



# RTBU

IN THE FAIR WORK COMMISSION

18/08/21

**CASUAL TERMS REVIEW 2021 (AM2021/54)**

*Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021 – casual amendments – review of modern awards – Stage 2, Group 2 Awards – provisional views.*

## AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION SUBMISSIONS

---

1. This submission is filed on behalf of the Australian Rail Industry Union ( RTBU) with reference to the above matter.
2. On the 11 August 2021 the Fair Work Commission issued *Statement* [2021] FWCFB 4928.
3. Interested parties were to provide any response to the provisional views concerning stage 2, Group 2 Awards set out in the statement.
4. The RTBU maintains an interest in the *Rail Industry Award 2020 ( Rail Award)*

### Response to Provisional views

5. The RTBU does not seek to oppose the provisional views nor the proposed action with respect to the following clauses
  - a. 11.1 – definition of a casual employee
  - b. 11.8 – casual conversion

**Rail, Tram & Bus Union Australia** **The Power of Union**

**Office:** Level 2, Trades Hall, 4-10 Goulburn Street, Sydney NSW 2000

**Phone:** 02 8203 6099 **Fax:** 02 9319 2096



**RTBU**

- c. 15.3(d)(iii) – ‘regular and systematic definition’
6. The RTBU supports the provisional views including that no variation is necessary in relation to the following clauses
- a. 11.2 and 13.1(b) – casual ordinary hours
  - b. 11.3 and 11.6 – casual loading
  - c. 11.4 and 11.5 – casual penalty rates
  - d. 11.7 – minimum period of engagement
  - e. 20.1(c) – overtime for casuals
  - f. B.2 – Summary of hourly rates
7. The RTBU does not support the provisional view that a variation is necessary in relation to the following clause
- a. 15.2
8. Clause 15.2 of the Rail Award is as follows

***Junior employee rates***

*Where the law permits junior employees to perform work in the rail industry ,the junior employee will be entitled to the percentage of the applicable adult weekly rate (or in the case of part-time or casual employees, the hourly rate) for their classification as follows:*

**Rail, Tram & Bus Union Australia** **The Power of Union**

**Office:** Level 2, Trades Hall, 4-10 Goulburn Street, Sydney NSW 2000  
**Phone:** 02 8203 6099 **Fax:** 02 9319 2096



**RTBU**

<b>Age</b>	<b>% of adult rate</b>
<i>16 years or less</i>	<i>75</i>
<i>At 17 years</i>	<i>85</i>
<i>At 18 years</i>	<i>100</i>

9. Clause 15.2 provides for junior employee rates including minimum junior employee casual payments.
10. Clause 15.2 of the Rail Award is not inconsistent with the Act and does not give rise to uncertainty or difficulty because it is properly separated from other provisions under the Rail Award defining casual employment.
11. The RTBU submits that, as found by the Full Bench in the stage 1 Decision that if the provisions are not inconsistent with the Act and do not give rise to uncertainty or difficulty it is unnecessary for the Commission to determine whether such terms are 'relevant terms' within the meaning of clause 48(1) *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2012*.<sup>1</sup>
12. Therefore, the RTBU submits that no variation is warranted in regard to clause 15.2

Minna Davis  
Industrial Officer

---

<sup>1</sup> *Casual terms award review* [2021] FWCFB 4144, [163]



**RTBU**

**Rail, Tram & Bus Union Australia** **The Power of Union**

**Office:** Level 2, Trades Hall, 4-10 Goulburn Street, Sydney NSW 2000

**Phone:** 02 8203 6099 **Fax:** 02 9319 2096