experience in some or all of the following areas:

- (1) Intermediate construction and/or maintenance, i.e., intermediate concreting and/or bitumen, formwork and pipelaying.
- (2) Safe operation and user maintenance of minor to medium mechanical plant.
- (3) Safe operation and user maintenance of medium vehicles.
- (4) Specialised hand tools and other equipment.
- (5) Basic horticulture and/or nursery.
- (6) Stores work and inventory control.
- (7) Basic supervision.
- (8) "A" and "B" class licence may be required.
- (9) Plant certificate(s) may be required.
- (10) May be required to hold appropriate Life Saving Certificate, including Resuscitation and First Aid.
- (11) Appropriate SECWA safety accreditation may be required.

15.3.2 Specialist knowledge of skills

- (1) General

Indicative but not exclusive of the skills required of an employee at this level are:

- (a) Plant operation skills:
 - (i) Use of specialised hand tools and minor plant.
 - (ii) Operator skill low to medium experience required.
 - (iii) Single function equipment.
 - (iv) Operator machine maintenance and set up low to medium complexity.
 - (v) Basic dimensional control on works other than pre-set by plant.

Examples: Loader (yard) (borrow pit), chipper, roller (base course), cherrypicker (unconfined working space), tractors and mounted equipment.

- (b) Drive vehicles up to two axles.
 - (c) Use of measuring instruments and tools.
 - (d) Basic horticultural and nursery skills, including gardening, tree pruning, grafting, propagating, potting, planting and other duties.
 - (e) Store work, including:
 - (i) Inventory and store control.
 - (ii) Licensed operation of appropriate materials, handling equipment.
 - (iii) Intermediate keyboard skills and computer operation.
 - (f) Prepare concrete, bitumen and pipe laying to line and grade from plans, drawings, and instructions, including form work, levelling, screed, render and finish.
 - (g) Basic supervisory skills.
 - (h) Sound knowledge of Council safety policy requirements as they relate to the job being undertaken.
- (2) Communication
- Oral and written literacy and numeracy skills to provide information and advice to other employees, higher level staff and members of the public.
- (3) Complexity/multi-skilling
- Able to perform a broader range of activities with variation restricted to the area of operation with a limited complexity subject to training and/or experience.

15.3.3 Responsibility and accountability

- (1) Works under routine (general) supervision either individually or in a team environment on a range of projects.
- (2) Responsible for the quality and completion of their own work subject to routine direction.
- (3) Responsible for materials, tools, equipment, vehicles, and plant in their use.
- (4) Responsible for quality control/assurance procedures, including to recognise quality deviation/faults.
- (5) May be responsible for the supervision and limited guidance of a small work group.

15.3.4 Decision making and problem solving

- (1) Problems at this level are generally of a routine nature, requiring experience and a degree of personal judgement based on previous experiences and set guidelines. Solutions are readily available with problems being of limited difficulty.

- (2) Required to make technical and operational decisions relating to own safety and work, and safety of other employees and the public.

15.4 Municipal employee - level 4

15.4.1 Qualifications, training and experience

An employee at this level will have a satisfactorily completed structured and/or on-the-job training (including appropriate safety training) or possess appropriate and relevant equivalent experience and achieved a good working knowledge of the technical requirements of the job to be undertaken in some or all of the following areas:

- (1) Advanced construction and/or maintenance, i.e., advanced concreting and/or bitumen finishing work, pipelaying, and material sampling, testing and compaction techniques.
- (2) Safe operation and user maintenance of mechanical plant.
- (3) Safe operation and user maintenance of heavy vehicles.
- (4) Precision tools and instruments.
- (5) Reticulation.
- (6) Intermediate horticulture and nursery and may include assistance in turf preparation.
- (7) Materials and equipment estimating.
- (8) Progress towards Supervisory Certificate (level 1) and/or relevant experience.
- (9) "A", "B" or "C" class licence may be required.
- (10) Plant certificate(s) may be required.
- (11) Appropriate SECWA safety accreditation may be required.
- (12) Licence in explosives handling may be required.

15.4.2 Specialist knowledge of skills

- (1) General

Indicative but not exclusive of the skills required of an employee at this level are:

- (a) Plant operation skills:
 - (i) Operator skill level medium-high with significant experience.
 - (ii) Multi-function equipment.
 - (iii) Operator machine maintenance and set up medium to high complexity.
 - (iv) Dimensional control working to existing levels or moderate degree of accuracy to design levels.

Examples: Hiab, loader (box out), grader (box out) (maintenance), excavator (box out), street sweeper, gang mower (sports turf), cherrypicker (confined working space).

- (b) Drive vehicles three axles or greater.

- (c) Use and interpretation of precision measuring instruments and tools.
 - (d) Intermediate horticultural and nursery, including assistance in turf preparation and maintenance, tree pruning and landscaping.
 - (e) Plan reading, single dimensional.
 - (f) Advanced concrete work - major concrete works, reinforced structural from plans and drawings without pre-set levels.
 - (g) Developed supervisory skills.
 - (h) Basic understanding of quality control techniques.
 - (i) Installation, repair and maintenance of reticulation systems (including controllers) and modification and additions to existing systems including low voltage electrical work.
 - (j) Sound knowledge of Council safety policy requirements as they relate to the job being undertaken and the affect on the public.
 - (k) Handling and use of explosives.
- (2) Communication
- Oral and written literacy and numeracy skills to provide information and advice to other employees, higher level staff, clients, suppliers, and members of the public.
- (3) Complexity/multi-skilling
- Able to perform broader range of activities with variation restricted to the area of operation with a high level of complexity subject to training and/or experience.

15.4.3 Responsibility and accountability

- (1) Works under limited supervision either individually or in a team environment and may be on a range of projects.
- (2) Responsible for quality and standard of work performed, including work of other employees.
- (3) Responsible for providing employees under their supervision with on-the-job training and guidance.
- (4) Responsible for materials, tools, equipment, vehicles and plant in the employee's use and used by others under their supervision.
- (5) Responsible for quality control/assurance procedures, including to recognise and correct quality deviations and/or faults.
- (6) May be responsible for the supervision and limited guidance of a small work group.

15.4.4 Decision making and problem solving

- (1) Problems at this level require employees to use some originality in approach with solutions usually attributable to application of previously encountered solutions or experience.

- (2) Required to make technical and operational decisions relating to own work and safety and safety of the public.
- (3) May be required to make technical and operational decisions relating to the work and safety of others.

15.5 Municipal employee - level 4A

15.5.1 Qualifications, training and experience

An employee at this level will have completed the requirements of a Trade Certificate level qualification or possess appropriate and relevant equivalent experience.

15.5.2 Specialist knowledge of skills

(1) General

An employee is required to exercise the skills and knowledge of the relevant trade or experience.

(2) Communication

Exercises good interpersonal and communication skills.

(3) Complexity/multi-skilling

Performs non-trade tasks within the employee's skill, competence and training.

15.5.3 Responsibility and accountability

(1) Performs work under the limited supervision either individually or in a team environment.

(2) Responsible for assuring the quality of their own work.

(3) Assists in the provision of on-the-job training to a limited degree.

(4) Understands and applies quality control techniques.

15.5.4 Decision making and problem solving

(1) Exercises discretion within the scope of this level.

(2) Performs work which while primarily involving the skills of the employee's trade or experience is incidental or peripheral to the primary task and facilitates the completion of the whole task. Such incidental or peripheral work would not require additional formal technical training.

15.6 Municipal employee - level 5

15.6.1 Qualifications, training and experience

An employee at this level will have completed the requirements of level 4 and will have satisfactorily completed structured training (including appropriate safety training) or level 4A and possess appropriate and relevant equivalent experience to one or more of the following levels:

(1) Safe operation and user maintenance of specialist plant and/or heavy vehicles.

(2) Advanced reticulation.

- (3) Advanced or specialist horticulture and nursery, including turf preparation and management.
- (4) Materials, equipment and cost estimating, and job cost recording.
- (5) Completed Supervisory Certificate (level 1) and/or relevant equivalent experience.
- (6) Experienced Trade Certificate or equivalent.
- (7) “A”, “B” or “C” class licence may be required with extensive experience.
- (8) Plant certificate(s) may be required.

15.6.2 Specialist knowledge of skills

(1) General

Indicative but not exclusive of the skills required of an employee at this level are:

- (a) Plant operation skills:
 - (i) Operator skill level medium-high with significant experience.
 - (ii) Multi-function equipment.
 - (iii) Operator machine maintenance and set up medium to high complexity.
 - (iv) Dimensional control of work requiring a high degree of accuracy with respect to design levels.

Examples: Excavator and grader (final trim).

- (b) Advanced or specialist horticultural, turf and/or nursery skills.
 - (c) Technical skills in plan reading including horizontal and vertical dimensions.
 - (d) Sound supervisory, guidance and training skills.
 - (e) Understand and applies quality control techniques.
 - (f) Install, repair and maintain major reticulation systems, including electrical work. Pump and bore installation, repair and maintenance.
 - (g) Good working knowledge of Council organisation, operations and general procedures which impact upon their work.
 - (h) Sound knowledge of Council safety policy requirements as they relate to the job being performed and the affect on the public.
- ##### (2) Communication
- (a) Developed oral and written literacy and numeracy skills to provide information and advice to other employees, higher level staff, clients, suppliers, and members of the public.
 - (b) May be required to prepare basic written correspondence and/or prepare standard format reports.

