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Contents

Proposals by parties to the Review of Certain C14 Rates and submissions in reply.....	3
Dry Cleaning and Laundry Industry Award 2020.....	3
1.1 Proposals	3
1.2 Submissions.....	3
1.3 Submissions in reply	5
Concrete Products Award 2020.....	5
2.1 Proposals	5
2.2 Submissions.....	6
2.3 Submissions in reply	8
Funeral Industry Award 2020.....	9
3.1 Proposals.....	9
3.2 Submissions.....	9
3.3 Submissions in reply	10
Meat Industry Award 2020	10
4.1 Proposals.....	10
4.2 Submissions.....	10
4.3 Submissions in reply	11
Rail Industry Award 2020.....	11
5.1 Proposals.....	11
5.2 Submissions.....	12
5.3 Submissions in reply	12
Sugar Industry Award 2020	13
6.1 Proposals.....	13
6.2 Submissions.....	13
6.3 Submissions in reply	16
Submissions about other issues:	17
Background Paper	17
Next Steps	17

Review of certain C14 rates in modern awards – parties' proposals

There are **7 awards** still subject to the review.

The following **3 awards** have been identified as having a transitional C14 rate where the period of the transition is not clear:

- *Concrete Products Award 2020*
- *Meat Industry Award 2020*
- *Rail Industry Award 2020.*

The following **4 awards** have been identified as having a C14 rate that is not transitional:

- *Dry Cleaning and Laundry Industry Award 2020*
- *Funeral Industry Award 2020*
- *Sugar Industry Award 2020*
- *Travelling Shows Award 2020.*

In the Full Bench statement published 6 October 2022 we sought proposals from parties seeking to make changes to the above listed awards. Proposals were due on 21 October 2022.

We received proposals for **6 of the awards**. There were no proposals for the Travelling Shows Award 2020.

A summary of the proposals and submissions in reply is set out below.

Proposals by parties to the Review of Certain C14 Rates and submissions in reply

Dry Cleaning and Laundry Industry Award 2020

1.1 Proposals

The [United Workers' Union](#) and the [CFMMEU-Manufacturing Division](#) have proposed two changes to the Drycleaning Award:

1. Replace the current classification description for a Level 1 employee with a new classification description for an Introductory Level that is applicable to a new entrant in the industry and limited to **3 months**.
2. Vary the description of a Level 2 employee to include a “catch all” provision.

1.2 Submissions

The [CFMMEU-Manufacturing Division](#) provides the following in support of proposal 1 (which the UJU support):

- (a) the lowest classification only applies to new entrants to the dry-cleaning industry;
- (b) the lowest classification is transitional in nature;
- (c) an obligation that an employee at this level receives appropriate training in order for them to achieve a level of competence to be classified at level 2; and
- (d) elaborates on the level of supervision, training, assessment and feedback required during the transitional period.

The [UJU](#) submits that the variation to Level 2 to include a “catch all” provision recognises the value of work performed by employees with additional experience. The CFMMEU – MD supports the variation.

Party	Current classification description	Proposed classification description
CFMMEU- Manufacturing Division,	A.1 Dry cleaning employee Level 1	A.1 Introductory Level An employee at this level will:

Party	Current classification description	Proposed classification description
Supported by <u>UWU</u>	An employee who is below the level of a tradesperson dry cleaner and is not within Levels 2 to 4.	<p>(a) be a new entrant to the dry-cleaning industry; and</p> <p>(b) for up to three (3) months undergo appropriate training, (including induction), so as to enable them to achieve the level of competence required to be classified at Dry cleaning employee Level 2.</p> <p>(c) work under the following conditions: totally defined procedures and methods; constant direct supervision; constant direct training and progressive assessment and feedback.</p> <p>Training for new entrants will be determined in accordance with the needs of the enterprise but will involve instruction aimed at assisting employees at the Introductory level to achieve the range of competencies required at Dry cleaning employee Level 2.</p>
<u>UWU</u> Supported by <u>CFMMEU- Manufacturing Division</u>	<p>A.2 Dry cleaning employee Level 2</p> <p>An employee who is employed as:</p> <p>(a) a wet cleaner;</p> <p>(b) a steam air finisher;</p> <p>(c) an examiner of garments;</p> <p>(d) an assembler of garments; or</p> <p>(e) a sorter of garments.</p>	<p>A.2 Dry cleaning employee Level 2</p> <p>An employee who is employed as:</p> <p>(a) a wet cleaner;</p> <p>(b) a steam air finisher;</p> <p>(c) an examiner of garments;</p> <p>(d) an assembler of garments; or</p> <p>(e) a sorter of garments</p> <p><u>(f) an employee with at least three (3) months' experience in the dry-cleaning industry who is not a tradesperson dry cleaner and is not otherwise employed in the above roles or within Levels 3 to 4</u></p>

1.3 Submissions in reply

The AWU supports CFMMEU Manufacturing and UWU's proposals.

The Drycleaning Institute of Australia submit that the Dry Cleaning Employee Level 1 classification descriptor should only be varied to the extent necessary to achieve the modern awards objective (para. 7), and submit an alternate proposed Clause A.1.

The Drycleaning Institute of Australia submit that different workplaces have different requirements, machinery, processes and employee capabilities. They submit that the 'unions' proposed 'one-size fits all' approach is not appropriate' (para. 11).

Party	Current classification description	Proposed classification description
Drycleaning Institute of Australia	A.1 Dry cleaning employee Level 1 An employee who is below the level of a tradesperson dry cleaner and is not within Levels 2 to 4.	A.1 Dry cleaning employee Level 1 An employee who is undertaking training to enable the employee to work at Level 2. The employee performs routine duties of a manual nature, exercises minimal judgement and works under direct supervision.

Australian Business Industrial (ABI) submit that the union party submissions do not address work value considerations or engage with the historical development of the Award. They also do not provide any explanation for why 3 months has been selected as the appropriate transition period (para 4.6).

ABI is also concerned about the Unions' drafting of phrases such as: "so as to enable them to", "totally defined procedures", "constant direct supervision", "constant direct training" and progressive assessment and feedback" (para. 4.7).

Concrete Products Award 2020

2.1 Proposals

1. The AWU propose that the content of Schedule A.1.3 be moved to A.3.4 and vice versa.
2. The AWU propose the insertion of an additional limit of 3 months at the Level 1 grade. (AWU suggested this should appear at A.1.2.1 – we have inserted at A.1.2 and renumbered)

2.2 Submissions

The AWU point to the classification translation table in Appendix 1, which appears to have mistranslated during the award modernisation process. They submit that Levels 1 and 2 have been transposed.

The AWU proposes that the content of Schedule A.1.3 be moved into Schedule A.3.4 and the content of Schedule A.3.4 moved into Schedule A.1.3.

Party	Current classification description	Proposed classification description
<u>AWU</u>	<p data-bbox="533 616 976 643">A.1.3 Classification descriptors</p> <ul style="list-style-type: none"> <li data-bbox="745 687 1182 815">▪ Operator of concrete mixing machine with a rated capacity in excess of 0.4 cubic metres (1/2 cubic yard approximately) <li data-bbox="745 823 1160 882">▪ Automatic tile/ridge machine operator <li data-bbox="745 890 1182 949">▪ Maker by hand of tiles, ridges, apexes and starters <li data-bbox="745 957 1088 984">▪ Pipe machine operator <li data-bbox="745 992 1151 1222">▪ Employee making pipe specials, i.e. concreting junctions, splays or other articles including the use of cortex and who may be required to work from plans and/or specifications <li data-bbox="745 1230 1144 1321">▪ Moulder special, employed working from plans and specifications <li data-bbox="745 1329 1171 1388">▪ Pre-stressed concrete—steel stressing operator 	<p data-bbox="1245 616 1688 643">A.1.3 Classification descriptors</p> <ul style="list-style-type: none"> <li data-bbox="1458 687 2067 778">▪ Operator of concrete mixing machine with rated capacity less than 0.12 cubic metres, or mixing by hand <li data-bbox="1458 786 1648 813">▪ Pipe tester <li data-bbox="1458 821 2074 880">▪ Stacker by hand of articles including bricks, blocks, tiles and pipes <li data-bbox="1458 888 1957 948">▪ All other employees not elsewhere classified

