

COVID-19 GENERAL ORDER PURSUANT TO SECTION 50 OF THE ACT

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

PARTIES MINISTER FOR INDUSTRIAL RELATIONS
APPLICANT

-v-

UNIONSWA, CHAMBER OF COMMERCE AND INDUSTRY
OF WESTERN AUSTRALIA, AUSTRALIAN MINES AND
METALS ASSOCIATION, WESTERN AUSTRALIAN
LOCAL GOVERNMENT ASSOCIATION

RESPONDENTS

CORAM COMMISSION IN COURT SESSION
CHIEF COMMISSIONER S J KENNER
SENIOR COMMISSIONER R COSENTINO
COMMISSIONER T EMMANUEL
COMMISSIONER T B WALKINGTON

DATE FRIDAY, 25 MARCH 2022

FILE NO/S CICS 3 OF 2022

CITATION NO. 2022 WAIRC 00125

Result General Order issued

Representation

Applicant Ms M Williams on behalf of the Hon. Minister for
Industrial Relations

Respondents Mr P Moss on behalf of the Chamber of Commerce and
Industry of Western Australia (Inc)
Dr T Dymond on behalf of UnionsWA
Ms S Verity on behalf of the Australian Mines and Metals
Association
Ms V Cullen with Ms N Abend on behalf of the Western
Australian Local Government Association

General Order

HAVING heard Ms M Williams on behalf of the Hon. Minister for Industrial Relations, Dr T Dymond on behalf of UnionsWA, Mr P Moss on behalf of the Chamber of Commerce and Industry WA, Ms S Verity on behalf of the Australian Mines and Metals Association, and Ms V Cullen with Ms N Abend on behalf of the Western Australian Local Government Association, the Commission in Court Session, pursuant to the powers conferred on it by section 50 of the *Industrial Relations Act 1979* (WA) hereby makes a General Order in the terms set out in the attached Schedule.

L.S. (Sgd.) S.J. KENNER

CHIEF COMMISSIONER S J KENNER
FOR AND ON BEHALF OF THE
COMMISSION IN COURT SESSION

SCHEDULE

PROVISIONS RELATING TO THE COVID-19 PANDEMIC

1. - APPLICATION

- (1) This General Order applies to each employee as defined in subsection 7(1) of the *Industrial Relations Act 1979* throughout the State of Western Australia, except for employees of a public sector body within the meaning of the *Public Sector Management Act 1994* and police officers, police auxiliary officers and Aboriginal police liaison officers. These employees are the subject of the Government Sector Labour Relations Circular 6/20 – *Leave arrangements for COVID-19*.
- (2) Where an award or industrial agreement contains a term provided for in this General Order that is more beneficial to an employee, then the more beneficial term shall apply. Otherwise, where there is conflict between the terms of an award or industrial agreement and this General Order, the terms of this General Order shall apply.
- (3) This General Order shall operate on and from the date this General Order issues until 30 September 2022, unless extended on application or at the initiative of the Commission.

2. - UNPAID PANDEMIC LEAVE

- (1) Subject to subclauses (2) and (3), an employee is entitled to take up to two weeks' unpaid pandemic leave if the employee is required, by government or medical authorities or acting on the advice of a medical practitioner, to self-isolate or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic. An employer and employee may agree that the employee may take more than two weeks' unpaid pandemic leave.
- (2) The employee must give their employer notice of the taking of leave under subclause (1) and of the reason the employee requires the leave, as soon as practicable. This may be a time after the leave has started.
- (3) The employee who has given their employer notice of taking leave under subclause (1) must, if required by the employer, give the employer evidence

that would satisfy a reasonable person that the leave is taken for a reason given in subclause (1).

- (4) Leave taken under subclause (1) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements.
- (5) Such leave:
 - (a) is available in full immediately rather than accruing progressively during any period of service;
 - (b) will be available until 30 September 2022 (unless extended by further variation depending on the duration of the COVID-19 pandemic);
 - (c) will be available to full time, part time and casual employees (it is not pro-rata); and
 - (d) must start before 30 September 2022, but may end after that date.
- (6) It is not necessary for employees to exhaust their paid leave entitlements before accessing unpaid pandemic leave.
- (7) Those caring for others who are compelled to self-isolate are not entitled to unpaid pandemic leave.