- (3) Complexity/multi-skilling
 - (a) Broader range of activities with variation restricted to the area of operation with a high level of complexity subject to training and/or experience.
 - (b) Capable of undertaking a range of specific tasks of a complex nature.

15.6.3 Responsibility and accountability

- (1) Works unsupervised and is subject to limited direction.
- (2) Responsible for quality and standard of work performed, including work of other employees.
- (3) Responsible for achieving and maintaining high technical quality without direction.
- (4) Responsible for providing employees under their supervision with on-the-job training and guidance.
- (5) Responsible for materials, tools, equipment, vehicles and plant in the employee's use and used by others under their supervision.
- (6) Responsible for quality control/assurance procedures, including to recognise and correct quality deviations and/or faults.
- (7) Responsible for productivity and efficiency of work groups supervised.

15.6.4 Decision making and problem solving

- (1) Problems at this level are frequently of a complex or technical nature, with solutions not necessarily related to previous direct experience and therefore require some initiative and personal judgement. If required, guidance and assistance is usually available.
- (2) May be required to make planning, technical and operational decisions relating to the work and safety of other employees and safety of the public.

15.7 Municipal employee - level 6

15.7.1 Qualifications, training and experience

Employees at this level will have satisfactorily completed the requirements of level 5 and have as a minimum, a trade certificate or equivalent or possess appropriate and relevant equivalent experience and will, in addition:

- (1) Safe operation and user maintenance of a range of different vehicles and/or plant and has extensive experience in their operation at an advanced level.
- (2) Advanced or specialist horticulture and nursery, including turf preparation and management with extensive experience in a wide range of areas.
- (3) Materials, equipment and cost estimating. Job cost and budgetary control.
- (4) Completed Supervisory Certificate (level 2) and has relevant experience.
- (5) Have commenced and partially completed an appropriate post trade certificate.
- (6) "A", "B" or "C" class licence may be required with extensive experience.
- (7) Plant certificate(s) may be required.

15.7.2 Specialist knowledge of skills

(1) General

Indicative but not exclusive of the skills required of an employee at this level are:

- (a) Operation of a range of vehicles and/or specialised plant requiring advanced skills and operation to rigid specifications.
- (b) A wide range of advanced and/or specialist horticultural, turf and/or nursery skills.
- (c) Advanced technical skills in materials performance and compaction and plan reading including horizontal and vertical dimensions and establishing sections for materials estimating.
- (d) Sound supervisory, training and basic human resources management and employee relations skills.
- (e) Detailed knowledge and understanding of quality control techniques and their application.
- (f) Detailed knowledge of Council organisation, operation and general procedures.
- (g) Sound knowledge of Council safety policy requirements as they relate to the job being performed and the affect on the public.

(2) Communication

- (a) Developed oral and written literacy and numeracy skills to negotiate with other employees, higher level staff, clients, suppliers, and members of the public.
- (b) May be required to prepare written correspondence and reports.

(3) Complexity/multi-skilling

- (a) Broader range of activities with variation restricted to the area of operation with a high level of complexity subject to training and/or experience.
- (b) Capable of undertaking a range of specific tasks of a complex nature.

15.7.3 Responsibility and accountability

- (1) Works without direct supervision.
- (2) Responsible for quality and standard of work performed, including productivity and safety.
- (3) Responsible for providing employees under their supervision with on-the-job training and guidance.
- (4) Responsible for ensuring personnel practices are applied.
- (5) Responsible for materials, tools, equipment, vehicles and plant in the employee's use and used by others under their supervision.
- (6) Responsible for quality control/assurance procedures, including to recognise and correct quality deviations and/or faults.

- (7) Responsible for productivity and efficiency of work groups supervised.
- (8) Responsible for negotiation with clients, suppliers and members of the public.

15.7.4 Decision making and problem solving

Problems at this level are frequently of a complex or technical nature with solutions not necessarily related to previous direct experience and therefore requiring initiative, personal judgement and discretion.

Exercise high precision trade skills using various materials and/or specialised techniques.

16. - WAGES

16.1	Classification level	Relativity	Total maximum	Total minimum
			hourly rate	weekly rate
		%	\$	\$
	level 1 (up to 38 hours)	78.5	19.50	740.90
	Above 38 hours	82.5	19.98	759.30
	Level 2	87.5	20.65	784.60
	Level 3	92.5	21.25	807.50
	Level 4	96.0	21.68	823.70
	Level 4A	100.0	22.22	844.20
	Level 5	102.5	22.52	855.80
	Level 6	110.0	23.51	893.40

16.2 State minimum wage

16.2.1 The state minimum wage

No employee shall be paid less than the state minimum wage.

16.2.2 Amount of state adult minimum wage

- (1) The state minimum wage for full-time adult employees not covered by 16.2.4 [special categories clause], is \$760.00 per week.
- (2) Adults employed under a supported wage clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage clause applicable to the employee concerned to the amount of the minimum wage specified in 16.2.2(1).
- (3) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in 16.2.2(1) according to the number of hours worked.

16.2.3 How the state minimum wage applies to juniors

- (1) The wage rates provided for juniors by this award continue to apply unless the amount determined under 16.2.3(2) is greater.
- (2) The state minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in 16.2.2.

16.2.4 Application of minimum wage to special categories of employee

Due to the existing applicable award wage rates being greater than the relevant proportionate federal minimum wage, this clause has no application to employees undertaking a National Training Wage Traineeship, an Australian Traineeship, a Career Start Traineeship, a Jobskills placement or an apprenticeship.

16.2.5 Application of state minimum wage to award rates calculation

- (1) The state minimum wage:
 - (a) applies to all work in ordinary hours;
 - (b) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave, and for all other purposes of this award.

16.3 Junior employees

Junior employees: (Wage per week is expressed as a percentage of the total minimum rate of pay for either level 1 or level 2).

Age	%
Under 16 years of age	55
At 16 years of age	65
At 17 years of age	75
At 18 years of age	85
At 19 years of age	Adult rate

16.4 National Training Wage

The minimum rates of pay and conditions of employment applicable to Trainees shall be in accordance with Schedule E – National Training Wage as provided in the *Modern Local Government Industry Award 2010 as amended* from time to time.

16.5 Apprentices

16.5.1 Apprentices: (Wage per week is expressed as a percentage of the level 4A rate).

- (1) 4 year term %
 - First year 42

	Second year	55
	Third year	75
	Fourth year	88
(2)	3-1/2 year term	%
	First six months	42
	Next year	55
	Following year	75
	Final year	88
(3)	3 year term	%
	First year	55
	Second year	75
	Third year	88

16.6 Supported Wages

This subclause defines the conditions which will apply to employees, who because of the effects of a disability, are eligible for a supported wage under the terms of this award. In the context of this subclause, the following definitions will apply:

- 16.6.1 Supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in Supported Wages System: Guidelines and Assessment Process.
- 16.6.2 Accredited assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system.
- 16.6.3 Disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- 16.6.4 Assessment instrument means the form provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.
- 16.6.5 Assessment of capacity for the purpose of establishing the percentage of the award rate to be paid to an employee under this award, the productive capacity of the employee will be assessed in accordance with the supported wage system and documented in assessment instrument by:
- (1) The employer and a union party to the award, in consultation with the employee or, if desired by any of these;
 - (2) the employer and an accredited assessor from a panel agreed by the parties to the award and the employee.

16.6.6 Lodgement of assessment instrument

- (1) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and shall take effect unless an objection is notified to the registrar within ten working days.
- (2) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and shall take effect unless an objection is notified to the Registrar within ten working days.

16.6.7 Review of assessment

The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the supported wage system.

16.6.8 Other terms and conditions of employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provision of this subclause will be entitled to the same terms and conditions of employment as all other workers covered by this award paid on a pro-rata basis.

16.6.9 Workplace adjustment

An employer wishing to employ a person under the provisions of this clause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of duties, working time arrangements and work organisation in consultation with other workers in the area.

16.6.10 Eligibility criteria

- (1) Employees covered by this subclause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability pension.
- (2) This subclause does not apply to any existing employee who has a claim against the employer which is the subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

16.6.11 Supported wage rates

- (1) Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing to the following schedule:

Assessed capacity	Prescribed award rate
%	%
10*	10

20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

- (2) Provided that the minimum amount payable shall not be less than \$73.00 per week.
- (3) *Where a person's assessed capacity is 10%, he/she shall receive a high degree of assistance and support.

16.6.12 Trial period

- (1) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding twelve weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (2) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
- (3) The minimum amount payable to the employee during the trial period shall be no less than \$73.00 per week.
- (4) Work trials should include induction or training as appropriate to the job being trialled.
- (5) Where the employer and the employee wish to establish a continuing employment relationship following completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under 16.6.5.

