

**Vehicle Manufacturing, Repair, Services and Retail Award 2010  
(AM2019/17, AM2014/93)**

**Conference before Commissioner Bissett**

**12.30pm, Wednesday 18 December 2019**

A. Submissions, based on the [exposure draft](#) published on 14 October 2019:

- ABI and NSWBC:  
[27 November 2019](#) at [54] – [55]
- Ai Group:  
[27 November 2019](#) at [140] – [161] and [9 December 2019](#) at [56]-[80]
- Motor Trades Organisations:  
[27 November 2019](#) and [9 December 2019](#)
- AMWU:  
[27 November 2019](#)

B. Matters raised in submissions and reply submissions are as follows:

ITEM	PARTY	DOCUMENT	THEIR REF	CLAUSE (ED)	SUMMARY OF ISSUE	COMMENTS
1	MTO	<a href="#">Sub-27/11/2019</a>	Section 1	Cl. 2	<p><b>Definitions</b></p> <p><u>Definition of ‘automotive parts interpreter—specialist’:</u></p> <p>MTO submit that it needs to be bolded.</p> <p>MTO submit that the word ‘or’ needs to be added at the end of the 3<sup>rd</sup> dot point as the definition in the predecessor award included the word.</p>	
2	MTO	<a href="#">Sub-27/11/2019</a>	Section 1	Cl. 2	<p><b>Definitions</b></p> <p><u>Definition of ‘Dismantler’:</u></p> <p>MTO submit that the definition should be deleted as a dismantler is not covered in the classification structure of</p>	

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					the current award, exposure draft or the predecessor award.	
3	Ai Group	<a href="#">Sub-27/11/2019</a>	Paras 141 & 142	Cl. 7.2	<p><b>Facilitative Provisions</b></p> <p>Ai Group proposes that the reference to 11.6 be replaced with a reference to 11.6(g).</p> <p>Ai Group notes that 11.6(j) has been listed under both clause 7.2 and 7.4 and submits that it should be removed from 7.2 because it is a facilitative provision that can be utilised by agreement between an employer and an individual or the majority of employees.</p>	
	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2			
4	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 143	Cl. 11.4(a)	<p><b>Casual Employees – casual loading</b></p> <p>Ai Group submits that the last two rows of the table in 11.4(a) should be varied to clarify that the 75% and 125% loadings are applicable for the first 3 hours and after the first three hours <u>of overtime</u> respectively.</p>	
	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2			

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5	Ai Group	<a href="#">Sub-27/11/2019</a>	Paras 144 - 146	Cl. 11.4(c)	<p><b>Casual Employees – casual loading</b></p> <p>Ai Group submit that 11.4(c) should refer to 11.4(a), rather than 11.4, to improve clarity.</p> <p>Ai Group submit that 11.4(c) should refer to 16.6(c) rather than 16.6(b).</p> <p>Ai Group submit that inclusion of the words ‘(unapprenticed junior rates)’ in 11.4(c) is superfluous and confusing as both 16.6(a) and 16.6(c) contain rates applicable to unapprenticed juniors. Ai Group proposes 11.4(c) be varied as follows:ok</p> <p>“For the purpose of clause 11.4(a), the relevant minimum hourly rates are set out in clauses 16.2, 16.3, 16.6(a), and 16.6(c) (unapprenticed junior rates) and 16.7.”</p>	
	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2		MTO have had discussions with Ai Group and do not oppose changes which relate to clarifying clauses and correcting some anomalies.	
6	MTO	<a href="#">Sub-27/11/2019</a>	Section 2	Cl. 12.2(b)	<p><b>Junior employees – Prohibited work</b></p> <p>MTO submit that the wording in the clause appears confusing and suggests the following addition:</p> <p>“<del>Notwithstanding sub clause 12.2 (a)</del>However, minors other than apprentices or probationers for apprenticeship may be employed in all aspects of the work described in the definition of automotive parts interpreter in this award.”</p>	

