

THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION
Level 17, 111 St Georges Terrace, Perth
Ph: (08) 9420 4444

Application No. CICS 3 of 2023

**APPLICATION FOR GENERAL ORDER – PROVISIONS IN INDUSTRIAL
INSTRUMENTS FOR SPECIAL DAYS APPOINTED UNDER SECTION 7 OF THE
PUBLIC AND BANK HOLIDAYS ACT 1972**

NOTICE is given that an application has been made to the Commission in Court Session by UnionsWA under section 50 of the *Industrial Relations Act 1979 (WA)*. The application by UnionsWA is for a General Order to provide that all employees covered by an award, an industrial agreement, an enterprise order, or an employer-employee agreement under the *Industrial Relations Act 1979 (WA)* that provides for a higher rate of pay for working on a defined public holiday specified in that industrial instrument shall also be paid that higher rate of pay when working on any recognised public holiday pursuant to the *Minimum Conditions of Employment Act 1993 (WA)* or the *Public and Bank Holidays Act 1972 (WA)*.

These matters will be heard on Tuesday, 9 May 2023 at 10:30am.

The application may be inspected at my office by appointment at 111 St Georges Terrace, Perth by any interested person without charge.

The Commission invites interested persons and organisations to make a written submission to the Commission in Court Session on UnionsWA's proposed General Order. Interested persons and organisations may file written submissions with the Registry by no later than 4:00pm on Tuesday, 2 May 2023.

All correspondence should be addressed to the Registrar at the above address or by email to registry@wairc.wa.gov.au quoting matter number CICS 3 of 2023.

Attached are:

1. Schedule A being the proposed General Order in terms proposed by UnionsWA; and
2. Schedule B being a list of awards that UnionsWA have indicated may be impacted by the proposed General Order.

S. BASTIAN
REGISTRAR

22 February 2023

Schedule A – Proposed General Order as proposed by UnionsWA

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 shall apply.
3. This General Order shall operate on and from the date this General Order issues and shall continue indefinitely unless later rescinded by the Commission.

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 ***recognised public holiday*** means a day mentioned in Schedule 1 of the *Minimum Conditions of Employment Act 1993* (WA) and, for the avoidance of doubt, includes any special day appointed by proclamation under the *Public and Bank Holidays Act 1972* section 7 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 recognised public holiday.

Schedule B – Awards that may be impacted by the proposed General Order

Award Name	Award No
Animal Welfare Industry Award	25051
Bakers' (Country) Award No. 18 of 1977	R 18/1977
Bakers' (Metropolitan) Award No. 13 of 1987	A 13/1987
Building Trades Award 1968	31/1966
Children's Services (Private) Award 2006	A 10/1990
Cleaners and Caretakers (Car and Caravan Parks) Award 1975	27515
Cleaners and Caretakers Award, 1969	25538
Clerks' (Accountants' Employees) Award 1984	A 8/1982
Clerks (Commercial, Social and Professional Services) Award No. 14 of 1972	14/1972
Clerks' (Wholesale & Retail Establishments) Award No. 38 of 1947	38/1947
Club Workers' Award	28095
Contract Cleaners Award, 1986	A 6/1985
Dental Technicians' and Attendant/Receptionists' Award, 1982	29/1982
Earth Moving and Construction Award	23285
Electrical Contracting Industry Award R 22 of 1978	R 22/1978
Enrolled Nurses and Nursing Assistants (Private) Award No 8 of 1978	28703
Farm Employees' Award 1985	A 19/1984
Fruit Growing and Fruit Packing Industry Award – The	R 17/1979
Furniture Trades Industry Award	A 6/1984
Hairdressers Award 1989	A 32/1988
Hotel and Tavern Workers' Award	R 31/1977
Landscape Gardening Industry Award	R 18/1978
Licensed Establishments (Retail and Wholesale) Award 1979	R 23/1977
Meat Industry (State) Award, 2003	R 9/1979
Metal Trades (General) Award	13/1965
Motel, Hostel, Service Flats and Boarding House Workers' Award	29/1974
Motor Vehicle (Service Station, Sales Establishments, Rust Prevention and Paint Protection) Industry Award No. 29 of 1980	A 29/1980
Pastrycooks' Award No. 24 of 1981	A 24/1981
Photographic Industry Award, 1980	A 9/1980
Restaurant, Tearoom and Catering Workers' Award	R 48/1978
Retail Pharmacists' Award 2004	A 8/04
Security Officers' Award	A 25/1981
Sheet Metal Workers' Award No. 10 of 1973	26938
Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977 - The	R 32/1976
Transport Workers (General) Award No. 10 of 1961	22555
Transport Workers' (Passenger Vehicles) Award	R 47/1978
Vehicle Builders' Award 1971	26177
Wine Industry (WA) Award 2005	31/1969