17. - EXTRA RATES FOR ORDINARY HOURS

- 17.1 Employees, who perform their ordinary hours of duty in accordance with 20.1.2(1), shall be paid an extra \$2.33 per hour for all ordinary hours worked between the starting time and 6.00 a.m.
- 17.2 Employees, who perform their ordinary hours of duty in accordance with 20.1.2(3), shall be paid an extra 25% for all ordinary hours worked on a Saturday and an extra 50% for all ordinary hours worked on a Sunday.

18. - PAYMENT OF WAGES

- 18.1 Each employee shall be paid the appropriate rate shown in Clause 16. - Wages, of this award. Subject to 18.2, payment shall be pro rata where less than the full week is worked.
- 18.2 Wages shall be paid at the discretion of the employer on either a weekly or fortnightly basis.
- 18.3 No employer shall keep more than two days' pay in hand.

18.4 Absences from duty

- 18.4.1 An employee whose ordinary hours are arranged such that the employee receives a rostered day (RDO) and who is paid wages averaged over the roster period and is absent from duty (other than on annual leave, long service leave, holidays prescribed under this award, paid sick leave, workers' compensation or bereavement leave) shall, for each day he/she is so absent, lose average pay for that day calculated by dividing his/her average weekly wage rate by five.
- 18.4.2 An employee who is so absent from duty for part of a day shall lose average pay for each hour he/she is absent by dividing his/her average daily pay rate by eight.
- 18.4.3 Provided when such an employee is absent from duty for a whole day he/she will not accrue a credit because he/she would not have worked ordinary hours that day in excess of 7 hours 36 minutes for which he/she would otherwise have been paid. Consequently, during the week of the work cycle he/she is to work less than 38 ordinary hours he/she will not be entitled to average pay for that week. In that week, the average pay will be reduced by the amount of the credit he/she does not accrue for each whole day during the work cycle he/she is absent.
- 18.4.4 The amount by which an employee's average weekly pay will be reduced when he/she is absent from duty (other than on annual leave, long service leave, holidays prescribed under this award, paid sick leave, workers' compensation or bereavement leave) is to be calculated as follows:

$$\text{Total of credits not accrued during cycle} \quad \times \quad \frac{\text{Average weekly pay}}{38}$$

18.4.5 Examples

An employee's ordinary hours are arranged so that he/she works eight ordinary hours on five days of each week for three weeks and eight ordinary hours on four days of the fourth week.

- (1) Employee takes one day off without authorisation in first week of cycle.

Week of cycle	=	Payment
1st week	=	average weekly pay <u>less</u> one day's pay (i.e. 1/5th)
2nd and 3rd weeks	=	average weekly pay each week
4th week	=	average pay <u>less</u> credit not accrued on day of absence
	=	average pay <u>less</u> 0.4 hours x <u>average weekly pay</u>

(2) Employee takes each of the four days off without authorisation in the fourth week.

Week of cycle		Payment
1st, 2nd and 3rd weeks	=	average pay each week
4th week	=	average pay <u>less</u> 4/5ths of average pay for the four days absent <u>less</u> total of credits not accrued that week
	=	1/5th average pay <u>less</u> 4 x 0.4 hours x <u>average weekly pay</u> 38
	=	1/5th average pay <u>less</u> 1.6 hours x <u>average weekly pay</u> 38

18.5 Alternative method of payment

An alternative method of paying wages to that prescribed by 18.2 and 18.4 may be agreed between the employer and the majority of the employees concerned and recorded in writing and kept with the relevant wage records.

18.6 Day off coinciding with pay day

In the event that an employee, by virtue of the arrangement of his/her ordinary working hours, is to take a day off duty on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following pay day. Provided that, where the employer is able to make suitable arrangements, wages may be paid on the working day preceding pay day.

18.7 Payment by cheque or deposit into account

At the discretion of the employer an employee may be paid his/her wages by cheque or such wages may be deposited into a bank, or any other account, nominated by the employee.

18.8 Termination of employment

An employee who lawfully leaves his/her employment or is dismissed for reasons other than misconduct shall be paid all moneys due to him/her at the termination of his/her service with the employer.

18.9 Calculation of hourly rate

Except as provided in 18.4 the ordinary rate per hour shall be calculated by dividing the appropriate weekly rate by 38.

19. - ALLOWANCES

19.1 Camping

19.1.1 Where, on distant work, an employee is required to camp out in facilities provided by the employer, the employee shall be paid a daily or weekly amount agreed with the employer as a camping allowance in addition to his/her prescribed wage.

19.1.2 An employee shall be paid at the appropriate rate for time occupied in shifting camp and removing plant and equipment.

19.2 Distant work

19.2.1 Where an employee is directed by his/her employer to proceed to work at such a distance that he/she cannot return to his/her home each night and the employee does so, the employer shall reimburse the expenses reasonably incurred by the employee for board and lodging in advance. This shall not apply where the employer provides the employee with suitable board and lodging.

19.2.2 The provisions of 19.2.1 do not apply with respect to any period during which the employee is absent from work without reasonable excuse.

19.2.3 The employer shall reimburse all reasonable expenses including fares, transport of tools, meals and, if necessary, suitable overnight accommodation incurred by an employee who is directed by his/her employer to proceed to work pursuant to 19.2.1 and who complies with such direction.

(1) The employee shall be paid at ordinary rate of payment for the time, up to a maximum of eight hours in any one day, incurred in travelling pursuant to the employer's direction.

19.2.4 An employee to whom the provisions of 19.2.1 apply shall be paid an allowance of \$19.35 for any weekend that he/she returns to his/her home from the job. This shall not apply if:

(1) he/she advises the employer or his/her supervisor of his/her intention not later than the Tuesday immediately preceding the weekend in which he/she so returns;

(2) he/she is not required for work during that weekend;

(3) he/she returns to the job at the usual starting time on the first working day following the weekend; and

(4) the employer does not provide suitable transport at the employers cost.

19.2.5 Where an employee, supplied with board and lodging or camping facilities by his/her employer, is required to live more than one kilometre from the job he/she shall be paid an allowance of \$8.56 per day, provided that where the time actually spent in travelling either to or from the job exceeds thirty minutes, that excess time shall be paid for at ordinary rates whether or not suitable transport is supplied by the employer. This shall not apply where the employer provides suitable transport at the employer's cost.

19.3 Fares and travelling time

19.3.1 An employee who, on any day, or from day to day, is required to work at a job away from his/her usual headquarters, depot or other workplace shall, at the direction of his/her employer, present himself/herself for work at such job at the usual starting time.

- (1) An employee to whom 19.3.1 applies shall be paid at ordinary rates for the time spent in travelling between his/her 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 travelling between his/her home and his/her accustomed workshop or depot.
- (2) An employee who, with the approval of his/her employer, uses his/her own means of transport for travelling to or from outside jobs, shall be reimbursed the excess fares and paid travelling time which he/she would have incurred in using public transport unless he/she has an arrangement with his/her employer for a regular allowance.

19.3.2 For travelling during working hours from and to the employer's headquarters, depot or other workplace, or from one job to another, an employee shall be paid by the employer at ordinary rates. The employer shall reimburse all fares and reasonable expenses in connection with such travelling.

19.4 Higher duties

- 19.4.1 Where an employee performs any duty for which a wage higher than that of his/her own grade is fixed by this award, for less than one hour in any one day or shift, he/she shall receive for the time so worked the wages specified for each higher grade duty.
- 19.4.2 Where an employee performs any duty for which a wage higher than that of his/her own grade is fixed by the award, for more than one hour in any one day or shift, he/she shall receive for that day or shift the wages specified for such higher grade duty.

19.5 Industry allowance

19.5.1 An allowance at the rate of \$21.82 per week shall be paid in addition to the wages prescribed in Clause 16. - Wages, of this award. The allowance is to compensate for the following disabilities on construction and maintenance work, namely, being subject to:

- (1) climatic conditions when working in the open on all types of work;
- (2) the physical disadvantage of having to climb stairs or ladders or work in confined spaces;
- (3) dust blowing in the wind on construction sites and similar disability to employees engaged on the maintenance of roadways, footways etc.;
- (4) sloppy or muddy conditions associated with all types of construction and maintenance;
- (5) dirty conditions caused by use of form oil or green timber;
- (6) drippings from newly poured concrete;
- (7) the disability of working on all types of scaffold, and the disability of using makeshift appliances having regard to the exigencies of the job;
- (8) the lack of usual amenities associated with factory work; but, subject to the provisions of 19.5.2, is payable to all employees covered by this award.

19.5.2 The provisions shall not apply to employees generally employed for more than four hours in each day on work in, around or adjacent to any depot, headquarters, yard, workshop, hall, nursery, swimming pool or recreation centre, nor to cemetery employees, attendants at caravan parks and/or camping areas, or attendants at public conveniences.

19.5.3 Junior employees, casual employees, part-time employees or apprentices receiving less than adult rate and employees employed for less than a full week, shall receive such proportion of the

industry allowance as equates with the proportion that their wage for ordinary hours that week bears to the adult rate for the work performed.

