

CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 13 OF 1972

ANNUAL LEAVE

Cabinet has decided that the principle set out by the Commonwealth Conciliation and Arbitration Commission last June in which it was stated that shift and weekend penalties should be paid on annual leave shall be extended to salaried and wages employees of the State.

Most awards issued by the Industrial Commission of this State contain a standard subclause in the annual leave clause which refers to "ordinary wages". This subclause has been amended in the form set out below to reflect the intention of Cabinet, and is to be applied by administrative action until the various awards and agreements have been amended by the Industrial Commission.

The principle has already been applied to Workers Compensation and Sick Leave see Circulars 4, 5 and 8 of 1972.

The new provision is to be applied to annual leave which has accrued on or since November 1, 1972, to pro rata annual leave paid on or since that date and to leave which has accrued on or since that date but which is paid on termination.

Some awards allow annual leave to be taken before it accrues. In these cases, leave taken prior to November 1, 1972, but which will accrue on or after that date should include the penalties.

In those cases where leave has been taken or pro rata payment made and which are subject to the principle, an adjustment should be made to the wages of the employees as soon as possible.

Some awards do not contain the standard subclause but in most cases the principle can be applied without difficulty, however, if there are problems they should be referred to this Branch for direction.

Workers under some awards are already receiving the benefit of the principle where penalties have be commuted on an annual basis i.e. Fire Brigades, Police, Prisons and Psychiatric Nurses and no further action is required with respect to the awards covering these workers. It is left to the WA Government Railways, the State Electricity Commission, the Metropolitan

Transport Trust and the Fremantle Port Authority to discuss with their respective unions a suitable amendment which will give effect to Cabinet's decision.

SUBCLAUSE

"Ordinary wages" for the purpose of subclause (1) hereof shall mean the rate of wage the worker has received for the greatest proportion of the calendar month prior to his taking the leave and in the case of shift workers shall include the shift and weekend penalties the worker would have received for ordinary time had the worker not proceeded on annual leave.

Where it is not possible to calculate the shift and weekend penalties the worker would have received, then the worker shall be paid at the rate of the average of such payments made by each week over the four weeks prior to taking the leave. Any dispute in respect to the application of this subclause shall be referred to the Board of Reference.

**L E BOYLAN
CHIEF INDUSTRIAL OFFICER
(INDUSTRIAL EMPLOYEES)**

December 13, 1972

Ref: L.234/72 GAJ:WR

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