

Fair Work Commission  
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East Sydney NSW 2011  
By email: [amod@fwc.gov.au](mailto:amod@fwc.gov.au)

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**Re: AM2014/211 – Submissions for the Exposure Draft of the - Road Transport (Long Distance Operations) Award 2010**

The Australian Workers' Union (AWU) submits the following in relation to the identified clauses in the exposure draft:

1. General issues: We have not included submissions on drafting and technical issues already dealt with in the Full Bench Decision on 23 December 2014 on the basis that the Exposure Draft will subsequently be amended, so that it is consistent with this Decision.
2. Clause 8.5 Rostered days off (RDOs): Payment for RDOs must be paid in accordance with clause 11.5(b) of the Award, which states that RDO payments comprise of minimum hourly driving rate calculated firstly by dividing the minimum weekly rate by forty, secondly by multiplying it by the industry disability allowance, and thirdly by the overtime allowance.
3. Clause 11.2(d) Guaranteed minimum payment: It is our submission that the second sentence of the clause causes ambiguity, thus it should be deleted.
4. The first sentence provides the following:

*“An employee travelling by sea or rail accompanying a vehicle on a long distance operation must be paid eight hours’ ordinary pay in any day”(our emphasis).*
5. The first sentence clearly makes it evident that regardless of how many hours actually worked, eight ordinary hours of pay must be made to an employee travelling by sea or rail accompanying a vehicle on a long distance operation.
6. The second sentence of the clause contradicts the first sentence and is incorrect as it states:

*“Where the employee works less than eight hours they are entitled to the balance of the difference paid between eight hours’ and actual hours worked” (our emphasis).*

7. The second sentence would mean that if an employee worked seven hours, they would be paid the difference between eight hours and seven hours, that is, eight hours minus seven hours, which would be one hour.
8. Accordingly, it is our submission that the intention of clause 11.2(d) is to ensure that employee travelling by sea or rail accompanying a vehicle on a long distance operation are guaranteed a minimum payment of eight ordinary hours pay regardless of the number of hours actually worked.
9. Furthermore, clause 11.2(d) is part of clause 11.2; a clause that encapsulates *“guaranteed minimum payment”*. Clause 11.2 outlines the minimum guaranteed payment for full time employees at 11.2(a), for casual employees at 11.2(b) and full time employees on call at 11.2(c).
10. Consequently, The AWU submits that to maintain the intention of the clause and to remove ambiguity, the second sentence of clause 11.2(d) must be deleted.
11. Clause 12.3(a) Expense related allowances – work diary: The clause currently states that:

*“A weekly employee required to purchase a work diary must be reimbursed by the employer for the cost of the work diary” (our emphasis).*

12. The term “weekly” excludes casual employees from a reimbursement of work diaries, hence we submit that the underlined words above be replaced with “An”.
13. Clause 8.2 (a) Hours of work and fatigue management: It is our submission that the wording of the current clause be retained because it clearly provides guidance as to the laws needing to be observed by employers in ensuring compliance with hours of work and fatigue management. Furthermore, the current clause refers to Commonwealth, State and Territory Acts, whereas the proposed clause refers to rules and regulations.
14. Clause 8.7 Call-back: The proposed clause must maintain the terms contained at the commencement of the current clause and should provide as follows:

*“On every occasion on which an employee is recalled to work after leaving the depot or home base must be paid for a minimum of four hours at the rate prescribed by clause 11.1”.*

15. Clause 9.2 Unpaid meal breaks: we refer to our submission at paragraph 13 above.
16. Clause 12.3(d)(ii) Expense related allowances – Housing: in relation to the question on page 21 of the exposure draft, we submit that the clause must specify how frequently the housing allowance payment must be made. The AWU further adds that the allowance should be paid on a daily basis, and be less than the amount of rent charged for that day.



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**NATIONAL LEGAL OFFICER**