19.6 Location allowance

19.6.1 Subject to the provisions of this clause, in addition to the rates prescribed in the wages clause of this award, an employee shall be paid the following weekly allowance when employed in the towns described hereafter. Provided that where the wages are prescribed as fortnightly rates of pay, these allowances shall be shown as fortnightly allowances.

<u>TOWN</u>	<u>PER WEEK</u>
Agnew	\$22.30
Argyle	\$59.70
Balladonia	\$23.10
Barrow Island	\$38.90
Boulder	\$9.50
Broome	\$35.90
Bullfinch	\$10.40
Carnarvon	\$18.40
Cockatoo Island	\$39.30
Coolgardie	\$9.50
Cue	\$22.90
Dampier	\$31.30
Denham	\$18.40
Derby	\$37.30
Esperance	\$6.50
Eucla	\$25.00
Exmouth	\$32.80
Fitzroy Crossing	\$45.30
Halls Creek	\$52.40
Kalbarri	\$8.00
Kalgoorlie	\$9.50
Kambalda	\$9.50
Karratha	\$37.60
Koolan Island	\$39.30
Koolyanobbing	\$10.40
Kununurra	\$59.70
Laverton	\$22.80

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

19.6.2 Except as provided in 19.6.3, an employee who has:

- (1) a dependant shall be paid double the allowance prescribed in 19.6.1;
- (2) a partial dependant shall be paid the allowance prescribed in 19.6.1 plus the difference between that rate and the amount such partial dependant is receiving by way of a district or location allowance.

19.6.3 Where an employee:

- (1) is provided with board and lodging by his/her employer, free of charge; or
- (2) is provided with an allowance in lieu of board and lodging by virtue of the award or an order or agreement made pursuant to the Act;

such employee shall be paid $66\frac{2}{3}$ per cent of the allowance prescribed in 19.6.1.

The provisions of 19.6.3(2) of this subclause shall have effect on and from the 24th day of July, 1990.

19.6.4 Subject to 19.6.2 junior employees, casual employees, part-time employees, apprentices receiving less than adult rate and employees employed for less than a full week shall receive that proportion of the location allowance as equates with the proportion that their wage for ordinary hours that week is to the adult rate for the work performed.

19.6.5 Where an employee is on annual leave or receives payment in lieu of annual leave he/she shall be paid for the period of such leave the location allowance to which he/she would ordinarily be entitled.

19.6.6 Where an employee is on long service leave or other approved leave with pay (other than annual leave) he/she shall only be paid location allowance for the period of such leave he/she remains in the location in which he/she is employed.

19.6.7 For the purpose of this clause:

(1) "Dependant" shall mean:

- (a) a spouse or de facto partner; or
- (b) a child where there is no spouse or de facto partner;

who does not receive a location allowance or who, if in receipt of a salary or wage package, received no consideration for which the location allowance is payable pursuant to the provisions of this clause.

(2) "Partial Dependant" shall mean a "dependant" as prescribed in 19.6.7(1) who receives a location allowance which is less than the location allowance prescribed in 19.6.1 or who, if in receipt of a salary or wage package, receives less than a full consideration for which the location allowance is payable pursuant to the provisions of this clause.

19.6.8 Where an employee is employed in a town or location not specified in this clause the allowance payable for the purpose of 19.6.1 shall be such amount as may be agreed between Australian Mines and Metals Association, the Chamber of Commerce and Industry of Western Australia and UnionsWA or, failing such agreement, as may be determined by the Commission.

19.6.9 Subject to the making of a General Order pursuant to s.50 of the Act, that part of each location allowance representing prices shall be varied from the beginning of the first pay period commencing on or after the 1st day in July of each year in accordance with the annual percentage change in the Consumer Price Index (excluding housing), for Perth measured to the end of the immediately preceding March quarter, the calculation to be taken to the nearest ten cents.

19.7 Additional provisions relating to location allowance

19.7.1 The location allowance to be paid to employees employed in the towns or locations of Gascoyne Junction, Meeberrie (Murchison), Menzies, Westonia and Yalgoo will be as follows:

- (1) Employees employed at Gascoyne Junction will be paid a location allowance as for Cue.

- (2) Employees employed at Meeberrie (Murchison) will be paid a location allowance as for Mundrabilla.
- (3) Employees employed at Menzies will be paid a location allowance as for Mundrabilla.
- (4) Employees employed at Westonia will be paid a location allowance as for Ravensthorpe.
- (5) Employees employed at Yalgoo will be paid a location allowance as for Eucla.

19.7.2 An employee employed in the towns or locations in 19.7.1 will be paid location allowance subject to the provisions in subclause 19.6.

19.7.3 Employees of the Shire of Ngaanyatjarraku shall not be entitled to the allowances provided for in 19.6 but shall be entitled to the District allowance in respect of District 4 as provided for Warburton Mission at clause 43(3)(a) of the *Public Service Award 1992* and as amended in the Western Australian Industrial Gazette from time to time.

19.8 Meal allowance

19.8.1 Subject to the provisions of 19.7.3, an employee required to work overtime for more than two hours shall be paid \$9.30 for a meal and, if owing to the amount of overtime worked, a second or subsequent meal is required he/she shall be paid \$8.80 for each meal so required. This shall not apply where meals are provided by the employer at the employer's cost.

19.8.2 The provisions of 19.7.1 do not apply:

- (1) in respect of any period of overtime for which the employee has been notified on the previous day or earlier that he/she will be required; or
- (2) to any employee who lives in the locality in which the place of work is situated in respect of any meal for which he/she can reasonably go home.

19.8.3 If an employee to whom 19.7.2(1) applies has, as a consequence of the notification referred to in that paragraph, provided himself/herself with a meal or meals and is not required to work overtime or is required to work less overtime than the period notified, he/she shall be paid, for each meal provided and not required, the appropriate amount prescribed in 19.7.1.

19.9 Special rates

19.9.1 If an employee is required to work in a wet place or in heavy rain he/she shall be provided with gum-boots or waterproof leggings (or both where appropriate), waterproof coat and suitable head covering where necessary so as to protect him/her from getting wet.

- (1) If he/she is not so provided so as to protect him/her from getting wet, he/she shall be paid therefore \$3.54 extra for the day whatever amount of work may be done by him/her thereon.
- (2) All clothing supplied by the employer remains the property of the employer.

19.9.2 An employee removing and destroying or burying any dead animal or animals specified herein shall be paid an additional amount in respect of any day on which such duty was carried out. Such additional amount shall be according to the following scale irrespective of the number handled:

- (1) Horses, cattle, pigs and animals of similar size: \$5.58;
- (2) Sheep and animals of similar size: \$3.67;

(3) Dogs, cats and animals of similar size: \$1.57.

Where more than one of the above classes of animals is dealt with on any day the amount payable shall be that prescribed for the highest paid class of animal so dealt with.

19.9.3 If an employee is called upon to handle, carry or destroy beds, bedding, clothing or other personal effects that have been used by persons suffering from typhoid, tuberculosis or any other infectious disease, or to fumigate contaminated premises, he/she shall be paid \$7.41 per day for each part of the day while so employed in addition to the amount otherwise payable for his/her ordinary work.

19.9.4 If an employee's clothes are spoiled or destroyed while on duty because of disinfectants or acids (unless caused by his/her own neglect) or by order of an authority, he/she shall be reimbursed the value of the clothes spoiled or destroyed.

19.9.5 All employees engaged on fire fighting duties shall be paid at the rate of 55 cents per hour in addition to their ordinary rate of wage for the time so employed.

19.9.6 All employees working in shafts, trenches or excavations shall be paid the following monies in addition to their ordinary rate of wage:

(1) when working between 1.829 metres and 6.096 metres below the surface, the amount of \$2.62 per day; or

(2) when working more than 6.096 metres below the surface, the amount of \$3.71 per day.

19.10 Vehicle allowance

19.10.1 Definitions

In this subclause the following expressions shall have the following meaning:

(1) Metropolitan area means that area within a radius of 50 kilometres from the Perth railway station.

(2) South west land division means the South West Land Division as defined by section 28 of the *Land Act, 1933-1972* excluding the area contained within the metropolitan area.

19.10.2 An employee who is required to supply and maintain a motor vehicle for use when travelling on official business as a term of employment shall be reimbursed in accordance with the appropriate rates set out in Table 1 for journeys travelled on official business and approved by the employer.

19.10.3 Where an employee in the course of a journey travels through two or more separate areas, reimbursement shall be made at the appropriate rate applicable to each of the areas traversed as set out in Table 1.

19.10.4 An employee who is not required to supply and maintain a motor vehicle for use when travelling on official business as a term of employment, but when requested by his/her employer voluntarily consents to use the vehicle shall for journeys travelled on official business approved by the employer be reimbursed all expenses incurred in accordance with the appropriate rates set out in Tables 2 or 3.

