

IN THE FAIR WORK COMMISSION

s.157 – Variation of Modern Awards

Matter no: AM2019/5259

Party: “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Union (AMWU)

REVIEW OF CERTAIN C14 RATES IN MODERN AWARDS

OUTLINE OF SUBMISSIONS OF THE AUSTRALIAN MANUFACTURING WORKERS UNION

Introduction

1. On 22 September 2023 the Full Bench issued a Statement in this matter¹ (“September 2023 Statement”) which expanded the consideration of C14 rates to an additional 36 awards. Further, the Commission expressed provisional views that would limit the applicability of the C14 (and any classification below the C13 rate) to a limited time period, with C13 being the minimum classification rate for ongoing employment.²
2. The AMWU has an interest in the following Awards that are being considered by the Review:
 - a. Airline Operations – Ground Staff Award 2020
 - b. Architects Award 2020
 - c. Food, Beverage and Tobacco Manufacturing Award 2020
 - d. Graphic Arts, Printing and Publishing Award 2020
 - e. Joiner and Building Trades Award 2020
 - f. Manufacturing and Associated Industries and Occupations Award 2020
 - g. Oil Refining and Manufacturing Award 2020
 - h. Seafood Processing Award 2020
 - i. Sugar Industry Award 2020
 - j. Rail Industry Award 2020
 - k. Textile, Clothing, Footwear and Associated Industries Award 2020
 - l. Timber Industry Award 2020
 - m. Vehicle Repair, Services and Retail Award 2020
3. On 8 November 2022 the AMWU sought and obtained an extension to provide submissions and evidence to the Review in response to the September Statement. As such, this submission will mainly focus on the principle position concerning the C14 rate across Awards generally, and with specific reference to the classifications contained in the following Awards:
 - i. Food, Beverage and Tobacco Manufacturing Award 2020
 - ii. Manufacturing and Associated Industries and Occupations Award 2020
 - iii. Vehicle Repair, Services and Retail Award 2020

¹ [2023] FWCFB 168

² September 2023 Statement at [8]

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4. The AMWU does not wish to add to its previous submissions in relation to either the Rail Industry Award 2020 or the Sugar Industry Award 2020.³
5. The AMWU has also filed a witness statement from Mr Paul Baxter, National Co-ordinator Skills and Training, in support of our position.

AMWU position on the C13 and C14 classification

6. The “C” Classification structure, as contained in the *Manufacturing and Associated Industries and Occupations Award 2020* (“Manufacturing Award”) is a skills based classification system which provides the ability of workers to progress to higher levels of pay as they acquire and use additional skills and knowledge in the workplace. It is a symbiotic relationship; generally work of higher value to the workplace requires the use of increased skills and knowledge. This should then be reflected in a higher classification for the worker, enabling them to earn higher wages.
7. The AMWU supports the Commission’s determination in the Annual Wage Review decision that the C14 rate of pay ‘does not constitute a proper minimum wage safety net.’⁴ In the AMWU’s opinion, the C14 classification has limited value as a stand-alone qualification. It is, at best, a placeholder that enables a worker with no relevant skills or experience to gain enough knowledge to be able to perform tasks. As Mr Baxter says in his statement “There are no skill qualifications required for the C14 classification.”⁵
8. In relation to the Manufacturing Award, the C13 classification is designed to apply to the performance of work with a 0-31 points weighting.⁶ As such, it can apply to a worker with no relevant skills or knowledge, up to a fairly rudimentary level of skill. In most workplaces and for most workers in the manufacturing industry it should also be properly seen as a transitional qualification.⁷
9. The AMWU notes that there is no uniformity in classification structures, and not all Awards have the classification above the minimum (whether C14, Level 1 or otherwise) as a similar transitional level where training is taken to progress to another level.⁸ As such, our support of the use of the C13 as the minimum classification for ongoing employment is somewhat qualified; if the C13 classification is seen as a transitional classification, it should continue to be treated as such and not be treated as an ongoing minimum rate of pay.

³ AMWU Submission dated 26 October 2022

⁴ September Statement at [6] quoting the *Annual Wage Review 2022-2023* [2023] FWCFB 3500 at [8]

⁵ Statement of Paul Baxter dated 10 November 2023 (“Baxter Statement”) at [6]

⁶ Baxter Statement at [6]

⁷ Baxter Statement at [9]

⁸ For example, although the Level 1 classification in the *Graphic Arts, Printing and Publishing Award 2020* is for a 38 hour induction period, there is no reference to the provision of training to allow progression from a Level 2 to a Level 3

Supported Wage Assessments under the Manufacturing Award

10. Although it is not strictly within the terms of the Review, the AMWU notes that the restriction of the C14 as a transitional classification of limited duration should prevent it from being used as the basis for determining a Supported Wage Assessment of workers with a disability. The AMWU finds it repugnant that workers with a disability should be paid a proportion of a wage that is less than the National Minimum Wage and requests that the Commission not approve any Supported Wage System Agreement which uses a classification below the National Minimum Wage for the basis of payment.

