

Understanding Individual Contracts of Employment

An exploratory study of how
25 workplace agreements
compare with
relevant award entitlements

for the
TRADES AND LABOR COUNCIL OF
WESTERN AUSTRALIA

BY
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Introduction

In January 1996 the Australian Centre for Industrial Relations Research and Teaching (ACIRRT) at the University of Sydney was commissioned to study how individual contracts for former award employees in Western Australian compared with award entitlements. The project was funded by the Trades and Labor Council of Western Australia.

Research of this nature is difficult to undertake. As one recent researcher of the subject has noted, there is 'relatively little empirical information on individual contracts.'¹ This analysis drawing on data collected from 25 agreements is a contribution to rectifying this problem. The fact that agreements struck under the West Australian legislation are not available for public scrutiny, unlike most other Australian jurisdictions, has limited the size of the sample in the analysis. Because of this, the study is best regarded as exploratory. It is not possible to conclude how representative the agreements studied are of the population of current workplace agreements.

Background and data limitations

This analysis is based on a comparison of how 25 individual contracts, known as workplace agreements, compare with the awards that previously covered the employees now working pursuant to these contracts. The contracts come from four industries (Retail, Hospitality, Construction and Cleaning) covered by the following awards:

- The Shop and Warehouse (Wholesale and Retail Establishments) Award of 1976,
- Restaurant, Tearoom and Catering Workers' Award, 1979,
- Building Trades (Construction) Award 1987, and

¹ Jonathan Hamberger, *Individual Contracts: Beyond Enterprise Bargaining?*, Australian Centre for Industrial Relations Research and Teaching Working Paper No 39, December 1995 p 46

- Contract Cleaners Award, 1986.

A number of workplace agreements from other industries were also examined, but the number available was too small to permit a useful comparison with the appropriate awards. Even in those industries where analysis has been conducted, the number of agreements surveyed cautions us against drawing any final judgements on the impact of the agreements. Rather, the study should be seen as identifying *prima facie* trends and outlining areas where award entitlements may, in the future, be likely to change.

The study reports on how provisions in individual contracts differ from award standards. It is important to note that the analysis does not simply compare wage rates. While base rates of pay have been examined, equal attention has been devoted to supplementary and incidental payments. There are a number of reasons for this approach. Some agreements seem, on a superficial analysis, to offer levels of remuneration surpassing those in the award. An example from one agreement falling into the Shop and Warehouse Award area (see Table 1) sets a base rate of \$10.97 per hour for most permanent staff. This represents an increase of 4% on the Monday to Friday, 7.00 am to 6.00 pm, award rate (which is \$10.55). However, if any shift work outside these hours was worked, the award rate becomes higher as there is no provision for the payment of any allowance or shift penalty in this agreement. Weekend work is also treated as any other work day. The only loading mentioned for full-time workers in this agreement is a flat 15% overtime payment. As will be shown, analogous results can be found in all of the industries covered by the study. While a small rise is detectable in some agreements, in nearly all, penalty rates, loadings, and allowances have been diminished and there is a discernible inclination towards lengthening working hours and treating public holidays and Saturday and Sunday as normal work days. Attention to these sorts of payments is particularly important in the industries examined. In the building, cleaning, retail and restaurant either allowances or penalty rates have been a significant component of total remuneration due to the patterns of hours worked.

Methodology

All agreements were examined by experienced industrial relations researchers in terms of the entitlements they offered in the area of:

- Hours of Work & Minimum Engagement,
- Wage Rates & Casual Loadings,
- Shiftwork & Shift Loadings,
- Overtime & Saturday and Sunday work,
- Allowances paid,
- Sick Leave,
- Annual Leave & Leave Loading,
- Bereavement Leave,
- Provision of Breaks,
- Consultation Arrangements,
- Mechanisms for Wage Rises, and
- Alternative Remuneration Schemes.

The details of the research findings are provided in the Attachments (Tables 1 - 4). In comparing agreement provisions with those in awards the following types of information have been provided on each provision:

- the number of agreements silent on the issue (see column 2 in each table),
- the range of entitlements included in agreements to provide an indication of the most generous and least favourable entitlements offered to employees across the agreements sampled (see column 3 in each table),
- a summary of the most common provision in the majority of agreements on the particular issue (see column 5 in each table), and
- an overall assessment of what the agreements offer when compared with the provisions of the relevant award on the issue. (see column 6 in each table).

Some of the agreements provided by the WA TLC had not been signed by employees or had the name of the employee blacked out. Where there was evidence provided to ACIRRT that the agreements examined had not been signed because they had been rejected by employees, the agreements were not included in the sample studied. Similarly, in those cases where the agreements were not signed, and sections of standard form agreements covering wages and hours had never been filled in, the agreements were culled from the sample.

A commentary on the nature of individual contracts and how they effectively change award entitlements in the four industries studied follows.

The Shop and Warehouse Award - Major changes (Table One)

Of the ten agreements studied, while all differed to some extent, there were a number of common trends. While the award recognises a *38 hour week*, half the agreements examined had moved to implement a 40 hour week. The award also specifies that there must be a *minimum period of engagement* for casuals of three hours (in most circumstances). Only one agreement specified a minimum period of engagement.

In terms of *wage rates*, six of the agreements listed only one rate. This may be because the agreements, by their nature, are designed to cover the conditions of one employee. The format of most agreements, however, discloses that a standard form document has probably been used. Only two agreements displayed a rate for permanent staff marginally higher than that offered by the award (\$10.62 & \$10.97 as opposed to the award \$ 10.55) and one offers a casual rate 4 cents higher than the award rate, inclusive of a 20 % casual loading. Pay rates have then, on face value, declined from the award minimum under the majority of agreements sampled.

Shift loadings do not appear in nine of the ten agreements studied. The 8 hr maximum shift length contained in the award is not retained in any agreements and four of the agreements have introduced a maximum shift of 12 hours duration. Only one

agreement retains the award concept of a minimum interval between the working of consecutive shifts. In relation to overtime, half of the agreements do not discuss any overtime and those that do discuss overtime rates vary between a loading of 15% to 35%. Saturdays and Sundays are treated as normal working days in seven of the ten agreements.