TABLE 1 - MOTOR CAR

Area and details	Engine displacement (in cubic centimetres)		
	Over 2600cc	Over 1600 - 2600cc	1600cc and under

	Cents per KM	Cents per KM	Cents Per KM
Metropolitan area			
First 4000 km	194.76	133.76	106.04
Over 4000-8000 km	84.73	61.73	51.34
Over 8000-16000 km	48.09	37.69	33.07
Over 16000 km	53.12	40.00	34.02
South west land division			
First 4000 km	196.75	135.02	102.20
Over 4000-8000 km	86.30	62.57	52.18
Over 8000-16000 km	49.45	38.43	33.81
Over 16000 km	54.49	40.63	34.65
North of 23.5 south latitude			
First 4000 km	214.07	146.36	116.22
Over 4000-8000 km	93.55	67.51	56.17
Over 8000-16000 km	53.33	41.26	36.12
Over 16000 km	56.59	42.42	36.22
Rest of the State			
First 4000 km	204.42	139.74	110.55
Over 4000-8000 km	89.45	64.67	53.65
Over 8000-16000 km	51.13	39.58	34.75
Over 16000 km	55.33	41.37	35.28

TABLE 2 - MOTOR CAR

Area and details	Engine displacement (in cubic centimetres)		
	Over 2600cc	Over 1600 - 2600cc	1600cc and under
	Cents per KM	Cents per KM	Cents Per KM
Metropolitan area	93.97	67.72	55.85

South west land division	95.54	68.66	56.69
North of 23.5 south latitude	103.52	74.12	61.21
Rest of the State	99.01	70.87	58.37

TABLE 3 - MOTOR CYCLE

Distance travelled during a year on official business Rate c/km

Rate per kilometre 32.55c

19.10.5 An employee who is required by the employer to use his/her four-wheel drive vehicle because of the nature of the terrain to be traversed and/or weather conditions shall be paid an allowance in addition to the allowance prescribed in 19.9.4. The amount of such allowance shall be fixed by agreement between the employer and the employee in the light of the particular circumstances calling for the use of a four-wheel drive vehicle.

19.10.6 An employee who is required by the employer to use his/her trailer for the purpose of carrying material, other than the employee's own tools, for the employer, shall be paid an allowance in addition to the rates prescribed in 19.9.4 and 19.9.5. The amount of such an allowance shall be fixed by agreement between the employer and employee in the light of the particular circumstances in which the trailer is used.

19.11 Protective clothing and equipment allowance

19.11.1 All employees engaged in:

- (1) handling bituminous materials, creosote, weedkiller, garbage or sanitary pans, or who are employed in an abattoir or a saleyard;
- (2) pruning or pollarding trees, or cutting blackberry or boxthorn;
- (3) regular maintenance of mechanical equipment involving the handling of grease or oil soiled component parts of mechanical equipment; or
- (4) the handling of cement frequently or for any period in excess of one hour:

shall receive an allowance of \$1.56 per day above any prescribed wage fixed for the class of work they may be engaged upon at the time for suitable protective clothing consisting of gloves, overalls, or shirts and trousers, (whichever is deemed the most suitable by agreement between the employer and the union, or by a majority of employees), boots and protective head covering where necessary. This shall not apply where the above suitable protective clothing and equipment is supplied at the employer's cost.

PART 6 - HOURS OF WORK

20. - HOURS OF DUTY

20.1 The provisions of this subclause apply to all employees other than those engaged on continuous shift work.

20.1.1 Subject to the provisions of this subclause the ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases:

- (1) 38 hours within a work cycle not exceeding seven consecutive days; or

- (2) 76 hours within a work cycle not exceeding 14 consecutive days; or
- (3) 114 hours within a work cycle not exceeding 21 consecutive days; or
- (4) 152 hours within a work cycle not exceeding 28 consecutive days.

20.1.2 Except as hereinafter provided:

- (1) The ordinary hours of duty may be worked on any or all days of the week, Monday to Friday inclusive shall be worked between the hours of 6.00 a.m. and 5.00 p.m. Provided that the spread of hours may be altered by agreement between the employer and the majority of employees in any section or sections of the workforce. And the agreement is recorded in writing and kept with the relevant time records.
- (2) The ordinary hours of duty of an employee engaged on a sanitary or garbage collection or disposal service, water flusher driver, street cleaning machine operator, auto educator driver and assistants, may be worked on any or all days of the week Monday to Friday inclusive, and except in the case of shift employees, shall be worked between the hours of midnight and 5.00pm. Provided that the spread of hours may be altered by agreement between the employer and the employees concerned.
- (3) The ordinary hours of duty for employees classified in 20.1.2(4) may be worked on not more than five days of the week.
- (4) The classifications of employees comprehended in 20.1.2(3) include:
 - (a) Swimming-pool attendants;
 - (b) Caravan-compound or camping-area attendants;
 - (c) Cleaners;
 - (d) All employees working in or around a refuse disposal and/or processing site;
 - (e) Public-convenience attendants;
 - (f) Sewerage-treatment works attendants;
 - (g) Watchmen; and
- (5) any other classification of employee as may be agreed, in writing, between the parties, or failing such agreement as may be determined by the Commission.

20.1.3 Where the first night shift in any week commences on Monday night, the night shift commencing on Friday and finishing not later than 8.00 a.m. on Saturday of that week, shall be deemed to have been worked in ordinary working hours.

20.1.4 The ordinary hours of work shall not exceed ten 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 section or sections concerned.

20.1.5 The ordinary hours of work shall be consecutive except for a meal interval which shall not exceed one hour; and

- (1) An employee shall not be compelled to work for more than five hours without a meal interval except where an alternative arrangement is entered into by mutual agreement.
- (2) When an employee is required for duty during his/her usual meal interval and his/her meal interval is thereby postponed for more than half an hour; he/she shall be paid at overtime rates until he/she gets his/her meal.

20.1.6 Subject to the provisions of this paragraph:

- (1) A rest period of ten minutes from the time of ceasing to the time of resumption of work shall be allowed each morning.
- (2) The rest period shall be counted as time off duty without deduction of pay and shall be arranged at a time and in a manner to suit the convenience of the employer.
- (3) Refreshments may be taken by employees during the rest period.

20.2 The provisions of this subclause apply only to employees engaged on continuous shift work.

20.2.1 The ordinary hours of continuous shift workers shall average 38 per week (inclusive of crib time) and shall not exceed 152 hours in 27 consecutive days. Provided that, where the employer and the majority of employees concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days. A record of each agreement shall be made in writing and kept with the relevant time records.

20.2.2 The ordinary hours of work prescribed herein shall not exceed ten hours of work on any day. Provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed eight hours on any day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees in the plant or section or sections thereof. A record of each agreement shall be made in writing and kept with the relevant time records.

21. - OVERTIME

21.1 Overtime shall mean all work performed in excess of, or outside, the ordinary hours of duty determined in accordance with Clause 20. – Hours of Duty.

21.2 The provisions of this clause apply to all employees other than those engaged on continuous shift work.

21.2.1 Overtime worked on any day, Monday to Friday inclusive, shall be paid for at the rate of time and one half for the first two hours and double time thereafter.

- (1) Overtime worked on a Saturday prior to 12.00 noon shall be paid for at the rate of time and one half for the first two hours and double time thereafter, but this paragraph does not apply in a case to which 20.1.3 applies.
- (2) Overtime worked on a Saturday after 12.00 noon or on a Sunday shall be paid for at the rate of double time.
- (3) Overtime worked on any day prescribed as a holiday under this award shall be paid for at the rate of double time and one half.

21.2.2 When an employee is required for duty during his/her usual meal time, and his/her meal time is thereby postponed for more than half an hour, he/she shall be paid at overtime rates until he/she gets his/her meal.

21.2.3 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 for the purpose of this subclause.

21.3 The provisions of this subclause apply only to employees engaged on continuous shift work.

21.3.1 Subject to the provisions of 21.3.2 all time worked in excess of or outside the ordinary working hours, or on a shift other than a rostered shift, shall be paid for at the rate of double time, except where an employee is called upon to work a sixth shift in not more than one week in any four weeks, when he/she shall be paid for such shift at time and a half for the first four hours and double time thereafter.

21.3.2 Time worked in excess of the ordinary working hours shall be paid for at ordinary rates:

- (1) if it is due to private arrangements between the employees themselves; or
- (2) if it does not exceed two hours and is due to a relieving employee not coming on duty at the proper time; or
- (3) if it is for the purpose of effecting the customary rotation of shifts.

21.4 The provisions of this subclause apply to all employees.

21.4.1 Overtime on shift work shall be based on the rate payable for shift work.

- (1) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that an employee has at least ten consecutive hours off duty between the work of successive days.
- (2) An employee (other than a casual employee) who works so much overtime between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day that he/she has not had at least ten consecutive hours off duty between those times shall, subject to this paragraph be released after completion of such overtime until he/she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (3) If, on the instructions of his/her employer, such an employee resumes or continues work without having had such ten consecutive hours off duty, he/she shall be paid at double rates until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (4) Where an employee (other than a casual employee or an employee engaged on continuous shift work) is called into work on a Sunday or a holiday prescribed under this award preceding an ordinary working day, he/she shall, wherever reasonably practicable, be given ten consecutive hours off duty before his/her usual starting time on the next day. If this is not practicable, then the provisions of 21.4.1(2) and 21.4.1(3) shall apply.
- (5) The provisions of this paragraph shall apply in the case of shift employees who rotate from one shift to another, as if eight hours were substituted for ten hours when overtime is worked:
 - (a) for the purpose of changing shift rosters; or
 - (b) where a shift worker does not report for duty; or
 - (c) where a shift is worked by arrangement between the workers themselves.
- (6) Overtime worked as a result of a recall shall not be regarded as overtime for the purpose of this subclause when the actual time worked is less than three hours on such recall or on each of such recalls.