Response to the Commission's provisional principles for the Review

11. The AMWU supports the Commission's view that if the C14 rate is to be retained at all that it should only be a transitional classification. The AMWU does not support that the transitional period should be a minimum of six months. The C14 rate is not a probationary rate, it is designed for initial training within the workplace. It is the AMWU's view that the C14 rate should only apply for an induction period which, ideally, should be no longer than 38 hours.
12. The AMWU also notes that classifications should be written and interpreted based on skills and knowledge acquired or the time taken in structured training, not using arbitrary time frames. The reference to a certain number of months' experience should only be seen as being an indicator of whether an employee should be paid at a level below the C13 equivalent while they are being inducted; not a qualifying period of time before being eligible for the C13 (or equivalent) classification and rate of pay.

The Food, Beverage and Tobacco Manufacturing Award 2020

13. The AMWU notes that the Level 1 Classification of this Award requires that an "employee is undertaking up to 38 hours' induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, work health and safety, equal employment opportunity and quality control/assurance."⁹
14. However the Award provides that the transition from Level 1 to Level 2 can take up to 3 months.¹⁰ This provides an internal contradiction with Level 1 where seasonal and casual employees qualify for Level 2 after 4 weeks or 152 hours respectively.¹¹ The AMWU does not support this provision, given that the induction training is up to 38 hours long. Further, the progression to the higher level should be on completion of induction training, not based on an arbitrary time frame.
15. While it is the AMWU's preference that the Level 1 classification be deleted in its entirety, as an alternative the AMWU proposes that Clauses A.2.1 and A.2.3 be amended as follows:

⁹ *Food, Beverage and Tobacco Manufacturing Award 2020*, ("FBTM Award") Appendix A at A2.1

¹⁰ FBTM Award at A2.1(iii)

¹¹ FBTM Award at A2.1

A.2.1 Level 1 (78% relativity to the tradesperson)

(a) An employee at Level 1 has less than 3 months' experience (or 152 ordinary hours experience for a seasonal or casual employee) in the industry or enterprise and does not possess recognised enterprise or industrial or prior learning experience and/or skills sufficient for appointment to Level 2 or above. ~~Provided that the length of service required to advance to Level 2 for a seasonal employee is 4 weeks and for a casual employee is 152 hours.~~

A.2.2 Level 2 (82% relativity to the tradesperson)

(a) An employee at Level 2 is an employee who has either:

(i) completed a structured induction program ~~over 3 months or for such shorter period as is necessary~~ to reach the required level of competency for appointment to Level 2; or

(ii) has recognised enterprise or industrial experience, training or prior learning experience or skills to Level 2.

Manufacturing and Associated Industries and Occupations Award 2020

16. The Manufacturing Award contains two separate classification structures, one for manufacturing in general and one specific to vehicle manufacturing.
17. In relation to the general manufacturing classification structure, it is the AMWU's position that the C14 classification (Clause 4.3) could be deleted in its entirety. If the Commission, however, believes that a classification below the C13 level is required, then the AMWU proposes the following amendments to Clause 4.4. These amendments are designed to ensure that the time periods are not seen as a qualifying time to progress to the C13 level, but a situation where it is appropriate to bypass the C14 level.

A.4.4 Wage Group: C13

(a) Engineering/Manufacturing Employee—Level II

- (i) An Engineering/Manufacturing Employee—Level II is an employee who has ~~completed up to 3 months structured training:~~
 - a. Previously completed a structured training program of at least three months duration or has equivalent experience in manufacturing; or
 - b. Completed the induction training program for the workplace so as to enable the employee to perform work within the scope of this level.

18. Similarly, in relation to the Vehicle Manufacturing Classification stream, there is a tension between the requirement that an employee needs a formal qualification to progress compared with an employee who holds a Certificate 1 being able to be placed at the C13 level automatically. As such, if the V1 classification is retained, the AMWU proposes the following amendments to Clause B.3.1

V2—Vehicle industry/production employee Level 2

B.3.1 A Vehicle industry/production employee—Level 2 is an employee who has:

- (i) Completed the induction training program for the workplace; or
- (ii) Has previously met the requirements of the Certificate I in Automotive Manufacturing (AUM10113), or equivalent.

