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NOTICES— Awards/Agreement matter—

WESTERN AUSTRALIAN
INDUSTRIAL RELATIONS COMMISSION.

NOTICE

INSPECTION OF RECORD

Notice of Variation to State Awards, Orders and Industrial Agreements

The Inspection of Records provisions under section 49B of the Industrial Relations Act 1979 have been amended by section 34 of the Labour Relations Legislation Amendment Act 1997.

In general terms section 49B as amended provides that an employer may refuse a union official access to time and wages records if the employer is of the view it would infringe privacy of employees who are not union members. Regulations issued pursuant to the amendments to the Inspection of Records provisions in section 49B of the Industrial Relations Act 1979 set out the form of time and wages records an employer is required to keep, the avenue available to a union to obtain those records when access has been denied and the duty of the Industrial Inspector to obtain and provide extracts from time and wages records.

The full text of section 49B—Inspection of Records of the Industrial Relations Act 1979 and the Industrial Relations (General) Regulations 1997 (Government Gazette 30 September 1997, p5440) are available from the Western Australian Industrial Relations Commission 16th Floor, National Mutual Centre, 111 St Georges Terrace, Perth.

The Western Australian Industrial Relations Commission and the Railway Classification Board have under the terms of section 34 of the Labour Relations Legislation Amendment Act 1997, reviewed all awards, orders and industrial agreements to establish variations necessary to omit any provision that has no effect, vary or insert provisions necessary to make adequate provision for procedures set out under section 49B of the Industrial Relations Act, as amended and to insert further provisions to ensure that awards, orders and industrial agreements are consistent with section 49B, as the case may be.

The awards, orders and industrial agreements identified by the Commission and the Railway Classification Board to be varied as a result of amendments to section 49B—Inspection of Records of the Industrial Relations Act 1979 are set out in the schedule in this Notice.

The proposed variations will involve—

- (a) Deleting the existing Appendix—Section 49B—Inspection of Records Requirements and inserting the following—

“APPENDIX—SECTION 49B (AS AMENDED)—INSPECTION OF RECORDS REQUIREMENTS (APRIL, 1998)

1. Consistent with the terms of section 23(3)(c)(iii) of the Industrial Relations Act as amended by the Labour Relations Legislation Amendment Act 1997 a representative of a Union shall not exercise the rights under this clause with respect to entering any part of the premises of the employer unless the employer is the employer or former employee of a member of the Union.
2. Each employer bound by this award/industrial agreement/order shall maintain a time and wages record for each employee. The form of records shall be in compliance with the Industrial Relations (General) Regulations 1997 pursuant to the Industrial Relations Act 1979.
3. The entries in the time and wages records for each employee shall include the employee's name and details of the employee's job classification or description and any other details required by this award/industrial agreement/order.

Provided that consistent with the Regulations cited in subclause 2 above the employer is to ensure that the time and wages records are kept—

- (a) by—
 - (i) making entries in the English language in or on a separate page of a bound or loose-leaf book kept specifically for that purpose; or
 - (ii) recording or storing the particulars required to be entered in the time and wages records by means of a mechanical, electronic or other device, but so that particulars so recorded or stored will remain in the form in which they were originally recorded or stored and will be capable of being reproduced in written form in the English language.

- (b) with only one employee's records appearing on any one page;
 - (c) so that the record for each pay period of each employee is identifiable and in a manner that enables compliance with the award/order/industrial agreement to be readily ascertained.
 - (d) A person is not to alter time and wages records unless the alteration is annotated so as to identify—
 - (i) the nature of the alteration;
 - (ii) the person making the alteration; and
 - (iii) the date on which the alteration was made.
4. The employer must ensure that each entry in the time and wages record is retained for not less than seven (7) years after it is made.
 5. A representative of an organisation of employees shall have the power to inspect the time and wages records of an employee or former employer subject to the provisions of this clause.
 6. The employer may refuse the representative of employees access to the record if—
 - (a) the employer is of the opinion that access to the records by the representative of the organisation would infringe the privacy of persons who are not members of the organisation; and
 - (b) the employer undertakes to produce the records to an Industrial Inspector within 48 hours of being notified of the requirement to inspect by the representative.
 7. The representative of an organisation on requiring and being refused access to time and wages records pursuant to subclause (6)(a) above, may within 48 hours of being refused, notify the Industrial Inspector in the form approved under Regulation 5—Extracts of Records of the Industrial Relations (General) Regulations 1997 issued pursuant to the Industrial Relations Act 1979.
 8. The power of inspection may only be exercised by a representative of an organisation of employees authorised in accordance with the rules of the organisation to exercise the power.
 9. Before exercising a power of inspection the representative shall give reasonable notice of not less than 24 hours to an employer.
 10. There shall be a liberty to apply to amend this Appendix at any time.
 11. This Appendix shall come into effect on and from 16th day of April 1998.
 12. Any employer or organisation bound by or party to this award/order/industrial agreement may apply to the Western Australian Industrial Relations Commission at any time in relation to this clause.”
- (b) Inserting in provisions which relate to the inspection of records (other than in the Appendix—49B (as amended)—Inspection of Records Requirements (April 1998)) either as a preamble to the clause or as an amendment to a subclause within the relevant clause the following—

Subject to the terms of Appendix—S.49B (as amended)—Inspection of Records Requirements (April 1998)”
 - (c) That where public sector awards, orders or industrial agreements cover government officers, only some of whom are covered by the jurisdiction of the Public Service Arbitrator, provision will be made to ensure that the variation to the award, order or industrial agreement to give effect to section 34 of the

Labour Relations Legislation Amendment Act does not apply to those employees covered by the Public Service Arbitrator.

The Western Australian Industrial Relations Commission and Railways Classification Board will sit on Wednesday 8 April and Thursday 9 April 1998 at 9.00am to hear submissions on the proposed amendments from any employer or organisation who is party to, or is bound by, any award, order or industrial agreement set out in the schedule to this Notice.

The Western Australian Industrial Relations Commission and Railways Classification Board will, after affording employers and organisations who give notice no later than three working days before the hearing, amend the awards orders and industrial agreements to give effect to section 34 of the Labour Relations Legislation Amendment Act 1997 by 16th April 1998.

If any further information is required please contact the Western Australian Industrial Relations Commission on 9420 4401 or 1800 804 987.

JOHN SPURLING,
Registrar.

18 March 1998.

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