

**APPLICATION FOR GENERAL ORDER - PROVISIONS IN INDUSTRIAL
INSTRUMENTS FOR SPECIAL DAYS APPOINTED UNDER SECTION 7
OF THE PUBLIC AND BANK HOLIDAYS ACT 1972
WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

PARTIES	UNIONSWA INCORPORATED	APPLICANT
	-v-	
	MINISTER FOR INDUSTRIAL RELATIONS, CHAMBER OF COMMERCE AND INDUSTRY OF WESTERN AUSTRALIA (INC), AUSTRALIAN RESOURCES AND ENERGY EMPLOYER ASSOCIATION	RESPONDENTS
CORAM	COMMISSION IN COURT SESSION CHIEF COMMISSIONER S J KENNER SENIOR COMMISSIONER R COSENTINO COMMISSIONER T B WALKINGTON	
DATE	THURSDAY, 18 MAY 2023	
FILE NO.	CICS 3 OF 2023	
CITATION NO.	2023 WAIRC 00276	

Result	General Order issued
Representation	
Applicant	Mr C Fogliani of counsel
Respondents	Mr R Andretich of counsel on behalf of the Hon. Minister for Industrial Relations No appearance on behalf of the Chamber of Commerce and Industry of Western Australia (Inc) No appearance on behalf of Australian Resources and Energy Employer Association

General Order

HAVING heard Mr C Fogliani of counsel on behalf of UnionsWA Incorporated, Mr R Andretich of counsel on behalf of the Hon. Minister for Industrial Relations, and there being no appearance on behalf of Chamber of Commerce and Industry of Western Australia (Inc) or the Australian Resources and Energy Employer 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

1.- APPLICATION

1. This General Order applies to each employee as defined in subsection 7(1) of the *Industrial Relations Act 1979* (WA) throughout the State of Western Australia.
2. Where an industrial instrument 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 a conflict between the terms of an industrial instrument and this General Order, the terms of this General Order will prevail.
3. This General Order shall come into effect from the date it is issued and will operate in accordance with its terms unless it is otherwise varied or revoked.

2.- DEFINITIONS

4. In this General Order:
 - a. The term ***defined public holiday*** means a day defined or recognised as a public holiday within an industrial instrument.
 - b. The term ***industrial instrument*** means an award, an industrial agreement, an enterprise order, and an employer-employee agreement under the *Industrial Relations Act 1979* (WA).
 - c. The term ***special public holiday*** means any special day appointed by proclamation under section 7 of the *Public and Bank Holidays Act 1972* (WA) to be a public holiday.

3.- PUBLIC HOLIDAYS

5. Where an employee is covered by an industrial instrument that provides for a higher rate of pay (for example: overtime, penalty rates, or allowances) for working on a defined public holiday, that higher rate of pay shall also apply to time worked by the employee on any special public holiday.