

**DISPUTE RE PUBLIC HOLIDAY ENTITLEMENTS FOR PART TIME EMPLOYEES**

**WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**PARTIES** HEALTH SERVICES UNION OF WESTERN AUSTRALIA (UNION OF WORKERS) **APPLICANT**

**-v-**

THE DIRECTOR GENERAL OF HEALTH IN RIGHT OF THE MINISTER FOR HEALTH AS HEALTH CORPORATE NETWORK **RESPONDENT**

**CORAM** PUBLIC SERVICE ARBITRATOR  
COMMISSIONER P E SCOTT

**DATE** WEDNESDAY, 3 SEPTEMBER 2009

**FILE NO** PSAC 17 OF 2008

**CITATION NO.** 2009 WAIRC 00635

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**Result** Order issued

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*Order*

WHEREAS this is an application pursuant to Section 44 of the *Industrial Relations Act 1979*; and

WHEREAS the Public Service Arbitrator (the Arbitrator) convened a conference for the purpose of conciliation on the 6<sup>th</sup> day of August 2008; and

WHEREAS on the 7<sup>th</sup> day of August 2008, the Arbitrator issued a Direction; and

WHEREAS further conferences were convened by the Arbitrator on the 12<sup>th</sup> day of January 2009, the 27<sup>th</sup> day of January 2009, the 26<sup>th</sup> day of February 2009 and the 6<sup>th</sup> day of August for the purpose of conciliating between the parties; and

WHEREAS at the conclusion of the last mentioned conference the parties had reached agreement on the disputed matters; and

WHEREAS the parties agreed that an order should be issued by the Arbitrator reflecting that agreement;

NOW THEREFORE, the Public Service Arbitrator, pursuant to the powers conferred on it under the *Industrial Relations Act 1979*, and by consent, hereby orders that:

In order to fairly satisfy the provisions of the Health Services Union – WA Health State Industrial Agreement 2008 clause 36(3)(b) - Public Holidays, the following arrangements shall apply to the determination of entitlements to public holidays for employees on rotating rosters from April 2006 to August 2008 inclusive:

## 1. Full Time Employees

- (i) Those employees who are subject to a contract of employment which specifies they work only on specific days of the week and who do not usually work on the day of the week the public holiday has fallen on shall be subject to the provisions of the Health Services Union – WA Health State Industrial Agreement 2008 subclause 14.9(d) - Personal leave, annual leave and public holidays, which provides:

*14.9(d) For the purpose of public holidays a day shall be credited at the standard hours, or rostered ordinary hours, whichever is greater and treated as a work day for the purpose of accumulating rostered days off.*

- (ii) For those employees who are working fixed duration shifts an ordinary working day is the number of hours in their usual shift. This is clearly reflected in the Health Services Union – WA Health State Industrial Agreement 2008 subclause 14.9(d) - Personal leave, annual leave and public holidays, which provides:

*14.9(d) For the purpose of public holidays a day shall be credited at the standard hours, or rostered ordinary hours, whichever is greater and treated as a work day for the purpose of accumulating rostered days off.*

- (iii) For full time employees who are working shifts of variable length, in either a rotating or fixed roster pattern, the number of hours credited for a public holiday shall be 7.6 hours.

## 2. Part-time Employees

- (i) Part-time employees who are subject to a contract of employment which specifies they work only on specific days of the week and who do not usually work on the day of the week the public holiday has fallen on shall not have an entitlement to be compensated for the particular public holiday.
- (ii) For all other part-time employees, the principles associated with part-time employment take effect as per the Health Services Union – WA Health State Industrial Agreement 2008 clause 12. – PART-TIME EMPLOYMENT; which provides for part-time employees to be compensated for public holidays on a pro-rata basis in accordance with subclause 12.3 which provides:

*12.3 Part-time employees shall be entitled to the same leave, penalties and other conditions as prescribed in this Agreement for full time employees, with payment being in the proportion to which the employee's weekly hours relate to the weekly hours of an employee engaged full time in that class of work.*

**3. Date of Effect and Implementation**

This order shall take effect from the date of issue, however the parties are agreed that individual employees may seek compensation in retrospect, for public holidays occurring since 1 April 2006 and the employer shall implement the entitlement on a case by case basis.

COMMISSIONER P E SCOTT  
PUBLIC SERVICE ARBITRATOR