



REPORT TO THE FULL BENCH

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

(AM2014/211)

SENIOR DEPUTY PRESIDENT HAMBERGER

SYDNEY, 30 NOVEMBER 2015

4 Yearly Review of Modern Awards – Road Transport (Long Distance Operations) Award 2010.

[1] A conference was held on 28 October 2015 attended by representatives from the following organisations:

- The Transport Workers' Union of Australia (TWU);
- The Australian Workers' Union (AWU);
- The Australian Federation of Employers and Industries (AFEI);
- The Australian Industry Group (AIG);
- The National Road Transport Association (NatRoad);
- The Australian Road Transport Industrial Organization (ARTIO);
- South Australia's Chamber of Commerce and Industry (Business SA); and
- Australian Business Industrial (ABI) and NSW Business Chamber (NSWBCL).

[2] The parties discussed the exposure draft of the *Road Transport (Long Distance Operations) Award 2010*¹ (the Award) published on 18 December 2014. Possible changes to the exposure draft that had the general support of the parties are summarised in Attachment A. Possible changes which did not have general support and may therefore need to be dealt with by a separate Full Bench are summarised in Attachment B. The parties have requested that substantive claims to be pursued be referred to a separately constituted Full bench. Matters in dispute that have been referred to other Full Benches are summarised at Attachment C.

[3] The AIG has offered to produce a revised draft of the Award reflecting the agreed changes.



SENIOR DEPUTY PRESIDENT

Attachment A

- Amend clause 11.2 to clarify how the fortnightly period is derived;
- Clause 11.7 (b) should be amended to refer to ‘four business days’ instead of ‘two days’;
- The reference in clause 5.2 to 8.5(b) should be substituted with ‘8.5(c)’;
- The wording of Clause 6.3 should be replaced with that in Clause 10.2 of the current Award;
- The wording in Clause 8.2 should be replaced with the wording of clause 20.2 of the current Award;
- The wording of clause 8.3(c)(i) should be replaced with the current clause 20.3(a);
- The wording in Clause 8.4 should be replaced with the wording in Clause 20.4 of the current Award;
- The wording in Clause 8.5(a) should be replaced with the wording of Clause 20.5 (a) – though reference to ‘sick leave’ should be replaced with ‘personal/carer’s leave’;
- The word ‘maybe’ in Clause 8.5(b) should be replaced with ‘may be’;
- Instead of Clause 8.5(c), insert second paragraph of Clause 20.5 (b) of current Award at the end of Clause 8.5(b) and renumber remaining provisions accordingly;
- Replace wording of Clause 8.6(c) with wording of Clause 20.6(c) in current Award;
- Replace Clause 8.7 with wording in Clause 20.7 of current Award;
- Replace text in Clause 11.1 with text from Clause 13.1 of current Award;
- Replace reference to *Road Transport and Distribution Award 2010* in note at clause 11.1 with *Road Transport and Distribution Award 2015*;
- Replace wording in clause 11.2 (d) with wording of Clause 13.2(d) in current Award;
- In Clause 11.3(d) replace reference to Clause 11.3(a) with reference to Clauses 11.3 (a) and (b);
- In Clause 11.11 add the words ‘payable for work performed on a public holiday’ at the end of the clause.
- In Clause 12.1 cross reference should be to Schedule B (not D);
- In Clause 12.2(c)(i) update reference to Award;
- Replace wording in Clause 18.3(a) with wording in Clause 26.2(a) in existing Award;
- There should be a footnote reference to Clause 18.5 in Schedule A where the table refers to public holidays;
- The reference in the footnotes to Schedule A.1 and A.2 to the relevant ‘weekly’ rate should be deleted;
- Insert ‘(as defined in Schedule F)’ each time the term ‘fatigue management rules/regulations’ is used in the exposure draft;
- Amend schedule of classification structures to align with structure of *Road Transport and Distribution Award 2010*.

Attachment B

- Amend definition of ‘long distance operation’;
- In Clause 11.4 (a) remove column for casual employees;
- In Clause 11.5 (b) remove the second column of the table for casual drivers (and footnote);
- Include a provision in Clause 11.5(a)(iii) stating that the fatigue management plan is to be prided to the employee;
- Add a provision to clause 12.1(c) (i) specifying a minimum payment, and that an employee is only to perform work under one award per day;
- Add a new clause allowing for payment where an employee is required to travel as a passenger;
- Add a new clause specifying the rates for employees engaged in ‘two up’ driving;
- Add a new clause providing for payment for drivers spending excessive amounts of time waiting during loading or unloading;
- In Clause 12.3(a) replace the term ‘a weekly employee’ with ‘an employee’.

Attachment C

- The insertion of a new sub-clause on part-time employment (to be dealt with by Part Time Full Bench);
- Amend clause 14.2(c) to specify that leave loading is payable upon termination (to be dealt with by Annual Leave Full Bench);
- The insertion of provisions on accident pay (to be dealt with by Transitional Provisions Full Bench).

¹ MA000038.