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7	MTO	<a href="#">Sub-27/11/2019</a>	Section 3	Cl. 16.6	<p><b>Minimum rates – Vehicle industry RS&amp;R—unapprenticed juniors</b></p> <p>(Clause 16.6(b):</p> <p>MTO submit that the classification of ‘Driver—courtesy vehicle in relation to sales or sales promotion or in the course of registration or collection from or delivery to customer’ should be amended to reflect the 2 classifications and related wage rates in A.1.1 and A.1.3, as follows:</p> <p>“• Driver—courtesy vehicle in relation to sales or sales promotion or in the course of registration or collection from or delivery to customer – <u>vehicles up to and including maker’s capacity over 3 tonnes.</u>”</p> <p><u>Clause 16.6(d) (Minimum rates – Vehicle industry RS&amp;R—unapprenticed juniors):</u></p> <p>MTO submit that the ‘Dent knocker’ classification should be deleted as it does not have a classification level. They submit that the term is a manufacturing classification and not relevant to the VRSR industry</p>	

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	Ai Group	<a href="#">Sub-27/11/2019</a>	Paras 147 - 149		<p>In response to the Commission’s note at the beginning of the clause in relation to the inclusion of ‘driver of commercial vehicle under 8 tonnes’:</p> <p>Ai Group notes that they have had discussions with the MTA and both agree that the inclusion of ‘driver of a commercial vehicle under 8 tonnes’ should be deleted.</p> <p>Ai Group submits that 16.7 of the Exposure Draft contains a method of ascertaining the applicable rates for a junior driver based on the ‘relevant adult driver rate’. Adult rates for drivers of commercial vehicles are contained within 16.3 of the exposure draft. These rates are not restricted to drivers of commercial vehicles over 8 tonnes.</p>	
8	MTO	<a href="#">Sub-27/11/2019</a>	Section 3	Cl. 16.6	<p>Ai Group notes that there is no dedicated classification for a driver of a commercial vehicle under 8 tonnes in Schedule A of the exposure draft. Deleting the reference to ‘driver of a commercial vehicle under 8 tonnes’ would avoid the inconsistency in the Award noted by the Commission.</p> <p>MTO notes that the classification was not in the predecessor award and that the only reference to the classification is in the unapprenticed junior section. They submit that the adult wage rates cover commercial vehicles with a makers capacity of 3 tonnes or less and a driver of a commercial vehicle with a makers capacity of over 3 tonnes and under 8 tonnes.</p> <p>MTO submit that junior wage rates for when driving commercial vehicles are set out in 16.7. As the wage rates for junior ‘driver of a commercial vehicles under 8 tonnes’ is already covered under 16.7 and based on the ‘% of the relevant adult driver rate’, the Motor Trades Organisations submit this unapprenticed junior classification should be</p>	