There has been a noticeable shift away from recognising *allowances*. Only one of the agreements makes any provision for their payment. This agreement contains a flat 5 % in-charge payment. Three agreements are silent on *sick leave* and *annual leave* entitlements. Half the agreements do not specify that annual leave is cumulative. *Annual leave loading* has been abolished as a separate entitlement.

Regarding *public holidays*, two of the agreements do not contain any reference and three pay a higher rate on these days if employees are required at work (of \$17.00, \$18.86, and in one case an additional \$5.00 for each hour worked on these days). No agreement provides the double time and a half loading contained in the award. There has also been a significant erosion of award entitlements to *breaks* with four agreements remaining silent on unpaid rest breaks and three only offering a thirty minute break after six hours of work. The award entitlement to paid tea breaks has been dropped in all but two of the agreements examined.

The award entitlement to *consultation* on the introduction of change does not appear in any agreements. The three agreements that consider any wage adjustment all leave the decision in the hands of the employer. The removal of the range of classifications and relevant *job descriptions* covered by the award in the agreements also raises the obvious possibility of de-skilling.

The limitation on the use of *casuals* in the award for shops employing 13 or more employees has disappeared from all agreements studied. The agreements studied contained a variety of approaches to settling disputes. Half of the agreements obliged the parties to share the costs of the process while one specified that the loser will pay. Some agreements contained a provision for the employer to pay if they were found to

be significantly at fault. This represents a disincentive for employees to pursue a grievance through the mechanism in the agreement. There has been some innovation in who appoints the arbitrator in the case of a dispute. Half nominate the Industrial Relations Commission, two nominate the Institute of Private Arbitrators, two the West Australian Law Society and one refers to the WA Chamber of Commerce and Industry as the body to perform this function.

Restaurant, Tearoom and Catering Workers' Award - Major changes (Table Two)

Eight agreements covering workers formerly employed under this award were examined. Arguably the most striking feature of these agreements is the shift away from the 76 hour fortnight contained in the award. Five agreements specify that employees are expected to work 40 hours or more a week with three requiring weekly hours above 42 (the maximum being a 50 hour week in one agreement). Six of the agreements were totally silent on a *minimum period of engagement* for casuals. The minimum adult rate in the award converts to an hourly amount of \$9.27 for full time employees working ordinary hours, or \$11.62 per hour for casuals. Half of the agreements provide for employees working on a casual basis at rates of \$8.95, \$10.00, \$12.00 to a maximum of \$13.50 per hour. Considerable variation is also present in the other agreements. The only two agreements retaining any *shift work loadings* or *overtime* provisions have hourly rates of \$8.88 per hour (for a non-casual employee) and \$8.95 (for a casual in the other agreement). It is clear that rates offered in agreements are at best comparable to or at worst lower than the award. Penalty rates were only mentioned in two agreements. In one agreement an extra \$1.00 is to be paid for hours worked midnight to 7.00 am and \$2.00 on public holidays, and in the other, a rate of 30 % for work 6.00 pm to 6.00 am. This is perhaps the most generous provision offered in any agreement studied but the base rate here is still only \$8.88 per hour.

No agreements have kept the broken shift allowance, the minimum interval between shifts entitlement or recognise *weekend work* as attracting any special payments as per the award. All types of *allowance* have been abolished in 6 of the 8 agreements examined. One agreement providing a flat \$1.00 per hour in charge allowance (a significant diminution of the award allowance) and another providing a \$50.00 rental and location allowance for a worker (who seems to have come from overseas) conditional upon the rental accommodation being approved by the employer.

Annual leave and *sick leave* entitlements are not mentioned in half the agreements. Four agreements suggest or directly state that annual leave is not cumulative. All agreements that mention sick leave express it as a flat entitlement to either ten days or eighty hours a year. No agreement mentions the payment of an *annual leave loading*. One agreement appears to offer an extra day's *bereavement leave* above that specified in the award.

One agreement remains silent on entitlements relating to work performed on *public holidays*. One pays an additional dollar per hour (mentioned already) and the most generous of the agreements pays hourly rates of between \$16.50 and \$19.75, except that this agreement only recognises three public holidays each year. Most agreements state that they recognise public holidays but then specify that employees will be paid normal rates if required to work on those days.

The award provides a minimum unpaid *break* of 30 minutes after 6 hours work but only one mentions any such entitlement. The situation is similar on the requirement for *consultation* where all but two are silent on the need for the employer to consult employees on significant changes. Only one agreement mentions *wage adjustment* during the life of the agreement and this is to be at the employer's discretion.

award entitlements to *change and rest rooms*, as well as the provision of *first aid kits* in the workplace, are absent from any agreement. Six of the Agreements note that *dispute resolution* is to normally be paid for equally between employer and employee. One agreement nominates the WA Chamber of Commerce as the body to appoint an

arbitrator while another specifies the General Manager of the Company to nominate the arbitrator.

Building Trades (Construction) Award - Major changes (Table Three)

Five agreements from employees formerly covered by the Building Trades Award were studied. One appears to be a standard form contract issued by the Housing Industries Association. Three agreements moved from a 38 hour week but of these, only one specifies any maximum *weekly hours* (forty). The concept of minimum period of engagement or payment for casuals is not mentioned in any of the agreements. Wage rates vary considerably between agreements. While the award contains a number of adult wage rates, varying from \$11.58 to \$12.81 for permanent employees, agreements vary between \$12.60 and \$16.25. The lower rate shown here is separate from the casual rate paid under that agreement so it could conceivably be higher than that afforded to a worker under the award. On the whole, the amounts should be seen as equivalent to or lower than the award when changes to penalties and allowances are taken into account.

Shiftwork is not specifically discussed in any of the agreements. Two agreements specify a span of hours to be worked, one of these also sets a maximum of 12 hours to be worked in any one day. Two agreements do not mention any *overtime*, one lists a flat rate of 20% for all hours worked over 38, another sets a 15% payment for all work over 40 hours and one partially follows the award prescription, except that weekends are treated as normal work days. None of the agreements treat *weekend work* as attracting any special payments.