Party	Current classification description	Proposed classification description
	<ul style="list-style-type: none"> ▪ Automatic block/brick machine operator ▪ Off-bearer operator ▪ Operator bending, cutting and/or fixing bars, rods or reinforcement working from plans ▪ Exposed aggregate maker-finisher (includes control of washing off of wet concrete surfaces) ▪ Coating machine operator 	
	<p data-bbox="535 719 976 751">A.3.4 Classification descriptors</p> <ul style="list-style-type: none"> ▪ Operator of concrete mixing machine with rated capacity less than 0.12 cubic metres, or mixing by hand ▪ Pipe tester ▪ Stacker by hand of articles including bricks, blocks, tiles and pipes ▪ All other employees not elsewhere classified 	<p data-bbox="1247 719 1688 751">A.3.4 Classification descriptors</p> <ul style="list-style-type: none"> ▪ Operator of concrete mixing machine with a rated capacity in excess of 0.4 cubic metres (1/2 cubic yard approximately) ▪ Automatic tile/ridge machine operator ▪ Maker by hand of tiles, ridges, apexes and starters ▪ Pipe machine operator ▪ Employee making pipe specials, i.e. concreting junctions, splays or other articles including the use of cortex and who may be required to work from plans and/or specifications ▪ Moulder special, employed working from plans and specifications ▪ Pre-stressed concrete—steel stressing operator ▪ Automatic block/brick machine operator ▪ Off-bearer operator

Party	Current classification description	Proposed classification description
		<ul style="list-style-type: none"> ▪ Operator bending, cutting and/or fixing bars, rods or reinforcement working from plans ▪ Exposed aggregate maker-finisher (includes control of washing off of wet concrete surfaces) ▪ Coating machine operator

2.3 Submissions in reply

[Ai Group](#) submit that to consider AWU's proposal, it is necessary to review relevant sources and predecessor instruments, including the Background Paper, but in the time available since the AWU filed its proposal, it has not been feasible for Ai Group to do so (para. 6).

Ai Group also note that AWU has not advanced a basis for the new element of the level 1 classification definition it has proposed (para. 7).

[ABI](#) submit that the AWU have not provided an adequate explanation as to why Level 1 should operate on a 3 month transitional basis (paras 4.12-4.15).

[ABI](#) also submit that there are other issues of concern (para 4.15):

(a) Potential ambiguity with the proposed wording (for example, the wording refers to training that "will enable" the employee to progress within three months; what happens if the employee is not capable of progressing despite training?).

(b) How the proposed new clause A.1.2.1 would sit alongside the existing A.1.1 (for example, A.1.1 refers to employees "undertaking the employer's induction programme", whereas the proposed A1.2.1 refers to employees "undertaking training").

[ABI](#) also request an opportunity to consider the issue of the error in classification descriptors (contained in Schedules A.1.3 and A.3.4) further and consult with both the AWU and industry (para. 4.16)

Funeral Industry Award 2020

3.1 Proposals

The UWU propose to:

1. Add an introductory level paid at the NMW that is limited to 3 months.
2. Vary Grade 1 level to reflect the skills and training of staff who have received on the job training and have industry experience.
3. In the above draft variations, UWU propose the Introductory Level be paid at NMW (being the current Grade 1 rate of pay), and the Grade 1 level paid at a rate between the current NMW and the Grade 2.

