**WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

Application No. CICS 9 OF 2022

**COMMISSION’S OWN MOTION PURSUANT TO SECTION 37D TO VARY THE *SHOP AND WAREHOUSE (WHOLESALE AND RETAIL ESTABLISHMENTS) STATE AWARD 1977***

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 *Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977*.

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 Friday, 16 August 2024 at 10:30 am.

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@wairc.wa.gov.au](mailto:Chambers-Kenner@wairc.wa.gov.au).

S. BASTIAN

REGISTRAR

24 June 2024

**SHOP AND WAREHOUSE (WHOLESALE AND RETAIL ESTABLISHMENTS) STATE AWARD 1977**

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| **Current Award** | **Proposed Variations** |
| **3. Scope**  3.1 This award applies to all employees employed in any calling or callings mentioned in the industry or industries carried on by the employer respondents named in Clause 37 - Named parties to the award and to all employers employing those employees.  3.2 An employee that works in a pharmacy will be subject to the terms of this award up to the time they become a registered pharmacist. | 3. – SCOPE  3.1 This award applies to employees working in a “general retail establishment” or “wholesale establishment” (as defined in Clause 5 – Definitions) in any classification mentioned in this award and to all employers employing those employees.  3.2 This award also applies to:  (a) employers that supply labour on an on-hire basis to host employers in a “general retail establishment” or “wholesale establishment” 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; and  (b) employers that provide group training services for apprentices and/or trainees in a “general retail establishment” or “wholesale establishment” in respect of apprentices and/or trainees working in one or more of the classifications mentioned in this award, and those apprentices and trainees, while engaged by a host employer in the performance of work covered by this award.  3.3 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 award of the Western Australian Industrial Relations Commission, including the:  (i) Clerks' (Wholesale & Retail Establishments) Award No. 38 of 1947;  (ii) Commercial Travellers and Sales Representatives' Award 1978;  (iii) Fast Food Outlets Award 1990;  (iv) Hair and Beauty Industry (WA) Award;  (v) Horticultural (Nursery) Industry Award No. 30 of 1980;  (vi) Licensed Establishments (Retail and Wholesale) Award 1979;  (vii) Meat Industry (State) Award, 2003;  (viii) Motor Vehicle (Service Station, Sales Establishments, Rust Prevention and Paint Protection), Industry Award No. 29 of 1980;  (ix) Restaurant, Tearoom and Catering Workers’ Award;  (x) Retail Pharmacists’ Award 2004;  (xi) Transport Workers (General) Award No. 10 of 1961; or  (xii) Wine Industry (WA) Award 2005. |
| **4. Area**  This award has effect over the State of Western Australia. | 4. – AREA  This award has effect throughout the State of Western Australia.  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 1: 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. Indicators include, but are not limited to, whether the employer is:   * domiciled or resident in, or has an office or a 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. |
| **5. Definitions**  **Adult** means an employee 21 years of age and over, or an employee who is receiving the prescribed adult rate of pay.  **Canvasser** means a Level 1 employee who collects or requests orders by retail for goods in places other than the employer's establishment, but does not include motor vehicle salespersons.  **Casual employee** means a person employed by the hour.  **Commission** means the Western Australian Industrial Relations Commission.  **General Retail Shop** means a General Retail Shop as defined in Part III of the *Retail Trading Hours Act 1987*.  Note: Under the *Retail Trading Hours Act*, a shop that is not Small Retail Shop or a Special Retail Shop will automatically be considered a General Retail Shop.  **Member of the employee’s family or household** means any of the following persons —  (a) the employee’s spouse or de facto partner;  (b) a child, step-child or grandchild of the employee (including an adult child, step-child or grandchild);  (c) a parent, step-parent or grandparent of the employee;  (d) a sibling of the employee;  (e) any other person who, at or immediately before the relevant time for assessing the employee’s eligibility to take leave, lived with the employee as a member of the employee’s household;  **Non-working day** means a day of the week a full time or part time employee is not rostered to work ordinary hours.  **Ordinary time earnings** means the total earnings in respect of ordinary hours of work, including where applicable, penalty rates, in charge rates, shift loadings, over-award payments, casual loading and all-purpose allowances for work performed, but excluding any payment for overtime worked.  **Rostered day off** means an accrued day off for a full time employee. This is usually achieved by the employee working more than 7.6 hours per day over the roster cycle, enabling them to accrue a paid day off.  **Small Retail Shop** means a Small Retail Shop as defined in Part III of the *Retail Trading Hours Act 1987*.  Note: To be considered a Small Retail Shop for the purposes of the *Retail Trading Hours Act* a business must meet the conditions outlined in that Act and be issued with a certificate from the department administering the Act that indicates the business is a Small Retail Shop.  **Special Retail Shop** means a Special Retail Shop as defined in Part III of the *Retail Trading Hours Act 1987*.  Note: To be considered a Special Retail Shop for the purposes of the *Retail Trading Hours Act* a business must meet the conditions outlined in that Act and be issued with a certificate from the department administering the Act that indicates the business is a Special Retail Shop.  **Standard hourly rate** means the minimum hourly rate of pay for a full time or part time Level 1 Employee as set out in Clause 24 - Wages and Schedule B – Summary of hourly rates of pay of this award.  **Standard meal allowance** means an allowance that is equal to the amount prescribed for meals under Clause 19.2(b)(i) of theGeneral Retail Industry Award 2020.  Note: The General Retail Industry Award 2020 is a modern award that applies to employers and employees in the national industrial relations system. The meal allowance contained in Clause 19.2(b)(i) of the General Retail Industry Award is usually adjusted from 1 July each year.  **Standard motor vehicle allowance** means an allowance that is equal to the amount prescribed in Clause 19.7 of the General Retail Industry Award 2020.  Note: The General Retail Industry Award 2020 is a modern award that applies to employers and employees in the national industrial relations system. The motor vehicle allowance payable under Clause 19.7 of the General Retail Industry Award is usually adjusted from 1 July each year.  **Standard weekly rate** means the minimum weekly rate of pay for a full time or part time Level 1 Employee as set out in Clause 24 – Wages and Schedule B – Summary of hourly rates of pay of this award.  **Wholesale establishment** means any warehouse or place where goods are exclusively or principally sold for re-sale and/or where goods are sold for consumption and/or use in another business. | 5. – DEFINITIONS  *Insert a new definition after the definition of ‘Commission’ as follows:*  **General retail establishment** means any place where the sale or hire of goods or services to final consumers for personal, household or business consumption is carried out, including, but not limited to:  (a) clothing; and  (b) food; and  (c) furniture and household goods; and  (d) personal and recreational goods; and  (e) bakery shops where baked products are sold on the premises; and  (f) community pharmacies;  and includes:   * customer information and assistance provided by shopping centres or retail complexes;   but does not include:   * hair and beauty establishments; * stand-alone butcher shops; * motor vehicle retailing (new or second hand vehicles); * motor vehicle service stations; or * restaurants, cafes, hotels, motels or fast food operations. |