



REPORT TO THE FULL BENCH

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

(AM2014/212)

SENIOR DEPUTY PRESIDENT HAMBERGER

SYDNEY, 30 NOVEMBER 2015

4 Yearly Review of Modern Awards – Road Transport and Distribution Award 2010.

[1] A conference was held on 30 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);
- Australian Business Industrial (ABI) and New South Wales Business Chamber (NSWBCL); and
- The Australian Road Transport Industrial Organization.

[2] The parties discussed the exposure draft of the *Road Transport and Distribution 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 will need to be dealt with by a Full Bench are summarised in Attachment B. The parties have requested that substantive variations to be pursued by any interested party be referred to a separately constituted Full Bench. Matters in dispute that have already been referred to other Full Benches are summarised at Attachment C.

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



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Attachment A

- Introduce equivalent wording to the last sentence of clause 24.2 of the long distance award for both persona/carer's leave (clause 19 of exposure draft) and annual leave (clause 18 of exposure draft);
- Delete last sentence in clause 8.4(b) and add 'or between the employer and an individual employee' to the end of the first sentence;
- The reference in clause 5.2(a)(ii) to clause 8.3 should be to 8.4 (a) and (b);
- Delete clauses 5.2 (a) (iv) and 5.2(a) (vi);
- The reference in clause 5.2(a)(vii) should be to clause 15.7(a) rather than clause 15.7;
- The reference in clause 5.3(a)(ii) to clause 8.3 should be to clause 8.4 (b);
- Delete clause 5.3(a)(iv);
- Replace clause 6.4(a)(ii) with clause 12.4(g) from existing award;
- Change cross references in clause 6.4)(f) and 6.4(h) to 6.4 (b) (i)-(iii);
- In clause 6.5(c) the words 'for the classification in which they are employed' with 'for their classification';
- Replace clauses 8.4(c) and 8.4 (d) with clause 22.4 of current award;
- Add 'taken for the purpose of complying with fatigue management rules/regulations' after 'meal breaks' in clause 8.5(b)(ii);
- Insert 'such' between 'all' and 'days of the week' in clauses 8.5(b)(ii) and 9.7(b)(ii);
- Clauses 9.5 and 9.6 should be replaced with clause 23.4 from existing award (though '150% and 200% should be used);
- Clauses 11.1(c) and 11.2(b) should be amended to refer to 'applicable minimum hourly rate';
- Second column of clause 12.3(a) should refer to '% of the applicable adult minimum hourly rate';
- Insert clause 16.1 of the existing award into clause 13;
- In clause 13.2(a)(i) the all-purpose allowance paid to grade 7 and grade 10 employees should not be described as an industry allowance;
- industry allowances should be moved from Schedule B and placed under clause 13.2(a)(i);
- clause 13.2(a)(ii) should be deleted;
- replace clause 13.4(a) with the current clause 16.2(f);
- replace clause 13.4(b) with the current clause 16.4(a);
- In clause 13.4(c)(i) replace 'Clause 13.4(c)(i) does' with 'The provisions of this clause do';
- Delete clause 15.1(d);
- Replace clause 15.10 with clause 24.10 of existing award;
- Remove clause 16.2(e);
- Delete clause 17.3;
- At end of clause 17.5(c)(ii) delete 'ordinary hours' and replace with 'such absence';
- Reference in clause 18.2(a) to clause 15.1 should be amended to refer to read 's.87(1)(b) of the Act';
- In C 2.2, 2.4, 2.6, 4.2, and 4.4 the footnote should refer to clause 15.10;
- In Schedule D.1 insert reference to relevant classifications in second column in respect of final four allowances.

Attachment B

- The introduction of an 'early morning shift' clause;
- The introduction of additional limitations on circumstances where the meal allowance is paid;
- In clause 8.1 (a) delete reference to 'for a full time employee' and insert 'up to 38 per week';
- Amend clause 12.6 to allow for a review of a classification where higher duties are being performed;
- Amend clause 12.6 to restrict circumstances in which the higher duties clause applies;
- Amend classifications in Schedule B to recognise advances in heavy vehicle development and manufacturing;
- Whether oil distribution workers should receive higher hourly rates;
- The application of minimum engagement for casuals outside ordinary hours;
- Revise the rates for casuals in clause 16.2 (work on public holidays);
- Amend the definition of 'road transport and distribution industry';
- Insert a definition of 'driver'.

Attachment C

- Remove the obligation to pay annual leave loading on termination (to be dealt with by Annual Leave Full Bench);
- Conversion of casual employment (to casuals Full Bench);

¹ MA000038.