The award lists a series of *allowances* and supplementary payments. Three of the agreements do not list any of these allowances or make any provision to pay workers during periods of inclement weather. Although two agreements mention inclement weather payments and some allowances, the penalty rates shown represent a significant reduction from normal award entitlements, although the loaded base rates partially

compensate for the removal of allowances. The award provides for all workers (except plumbers) located on sites within a radius of 50 km of the Perth GPO to be paid an amount greater than \$10.50 every day as travel allowance. These payments are not mentioned in any of the agreements.

Two agreements do not mention *sick leave*. Where it is mentioned, it is not stated as being cumulative as per the award. Two of the Agreements allow some *annual leave* to be paid out rather than taken. *Leave loading* has been abolished in all of the agreements studied. *Bereavement leave* remains largely as per the award except that two agreements are silent on the matter. Each agreement takes a different approach to *public holidays* but none specify a separate rate of pay if employees are required to work on those days.

Three agreements are silent on the provision of any *breaks*, paid or otherwise. Two agreements follow the award but no agreements allow for the paid crib breaks which the award recognises as existing during overtime. Only one agreement recognises the need for any consultation with employees on the *introduction of change*. Two agreements provide for the possibility of some *wage adjustment* during the life of the agreement with no guarantee of any rise being delivered.

A number of important award clauses dealing with *health and safety* representatives, *first aid* equipment and *amenities* for employees do not appear in any of the agreements. *Accident pay* has similarly been removed from employment conditions in agreements. One agreement introduces its own alternative to the recognised *apprenticeship* system. Again there has been some variation with the handling of *disputes resolution*. The agreed arbitrator varies between the Industrial Relations Commission, a Justice of the Peace, a Post Master or in another, the site maintenance manager.

Contract Cleaners Award - Major changes

(Table Four)

Only two agreements covering workers formerly falling under the Contract Cleaners Award were available for scrutiny. Both agreements are designed to cater for casual employment only and neither specifies any *minimum period of engagement*. Only one has a *cycle of hours* (which is set at 38 per week, Monday to Sunday). The casual rate for cleaners under the award is either \$12.02 or \$12.29. The agreements list base rates as being a flat \$11.80 in one, and a variable amount ranging from \$11.10 for Monday to Friday, 4.00 am to 10.00 pm to \$16.65 for Sunday work. The normal hourly rates in both agreements are lower than the award.

No *allowances* are mentioned in the agreements and the one agreement that does cater for *overtime* and *shiftwork* displays rates lower than those provided under the award. There is no broken shift allowance and no minimum overtime payment in either agreement. *Annual leave* and *Sick Leave* are not discussed in either agreement except for the provision in one that employees notify the employer 3 hours prior to the commencement time of their inability to start. Bereavement leave is as per the award.

One agreement extends to six hours the time needed to be worked before a *break* is to be taken and the other does not mention breaks. *Public Holidays* are not mentioned in either agreement, *Consultation* is not required and there is no mechanism for *pay rises*.

Conclusion

As noted in the introduction, data on individual contracts involving workers previously covered by awards is scarce because of the difficulty in accessing registered contracts in this jurisdiction. On the basis of the analysis of 25 agreements provided, the following points should be noted.

First, when considering how individual contracts compare with awards it is important to consider more than just the wage rates contained under both forms of employment regulation. A superficial comparison of wage rates tends to indicate that wages in individual contracts are the same as, or sometimes even slightly higher, than base rates contained in awards. This does not mean, however, that workers employed on the

basis of individual contracts are necessarily better off in terms of pay. awards are comprehensive documents that provide a wide range of entitlements and protections for employees. Individual employment contracts either left out of or significantly reduced most additional entitlements.

Second, the most profound difference between individual contracts studied and the relevant award provisions concern the approaches to regulating the working times of employees. Many contracts do not reward work done on weekends, at night or on public holidays any differently to work performed during daylight hours Monday to Friday. In addition, where individual contracts contain penalty rates for working 'non-standard' hours, such penalties are usually paid at a single rate which is lower than that contained in the relevant award. Some people may argue that such arrangements reflect the informed agreement of the parties to mutually beneficial 'flexibility'. Most of the agreements studied, however, came from the retail, hospitality and contract cleaning industries. These are industries where wages are already relatively low and in which workers traditionally have had little or no bargaining power given the high levels of unemployment and the unskilled nature of the work. In such circumstances the flexibility is likely to result in a better matching of labour requirements to the needs of employers and not necessarily a better matching of the work and family responsibilities of employees.

Third, the dispute settling procedures in agreements appear to mark a sharp break with current arrangements. Australia has a unique set of industrial tribunals and award enforcement agencies to ensure fair rates of pay and the inexpensive enforcement of entitlement standards. The dispute settling procedures contained in many of the agreements studied would discourage the formal pursuit of grievances as, if accessed by employees, it could result in significant financial cost.

Fourth, and most importantly, the very fact that many individual contracts in industries are so similar indicates that 'pattern bargaining' and 'comparative wage justice' are not simply products of awards and unions. Employers themselves appear to have a strong sense of what they feel should be the employment conditions and the forms of

'flexibility' they desire. On the basis of the individual contracts studied, it appears that deregulation may simply result in reduced accountability in the settlement of wages and working conditions and not the development of dynamic, innovative agreements that meet the peculiar needs of the individual parties involved.

The issues identified in this study require further analysis. This project has been hampered by the lack of access to a larger number of individual contracts. Its findings are, however, consistent with studies of the effects of 'deregulated' labour markets in the US and the UK.² If our understanding of the important issues at stake is to improve, it is vital that independent researchers have access to information allowing more systematic study of the how employment conditions are changing in Australia as a result of individual contracts of employment.

² For details on the major problems besetting the US labour market, see L. Michels and J. Burnstein, *The State of Working America 1994-1995*, ME Sharpe, New York, 1994. For the UK see R. Dickens, et al 'Wage Councils: Was there a Case for their Abolition?', *British Journal of Industrial Relations*, Vol 13 No 4, December 1993 pp 515 - 529.

