

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Application No. CICS 11 OF 2022

**COMMISSION'S OWN MOTION PURSUANT TO SECTION 37D TO VARY THE
*BUILDING TRADES (CONSTRUCTION) AWARD 1987***

NOTICE is given by the Commission's Own Motion pursuant to section 37D of the *Industrial Relations Act 1979* (WA) of the Commission's intention to vary the scope of the *Building Trades (Construction) Award 1987*.

The proposed variations are published in the annexed table.

A copy of the application and proposed variations may be inspected at my office by appointment at 111 St Georges Terrace, Perth.

A hearing for the purpose of affording interested persons an opportunity to be heard in relation to the proposed variations will be held at the Commission, Level 18, 111 St Georges Terrace Perth on 10 December 2024 at 10:30am

Any person who wishes to be heard in relation to the proposed variations should contact Chief Commissioner Kenner's Chambers by email at Chambers-Kenner@waipc.wa.gov.au.

S. BASTIAN
REGISTRAR

29 OCTOBER 2024

BUILDING TRADES (CONSTRUCTION) AWARD 1987

Current Award	Proposed variations
<u>1. - TITLE</u> This award shall be known as the "Building Trades (Construction) Award 1987", and shall replace Award No. 14A of 1975, as amended and the Building Trades (Construction) Award 1977, Nos. 24 of 1976 and 14 of 1975, as amended.	<u>1. – TITLE</u> This award shall be known as the “Building Trades and Labourers (Construction) Award”.
<u>3. - SCOPE</u> This award shall apply: (1) to all employees usually employed on or employed as casual employees on construction work as defined in Clause 7. - Definitions of this award in any of the callings set out in Clause 8. - Rates of Pay of this award and who are employed in the building construction industry; and (2) to all apprentices usually employed on construction work as defined in Clause 7. - Definitions of this award and taken to any of the trades to which this award relates and who are employed in the building construction industry; and (3) without affecting the operation of subclauses (1) and (2) hereof, to all employees including apprentices usually employed on or employed as casual employees on construction work as defined in Clause 7. - Definitions of this award in any of the callings (except each and every builders' labourers classification) set out in Clause 8. - Rates of Pay of this award, who are employed in	<u>3. – SCOPE</u> (1) This award applies to employees working in the “on-site building and construction industry” (as defined) in any classification mentioned in this award and to all employers employing those employees. (2) This award also applies to: (a) Employers that supply labour on an on-hire basis to host employers in the on-site building and construction industry in respect of on-hire employees employed in any classification mentioned in this award, and those on-hire employees, while engaged in the performance of work covered by this award; (b) Employers that provide group training services for apprentices and/or trainees in the on-site building and construction industry in respect of apprentices and/or trainees working in one or more of the classifications mentioned in this award, and those apprentices and

the construction industry (other than the building construction industry) and whose work if it had been performed on the 27th day of November 1989, was not covered by any other award of the Western Australian Industrial Relations Commission; and (4) to all employers employing those employees and/or apprentices; and (5) to all principal contractors and project managers referred to in Clause 30. - Amenities of this award for the purposes only of that clause.	trainees, while engaged by a host employer in the performance of work covered by this award; and (c) Principal contractors and project managers referred to in Clause 30. – Amenities of this award (for the purposes only of that clause). (3) This award does not apply to: (a) Employers and employees who are subject to the national industrial relations system; (b) Employees who are covered by another State award, including the: (i) Australian Workers Union Road Maintenance, Marking and Traffic Management Award 2002; (ii) Building Trades and Labourers (General) Award; (iii) Building Trades (Government) Award 1968; (iv) Foreman (Building Trades) Award 1991; (v) Industrial Spraypainting and Sandblasting Award; (vi) Earth Moving and Construction Award; (vii) Engine Drivers' (General) Award; (viii) Metal Trades (General) Award
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<u>4. - AREA</u> This award shall operate throughout the State of Western Australia	<u>4. – AREA</u> (1) This award has effect throughout Western Australia. (2) This award also has effect with respect to employers who are connected to the State of Western Australia and their employees while performing work covered by this award. Note: For a non-exhaustive list of indicators of when an employer may be connected to the State of Western Australia, see section 3(2) of the Industrial Relations Act 1979 (WA). Indicators include, but are not limited to, whether the employer is: • Domiciled or resident in, or has an office or place of business in, the State; or • Registered, incorporated or established under a law of the State; or • The holder of a licence, lease, tenement, permit, or other authority granted under a law of the State or by a public authority.
<u>7(1)(a)(iv). - DEFINITION</u> (1) Builders' Labouring (a) "Builders' Labourer" means an employee engaged - ...	<u>7(1)(a)(iv). – DEFINITION</u> (1) Builders' Labouring (a) “Builders' Labourer” means an employee engaged – ...