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					deleted from the unapprenticed junior classification under 16.6.(d).																												
9	MTO	<a href="#">Sub-27/11/2019</a>	Section 4	16.9(b)	<p><b>Junior Apprentices – Calculation of wage rates</b></p> <p>The junior rates in 16.9(b) are expressed as a percentage of the Level R6 rate as follows:</p> <table border="1"> <thead> <tr> <th>Year of apprenticeship</th> <th>Has not completed year 12 (% of Level R6 rate)</th> <th>Has completed year 12 (% of Level R6 rate)</th> </tr> </thead> <tbody> <tr> <td>Stage 1 or 1st year</td> <td>50%</td> <td></td> </tr> <tr> <td>Stage 2 or 2nd year</td> <td>60%</td> <td></td> </tr> <tr> <td>Stage 3 or 3rd year</td> <td>75%</td> <td></td> </tr> <tr> <td>Stage 4 or 4th year</td> <td>88%</td> <td></td> </tr> </tbody> </table> <p>MTO submit that this has the potential to cause uncertainty and that the following amendment to the table should be made in order to make the table consistent with 16.10 (adult apprentices) which includes weekly rates expressed as a dollar figure:</p> <table border="1"> <thead> <tr> <th>Year of Apprenticeship</th> <th>Has not completed Year 12 (calculated as a % of the Tradespersons Level R6 weekly rate)</th> <th>Weekly minimum rate of pay</th> <th>Has completed Year 12 (% of Level R6 rate) (calculated as a % of the Tradespersons Level R6 weekly rate)</th> </tr> </thead> <tbody> <tr> <td>Stage 1 or 1st year</td> <td>50%</td> <td>\$431.25</td> <td>55%</td> </tr> <tr> <td>Stage 2 or 2nd year</td> <td>60%</td> <td>\$517.50</td> <td>65%</td> </tr> </tbody> </table>	Year of apprenticeship	Has not completed year 12 (% of Level R6 rate)	Has completed year 12 (% of Level R6 rate)	Stage 1 or 1st year	50%		Stage 2 or 2nd year	60%		Stage 3 or 3rd year	75%		Stage 4 or 4th year	88%		Year of Apprenticeship	Has not completed Year 12 (calculated as a % of the Tradespersons Level R6 weekly rate)	Weekly minimum rate of pay	Has completed Year 12 (% of Level R6 rate) (calculated as a % of the Tradespersons Level R6 weekly rate)	Stage 1 or 1st year	50%	\$431.25	55%	Stage 2 or 2nd year	60%	\$517.50	65%	
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10	AMWU	<a href="#">Sub-27/11/2019</a>	Para 3	Cl. 22.3	<p><b>Ordinary hours of work and rostering</b></p> <p>AMWU submit that the current wording of 22.3 may lack sufficient clarity as to its intent and is concerned that 22.3 may be misinterpreted as allowing a practice whereby the number of ordinary hours a full-time employee works is varied day to day <b>without notice</b>.</p> <p>AMWU submit that the misinterpretation is possible because 22.3 does not appear to place an explicit condition on the application of a ‘requirement’ for an employee to work up to a maximum of 10 ordinary hours per day.</p> <p>AMWU submit that 22.3 is intended to allow an employer to implement a work-cycle in which an employee may be required to work up to a maximum of 10 ordinary hours per day and that 22.3 is not intended to allow the employer to vary the number of ordinary hours worked by an employee day to day without notice up to a maximum of 10 ordinary hours per day.</p> <p>AMWU submit that the intent of 22.3 required an additional clarifying 22.4 (numbering adjusted accordingly) as follows:</p> <p style="padding-left: 40px;">“22.4 A permanent employee’s daily hours once fixed may vary with at least 7 days’ notice.”</p>											
	Ai Group	<a href="#">Sub-09/12/2019</a>	Para 56 - 75		<p>Ai Group’s opposes AMWU’s proposed new 22.4 as it would not ‘clarify the intent’ of 22.3; instead, it would introduce a new requirement for 7 day’s notice to be</p>											

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					<p>provided before an employer may vary an employee’s hours.</p> <p>Ai Group submit that neither the exposure draft or the current award impose this requirement. They provide detail at [61]-[75] of their reply submissions and request time to prepare a comprehensive case against such a significant change.</p>	
	MTO	<a href="#">Sub-09/12-2019</a>	Section 4		MTO oppose the change sought by AMWU and outline their reasons in Section 4 of their reply submissions.	
11	AMWU	<a href="#">Sub-27/11/2019</a>	Paras 18 - 20	Cl. 24.2(a)	<p><b>Overtime – Definition of overtime</b></p> <p>AMWU submit that consistent with clarifying the intent of 22.3, 24.2(a) should also be clarified to state that an employee’s ordinary hours of work and rostering defined under 22, are wording on a daily or shift basis, with overtime calculated accordingly. AWMU suggest as follows:</p> <p>“(a) For a full-time employee, overtime is any time worked outside the ordinary hours prescribed by clause 22—Ordinary hours of work and rostering, <u>and calculated on a daily basis.</u>”</p>	
	Ai Group	<a href="#">Sub-09/12/2019</a>	Paras 76 - 80		<p>Ai Group does not oppose 24.2(a) being varied to clarify that the rate at which overtime is paid is calculated on a daily basis.</p> <p>Ai Group suggest that overtime and the rate at which is applies should be dealt with separately and a new subclause in the clause dealing with overtime rates could be inserted as follows:</p> <p style="padding-left: 40px;">‘In computing overtime each day’s work stands alone.’</p>	