TABLE ONE
Sample of 10 WVA Workplace Agreements - Shop and Warehouse Award

Entitlements	Provisions of Shop and Warehouse Award No.12 of 1976	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Hours of Work & Minimum Engagement	<ul style="list-style-type: none"> • Ordinary hrs are 38 per wk for all those covered by the Award (although cl. 8 permits averaging of hrs over 2, 3 or 4 consecutive wks). • The min engagement for casuals is usually 3 hrs (cl. 7). 	<ul style="list-style-type: none"> • 1 agreement is silent on hours of work. • 9 agreements remain silent on the min engagement for casuals. 	<ul style="list-style-type: none"> • The min is a 38 hr wk (which appears in 3 agreements) - the max is the 40 hr wk. • Only 1 agreement specifies a minimum engagement (of 2 hr per shift). 	<ul style="list-style-type: none"> • 5 agreements provide for a 40 hr wk, which, in all cases, is expressed as being averaged over a cycle. 	<ul style="list-style-type: none"> • There is a clear shift towards the 40 hr working week (averaged over a cycle). • The concept of a minimum engagement for casuals has been virtually abandoned.
Wage Rates & Casual Loadings	<ul style="list-style-type: none"> • The award specifies a weekly rate for a range of classifications. The lowest adult rate in the award is \$10.55 (per hr) for shop and sales assistants, for work performed Mon to Fri (cl. 28). Casual loadings are 20% for a full days work or 25% otherwise (cl. 7). 	<ul style="list-style-type: none"> • 6 Agreements do not specifically include a higher rate for casuals or a casual loading. 	<ul style="list-style-type: none"> • The rates are normally expressed as hourly, from a min of \$4.50 for a 16 year old shop assistant in one agreement, to a max (in another agreement) of \$10.97 for an adult in the same occupation. 	<ul style="list-style-type: none"> • 6 agreements display a flat rate for all employees. Amounts differ considerably. 	<ul style="list-style-type: none"> • On face value, 8 agreements display hourly rates lower than the Award rates for permanent staff and 9 display a lower rate for casuals.

Entitlements	Provisions of Shop and Warehouse Award No. 32 of 1976	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Shiftwork	<ul style="list-style-type: none"> There are a number of protections including: shifts may not exceed 8 hrs; a minimum of 10 hrs break between working shifts; rostering within set parameters; and work on no more than 5 days in any wk (cl. 9). 	<ul style="list-style-type: none"> 3 agreements do not mention max shift length. 9 do not specify the need for any break between working shifts. All remain silent on a max number of days per wk to be worked. 	<ul style="list-style-type: none"> The max length of shifts ranges from 10 to 12 hrs duration. Only 1 agreement mentions a break between working shifts (min of 8 hrs). 	<ul style="list-style-type: none"> 4 agreements set a 12 hr maximum shift length. 	<ul style="list-style-type: none"> The 8 hour max shift length no longer applies. Other forms of protections afforded to shift workers are significantly reduced
Shift Loadings	<ul style="list-style-type: none"> Shift loading for afternoon and night shift is 15% (cl. 34), with overtime payable on these shifts at shift rates. Perm night shift attracts a 25% loading (cl. 34). Employees on nightfill duty receive an extra \$1.92 an hour, or \$2.72 an hr on Sat (cl. 7). 	<ul style="list-style-type: none"> 9 agreements remain silent on shift loadings or other forms of shift allowances. 	<ul style="list-style-type: none"> 1 agreement provides shift loading of 17% on work performed on an 11pm to 5am shift. 	<ul style="list-style-type: none"> 9 agreements contain no shift loadings. 	<ul style="list-style-type: none"> Additional payments for shift work have been abandoned in all but 1 agreement.
Overtime & Saturday and Sunday work	<ul style="list-style-type: none"> Overtime is time & a half for the first 2 hrs, double time thereafter. Work after 12pm Sat & Sun is paid at double time (cl. 13). Work aft 6 pm on a day of late night trading attracts an extra \$2.40 an hr (cl. 48). 	<ul style="list-style-type: none"> 5 agreements do not mention overtime provisions (2 of which do express a higher hourly rate for weekend work). 7 treat Sat & Sun as normal work days. 	<ul style="list-style-type: none"> Overtime rates range between 15% and 35% per hr. All agreements paying overtime discuss time off in lieu calculated only as ord time. 3 Agreements have a higher hourly rate for weekend work (max \$17.00 Sun, \$13.67 for Sat - min rate is same as shown in hourly rate section). 	<ul style="list-style-type: none"> 5 agreements have no overtime payments, the mode for these that do is 15% (in 2), OF 3 Agreements paying higher wkend rates, 2 don't distinguish between Sat & Sun). 	<ul style="list-style-type: none"> There is an identifiable trend towards treating weekends as normal work days. Those that do pay higher rates on weekends tend not to pay overtime (66.6%).