(iv) in general labouring not provided for herein provided that such work had it been performed on 23 September 1997 was not at that date covered by any other award of the Western Australian Industrial Relations Commission.	(iv) in general labouring not provided for herein.
<u>7(1)(3) – DEFINITION</u> (3) "Construction Work" means – (a) all work "on-site" in connection with the erection, repair, renovation, maintenance, ornamentation or demolition of buildings or other structures of any kind whatsoever; or (b) all work which the union and the employer concerned agree is construction work but only if the agreement is approved by the Board of Reference; Or (c) all work which, in default of an agreement as aforesaid, is declared by the Board of Reference to be construction work.	<u>7(1)(3) – DEFINITION</u> (3) the “on-site building and construction industry” means: (a) the construction, alteration, extension, restoration, repair, demolition or dismantling of buildings, structures or works that form, or are to form, part of land, whether or not the buildings, structures or works are permanent, and maintenance undertaken by employees of such buildings, structures or works; (b) the installation in any building, structure or works of fittings and services; (c) other construction work not mentioned in part (a) or (b) of this subclause.
	<u>ADD NEW CLAUSE 7(15) - DEFINITION</u> (15) “On-hire” means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client.

CLASSIFICATION COLUMN 8(2)(a)(i). - RATES OF PAY

- (2) Weekly Rate: The following amounts shall be applied for the purpose of the calculation in subclause (4) of this clause of the hourly rate to apply under this Award.

(a)	(i)	Bricklayers, stoneworkers, stonemasons, carpenters, joiners, painters, signwriters, glaziers, and plasterers roof tile fixers
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CLASSIFICATION COLUMN 8(2)(a)(i). – RATES OF PAY

- (2) Weekly Rate: The following amounts shall be applied for the purpose of the calculation in subclause (4) of this clause of the hourly rate to apply under this Award.

(a)	(i)	Bricklayers, stoneworkers, stonemasons, carpenters, joiners, painters, signwriters, glaziers, plasterers roof tile fixers, and concrete tradesperson (Certificate III trade qualified)
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ADD NEW SUBCLAUSE 8(17) RATES OF PAY

- (17) Trainees

The minimum rates of pay and conditions of employment applicable to trainees will be those set out in Schedule D - National Training Wage of the Building and Construction General On-site Award 2020 as amended from time to time. Provided that any reference to “this award” in Schedule D to the

	Building and Construction General On-site Award 2020 is to be read as referring to the Building Trades and Labourers (Construction) Award. Note: The Building and Construction General On-site Award 2020 is a modern award that applies to employers and employees in the national industrial relations system. The rates of pay for trainees are usually adjusted from 1 July each year.
<u>45. - PROHIBITION OF JUNIOR EMPLOYEES</u> (1) Except as provided in subclauses (2)-(9) inclusive hereof, the employment of junior employees (except apprentices) on any work which, if performed by an adult employee, would be subject to the provisions of this award is prohibited unless the consent of the union is in each case first obtained. If any junior employee (except an apprentice) is so employed such employee shall be paid not less than the rate of pay of an adult performing similar work. (2) A junior employee employed on work for which an apprenticeship is provided for in this award and who is not registered as a probationer pursuant to regulation 6 of the Industrial Training Act Regulations, shall be paid not less than the wage prescribed in Clause 8 of this award for an adult employee performing similar work. (3) Junior employees may be employed as roof tile fixers in the proportion of 2 juniors to 1 adult employee. (4) (a) A junior employee employed as a roof tile fixer shall, upon attaining the age of 20 years, be classed as an	<u>DELETE CLAUSE 45.</u>

improver and be paid as such, provided that the time worked prior to his 20th birthday shall be counted as time worked as an improver.

- (b) Notwithstanding subclause (a) hereof, after 3 years service a junior employee may request a trade test and if he passes shall receive full adult rates.

- (5) An employee commencing in the industry after his 20th birthday shall be classed as an improver and shall be paid as provided in subclause (7) hereof, provided that after 2 years service an improver may request a trade test and if he passes shall receive full adult rates.

- (6) (a) The ordinary rates of pay to be paid to junior employees shall be in accordance with the percentages set out below applied to the sum of the tradesperson's weekly rate set out in Clause 8(2)(a) and the appropriate special allowance prescribed in 8(5).

	%
Between 16 and 17 years	42
Between 17 and 18 years	55
Between 18 and 19 years	75
Between 19 and 20 years	88
Over 20 years of age	100

- (b) Industry Allowance

Where a junior employee works in circumstances which would entitle a tradesperson to the industry allowance prescribed in Clause 8(3) the following extra rates,

expressed as a percentage of that industry allowance,
shall be paid.

%

Between 16 and 17 years	40
Between 17 and 18 years	72
Between 18 and 19 years	95
Over 19 years of age	100

- (7) The ordinary rates of pay to be paid to improvers shall be in accordance with the percentages set out below applied to the sum of the tradesperson's weekly rate set out in Clause 8(2)(a) - Rates of Pay and the appropriate special allowance set out in Clause 8(5).

%

First 6 months' service	60
Second 6 months' service	65
Second year of service	75
Third year of service	88
Thereafter	100

- (8) Where an improver works in circumstances which would entitle a tradesperson to the industry allowance prescribed in Clause 8(3) the following extra rates, expressed as a percentage of that industry allowance shall be paid.

%

First 6 months service	40
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Second 6 months service	72	
Second year of service	95	
Third year of service	100	
(9) A tool allowance of one-third of the amount payable to a tradesperson shall be paid to a junior employee or improver in that trade of his first year of service and of two-thirds of that amount in his second year of service and of the same amount as is payable to a tradesperson in the remaining period of his service as a junior employee or improver.		