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	MTO	<a href="#">Sub-09/12-2019</a>	Section 5		MTO support the general principle that each day’s work stands alone and that overtime is generally calculated on a daily basis and applies where any time is worked outside the ordinary hours of work and shifts in excess of 10 hours as prescribed in 22.	
12	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 150	Cl. 25	<p><b>Shiftwork Penalties</b></p> <p>Ai Group submit that the title of the clause and the wording in 25.1 should be changed to ‘shiftwork penalty rates’.</p> <p>Ai Group submit that a consequential change should be made to the reference in 27.5(c)(ii).</p>	
13	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2	Cl. 25	MTO have had discussions with Ai Group and do not oppose changes which relate to clarifying clauses and correcting some anomalies.	
14	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 152	Cl. 27.1(a)	<p><b>Special provisions—driveway attendant, console operator and roadhouse attendant – Hours of work</b></p> <p>Ai Group submit that the reference to clause 19 should be changed to 22 as the cross-reference was intended to point the clause pertaining to ‘Ordinary Hours and Rostering’.</p> <p>They refer to documentation filed with the Commission on <a href="#">29 May 2019</a>.</p>	

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	MTO	<a href="#">Sub-27/11/2019</a>	Section 5		MTO submit that the words ‘as prescribed by clause 19’ in 27.1 (a), have been included in the exposure draft, however the MTO submit that the parties never reached agreement on the inclusion of these words. While initially supporting the inclusion of these words, the MTO agree with the earlier submission of the AMWU that the inclusion of these words is unnecessary.	
	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 153		Ai Group do not oppose this proposal.	
15	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 154 - 155	Cl. 27.3	<p><b>Special provisions—driveway attendant, console operator and roadhouse attendant – Casual rates</b></p> <p>In response to the Commission’s request that parties confirm changes to 27.3:</p> <p>Ai Group does not oppose the changes, consistent with those proposed by the VACC in correspondence to the Commission on <a href="#">10 October 2019</a>.</p>	
	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2		MTO have had discussions with Ai Group and do not oppose changes which relate to clarifying clauses and correcting some anomalies.	
16	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 156	Sch. B	<p><b>Terminology of rates</b></p> <p>Ai Group submit that the term ‘shiftwork penalties’ in B.1.2, B.1.4(b), B.1.5(b), B.1.6(b), B.3.2, B.3.6(b), B.5.2 and B.6.2 should be changed to ‘shiftwork rates’.</p>	

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	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2		MTO have had discussions with Ai Group and do not oppose changes which relate to clarifying clauses and correcting some anomalies.	
17	ABI & NSWBC	<a href="#">Sub-27/11/2019</a>	Paras 54 & 55	Cl. B.3.4(a) & B.3.6(a)	ABI and NSWBC support the changes made by the Commission to the wages tables at B.3.4(a) and B.3.6(a).	
	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 1		MTO supports ABI and NSWBC's submission.	
	Ai Group	<a href="#">Sub-27/11/2019</a>	Paras 157 - 159		<p>Ai Group agree with the incorporation of the words 'after midday' in the 3<sup>rd</sup> column.</p> <p>Ai Group does not agree with the usage of the words 'ordinary hours' in the 2<sup>nd</sup> column. They submit it is confusing as all hours in those tables are 'ordinary hours'. They propose that 'ordinary hours' in the 2<sup>nd</sup> column be replaced with 'Monday to Friday, Saturday (before midday)'.</p> <p>Ai Group submit that the same issue arises in the following additional tables:</p> <ul style="list-style-type: none"> <li>• B.1.1 – second column should be retitled: 'Monday to Friday'</li> <li>• B.1.4(a) – second column should be retitled: 'Monday to Friday'</li> <li>• B.1.5(a) – second column should be retitled: 'Monday to Friday'</li> <li>• B.1.6(a) – second column to be retitled: 'Monday to Friday'</li> <li>• B.2.4(a) – the words 'ordinary hours' should be deleted from the title to the second column</li> <li>• B.3.1 – second column should be retitled 'Monday to Friday, Saturday (before midday)'</li> </ul>	