21.4.2 When an employee is recalled to work after leaving the job:

- (1) he/she shall be paid for at least three hours at overtime rates;
- (2) time reasonably spent in getting to and from work shall be counted as time worked.

21.4.3 When an employee is required to hold himself/herself in readiness for a call to work after ordinary hours, he/she shall be paid at ordinary rates for the time he/she so holds himself/herself in readiness.

21.4.4 Requirement to work reasonable overtime

- (1) An employer may require an employee to work reasonable overtime at overtime rates.
 - (2) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
 - (a) any risk to employee health and safety;
 - (b) the employee's personal circumstances including any family responsibilities;
 - (c) the needs of the workplace or enterprise;
 - (d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (e) any other relevant matter.
- 21.5 No union or association party to this award, or employee or employees covered by this award, shall in any way, whether directly or indirectly, be a party to or concerned in any ban, limitation, or restriction upon the working of overtime in accordance with the requirements of this subclause.
- 21.6 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 except and to the extent that the provisions of clause 19.8 apply to that work.

22. - SHIFT WORK

- 22.1 The provisions of this clause apply to shift work whether continuous or otherwise.
- 22.2 An employer may work any section or sections of his/her workforce on shifts but before doing so shall give notice of his/her intention to the union concerned and of the intended starting and finishing times of ordinary working hours of the respective shifts.
- 22.3 Where any particular process is carried out on shifts other than day shift, and less than five consecutive afternoon or five consecutive night shifts are worked on that process, then employees employed on such afternoon or night shifts shall be paid at overtime rates.
- 22.3.1 Provided that where the ordinary hours of work normally worked in an establishment are worked on less than five days then the provisions of 22.3 shall be as if four consecutive shifts were substituted for five consecutive shifts.
- 22.3.2 The sequence of work shall not be deemed to be broken under the preceding paragraph by reason of the fact that work on the process 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.
- 22.4 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.
- 22.5 A shift employee, when on afternoon or night shift, shall be paid for such shift 15% more than his/her ordinary rate prescribed by this award.
- 22.6 All work performed on a rostered shift when the major portion of such shift falls on a Saturday, Sunday or a holiday, shall be paid for as follows:
- Saturday - at the rate of time and one quarter.

Sunday - at the rate of time and one half.

Holidays - at the rate of double time.

These rates shall be paid in lieu of the shift allowances prescribed in 22.5.

22.7 A continuous shift employee who is not required to work on a holiday which falls on his/her rostered day off shall be allowed a day's leave with pay to be added to annual leave or taken at some other time if the worker so agrees.

22.8 For the purpose of this clause the following definitions shall apply:

22.8.1 Day shift means any shift starting at or after 6.00 a.m. and finishing at or before 5.00 p.m.

22.8.2 Afternoon shift means any shift finishing after 5.00 p.m. and at or before midnight.

22.8.3 Night shift means any shift finishing after midnight and at or before 6.00 a.m.

PART 7 - HOLIDAYS AND LEAVE

23. - ANNUAL LEAVE

23.1 Except as hereinafter provided:

23.1.1 A period of four consecutive weeks' leave with payment as prescribed in 23.1.2 shall be allowed annually to an employee by his/her employer after a period of twelve months' continuous service with that employer.

23.1.2 An employee before going on leave shall be paid the wages he/she would have received in respect of the ordinary time he/she would have worked had he/she not been on leave during the relevant period. Such payment shall include the industry allowance provided in clause 19.5 of this award.

23.1.3 During a period of annual leave an employee shall receive a loading of 17.5% calculated on the rate of wage prescribed in Clause 16. - Wages.

23.1.4 The loading prescribed by this subclause shall not apply to proportionate leave on termination.

23.2 If any prescribed 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.

23.3 Proportionate leave on termination

23.3.1 If, after one month's continuous service in any qualifying period an employee lawfully leaves his/her employment or his/her employment is terminated by his/her employer through no fault of the employee, the employee shall be paid 2.923 hours pay at the rate of wage prescribed by 23.1.2, divided by 38 in respect of each completed week of continuous service.

23.3.2 In addition to any payment to which he/she may be entitled under 23.3.1, an employee whose employment terminates after he/she has completed a twelve-months' 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 23.6 and 23.7 applies, in lieu of so much of that leave as has not been allowed, unless:

(1) he/she has been justifiably dismissed for misconduct; and

- (2) the misconduct for which he/she has been dismissed occurred prior to the completion of that qualifying period.

23.4 Any time in respect of which an employee is absent from work, except time for which he/she is entitled to claim sick pay or time spent on holidays or annual leave as prescribed by this award, shall not count for the purpose of determining his/her right to annual leave.

23.5 In the event of an employee being employed for portion only of a year, he/she shall be entitled, subject to 23.3, to such leave on full pay as is proportionate to his/her length of service during that period with such employer and, if such leave is not equal to the leave given to the other employees, he/she shall not be entitled to work or pay whilst the other employees of such employer are on leave with full pay.

23.6 Leave to be taken

23.6.1 Annual leave shall be given and taken in such period or periods and at such a time or at such times mutually convenient to the employer and the employee and, except as hereinafter provided, within twelve months of the date upon which the leave accrued due.

23.6.2 In special circumstances, and with the consent of the employer, an employee may defer the taking of any accrued annual leave, or any part thereof not taken, for a period not exceeding two years after the date when the leave accrued due.

23.7 Notwithstanding anything else herein contained, an employer who observes a Christmas close-down for the purpose of granting annual leave to one or more sections of his/her workforce, may require an employee to take his/her annual leave in not more than two periods but neither of such periods shall be less than one week.

23.8 An employee, who has been in employment of an employer for the twelve months preceding the date of his/her annual leave, shall be allowed a further one week's leave without pay if he/she so requests.

23.9 This clause shall not apply to casual employees.

23.10 Cultural Leave

An employee covered by this award, who is an adherent to Aboriginal culture and who practises Aboriginal spiritual and/or religious beliefs, shall be afforded a reasonable opportunity by his or her employer to follow and practise the requirements of that culture or spiritual or religious belief. Where this involves time away from work arrangements will be made for the employee concerned to take annual leave or accumulated rostered days off for the purpose, if leave is not otherwise provided in the award. Alternatively, the employer and the employee concerned may agree to time off without pay. Provided that an employer may require reasonable evidence of the legitimate need for the employee to be allowed the required time off from work.

23.11 Additional week's leave for location

23.11.1 In addition to the leave prescribed in subclause 23.1.1 an employee employed by an employer whose head office is situated north of the 26th parallel of latitude shall be allowed one week's additional leave after completion of each period of twelve months continuous service with their employer.

23.11.2 Where such an employee is employed for part of a qualifying twelve month period they shall be entitled to be paid annual leave in addition to their entitlement under subclause 23.1.1, by the rate of 1/12th of a week for each completed month of employment in that qualifying period.

23.11.3 For the purpose of calculating the additional week's leave for location specified in subclause 23.11, the qualifying twelve month period shall begin on the 12th August 2003 and no additional leave shall be issued for any continuous or qualifying service prior to this date.

24. - PUBLIC HOLIDAYS

- 24.1 An employee shall be entitled to holidays on the following days:
- 24.1.1 New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and
 - 24.1.2 the following days, as prescribed in Western Australia: Australia Day, Anzac Day, Queen's Birthday and Labour Day; and
 - 24.1.3 Foundation Day, as prescribed in Western Australia.
- 24.2 Holidays in lieu
- 24.2.1 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.
 - 24.2.2 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.
 - 24.2.3 When New Year's Day, Australia Day or Anzac Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.
- 24.3 Where in the state of Western Australia, public holidays are declared or prescribed on days other than those set out in 24.1 and 24.2, those days shall constitute additional holidays for the purpose of this award.
- 24.4 Substitute days
- 24.4.1 An employer, with the agreement of the union which is a party to this award, may substitute another day for any prescribed in this clause.
 - (1) An employer and his or her employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.
 - (2) An agreement pursuant to 24.4.1(1) shall be recorded in writing and be available to every affected employee.
 - (3) The union which is a party to this award shall be informed of an agreement pursuant to 24.4.1(1) and may within seven days refuse to accept it. The union will not unreasonably refuse to accept the agreement.
 - (4) If a union, pursuant to 24.4.1(3), refuses to accept an agreement, the parties will seek to resolve their differences to the satisfaction of the employer, the employees and the union.
 - (5) If no resolution is achieved pursuant to 24.4.1(4), the employer may apply to the Commission for approval of the agreement reached with his or her employees. Such an application must be made fourteen or more days before the prescribed holiday. After giving the employer and union an opportunity to be heard, the Commission will determine the application.
 - 24.4.2 Provided that the National Aboriginal and Islander Day of Celebration may be taken as a holiday in lieu of any of the specified holidays contained herein. The holiday is to be agreed between the employer and the employee concerned.
- 24.5 When a holiday mentioned in 24.1, 24.2 or 24.3 other than Easter Saturday falls on an employee's rostered day off, such employee shall be entitled to a day in lieu thereof to be taken at such time as may be mutually agreed upon by the officer and the Council.

