

Circular to Departments and Authorities No. 29 of 1980 ACCIDENT PAY CLAUSES IN INDUSTRIAL AWARDS

The Western Australian Industrial Arbitration Act, 1979 invalidated "accidental pay" clauses in industrial awards which provided for benefits greater than entitlements under the Workers' Compensation Act.

Prior to the operation of the new Industrial Arbitration Act there were less than twenty Government industrial awards which contained accident pay clauses.

Some clauses had provisions such as payment of the difference between Workers Compensation payments and the employee's ordinary 40 hour weekly award rate of pay or salary.

Other clauses provided for full pay during absence as a result of injury on the job or payment of the full shift rate of pay.

The Workers' Compensation Act provides that absence shall be paid at the award rate but excluded overtime and "any bonus or incentive (except overaward payment) shift allowance, weekend or public holiday penalty allowance, district allowance, industry allowance, meal allowance, living allowance, clothing allowance, travelling allowance, or other allowance"

The ordinary 40 hour weekly award rate of pay of some employees includes certain of the above allowances for example district allowance, industry allowance of shift allowance thus exceeding the maximum payments allowable under the Workers' Compensation Act.

The purpose of the relevant provisions in the Industrial Arbitration Act 1979 was to invalidate award clauses which provided for payment for absence due to injury on the job in excess of the maximum allowable under the Workers' Compensation Act.

Would you please bring this information to the attention of the officers responsible for processing workers' compensation claims.

Any queries should be directed to this office.

K McKenna
CHAIRMAN

October 23, 1980

Ref: HI

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[Return to top](#)