

## MEA Submissions – Outline of substantive claims

In reference to the Statement and Directions [2016] FWC 6062 issued by the Commission on 26 August 2016 this submission provides an outline of the substantive claims MEA are pursuing.

### Amendment to Clause 17.6 – Living away on distant work

#### Nature of the change sought;

Insert a provision to address a deficiency in the award regarding payment for travel to and from distance work.

#### Draft variation determination;

MEA proposes to Insert a subclause titled “Payment for travel time to distance work” following subclause (a) in existing clause 17.6 and renumber other subclauses accordingly.

#### **“17.6 Living away on distant work**

**(a) Board and lodging**

...

**(b) Payment for travel time to distant work**

**(i) Travelling time calculations** – For the purpose of this clause, travelling time will be calculated as the time taken for the journey from the central or regional rail, bus or air terminal nearest the employee’s usual place of residence to the locality of the work (or the return journey, as the case may be) and is paid at ordinary time rates.

**(ii) The maximum travelling time to be paid for is 12 hours out of every 24 hours or, when a sleeping berth is provided by the employer for all-night travel, eight hours out of every 24 hours.**

**(c) Regular return home**

...”

#### Type of case to be run

Merit based.

#### Witnesses

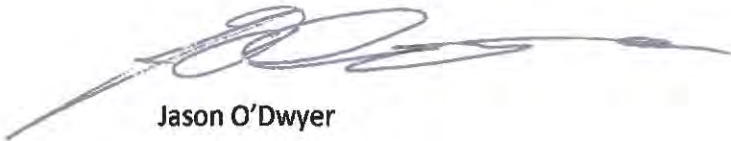
Nil.

**Substantive claims no longer pursued**

In reference to the previous outline of issues filed by MEA on 2 March 2015 and notwithstanding the changes pursued regarding technical and drafting issues, MEA is no longer pursuing substantive claims in relation to;

- Clause 12.2 – Operation of State laws,
- Clause 17.5 – Travel and expenses,
- Clause 24.9 – Rest break and
- Clause 16.4 – Apprentice minimum wages.

Yours faithfully



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**Manager – Advisory Services**

AM2014/265- Conference Reference  
Document

**Pre-Modern Building Trades Contracting and  
Construction Industry Awards  
(Distant Journey Clauses)**

# Table Summary

<u>Pre-Modern Award</u>	<u>State</u>	<u>Maximum time paid for travel to distant work</u>	<u>Rate</u>	<u>Document Reference</u>
Electrical Contracting Industry Award – State 2002 – AN140103	QLD	12 hours in a day, 8 hours in a day where travelling by boat	Ordinary rates. Travel on Sundays and Public holidays paid at time and a half	1.1 (page 4)
Electrical Engineering and Contracting Industry (Northern Territory) Award 2002 – AP819377CR	NT	7.6 hours in a day	Ordinary rates	1.2 (page 4)
Electrical Contracting Industry Award R 22 of 1978 – AN160108	WA	8 hours in a day	Ordinary rates	1.3 (page 4)
National Building and Construction Industry Award 2000 – AP790741	National	8 hours in a day	Ordinary rates	2.1 (page 5)
Building and Construction Industry (State) Award – AN120089	NSW	8 hours in a day	Ordinary rates	2.2 (page 5)
National Metal and Engineering On-site Construction Industry Award 2002 – AP816828	National	8 hours in a day	Ordinary rates. Travel on Sundays and Public holidays paid at time and a half	2.3 (page 5)
Building Trades (Construction) Award 1987 – AN160034	WA	8 hours in a day	Ordinary rates	2.4 (page 5)
Building and Construction Workers’ (State) Award – AN150022	SA	8 hours in a day	Ordinary rates	2.5 (page 6)
Building and Construction Industry (Northern Territory) Award 2002 – AP812941CRN	NT	7.6 hours in a day	Ordinary rates	2.6 (page 6)
Building and Construction Industry – AN170010	TAS	8 hours in a day	Ordinary rates	2.7 (page 7)
Australian Workers’ Union Construction-on-site and Civil Engineering (A.C.T) Award 1999 – AP765604CRA	ACT	Employees ordinary hours in a day	Ordinary rates	2.8 (page 7)
Building Construction Industry Award – State 2003 – AN140043	QLD	8 hours in a day	Ordinary rates	2.9 (page 7)
Plumbers and Gasfitters (States) Consolidated Award (NSW) – AN120684	NSW	8 hours in a day	Ordinary rates	3.1 (page 8)
Plumbing Trades (Southern States) Construction Award 1999 – AP792355CRV	SA, TAS, Vic	8 hours in a day	Ordinary rate	3.2 (page 8)
Plumbing Industry (QLD and WA) Award 1999 [Transitional] – AT792354	QLD, WA	8 hours in a day	Ordinary rates	3.3 (page 8)
Plumbing Industry (New South Wales) Award 1999 [Transitional] – AT792368	NSW	8 hours in a day	Ordinary rates	3.4 (page 8)