Entitlements	Provisions of Shop and Warehouse Award No.32 of 1976	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Allowances	<ul style="list-style-type: none"> • Finightly location allowances range from \$4.50 to \$37.50 (cl. 39). • There is a \$6.00 wkly first aid allowance (cl. 46). • Motor Vehicle allowances are set in cl. 32. • In charge allowance is payable at differing rates, depending on number of subordinates, 3.4 % to 11.2% (cl. 28). • Award provides special allowance for workers required to finish late (cl. 12). 	<ul style="list-style-type: none"> • 9 Agreements remain silent on the payment of any allowance. 	<ul style="list-style-type: none"> • 1 agreement has a 5% flat in charge allowance. 	<ul style="list-style-type: none"> • 9 agreements - no allowances. 	<ul style="list-style-type: none"> • An over-whelming majority of Award allowances have been left out of agreements.
Sick Leave	<ul style="list-style-type: none"> • Sick leave is one sixth of a wk for each completed mth of service (cl. 27). 	<ul style="list-style-type: none"> • 3 agreements do not mention sick leave. 	<ul style="list-style-type: none"> • 1 agreement follows the Award model, 6 provide 10 days per annum. 	<ul style="list-style-type: none"> • The mode is 10 days every year, non-cumulative. 	<ul style="list-style-type: none"> • There is a trend to allow sick leave only where proof of illness is provided (more stringent than the award requirement). • No accumulation of sick leave.
Annual Leave & Leave Loading	<ul style="list-style-type: none"> • Annual leave is 4 consecutive weeks after 12 months continuous service (cl. 15) with leave loading of 17.5%. 	<ul style="list-style-type: none"> • 3 agreements are silent on annual leave. • There is no mention of annual leave loading (except in 1 agreement to specify that it has been abolished). 	<ul style="list-style-type: none"> • Annual leave is expressed as either 160 hrs or 4 wks when it is mentioned. • 2 agreements specify how it is to be taken & 2 allow for it to be paid out rather than taken as leave. 	<ul style="list-style-type: none"> • The mode is as per the Award provisions. • Only five specify cumulative leave. 	<ul style="list-style-type: none"> • Half the agreements do not specify that annual leave is cumulative. • Annual leave loading has been abolished in all the agreements.

Entitlements	Provisions of Shop and Warehouse Award No.32 of 1976	No. of Agreements Silent on Entitlement	Range of Entitlements	Made	Assessment
Bereavement Leave	<ul style="list-style-type: none"> Compassionate leave of two paid days is contained in cl. 38. 	<ul style="list-style-type: none"> 4 agreements are silent on any form of bereavement leave. 	<ul style="list-style-type: none"> Bereavement leave ranges between 2 to 5 days. 	<ul style="list-style-type: none"> 5 Agreements maintain the Award standard. 	<ul style="list-style-type: none"> Only one agreement provides any benefit greater than the Award.
Public Holidays	<ul style="list-style-type: none"> 10 days are specified as being public holidays (cl. 14) paid at double time and a half (clause 13). When falling on a weekend, they are to be observed on another day. Clause 29 specifies Easter Day and Saturday to be paid at 150%. 	<ul style="list-style-type: none"> 2 agreements do not mention public holiday provisions. 7 agreements do not specify any special rate of pay for public holidays. 	<ul style="list-style-type: none"> Agreements vary in dealing with public holidays. Some allow all days off under different conditions (if falling on weekend, normal work day, RDO etc). 3 pay a special rate ranging from a min of \$17.00 in one to a max of \$18.86 in another. 	<ul style="list-style-type: none"> The mode is to recognize public holidays (8 agreements) but not to pay any special rates if an employee is required to work (7 agreements). 	<ul style="list-style-type: none"> The provisions represent a diminution of the rates of pay for public holidays in the Award.
Breaks	<ul style="list-style-type: none"> The Award provides for specific guarantees of meal and rest breaks (45 min to 1 hr) after not less than 2 1/2, and not more than 5 hrs in cl. 11. There is also the entitlement to 2 paid 10 min tea breaks when working more than 8 hours. 	<ul style="list-style-type: none"> 4 agreements do not mention any unpaid rest breaks. 8 agreements do not provide for paid tea breaks. 	<ul style="list-style-type: none"> The range is from a 30 min break after 5 hrs to a 30 min break after 6 hours. Paid ten breaks are similar to the Award provision when mentioned. 	<ul style="list-style-type: none"> 3 agreements give a 30 min unpaid break after 6 hours 	<ul style="list-style-type: none"> Entitlement to rest breaks and tea breaks have been eroded.

Entitlements	Provisions of Shop and Warehouse Award No.32 of 1976	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Consultation	<ul style="list-style-type: none"> There is a requirement to consult with employees on the introduction of change set out in cl. 44. 	<ul style="list-style-type: none"> No agreements mention any need for consultation on workplace issues. 	<ul style="list-style-type: none"> n/a 	<ul style="list-style-type: none"> n/a 	<ul style="list-style-type: none"> There has been a major shift away from employers having to consult or even notify employees of any future workplace changes.
Wage Rises & Alternative Remuneration.	<ul style="list-style-type: none"> The Award system usually provides a number of mechanisms for achieving pay rises. 	<ul style="list-style-type: none"> 7 agreements remain silent on the possibility of any wage rise during the life of the agreement. 	<ul style="list-style-type: none"> 3 agreements provide for the possibility of wage adjustments. 1 agreement gives a 6 mthly payments of \$ 150 contingent upon non-use of sick leave. 1 agreement gives a 5% staff discount 	<ul style="list-style-type: none"> 7 agreements provide no mechanism or chance of achieving a pay rise. 	<ul style="list-style-type: none"> The agreements show little possibility for employees to participate in discussions on their wages or conditions.

TABLE TWO
Sample of 8 WA Workplace Agreements - Restaurant, Tearoom and Catering Workers' Award 1979.

Entitlements	Provisions of Restaurant, Tearoom and Catering Workers' Award, 1979.	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Hours of Work & Minimum Engagement	<ul style="list-style-type: none"> Hours of work are 76 hrs per fortnight, no more than 10 days rostered on in a fortnight period (cl. 8). These provisions may be altered by agreement. No less than 4 and no more than 10 hrs work in any ordinary hrs work period (cl. 8). The min engagement for casuals is 2 hrs (cl. 11). 	<ul style="list-style-type: none"> 1 agreement specifies that hrs will be determined w/ky. 2 are silent apart from one specifying a min number of 3 shifts to be worked. 6 agreements do not mention any min engagement. 	<ul style="list-style-type: none"> The agreements take different approaches. The max is 50 hrs per week (with pass of extra hrs). The min works out to be 40 hrs per wk. 	<ul style="list-style-type: none"> 5 agreements specify at least a 40 hr week. 3 of these specify above 42 hrs per week 	<ul style="list-style-type: none"> There is a move to lengthen w/ky hrs.
Wage Rates & Casual Loadings	<ul style="list-style-type: none"> Wage rates are expressed as fortnightly amounts, conversion to hourly, min is \$9.27 for a kitchenhand, max is \$10.79 for a chef (cl. 21). Casual rates are hourly and for the same classifications are \$11.62 and \$13.57. Holiday rates specified as being \$19.09 and \$22.34 (cl. 11). 	<ul style="list-style-type: none"> No agreement mentions casual loadings. Of the 3 agreements that appear to cater for casual employment, the max rates are (per hr) \$10.50, \$12.00 & \$13.50. 	<ul style="list-style-type: none"> All agreements but 2 specify a flat rate for all classifications. Adult rates vary from \$8.88 min to a max of \$13.50, but this 2nd rate is for a casual employee. 	<ul style="list-style-type: none"> Some of the rates are higher but shiftwork and loadings have been abolished in all but 2 agreements, including the 2 with the highest rates 	<ul style="list-style-type: none"> When allowances are also considered, it appears that all offer similar or lower amounts to those in the Award.

