



## **CIRCULAR TO DEPARTMENTS AND AUTHORITIES No 8 OF 2004**

### **ON CALL AND AVAILABILITY ALLOWANCES**

A significant number of public sector awards and agreements contain provisions for the payment of on call and availability allowances where employees are required to be available to return to work outside of normal hours.

DOCEP Labour Relations (DLR) has received a number of enquiries from agencies regarding the application of these “out of hours contact” clauses.

Agencies are reminded that in circumstances where an authorised officer gives a direction that an employee should be contactable out of hours, as prescribed by the relevant award or agreement, the employee must be paid the appropriate allowance.

Both the *Western Australian Industrial Relations Act 1979* and the *Workplace Relations Act 1966* prohibit employers and employees agreeing to substitute award or agreement provisions with some other arrangement, unless the relevant award or agreement specifically provides for alternative arrangements to be made.

To alleviate any dispute as to whether an employee is or is not on “out of hours contact” the authorised officer should issue a written instruction detailing:

- (a) the period an employee is to be on “out of hours contact”; and
- (b) the level of readiness i.e., “on call” or “availability”.

Where “out of hours contact” is a usual feature of the duties for which employees are regularly rostered, the issue of a roster is deemed to be a written instruction.

Where the nature of the duties to be performed require an employee to be in a state of readiness for immediate return to duty, then the appropriate degree of inconvenience is “on call”.

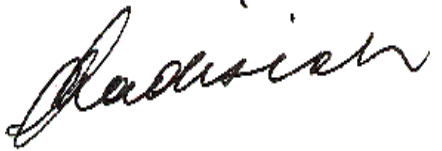
Where the nature of the duties to be performed enables an employee to continue private activities for a reasonable time prior to returning to duty, then the appropriate degree of inconvenience is “availability”.

2.

Agencies are requested to review their current arrangements to ensure the provisions of awards and agreements are being correctly applied.

A review is to be conducted by DLR to determine how these allowances are being applied and whether they continue to be relevant in their present form having regard for modern communication methods. Agencies will be asked to contribute to the review.

If you require further information please contact your DLR advisor.

A handwritten signature in black ink, appearing to read "Radisich". The signature is fluid and cursive, written in a professional style.

**JEFF RADISICH  
EXECUTIVE DIRECTOR  
LABOUR RELATIONS**

4 November 2004