24.6 Public holiday penalty rates

24.6.1 All work, except shift work, performed within the ordinary hours of duty on any holiday provided in 24.1 shall be paid for at the rate of double time and one half.

24.6.2 When an employee is allowed any of the holidays provided in 24.1, 24.2 or 24.3 and is subsequently recalled to duty by the employer, he/she shall be paid for such work in ordinary hours for at least three hours at the appropriate penalty rate. Time reasonably spent in getting to and from work shall be counted as time worked.

24.7 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.

24.8 This clause shall not apply to casual employees.

24.8.1 In lieu of the two additional holidays applicable prior to 29 February 1996 (the day after New Years Day and Easter Tuesday), the following provisions shall apply in recognition of Western Australia public service standards as stated in the Public Service Notice, Circular to Chief Executive Officers No 5/94 dated 9 February 1994.

24.8.2 On the 2 January and Easter Tuesday each year an employee shall become entitled to a days paid absence in lieu of each of the two holidays previously observed, these days to be taken in the year in which they fall due and at the convenience of the employer.

24.8.3 Should either or both of these two paid days of absence be deleted as a public service entitlement by a further notice, regulation or legislation, the right to the paid day(s) of absence in 24.8.2 shall be immediately deleted.

25. - SICK LEAVE

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

25.1.1 Employee who actually works 38 ordinary hours each week

An employee whose ordinary hours of work are arranged so that he/she actually works 38 ordinary hours each week shall be entitled to payment during such absence for the actual ordinary hours absent.

25.1.2 Employee who works an average of 38 ordinary hours each week

(1) An employee whose ordinary hours of work are arranged so that he/she works an average of 38 ordinary hours each week during a particular work cycle shall be entitled to pay during such absence calculated as follows:

$$\frac{\text{duration of absence}}{\text{ordinary hours normally worked that day}} \times \text{appropriate weekly rate} \quad 5$$

(2) An employee shall not be entitled to claim payment for personal ill health or injury nor will his/her sick leave entitlement be reduced if such ill health or injury occurs on the employee's rostered day off.

- 25.1.3 Entitlement to payment shall accrue at the rate of one sixth of a week for each completed month of service with the employer.
- 25.1.4 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.
- 25.2 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.
- 25.3 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.
- 25.4 Subject to the provisions of this subclause, the provisions of this clause apply to an employee who suffers personal ill health or injury during the time when he/she is absent on annual leave and an employee may apply for and the employer shall grant paid sick leave in place of paid annual leave.
- 25.4.1 Application for replacement shall be made within seven days of resuming work. Provided that the provisions of this paragraph do not relieve the employee of the obligation to advise the employer in accordance with 25.3 if he/she is unable to attend for work on the working day next following his/her annual leave.
- 25.4.2 Replacement of paid annual leave by paid sick leave shall not exceed the period of paid sick leave to which the worker was entitled at the time he/she proceeded on annual leave and shall not be made with respect to fractions of a day.
- 25.4.3 Where paid sick leave has been granted by the employer in accordance with 25.4, 25.4.1 and 25.4.2, 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 23. – Annual Leave.
- 25.4.4 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 23. – Annual Leave, shall be deemed to have been paid with respect to the replaced annual leave.
- 25.5 The provisions of this clause with respect to payment do not apply to employees who are entitled to payment under any *Workers' Compensation Act* nor to employees whose injury or illness is the result of the employee's serious and wilful misconduct.
- 25.6 The provisions of this clause do not apply to casual employees.
- 25.7 Portability of sick leave
- 25.7.1 Subject to the conditions hereinafter prescribed, an employee shall be entitled to transfer accumulated sick leave credits from one employer to another employer.
- 25.7.2 The right to transfer such accumulated sick leave shall depend upon the following:
- (1) the amount of accumulated sick leave being transferred shall not exceed eight weeks;
and

- (2) the employee shall produce to the employing employer a record certified by the Chief Executive Officer of the immediately preceding employer, showing the amount and source of the sick leave being transferred; and
 - (3) the employee's service between such employers shall be continuous as defined by the *Local Government (Long Service Leave) Regulations 1977*, as amended from time to time.
- 25.7.3 Such transferred accumulated sick leave credits shall not be available to the employee for use until the employee's existing sick leave credits with the employing employer have been exhausted.
- 25.7.4 Employer(s) shall be responsible for the payment of all sick leave accrued during an employee's service with that employer. Payment for the leave accrued for service by the employee with the former employer, shall be provided to the current employer, as required, once all sick leave accrued with the current employer has been exhausted.
- 25.7.5 The right to transfer any accumulated sick leave entitlements specified within this clause shall apply to any employee who leaves the services of an employer after the 12th August 2003. Subject to 25.7.2(1), the amount of leave to be transferred shall apply to all sick leave entitlements accumulated prior to and after this date.
- 25.7.6 The right to transfer accumulated sick leave entitlements from a previous employer does not exist for those employees who have entered into the services of a new employer prior to the 12th August 2003.

26. - BEREAVEMENT LEAVE

- 26.1 The provisions of this clause apply to full-time and part-time employees (on a pro-rata basis) but not to casual employees. The entitlements of casual employees are set out in subclause 13.3.
- 26.2 Payment in respect of bereavement leave is to be made only where the employee otherwise would have been on duty and shall not be granted in any case where the employee concerned would have been off duty in accordance with any shift roster or on long service leave, annual leave, sick leave, workers' compensation or leave without pay, or on a public holiday.
- 26.3 Paid leave entitlement - death in Australia
- A full-time employee is entitled to two (2) ordinary working days pay on each occasion and on production of evidence (if required by the employer) of the death in Australia of either a member of the employee's immediate family or household. The definition of immediate family or household member, shall be that set out at 27.1.4(3).
- 26.4 Paid leave entitlement - death outside Australia
- A full-time employee is entitled to three (3) ordinary working days pay on each occasion and on production of evidence (if required by the employer) of the death outside Australia of either a member of the employee's immediate family or household. The definition of immediate family or household member shall be the definition set out at 27.1.4(3).
- 26.5 Part time employees
- A part-time employee is entitled to the same benefit as a full-time employee as expressed at 26.2 and 26.3 excepting that the entitlement shall only apply where the part-time employee would normally be working on the day(s) of absence on bereavement leave.
- 26.6 Unpaid bereavement leave

Where an employee has exhausted all accumulated leave entitlements, the employee is entitled to take unpaid bereavement leave. The employer and the employee shall agree on the quantum of unpaid leave to be taken. In the absence of agreement full-time and part-time employees shall be entitled up to two ordinary working days per occasion.

27. - FAMILY LEAVE

27.1 Sick leave

27.1.1 A full-time or part-time employee (on a pro-rata basis) for the purposes of caring for an immediate family or household member who is sick and requires the employee's support or who requires care due to an unexpected emergency shall be entitled to use 76 hours per annum of sick leave entitlement for such purposes. The entitlements of casual employees are set out in subclause 13.3.

27.1.2 In normal circumstances an employee shall not take carer's leave under this clause where another person has taken leave to care for the same person.

27.1.3 Sick leave may be taken for a part of a working day for the purposes of family carer's leave.

27.1.4 The entitlement to use sick leave in accordance with this subclause is subject to:

- (1) the employee being responsible for the care of the person concerned; and
- (2) the person being either:
 - (a) a member of the employee's immediate family; or
 - (b) a member of the employee's household.
- (3) the term immediate family includes:
 - (a) a spouse or partner (including a former spouse, a de facto spouse and a former de facto spouse of the employee; and
 - (b) a child or an adult child (including an adopted child, a step child or an ex nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

27.1.5 The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of the absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

27.2 Unpaid carer's leave

Where an employee has exhausted all accumulated leave entitlements, the employee is entitled to take unpaid family leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and employee shall agree on the quantum of unpaid leave to be taken. In the absence of agreement the employee is entitled to take up to two days per occasion provided that the requirements of 27.1.5 are met.

27.3 Annual leave

27.3.1 Notwithstanding the provisions of this clause, an employee may elect, with the consent of the employer, to take annual leave in single day (7.6 hour) periods or a part of a single day not exceeding a total of 38 hours in any calendar year at a time or time agreed between the employee and the employer.