Entitlements	Provisions of Restaurant, Tearroom and Catering Workers' Award, 1979.	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Shiftwork and Shift Loadings.	<ul style="list-style-type: none"> • Work prior to 7:00 am, after 7:00 pm, Mon - Fri, pays extra \$1.05 or \$1.10 per hr (cl. 9). • A broken shift allowance of \$1.74 per day (cl. 9). • At least 8 hrs off between consecutive work periods otherwise dbl time (cl. 10). 	<ul style="list-style-type: none"> • While 3 agreements indicate that employees will have to work shifts. None mention time off or broken shift allowance. 	<ul style="list-style-type: none"> • 1 agreement pays an extra \$1.00 hrly for work between 2400 and 0700. 1 pays 30 % on all work between 6:00 pm and 6:00 am. 	<ul style="list-style-type: none"> • 5 agreements have no provision for extra shift payments (and only the 2 in the prev column even discuss span of hrs). 	<ul style="list-style-type: none"> • Major change away from Award entitlements. 1 agreement offers better entitlement.
Overtime & Saturday and Sunday work	<ul style="list-style-type: none"> • Overtime worked Mon to Fri is time and a half, dbl time after 2 hrs (cl. 10). Provision for time off in lieu at overtime rates (cl. 10). • Sat & Sun are paid at time & a half if ord hrs of work (cl. 9) but dbl time if overtime (cl. 10). • If called back to work, a min of 3 hrs overtime must be paid (cl. 10). 	<ul style="list-style-type: none"> • No agreements provide additional payment of Sat or Sun work while 3 agreements make it clear that employees will be required to work on those days. The other 5 do not preclude weekend work only specifying hrs per wk. 	<ul style="list-style-type: none"> • No overtime in any agreement although note loadings above. 	<ul style="list-style-type: none"> • The mode is to not recognise any overtime payments. 	<ul style="list-style-type: none"> • The rates in the agreement represent a lowering of the Award rate. 1 agreement allows time off in lieu at norm rates.
Allowances	<ul style="list-style-type: none"> • In charge allowance, \$17.60 to \$45.20 per fortnight (cl. 21). There is a bar work (cl. 24) laundry, protect clothing and equip allowances (cl. 26 - 28), prov for higher duties (cl. 25), board, travel facilities and loc allowances (cl. 30 - 31, 42). Meal allowance of \$6.30 is paid after 2 hrs overtime when no notification (cl. 14). 	<ul style="list-style-type: none"> • 6 agreements make no mention of any allowances. 	<ul style="list-style-type: none"> • 1 agreement pays a flat \$1.00 hrly in charge allowance. 1 agreement pays a \$50.00 rental and location allowance when the board is approved by employer 	<ul style="list-style-type: none"> • 6 agreements pay no allowances 	<ul style="list-style-type: none"> • Significant erosion of allowances and incidental benefits offered by the Award in most cases.

Entitlements	Provisions of Restaurant, Tearoom and Catering Workers' Award, 1979.	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Sick Leave	<ul style="list-style-type: none"> Sick leave is 6 and 1/3 hrs per mth - accumulating - a max of 10 wks to be taken in any 1 year (cl. 15). Certificate may be required after 2 days absence (cl. 15) 	<ul style="list-style-type: none"> 4 agreements do not mention sick leave. 	<ul style="list-style-type: none"> 4 agreements offer either 10 days or 10 days or 80 hrs (whichever is lower). 	<ul style="list-style-type: none"> 10 days per year, non-cumulative 	<ul style="list-style-type: none"> Sick leave does not appear to be cumulative. One agreement always requires med certificate.
Annual Leave & Leave Loading	<ul style="list-style-type: none"> Annual leave is 4 wks after 12 mths service, to be taken consecutively, or min 2 wk period, with leave loading of 17.5% (cl. 18). 	<ul style="list-style-type: none"> 4 agreements do not mention annual leave. No agreements list payment of leave loading. 	<ul style="list-style-type: none"> Annual leave is 4 weeks. 1 agreement permits payment in lieu of leave. 3 state that entitlement is 2 days. 1 offers 3 days. 	<ul style="list-style-type: none"> Annual leave, when mentioned, appears to be non-cumulative. 	<ul style="list-style-type: none"> Changes to accrual of entitlement. 1 agreement offers an additional day.
Bereavement Leave	<ul style="list-style-type: none"> Bereavement leave of two paid work periods (cl. 16). 	<ul style="list-style-type: none"> 4 agreements do not mention bereavement leave. 	<ul style="list-style-type: none"> 3 state that entitlement is 2 days. 1 offers 3 days. 	<ul style="list-style-type: none"> As per the Award. 	<ul style="list-style-type: none"> 1 agreement offers an additional day.
Public Holidays	<ul style="list-style-type: none"> 10 days are specified as being public holidays paid at dbl time and a half with min pay of 4 hrs if worked (cl. 17). Employer can also pay time and a half and give day in lieu. 	<ul style="list-style-type: none"> 1 agreement does not mention public holiday provisions. 	<ul style="list-style-type: none"> 1 pays an additional \$2.00 hrly. 1 lists rates of \$16.50 to \$19.75 but only acknowledges 3 holidays. 	<ul style="list-style-type: none"> 5 agreements pay norm rates if worker not required. Otherwise it appears work if rostered (at norm rates). 	<ul style="list-style-type: none"> The mode is to pay at normal rates whether the day is worked or not.
Breaks	<ul style="list-style-type: none"> The Award provides for a break (30 min to 1 hr) after 6 hrs plus another break of min 1 hr taken in conjunction or otherwise (cl. 13). 	<ul style="list-style-type: none"> 7 agreements do not mention breaks. 	<ul style="list-style-type: none"> 1 agreement provides for a 30 min break after 6 hrs. 	<ul style="list-style-type: none"> No entitlement to breaks. 	<ul style="list-style-type: none"> Provision of breaks eroded.