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## **1. Pre-reform Electrical Contracting Awards**

### **1.1 Electrical Contracting Industry Award – State 2002 – AN140103 (Queensland)**

*“8.1.3 All employees required to travel by rail, road or air during hours outside the ordinary working hours shall be paid at ordinary rates for the actual time of such travelling excepting on Sundays and public holidays when they shall be paid one and a-half times the ordinary rate:*

*Provided that the maximum number of such hours on each outward and homeward journey to be so paid for shall be 12 per day. Reasonable allowances shall be paid to employees on such outward or homeward journey. All employees travelling by boat shall receive saloon fares, reasonable allowances and ordinary wages for 8 hours per day while so travelling.”*

### **1.2 Electrical Engineering and Contracting Industry (Northern Territory) Award 2002 – AP819377CR (Northern Territory)**

*“24.9 Any employee required to travel to or from a job as provided for in the accommodation and camping provisions of the award, shall be paid at ordinary rates of pay for all travelling time up to 7.6 hours in any day. All expenses incurred in travelling and obtaining meals and or accommodation shall be paid by the employer, provided that travel shall be by reasonable means stipulated by the employer.”*

### **1.3 Electrical Contracting Industry Award R 22 of 1978 – AN160108 (Western Australia)**

#### ***“21. - DISTANT WORK***

*...*

*(3) Subject to the provisions of subclause (5) of this Clause -*

*(a) The employer shall pay all reasonable expenses including fares, transport of tools, meals and if necessary, suitable overnight accommodation incurred by an employee or person engaged who is directed by their employer to proceed to the locality of the site and who complies with such direction.*

*(b) The employee shall be paid at ordinary rate of payment for the time up to a maximum of eight hours in any one day incurred in travelling pursuant to the employer's direction.”*

## **2 Pre-reform Building and Construction Industry Awards**

### **2.1 National Building and Construction Industry Award 2000 – AP790741 (National)**

#### ***“PART 8 – TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK***

#### **37. LIVING AWAY FROM HOME - DISTANT WORK”**

...

##### ***“37.4.1 Forward journey***

*37.4.1(a) The time spent in travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).*

*37.4.1(b) The amount of a fare on the most common method of public transport to the job (bus; economy air; second class rail with sleeping berths if necessary, which may require a first class rail fare), and any excess payment due to transporting tools if such is incurred.”*

##### ***“37.4.3 Departure point***

*For the purpose of this clause, travelling time shall be calculated as the time taken for the journey from the Central or Regional rail, bus or air terminal nearest the employee’s usual place of residence to the locality of the work.”*

### **2.2 Building and Construction Industry (State) Award – AN120089 (NSW)**

*“37.4 Travelling Expenses - An employee who is sent by his/her employer or selected or engaged by an employer or agent to go to a job which qualifies the employee to the provision of this clause shall not be entitled to any of the allowances prescribed by clause 38, of this award, for the period occupied in travelling from his/her usual place of residence to the distant job, but in lieu thereof shall be paid:*

#### ***(a) Forward Journey***

*(i) For the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*

### **2.3 National Metal and Engineering On-site Construction Industry Award 2002 – AP816828 (National)**

#### ***“21.3 Payment for travelling***

*21.3.1 Where an employee is sent from his/her usual locality to another in accordance with 21.2 he/she shall whilst necessarily travelling be paid travelling time and expenses as follows:*

*21.3.1(a) The rate of pay for travelling time shall be ordinary rates, except on Sundays and holidays when it shall be time and a half.*

*21.3.1(b) The maximum travelling time to be paid for shall be twelve hours out of every 24 hours, or when a sleeping berth is provided by the employer for all-night travel, eight hours out of every 24.”*

## **2.4 Building Trades (Construction) Award 1987 – AN160034 (Western Australia)**

### ***“21. - LIVING AWAY FROM HOME - DISTANT WORK***

...

