

## Schedule 1

### Matters to be published in the “*Western Australian Industrial Gazette*”

1. Retirements from industrial agreements.
2. All decisions and published reasons for decision of —
  - (a) the Court;
  - (b) the Full Bench;
  - (c) the President;
  - (d) the Commission;
  - (e) Industrial Magistrates; and
  - (f) Boards of Reference.
3. All directions and orders which alter the qualifications for membership of any organisation the area in respect of which the organisation is registered, or the name of the organisation.
4. A list of organisations registered under the Act and the registered offices of those organisations.
5. Notification of the appointment of any person as Chairman or member of a Board of Reference.
6. Any matter which is prescribed or which is directed by the Court, the President, or the Chief Commissioner to be published or which the Registrar may consider should be published.

*[Schedule 1 amended by No. 94 of 1984 s. 66; No. 15 of 1993 s. 30; No. 79 of 1995 s. 42; No. 20 of 2002 s. 113(5) and 190(10).]*

*[Schedule 2 repealed by No. 20 of 2002 s. 194(7).]*

## Schedule 3 — Police officers

[Heading inserted by No. 58 of 2000 s. 5.]

[s. 115]

### 1. Interpretation

In this Schedule —

“**Arbitrator**” has the same meaning as in section 80C(1);

“**police officer**” means a person appointed —

- (a) under Part I of the *Police Act 1892* to be a member of the Police Force of Western Australia;
- (b) under Part I of the *Police Act 1892* to be a police cadet;
- (c) under Part III of the *Police Act 1892* to be a special constable; or
- (d) under section 38A of the *Police Act 1892* to be an aboriginal aide.

[Clause 1 inserted by No. 58 of 2000 s. 5.]

### 2. Application of Act to police officer

- (1) Before the coming into operation of the *Industrial Relations Amendment Act 2000*<sup>1</sup> this Act is taken to have applied to and in respect of a police officer, and to have had effect accordingly, as if —

- (a) the police officer were an employee; and
- (b) the Minister for Police were the employer of the police officer.

- (2) On and from the coming into operation of the *Industrial Relations Amendment Act 2000*<sup>1</sup> this Act applies to and in respect of a police officer, and has effect accordingly, as if —

- (a) the police officer were a Government officer within the meaning of section 80C; and
- (b) the Commissioner of Police were the employer, within the meaning of section 80C, of the police officer,

and for that purpose, a reference in the Act to an employee is taken to include a reference to a Government officer.

- (3) Despite subclause (2), an Arbitrator does not have jurisdiction to enquire into or deal with, or refer to the Commission in Court Session or the Full Bench any matter relating to or arising from the transfer, reduction in rank or salary, suspension from duty, removal, discharge or dismissal under the *Police Act 1892* of a police officer.

[Clause 2 inserted by No. 58 of 2000 s. 5.]

**3. Western Australian Police Union of Workers**

The Western Australian Police Union of Workers is taken to be, and to have always been, an organisation of employees.

*[Clause 3 inserted by No. 58 of 2000 s. 5.]*

## Schedule 4 — Registration requirements for EEAs

[s. 97VB]

### 1. When EEA is in order for registration

(1) An EEA is in order for registration if —

- (a) section 97UF(1) does not apply to it;
- (b) it complies with sections 97UL, 97UN and 97US;
- (c) if section 97UM applies, it has been signed in accordance with, and by a person who meets the requirements of, section 97UM(2);
- (d) the employer has complied with section 97UG;
- (e) it passes the no-disadvantage test;
- (f) it does not purport to provide for a condition of employment that is less favourable to the employee than a minimum condition of employment under the MCE Act;

Note: If a provision of an employer-employee agreement is less favourable as mentioned in paragraph (f) it is of no effect by virtue of section 5(2) of the *Minimum Conditions of Employment Act 1993*.

- (g) in relation to the making of the EEA, the employer did not —
  - (i) offer employment to the employee; or
  - (ii) intimate to the employee that he or she would be employed,

only if he or she agreed to the employment being under an EEA;

- (h) in relation to the making of the EEA, the employer did not —
  - (i) offer the employee a transfer or promotion in his or her employment; or
  - (ii) intimate to the employee that he or she would be transferred or promoted,

only if he or she agreed to the employment being under an EEA;

- (i) each party appears to understand his or her rights and obligations under the EEA;
- (j) no party or a representative was persuaded by threats or intimidation to enter into the EEA; and
- (k) each party genuinely wishes to have the EEA registered.

(2) Subclause (1)(g) does not apply to an offer of employment made, or an intimation of employment given, that would otherwise come within that provision if —

- (a) there is no award or industrial agreement containing supported wage provisions that extends to the employee; and

- (b) the employment was arranged through an entity that provides employment services for persons with disabilities.
- (3) In subclause (1)(i) and (k) —
  - “party”** means —
    - (a) the employer and the employee; or
    - (b) if the employee is a represented person, the employer and the representative.

*[Schedule 4 inserted by No. 20 of 2002 s. 5.]*

## **Schedule 5 — Powers to obtain information, and related provisions**

*[Heading inserted by No. 20 of 2002 s. 5.]*

[s. 97VC(4), 97WM]

### **1. Powers to obtain information**

An authorised person may —

- (a) by notice in writing require the attendance of any person at a place and time specified in the notice;
- (b) by notice in writing require any person to produce at a place and time specified in the notice any book, document or record that is in the possession or under the control of that person;
- (c) inspect any book, document or record produced and retain it for such reasonable period as he or she thinks fit, and make copies of it or any of its contents;
- (d) require any person to take an oath or make an affirmation and may administer an oath or affirmation to any person;
- (e) require any person to answer any question put to that person;
- (f) take statements and receive affidavits;
- (g) enter any relevant workplace.

*[Clause 1 inserted by No. 20 of 2002 s. 5.]*

### **2. Obstruction**

A person must not hinder or obstruct an authorised person in the exercise of any power conferred by this Schedule.

Penalty: \$2 000.

*[Clause 2 inserted by No. 20 of 2002 s. 5.]*

### **3. False statements**

A person must not make a statement or give an answer to an authorised person if the first-mentioned person knows that the statement or answer is false or misleading in a material particular.

Penalty: \$2 000.

*[Clause 3 inserted by No. 20 of 2002 s. 5.]*

### **4. Failure to comply with notice**

(1) A person must not, without lawful excuse, refuse or fail —

- (a) to attend; or
- (b) to produce a book, document or record,

as required by a notice under clause 1.

Penalty: \$2 000.

- (2) A person must not, without lawful excuse, refuse or fail —
- (a) to be sworn or make an affirmation; or
  - (b) to answer a question,

when required to do so under clause 1.

Penalty: \$2 000.

*[Clause 4 inserted by No. 20 of 2002 s. 5.]*

**5. Legal professional privilege**

Nothing in this Schedule prevents a person from refusing to answer a question or produce a book, document or record because the answer would relate to, or the book, document or record contains, information in respect of which the person claims legal professional privilege.

*[Clause 5 inserted by No. 20 of 2002 s. 5.]*

**6. Incriminating answers or documents**

- (1) It is not a lawful excuse for the purposes of clause 4 for a person to refuse to answer a question or produce a book, document or record on the grounds that the answer or the book, document or record might tend to incriminate the person, or make the person liable to a penalty.
- (2) Despite subclause (1), an answer given or any statement made for the purposes of clause 4 is not, except in proceedings under clause 2, 3 or 4, admissible in evidence in any civil or criminal proceedings against the person giving the answer or making the statement.

*[Clause 6 inserted by No. 20 of 2002 s. 5.]*