Entitlements	Provisions of Restaurant, Tearoom and Catering Workers' Award, 1979.	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Consultation	<ul style="list-style-type: none"> Required over some roster arrangements (cl. 8). No change in method or frequency of paying wages without 4 wks notice (cl. 20). 	<ul style="list-style-type: none"> 6 agreements do not mention any requirement for consultation. 	<ul style="list-style-type: none"> 2 dictate consultation when there will be a significant effect on workforce. 	<ul style="list-style-type: none"> No need for consultation. 	<ul style="list-style-type: none"> Move away from requirement to consult.
Wage Rises & Alternative Remuneration.	<ul style="list-style-type: none"> The Award system usually provides a number of mechanisms for achieving pay rises. 	<ul style="list-style-type: none"> 7 agreements mention no mechanism for delivering any wage adjustments. 	<ul style="list-style-type: none"> 1 agreement leaves 12 mthly adjustment at employer's discretion. 	<ul style="list-style-type: none"> No wage rises. 	<ul style="list-style-type: none"> 1 agreement allows 2 free meals and a rim flight to Bangkok. Another discusses possibility of an bonus scheme.

TABLE THREE
Sample of 5 WA Workplace Agreements - Building Trades (Construction) Award

Entitlements	Provisions of Building Trades (Construction) Award 1987	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Hours of Work & Minimum Engagement	<ul style="list-style-type: none"> Hours of work are generally 38 hrs per wk over a 4 wk cycle (although cl. 13 permits alternative arrangements if agreed in writing). Casual employees are classified as those who are employed for a period of less than 5 days (cl. 7). The min payment for casuals is as for 3 hrs worked (cl. 8). If not required after presenting for work, cl. 35 specifies at least 8 hrs pay must be provided. 	<ul style="list-style-type: none"> 1 agreement remains totally silent on hours of work while 1 simply stipulates a 5 day working week. 	<ul style="list-style-type: none"> 1 agreement has no max number of weekly hrs, engagement only being on an hourly basis (also stipulating no guarantee of any min period of employment). 1 agreement provides for a 38 hour week avg over agreed cycle (but states that casuals can be terminated at any time without notice). 	<ul style="list-style-type: none"> 2 agreements still retain a 38 hour working week. 	<ul style="list-style-type: none"> 3 agreements have moved away from a 38 hr week but only 1 has replaced this with a set amount of hrs (40 hrs). The idea of a minimum engagement (except where there is a payment for work halting due to inclement weather) no longer appears in any agreement.
Wage Rates & Casual Loadings	<ul style="list-style-type: none"> The Award specifies an hourly rate for a range of classifications. The lowest adult rate in the award is \$11.58 (per hr) for group 3 employees with the highest being \$12.81 for plasterers. Casual loadings are 20% (cl. 8). 	<ul style="list-style-type: none"> 1 agreement provided has rates of pay blacked out. 4 agreements make no specific mention of casual loading or have incorporated it into the hourly rate. 	<ul style="list-style-type: none"> The highest adult rate is \$16.25 hourly (this is an all inclusive rate). The lowest adult rate is \$12.60 (this agreement recognizes some loadings). 	<ul style="list-style-type: none"> The majority appear to reduce wages if Award loadings, penalty rates & allowances are taken into account. 	<ul style="list-style-type: none"> Some appear to offer higher rates than the Award if only the face value is considered.

Entitlements	Provisions of Building Trades (Construction) Award 1987	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Shiftwork	<ul style="list-style-type: none"> There are a number of protections built into the Award, 48 hrs notice is to be given of the requirement to work shifts (cl. 18), apprentices under 18 are not to be required to work OT or shiftwork (cl. 15) and paid breaks are required after 3 days of consecutive 8 hr shifts have been worked (cl. 18). 	<ul style="list-style-type: none"> No agreements specifically mention shiftwork and therefore none of these sorts of entitlements are included. 	<ul style="list-style-type: none"> 2 agreements specify a span of hours, 5.30 am to 7.30 pm, one of which also stipulates a max number of hrs per day (12). 	<ul style="list-style-type: none"> Shift work with no Award protections could (arguably) be initiated under the terms of 3 agreements. 	<ul style="list-style-type: none"> Award protections afforded to shift workers have not been incorporated into the agreements. Note that 2 of the Agreements appear to deal only with junior employees
Shift Loadings	<ul style="list-style-type: none"> Early morning and afternoon shift rates are an additional 25%. Afternoon and night shift are paid an extra 50% (cl. 18). 	<ul style="list-style-type: none"> No separate shift loadings are specified in any agreement. 	<ul style="list-style-type: none"> n/a 	<ul style="list-style-type: none"> No shift loadings 	<ul style="list-style-type: none"> As no span of hours is identified in the majority of agreements, Shift work could possibly be performed and be paid at the base rate they contain.
Overtime & Saturday and Sunday work	<ul style="list-style-type: none"> Overtime is time & a half for the first 2 hrs, double time thereafter (cl. 15). Sat work is paid time & a half for the first 2 hrs, double time thereafter, all overtime after 12 noon is at double time. All Sun work is also paid at double time (cl. 16). 	<ul style="list-style-type: none"> 2 agreements do not list any extra payment for overtime. 	<ul style="list-style-type: none"> 1 agreement specifies a flat 20% rate for all hrs worked over 38. 1 agreement specifies 15 % for work over 40 hrs. 1 partially follows the Award formula, treating weekend work as any other ordinary work day. 	<ul style="list-style-type: none"> The mode is to acknowledge overtime, usually to be paid at a flat rate. 	<ul style="list-style-type: none"> Only 1 agreement provides a condition similar to the Award. No agreements treat weekend work as attracting a special rate.