- 27.3.2 Access to annual leave, as prescribed in 27.3.1, shall be exclusive of any shutdown period provided for elsewhere under this award.
- 27.3.3 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- 27.4 Time off in lieu of payment for overtime
- 27.4.1 An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer.
- 27.4.2 Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
- 27.4.3 An employer shall, if requested by an employee, provide payment, at the rate provided for the payment of overtime in the award, for any overtime worked under 27.4.1 where such time has not been taken within four weeks of accrual.
- 27.5 Make-up time
- 27.5.1 An employee, other than an employee on shift work, may elect, with the consent of their employer, to work make-up time, under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- 27.5.2 An employee on shift work may elect, with the consent of their employer, to work make-up time under which the employee takes ordinary time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
- 27.6 Dispute settlement procedure
- In the event of any dispute arising in connection with any part of this clause, such a dispute shall be processed in accordance with the dispute settlement procedure contained in this award.
- 27.7 Additional paid leave
- By mutual agreement the employer and the employee may agree to the taking of additional accrued paid leave. The amount of accrued paid leave taken in excess of the amount set out at 27.1.1 shall be agreed between the employer and the employee.

28. - PARENTAL LEAVE

- 28.1 Definitions
- 28.1.1 For the purpose of this clause child means a child of the employee under school age except for adoption of a child where child means a person under school age who is placed with the employee for the purpose of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who had previously lived continuously with the employee for a period of six months or more.
- 28.1.2 Subject to 28.1.3, in this clause, spouse includes a de facto or former spouse.
- 28.1.3 In relation to 28.8, spouse includes a de facto spouse but does not include a former spouse.
- 28.1.4 An eligible casual employee means a casual employee:
- (1) employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and

- (2) who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

28.1.5 For the purposes of this clause, 'continuous service' is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).

28.2 Basic entitlement

28.2.1 After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

28.2.2 Subject to 28.6, parental leave is to be available to only one parent at a time, except that both parents may simultaneously access the leave in the following circumstances:

- (1) for maternity and paternity leave, an unbroken period of one week at the time of the birth of the child;
- (2) for adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

28.2.3 The provisions of this clause apply to full time, part time and eligible casual employees, but do not apply to other casual employees.

28.2.4 An employer must not fail to re-engage a casual employee because:

- (1) the employee or employee's spouse is pregnant; or
- (2) the employee is or has been immediately absent on parental leave.

28.2.5 The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

28.2.6 Right to Request

(1) An employee entitled to parental leave pursuant to the provisions of clause 28.2.1 may request the employer to allow the employee:

- (a) to extend the period of simultaneously unpaid parental leave provided for in clause 28.2.2 up to a maximum of eight weeks;
- (b) to extend the period of unpaid parental leave provided for in clause 28.2.1 by a further continuous period of leave not exceeding 12 months;
- (c) to return from a period of parental leave on a part time basis until the child reaches school age,

to assist the employee in reconciling work and parental responsibilities.

(2) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

28.3 Maternity leave

28.3.1 An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

- (1) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) - at least ten weeks;
- (2) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least four weeks.

28.3.2 When the employee gives notice under 28.3.1(1) the employee must also provide 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.

28.3.3 An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.

28.3.4 Subject to 28.2.1 and unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of birth.

28.3.5 Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

28.3.6 Special maternity leave

- (1) 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 the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.
- (2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special maternity leave.
- (3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid sick leave to which she is then entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before her return to work. The aggregate of paid sick leave, special maternity leave and parental leave, including parental leave taken by a spouse, may not exceed 52 weeks.

28.3.7 Where leave is granted under 28.3.4, during the period of leave an employee may return to work at any time, as agreed between the employer and the employee provided that time does not exceed four weeks from the recommencement date desired by the employee.

28.3.8 In the case of Aboriginal (Indigenous) persons the foregoing shall be applied in a manner consistent with respect to the cultural practices of such Aboriginal (Indigenous) persons.

28.4 Paternity leave

28.4.1 An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave, with:

- (1) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected dated of confinement, or states the date on which the birth took place; and

- (2) written notification of the dates on which he proposes to start and finish the period of paternity leave; and
- (3) a statutory declaration stating:
 - (a) he will take that period of paternity leave to become the primary care-giver of a child;
 - (b) particulars of any period of maternity leave sought or taken by his spouse; and
 - (c) that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

28.4.2 The employee will not be in breach of 28.4.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

28.5 Adoption leave

28.5.1 The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

28.5.2 Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

- (1) the employee is seeking adoption leave to become the primary care-giver of the child;
- (2) particulars of any period of adoption leave sought or taken by the employee's spouse; and
- (3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.

28.5.3 An employer may require an employee to provide confirmation from the appropriate government authority of the placement.

28.5.4 Where the placement of child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.

28.5.5 An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.

28.5.6 An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

28.5.7 In respect of Aboriginal (Indigenous) persons the provisions of 28.5.1 and 28.8 shall only be adopted after it has been established that such provisions are consistent with the cultural and community practices of such Aboriginal (Indigenous) persons affected by the operation of this clause.

28.6 Variation of period of parental leave

Unless agreed otherwise between the employer and employee, an employee may apply to their employer to change the period of parental leave on one occasion. Any such change to be notified at least four weeks prior to the commencement of the changed arrangements.

28.7 Parental leave and other entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

28.8 Transfer to a safe job

28.8.1 Where an employee is pregnant and, 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 employee make it inadvisable for the employee to continue at her present work, the employee will, 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.

28.8.2 If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

28.9 Returning to work after a period of parental leave

28.9.1 An employee will notify of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

28.9.2 An employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to 28.8, the employee will be entitled to return to the position they held immediately before such transfer.

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

28.10 Replacement employees

28.10.1 A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.

28.10.2 Before an employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

28.11 Communication during parental leave

28.11.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

- (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

28.11.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

28.11.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 28.11.

PART 8 – MISCELLANEOUS

29. - SUPERANNUATION

29.1 Employer contributions

29.1.1 Each respondent employer to this award shall in respect of each employee contribute to the superannuation fund, of which the employee is a member, an amount in accordance with the Superannuation Guarantee Charge. Such payments shall commence from the date the employee commences service subject to 29.4.1.

29.1.2 No contributions shall be made for:

- (1) periods of unpaid leave or unauthorised absences;
- (2) or any other payments paid out on termination including annual leave.

29.1.3 Each respondent employer shall make such contributions monthly or at such other times as may be agreed in writing between the trustees of the Fund and the employer from time to time.

29.2 Ordinary Time Earnings

Ordinary time earnings shall mean the base classification rate, shift penalties, over award payments, location allowances, and any other all purpose allowance, penalty loadings and casual loadings, but excludes other payments.

29.3 Fund

Fund shall mean the Western Australian Local Government Superannuation Plan or any other approved and complying superannuation fund.

29.4 Salary Sacrifice

An employee may direct an employer to make the employee's contributions for the purposes of superannuation by way of salary sacrifice consistent with prevailing taxation laws. Such arrangements shall be confirmed in writing between the employer and employee(s) who enter into these arrangements.

29.5 Compliance

Notwithstanding anything contained elsewhere herein:

29.5.1 a fund or scheme shall not be a complying superannuation fund or scheme for the purposes of this clause unless:

- (1) the fund or scheme is a complying fund or scheme within the meant of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth; and
- (2) 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.

29.5.2 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.

29.5.3 The employer shall notify the employee of the entitlement to nominate a complying superannuation fund or scheme as soon as practicable.

- 29.5.4 A nomination or notification of the type referred to in 29.5.2 and 29.5.3 shall, subject to the requirements of regulations made under the *Industrial Relations Act 1979*, be given in writing to the employer or the employee to whom such is directed.
- 29.5.5 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.
- 29.5.6 The employer shall not unreasonably refuse to agree to a change of complying superannuation fund or scheme requested by an employee.
- 29.5.7 Provided that until an employee nominates a complying superannuation fund or scheme 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.

30. - POSTING OF AWARD

A suitable notice board shall be provided at each main place of employment for the posting of a copy of this award.

31. – NAMED PARTIES TO AWARD

The parties to this award are:

Western Australian Municipal, Administrative, Clerical and Services Union of Employees

Western Australian Municipal, Road Boards, Parks and Racecourse Employees' Union of Workers, Perth

City of Kalamunda

Shire of Boddington

Shire of Bridgetown-Greenbushes

Shire of Bruce Rock

Shire of Carnamah

Shire of Dalwallinu

Shire of Dowerin

Shire of Goomalling

Shire of Halls Creek

Shire of Harvey

Shire of Kondinin

Shire of Laverton

Shire of Leonora

Shire of Murray

Shire of Nannup

Shire of Narembeen

Shire of Ravensthorpe
Shire of Sandstone
Shire of Three Springs
Shire of Victoria Plains
Shire of Wagin
Shire of Wandering
Shire of Waroona
Shire of Woodanilling
Shire of Yalgoo

32. - NAMED RESPONDENTS

City of Kalamunda
Shire of Boddington
Shire of Bridgetown-Greenbushes
Shire of Bruce Rock
Shire of Carnamah
Shire of Dalwallinu
Shire of Dowerin
Shire of Goomalling
Shire of Halls Creek
Shire of Harvey
Shire of Kondinin
Shire of Laverton
Shire of Leonora
Shire of Murray
Shire of Nannup
Shire of Narembeen
Shire of Ravensthorpe
Shire of Sandstone
Shire of Three Springs
Shire of Victoria Plains
Shire of Wagin
Shire of Wandering
Shire of Waroona
Shire of Woodanilling

Shire of Yalgoo