3.2 Submissions

Party	Current classification description	Proposed classification description
<u>UWU</u> <u>Supported by AWU</u>	<p>Clause 12 – Classifications</p> <p>‘2.1 Grade 1</p> <p>(a) Funeral director’s assistant;</p> <p>(b) coffin draper; or</p> <p>(c) adult employee not mentioned elsewhere in any of Grades 2 to 6.’</p>	<p><u>Introductory Level</u></p> <p>An employee at this level will: a) be a new entrant to the funeral industry; and</p> <p>b) for up to three (3) months undergo appropriate training, (including induction) to enable them to achieve the level of competence required to be classified at Grade 1; and</p> <p>c) work under the following conditions: totally defined procedures and methods; constant direct supervision; constant direct training and progressive assessment and feedback.</p>
<u>UWU</u> <u>Supported by AWU</u>	<p>2.1 Grade 1</p> <p>(a) Funeral director’s assistant;</p> <p>(b) coffin draper; or</p> <p>(c) adult employee not mentioned elsewhere in any of Grades 2 to 6.</p>	<p><u>Grade 1</u></p> <p>An employee at this level will have at least three (3) months experience in the funeral industry and be employed as: a) Funeral director’s assistant; b) coffin draper; or c) adult employee not mentioned elsewhere in any of Grades 2 to 6.</p>

3.3 Submissions in reply

[ABI](#) is concerned about elements of the drafting proposed by the UWU, including (but not limited to) the phrases “to enable them to”, “totally defined procedures”, “constant direct supervision”, constant direct training” and progressive assessment and feedback” (para. 4.10).

[ABI](#) would value the opportunity to consult with industry to enable them to provide a more considered response to the proposal (para. 4.11).

Meat Industry Award 2020

4.1 Proposals

The Australasian Meat Industry Employees’ Union propose that:

1. Given the short periods of on-the-job training provided to most employees new to the industry, Level MI1 should be deleted from the award.
2. In the alternative the classification should be amended to insert a maximum duration of **one week** which reflects the amount of on-the-job training that new employees typically receive.

4.2 Submissions

The Australasian Meat Industry Employees’ Union submit that it believe any employer would provide such extensive (3 month) training at this classification, and submit that the classification is being widely misused/misapplied in the industry.

MI 1 level employees are trained at this level for basic labouring/packing (a few hours’ training). After training, they are assigned work tasks covered by higher classifications (MI 2 or 3).

Party	Current classification description	Proposed classification description
<u>Australasian Meat Industry Employees' Union, Supported by AWU</u>	<p>Schedule A.3.1 Meat Industry Level 1:</p> <p>An employee at this level will be a person with no experience in the industry undergoing on-the-job training for an initial period of at least 3 months.</p>	<p>If Schedule A.3.1 Meat Industry Level 1 is not deleted, it should be amended to:</p> <p>An employee at this level will be a person with no experience in the industry undergoing on-the-job training for an initial period of <u>one week</u>.</p>

4.3 Submissions in reply

[Ai Group](#) contests AMIEU's first proposal (deleting Schedule A.3 Meat Industry Level 1), because not all employees can be capable of being classified at Level 2 or higher (para. 9).

In relation to AMIEU's second proposal, [Ai Group](#) submits that a one-week limitation on the period of time during which an employee may be classified at level 1 is not appropriate, and that some employees with no experience in the industry undergo on-the-job training for periods that well exceed one week.

[ABI](#) submit that the AMIEU submission does not appear to address work value considerations or engage with the historical development of the Award. Nor does the submission assert that the existing rate for the 'Meat Industry Level 1' classification has not been properly set based on work value reasons (para. 4.26).

Rail Industry Award 2020

5.1 Proposals

The Australian Rail, Tram and Bus Industry Union submit that Operations Classification Level 1 should be varied to ensure the rate operates on a transitional basis.