Entitlements	Provisions of Building Trades (Construction) Award 1987	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Allowances	<ul style="list-style-type: none"> The Award contains a multitude of supplementary payments including industry, tool, location, leading hand, and site allowances. There are also special rates for hot, cold, confined, wet, dirty, underground and height work. There is a mixed functions payment, meal allowance, distant work payments as well as generous fares and travel allowances (eg cls. 8 - 12, 20 & 21). In cases of inclement weather stopping work, employees are still entitled to be paid (within monthly limits) cl. 19. 	<ul style="list-style-type: none"> 3 agreements make no mention of any allowances 3 agreements do not contain provisions covering inclement weather. 	<ul style="list-style-type: none"> 1 agreement pays a \$6.00 per day travel allowance and \$4.00 a day if an employee is using their vehicle for work purposes. Another pays fares and travel to a max of \$50.85 per week. 2 agreements mentioned inclement weather specify a min payment of 2 hrs. 	<ul style="list-style-type: none"> The majority of agreements do not pay any allowances or recognise any inclement weather payment arrangements 	<ul style="list-style-type: none"> Most Award allowances have been left out of the agreements. Sick leave entitlements are not referred to as being cumulative. 1 agreement requires production of a certificate and pays back days not taken at the rate of 50%.
Sick Leave	<ul style="list-style-type: none"> Sick leave is one sixth of a wk for each completed unit of service (cl. 23). 	<ul style="list-style-type: none"> 2 agreements do not mention sick leave. 	<ul style="list-style-type: none"> 2 agreements provides 10 days per year. 1 provides for 76 hrs per year. 	<ul style="list-style-type: none"> When included, the mode is 10 days every year. 	<ul style="list-style-type: none"> 2 agreements allow some leave to be paid out rather than taken Leave loading has been abolished.
Annual Leave & Leave Loading	<ul style="list-style-type: none"> Annual leave is 28 days, to be taken consecutively or in 2 sep periods, accruing after 12 mths service (cl. 22) with leave loading of 17.5%. 	<ul style="list-style-type: none"> 2 agreements are silent on annual leave. There is no mention of annual leave loading. 	<ul style="list-style-type: none"> 1 agreement stipulates 152 hrs. 2 agreements give 4 wks leave. 	<ul style="list-style-type: none"> When discussed, 4 weeks is the normal entitlement. 	<ul style="list-style-type: none"> 2 agreements allow some leave to be paid out rather than taken Leave loading has been abolished.

Entitlements	Provisions of Contract Cleaners Award, 1986	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Sick Leave	<ul style="list-style-type: none"> Sick leave is one sixth of a wk for each completed mth of service - accumulating - a max of 10 wks to be taken in any 1 year (cl. 12). Certificate may be required after 2 days absence (cl. 12) 	<ul style="list-style-type: none"> 2 agreements do not mention sick leave. 	<ul style="list-style-type: none"> n/a. 	<ul style="list-style-type: none"> No sick leave. 	<ul style="list-style-type: none"> 1 agreement specifies that employees must give 3 hrs notice prior to the commencement time of inability to attend.
Annual Leave & Leave Loading	<ul style="list-style-type: none"> Annual leave is 4 wks after 12 mths service, to be taken consecutively with leave loading of 17.5% (cl. 14). 	<ul style="list-style-type: none"> 2 agreements are silent on annual leave. 	<ul style="list-style-type: none"> n/a. 	<ul style="list-style-type: none"> No annual leave. 	<ul style="list-style-type: none"> Annual leave is not given to casual employees.
Bereavement Leave	<ul style="list-style-type: none"> Bereavement leave of two paid days is contained in cl. 25. 	<ul style="list-style-type: none"> All mention. 	<ul style="list-style-type: none"> 2 state that entitlement is 2 days. 	<ul style="list-style-type: none"> As per the Award. 	<ul style="list-style-type: none"> The entitlement remains unchanged.
Public Holidays	<ul style="list-style-type: none"> 10 days are specified as being public holidays paid at dbl time and a half if worked (cl. 13). 	<ul style="list-style-type: none"> 2 agreements do not mention public holiday provisions. 	<ul style="list-style-type: none"> n/a. 	<ul style="list-style-type: none"> No public Holidays. 	<ul style="list-style-type: none"> Not discussed.
Breaks	<ul style="list-style-type: none"> The Award provides for a break (not exceeding 1 hr) after 5 hrs (cl. 6). 	<ul style="list-style-type: none"> 1 agreement remains silent. 	<ul style="list-style-type: none"> 1 agreement provides for a 30 min break after 6 hrs. 	<ul style="list-style-type: none"> Lessening of Award entitlements. 	<ul style="list-style-type: none"> Provision of breaks eroded.

Entitlements	Provisions of Contract Cleaners Award, 1986	No. of Agreements Silent on Entitlement	Range of Entitlements	Mode	Assessment
Consultation	<ul style="list-style-type: none"> The Award requires consultation in a number of areas. Cl. 29 details procedures to set up a consultative mechanism. 	<ul style="list-style-type: none"> No agreements mention any requirement for consultation. 	<ul style="list-style-type: none"> n/a. 	<ul style="list-style-type: none"> No need for consultation. 	<ul style="list-style-type: none"> There is no requirement to consult on workplace changes.
Wage Rises & Alternative Remuneration.	<ul style="list-style-type: none"> The Award system usually provides a number of mechanisms for achieving pay rises. 	<ul style="list-style-type: none"> Neither agreement has a mechanism for deferring wage adjustments.. 	<ul style="list-style-type: none"> n/a. 	<ul style="list-style-type: none"> No wage rises. 	<ul style="list-style-type: none"> The wage rates are fixed for the duration of the agreement.