Vehicle Repair, Service and Retail Award 2020

19. The AMWU is similarly concerned that the Level 2 classification requires completion of a 3 month training period rather than a worker being able to demonstrate the necessary skills required for that classification level. The AMWU therefore proposes the following amendments to Clause A.1.1:

A.1.1 Vehicle industry RS&R—employee—Level 2 R2

An employee at Level 2 is an employee who has:

- (i) Previously completed up to 3 months structured training or has equivalent experience performing such work; or
- (ii) Has completed the induction training at the workplace

so as to enable an employee to ~~attain~~/possess job skills relevant to tasks performed at this level and to the level of their training:

Conclusion

20. The AMWU strongly supports the classification structures in Modern Awards representing both a strong safety net for workers, as well as progression through the structure being based on the acquisition of skills and knowledge as it occurs; not necessarily tied to a specific time frame.
21. As such, the AMWU believes that the C14 (or equivalent) should no longer be included in modern awards. If it must be used, it is solely to cover an induction period within the workplace, which should be limited to 38 hours. Further, the transition from this initial entry level should be based on the acquisition of the necessary skills; not time worked. We have therefore proposed amendments to three Awards to ensure that the transition to the National Minimum Wage equivalent occurs as quickly as possible.



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AMWU

10 November 2023

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STATEMENT OF PAUL BAXTER

On 10 November 2023, I, Paul Baxter of 366 Upper Roma Street, Brisbane, Qld, state as follows:

Introduction

1. I am the National Co-ordinator Skills and Training for the AMWU. I have been in this position since August 2022. I have been employed by the AMWU since 2007.
2. During my 16 years at the AMWU I have been involved in the application, development and implementation of competency standards, particularly in relation to the Manufacturing Industry, and the interaction between those standards and the “C” classification structure contained in the *Manufacturing and Associated Industries and Occupations Award 2010* and the *Manufacturing and Associated Industries and Occupations Award 2020* (“Manufacturing Awards”). While most of my work has been involved with the classifications in the Manufacturing Awards, I have also provided advice and assistance in relation to classification disputes across different industries and Awards in the national, as well as State based jurisdictions.
3. I am also the AMWU representative on the Manufacturing Industry Skills Alliances, which is the Jobs and Skills Council for the industry, which has responsibility for the development of the Manufacturing and Engineering Training Package (MEM). I also represent the AMWU on other Jobs and Skills Councils including those for the Construction and Vehicle industries. I am also the AMWU representative of the Manufacturing Skills Queensland Advisory Group.

The C14 and C13 Classifications

4. The classification in the Manufacturing Awards is tied to the skills and knowledge that workers use to perform tasks in the workplace. Such skills and knowledge are reflected in competency standards that are determined through the MEM training package. For some of the classifications (C10 and above), the levels are tied to formal qualifications (such as a Certificate III in Engineering) and progression from one classification to the next requires the acquisition of skills and knowledge that could be counted towards a higher classification.

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5. For non-trades classifications (C11 – C14) the competency standards are reflected by a points weighting. The points weighting represents the value of those skills and knowledge in the workplace. The points weighting is determined by the industry partners when developing the MEM; it is not linked to any time-based training formula. The greater level of skills and knowledge required to perform a task, usually results in a higher value to the workplace and therefore a higher points weighting. As workers in non-trades roles perform more skilled work, it should be reflected in progression to a higher classification.
6. Both the C13 and C14 classifications can be used for people with no or little skills and knowledge of particular tasks. There are no skills qualifications required for the C14 classification and the C13 classification is appropriate for work that has a 0-31 points weighting for such skills and knowledge.
7. The C14 classification is a placeholder qualification and, realistically, does not need to be used by an employer at all. At best the C14 might cover an induction process, especially for someone who has no skills or experience in the industry. The limitation of 38 hours in the Manufacturing Awards should easily be sufficient to transition to the C13 level.
8. In the Manufacturing Awards there is no requirement for a worker to have completed accredited training to progress from C14 to C13. While some workers may have a Certificate I qualification at the C13 level, this should be seen as an entitlement to be employed at the C13 level on commencement of their employment, as it carries a points weighting of 16. The Certificate I is not a prerequisite for any qualification under the MEM.
9. In my experience with the AMWU, I have rarely seen ongoing employment that is performed at the C13 level. Such work would be in an extremely narrow and limited production environment with a worker performing minor tasks. As the Manufacturing Awards states that it is for workers who have completed up to three months of structured training; it should also be seen as a transitional classification for workers.



Paul Baxter
10 November 2023