#### ***(4) Travelling Expenses***

*An employee who is sent by his/her employer or selected or engaged by an employer or agent to go to a job which qualifies him/her to the provision of this clause shall not be entitled to any of the allowances prescribed by Clause 12A. - Fares and Travelling (Except Plumbers) covered by this Award, and Clause 12B. - Fares and Travelling Time - Plumbers Only, of this award for the period occupied in travelling from his/her usual place of residence to the distant job, but in lieu thereof shall be paid:*

#### ***(a) Forward Journey -***

*(i) For the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*

## **2.5 Building and Construction Workers’ (State) Award – AN150022 (South Australia)**

### ***“CLAUSE 24. LIVING AWAY FROM HOME - DISTANT WORK***

...

#### ***Forward Journey***

*(i) For the time spent in so travelling, at ordinary rates up to a maximum of 8 hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*

## **2.6 Building and Construction Industry (Northern Territory) Award 2002 – AP812941CRN (NT)**

### ***“PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM THE USUAL PLACE OF WORK***

#### ***8.1 EMPLOYEES ENGAGED OUTSIDE THE TERRITORY***

...

*8.1.1(b) When travelling, employees shall be entitled to payment for the actual time of travel up to a maximum of 7.6 hours in each 24 at ordinary time rates.”*



## **2.7 Building and Construction Industry – AN170010 (Tasmania)**

### ***“46 LIVING AWAY FROM HOME - DISTANT WORK***

...

#### ***(f) Travelling Expenses***

*An employee who is sent by an employer or selected or engaged by an employer or agent to go to a job which qualifies the employee to the provision of this clause shall not be entitled to any of the allowances prescribed by Clause 45 – Fares and Travel Patterns Allowance of this award for the period occupied in travelling from the employee’s usual place of residence to the distant job, but in lieu thereof shall be paid:*

#### ***(i) Forward Journey***

*(1) The time spent in travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*

## **2.8 Australian Workers’ Union Construction-on-site and Civil Engineering (A.C.T) Award 1999 – AP765604CRA (ACT)**

### ***“19.17 Fares and travelling expenses allowance***

...

*19.17.2(b) Time occupied in travelling to and from the Territory will be paid at ordinary rates; provided that no employee will be paid more than an ordinary day’s wages for any day spent in travelling. “*

## **2.9 Building Construction Industry Award – State 2003 – AN140043 (Queensland)**

### ***“8.2 TRAVELLING TRANSPORT AND FARES***

#### ***8.2.1 Travelling expenses***

...

#### ***(a) Forward journey***

*(i) For the time spent in travelling, at ordinary rates up to a maximum of 8 hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).*

### **3 Pre-reform Plumbing and Gas Fitting Awards**

#### **3.1 Plumbers and Gasfitters (States) Consolidated Award (NSW) – AN120684**

**“16. LIVING AWAY FROM HOME C DISTANT WORK**

...

*(a) Forward Journey -*

*(i) For the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*

#### **3.2 Plumbing Trades (Southern States) Construction Award 1999 – AP792355CRV**

**“22. LIVING AWAY FROM HOME - DISTANT WORK**

...

*22.4.1 Forward journey*

*22.4.1(a) For the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*

#### **3.3 Plumbing Industry (QLD and WA) Award 1999 [Transitional] – AT792354**

**“22. LIVING AWAY FROM HOME - DISTANT WORK**

...

*22.4.1 Forward journey*

*22.4.1(a) For the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*

#### **3.4 Plumbing Industry (New South Wales) Award 1999 [Transitional] – AT792368**

**“22. LIVING AWAY FROM HOME - DISTANT WORK**

...

*22.4.1 Forward journey*

*22.4.1(a) For the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).”*