5.2 Submissions

Party	Current classification description	Proposed classification description
Australian Rail, Tram and Bus Industry Union Supported by AWU	<p>Operations Level 1 Employees at this level undertake and successfully complete standard induction training and will be required to:</p>	<p>Operations Level 1 Employees at this level undertake and successfully complete standard induction training <u>within the first month of employment. On completion of the required induction training the employee will be reclassified to level 2.</u></p> <p><u>Employees at Level 1</u> will be required to:</p>

5.3 Submissions in reply

The [AMWU](#) supports the drafting proposal submitted by the Australian Rail, Tram and Bus Industry Union.

[Ai Group](#) submit that it is not appropriate for a classification descriptor to create a requirement that employees complete their training within one month (para. 11). [Ai Group](#) also express concern that ARTBIU's submission does not reveal the specific period of time within which induction training is in fact completed (para. 11).

Sugar Industry Award 2020

6.1 Proposals

The UWU proposes to insert of three subclauses to limit the application of the C14 rate to the first **3 months** of employment in milling, distillery, and refinery streams.

No changes were proposed for the engineering or bulk terminal employees as those rates already have a 3-month limitation

6.2 Submissions

The purpose of the [Australian Workers' Union's](#) proposals is to ensure the C14 rates in the award for the milling, distillery and refinery streams operate on a transitional basis:

Party	Current classification description	Proposed classification description
Australian Workers' Union	<p>B.1.1 Milling general operator—level 2 (C14)</p> <p>(a) An employee at this level is required to:</p> <ul style="list-style-type: none">(i) work under supervision;(ii) exercise decision making/responsibility within their level of skill and training;(iii) demonstrate awareness of general quality control standards in particular responsibility for their own work and advise of quality control problems where identified;	<p>B.1.1 Milling general operator—level 2 (C14)</p> <p>(a) An employee at this level is required to:</p> <ul style="list-style-type: none">(i) work under supervision;(ii) exercise decision making/responsibility within their level of skill and training;(iii) demonstrate awareness of general quality control standards in particular responsibility for their own work and advise of quality control problems where identified;(iv) assist with on-the-job training;

Party	Current classification description	Proposed classification description
	<p>(iv) assist with on-the-job training;</p> <p>(v) service and adjust equipment according to their level of skill and training and advise of any additional maintenance required;</p> <p>(vi) demonstrate general housekeeping skills; and</p> <p>(vii) demonstrate ability to use common language skills to engage in communication and to read and understand written and oral instructions plus prepare records that convey information accurately and concisely.</p>	<p>(v) service and adjust equipment according to their level of skill and training and advise of any additional maintenance required;</p> <p>(vi) demonstrate general housekeeping skills; and</p> <p>(vii) demonstrate ability to use common language skills to engage in communication and to read and understand written and oral instructions plus prepare records that convey information accurately and concisely.</p> <p><u>(viii) undertake training that will enable them to progress to a higher</u></p> <p><u>classification level within three months.</u></p>
<p>Australian Workers' Union</p>	<p>B.2.1 Distilling and services operator—level 2 (C14)</p> <p>An employee at this level is required to:</p> <p>(a) work under supervision;</p> <p>(b) exercise decision making/responsibility within their level of skill and training;</p> <p>(c) demonstrate awareness of general quality control standards in particular responsibility for their own work and advise of quality control problems where identified;</p> <p>(d) assist with on-the-job training;</p>	<p>B.2.1 Distilling and services operator—level 2 (C14)</p> <p>An employee at this level is required to:</p> <p>(a) work under supervision;</p> <p>(b) exercise decision making/responsibility within their level of skill and training;</p> <p>(c) demonstrate awareness of general quality control standards in particular responsibility for their own work and advise of quality control problems where identified;</p> <p>(d) assist with on-the-job training;</p> <p>(e) service and adjust equipment according to their level of skill and training and advise of any additional maintenance required;</p>