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					<ul style="list-style-type: none"> <li>B.5.1 - second column should be retitled 'Monday to Friday'</li> <li>B.6.1 - second column should be retitled 'Monday to Friday'</li> </ul>	
18	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2	Cl. B.3.4(a) & B.3.6(a)	MTO have had discussions with Ai Group and do not oppose changes which relate to clarifying clauses and correcting some anomalies	
19	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 160	Cl. B.3.5	Ai Group submit that B.3.5 should be renumbered as B.3.4(c).	
20	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 2	Cl. B.3.5	MTO have had discussions with Ai Group and do not oppose changes which relate to clarifying clauses and correcting some anomalies.	
21	ABI & NSWBC	<a href="#">Sub-27/11/2019</a>	Para 55	Cl. B.7.1 & B.7.2	ABI and NSWBC support the changes made to the wages tables at B.7.1 and B.7.2 with respect to casual Sunday penalty rate.	
	MTO	<a href="#">Reply - Sub-09/12/19</a>	Section 1		MTO supports ABI and NSWBC's submission	
	Ai Group	<a href="#">Sub-27/11/2019</a>	Para 161		Ai Group agree that the amended rates rectify an inconsistency with 28.2(c).	

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	MTO	<a href="#">Sub-27/11/2019</a>	Section 7		<p>MTO submit that the following rates are incorrect:</p> <table border="1"> <tr> <td>B.7.1 – RS&amp;R Vehicle Sales Employees – Casual employees – RS&amp;R Level 4 Vehicle salesperson (less than 6 months experience) SUNDAY</td> <td>\$43.08 <b>not</b> \$42.08</td> </tr> <tr> <td>B.7.1 – RS&amp;R Vehicle Sales Employees – Casual employees – RS&amp;R Level 4 Vehicle salesperson (more than 6 months experience) SUNDAY</td> <td>\$45.40 <b>not</b> \$45.45</td> </tr> <tr> <td>B.7.2 – Casual junior RS&amp;R vehicle sales employees – Sunday rate – 20 years</td> <td>\$34.12 <b>not</b> \$34.02</td> </tr> </table>	B.7.1 – RS&R Vehicle Sales Employees – Casual employees – RS&R Level 4 Vehicle salesperson (less than 6 months experience) SUNDAY	\$43.08 <b>not</b> \$42.08	B.7.1 – RS&R Vehicle Sales Employees – Casual employees – RS&R Level 4 Vehicle salesperson (more than 6 months experience) SUNDAY	\$45.40 <b>not</b> \$45.45	B.7.2 – Casual junior RS&R vehicle sales employees – Sunday rate – 20 years	\$34.12 <b>not</b> \$34.02	
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22	MTO	<a href="#">Sub-27/11/2019</a>	Section 6	Cl. 17, 29.13 & 29.6	<p>MTO submit that there are outstanding issues in relation to:</p> <ul style="list-style-type: none"> <li>• 17 – Payment of wages (AM2016/8);</li> <li>• 29.13 – Untaken leave on termination;</li> <li>• 29.6 – Annual close down</li> </ul>							