Party	Current classification description	Proposed classification description
	<p>(e) service and adjust equipment according to their level of skill and training and advise of any additional maintenance required;</p> <p>(f) demonstrate general housekeeping skills; and</p> <p>(g) demonstrate ability to use common language skills to engage in communication and to read and understand written and oral instructions plus prepare records that convey information accurately and concisely</p>	<p>(f) demonstrate general housekeeping skills; and</p> <p>(g) demonstrate ability to use common language skills to engage in communication and to read and understand written and oral instructions plus prepare records that convey information accurately and concisely</p> <p><u>(h) undertake training that will enable them to progress to a higher classification level within three months.</u></p>
<p>Australian Workers' Union</p>	<p>B.3.1 Refinery operator—level 2 (C14)</p> <p>An employee at this level is required to:</p> <p>(a) work under supervision;</p> <p>(b) exercise decision making/responsibility within their level of skill and training;</p> <p>(c) demonstrate awareness of general quality control standards with particular responsibility for their own work and advise of quality control problems where identified;</p> <p>(d) assist with on-the-job training;</p> <p>(e) service and adjust equipment according to their level of skill and training and advise of any additional maintenance required;</p>	<p>B.3.1 Refinery operator—level 2 (C14)</p> <p>An employee at this level is required to:</p> <p>(a) work under supervision;</p> <p>(b) exercise decision making/responsibility within their level of skill and training;</p> <p>(c) demonstrate awareness of general quality control standards with particular responsibility for their own work and advise of quality control problems where identified;</p> <p>(d) assist with on-the-job training;</p> <p>(e) service and adjust equipment according to their level of skill and training and advise of any additional maintenance required;</p> <p>(f) demonstrate general housekeeping skills; and</p>

Party	Current classification description	Proposed classification description
	<p>(f) demonstrate general housekeeping skills; and</p> <p>(g) demonstrate ability to use common language skills to engage in communication and to read and understand written and oral instructions plus prepare records that convey information accurately and concisely.</p>	<p>(g) demonstrate ability to use common language skills to engage in communication and to read and understand written and oral instructions plus prepare records that convey information accurately and concisely.</p> <p><u>(h) undertake training that will enable them to progress to a higher classification level within three months.</u></p>

6.3 Submissions in reply

The [AMWU](#) supports the drafting proposal submitted by [The Australian Workers' Union](#).

[Ai Group](#) submit that the AWU's submission does not provide any explanation for its proposal, and why three months has been selected as the outer limit (para. 13).

[ABI](#) submits that the reasoning provided by AWU in support of the variations is inadequate (para. 4.18). [ABI](#) submits that the AWU submission does not address work value considerations or engage with the historical development of the Award (para. 4.20).

Submissions about other issues:

Background Paper

[Ai Group](#) submit that they have not had a sufficient opportunity to verify whether the Background Paper ‘properly reflects the history preceding the relevant extant award terms.’ Ai Group intend to deal with the Background Paper in the context of any submissions that are filed about the Relevant Awards (para 14).

[ABI](#) also submit that they have not been able to undertake a detailed review of the Background Paper to assess its accuracy or to identify any errors or omissions, and would more time to consider the Background Paper.

Next Steps

[Ai Group](#) submit that the Commission should grant a further period of time for respondent parties to consider the proposals filed and for discussions to take place with the moving parties, with a view to identifying whether there is any common ground or scope for agreement. The matter should be listed for a report back, not before December 2022, to receive an update from the parties as to the progress made.

[ABI](#) submit that:

- (a) Interested parties should be provided with a reasonable period of time in which they to consult with their respective stakeholders on the various proposals;
- (b) the Commission should conduct a conference to allow the various interested parties to discuss the proposals with a view to reaching agreement or narrowing the issues in dispute;
- (c) The Commission should explore what, if any, additional research or information might assist the Commission in dealing with the various proposals (which might include subsequent or more detailed Background Paper/s); and
- (d) Directions then be set down for the filing of submissions and evidence, and response / reply materials, in advance of a Full Bench hearing to determine the matter.