



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards — Casual employment and Part-time employment

(AM2014/196 and AM2014/197)

ROAD TRANSPORT (LONG DISTANCE OPERATIONS) AWARD 2010

[MA000039]

Vehicle industry

VICE PRESIDENT HATCHER
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SYDNEY, 27 FEBRUARY 2018

4 yearly review of modern awards – Casual employment and Part-time employment – Road Transport (Long Distance Operations) Award 2010 – variation to clause 10, 13 and 26.

A. Further to the decision issued on 5 July 2017 [[\[2017\] FWCFB 3541](#)] and pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, the *Road Transport (Long Distance Operations) Award 2010* is varied as follows:

1. By deleting clause 10.1 and inserting the following:

10.1 An employee will be engaged as either a full-time, part-time or casual employee. At the time of engagement, the employer will inform each employee of their terms of engagement.

2. By renumbering clause 10.3 as clause 10.4.

3. By inserting a new clause 10.3 as follows:

10.3 Part-time employment

(a) A part-time employee is an employee engaged by an employer for an average of less than 38 ordinary hours per week over 28 days.

(b) Before commencing part-time employment, the employee and employer must agree upon:

- (i) the days of the week on which the employee will be required by the employer to commence work on a long distance operation, and
 - (ii) either the maximum number of ordinary hours of work per week, or the maximum weekly average number of ordinary hours of work calculated over a period of not more than 28 days, that the employee may perform.
- (c) The terms of any agreement made under clause 10.3(b) may be varied by genuine agreement of both the employer and employee.
- (d) The terms of any agreement made under clause 10.3(b), or any variation to it, must be recorded in writing and retained by the employer. A copy of any such record must be provided to the employee by the employer.
- (e) The maximum number of days per week that may be agreed upon under clause 10.3(b) or 10.3(c) is 3.
- (f) An employer must not direct a part-time employee to work on days that are not agreed upon in accordance with clause 10.3(b) or 10.3(c).
- (g) A part-time employee may agree to an employer request for them to work on days other than those agreed under clause 10.3(b) or 10.3(c). A part-time employee must be paid an additional 15% on:
 - (i) the cents per kilometre (CPK) rates set out in clause 13.4;
 - (ii) the hourly driving rates set out in clause 13.5; and
 - (iii) any amount payable under clause 13.6;for driving or loading and unloading work that is undertaken in accordance with an employer request on days not agreed in accordance with clause 10.3(b) or 10.3(c).
- (h) A part-time employee who is paid by the cents per kilometre method of clause 13.4 must receive a minimum payment per day for 500 km. Where the employee is engaged according to the hourly driving rate method the minimum payment per day must be eight hours' pay.
- (i) A part-time employee's ordinary hours of work will be eight hours per day, unless the employer and employee agree in writing upon a greater number.
- (j) For the purpose of this clause, a day will mean the 24 hour period from the time the employee commences work.

4. By deleting clause 13.1 and inserting the following:

13.1 Minimum weekly rates of pay

- (a) The minimum weekly rates of pay for ordinary hours of work for full-time employees are as follows:

Grade	Minimum weekly rate
	\$
1	763.80
2	777.80
3	787.50
4	796.60
5	808.20
6	831.70
7	845.60
8	866.60

- (b) The agreed minimum weekly rate of pay for ordinary hours of work performed by a part-time employee will be the minimum weekly rate of pay specified in clause 13.1(a) divided by 38 and multiplied by the number of ordinary hours per week that the employee is engaged to perform under clause 10.3(b).

NOTE: The classification grades are different in the *Road Transport and Distribution Award 2010*. Grade 4 under this award is equivalent to Grade 6 under the *Road Transport and Distribution Award 2010*.

5. By deleting clause 13.2(a) and inserting the following:

- (a) A full-time or part-time employee is entitled to a guaranteed minimum fortnightly payment which must be twice the minimum weekly rate of pay prescribed by clause 13.1 for the classification under which the employee is working. Provided that, to become entitled to this payment, the employee must be ready, willing and available to perform such duties covered by this award which the employer may from time to time require.

6. By renumbering clauses 13.2(b) to (d) as 13.2(c) to (e).

7. By inserting a new clause 13.2(b) as follows:

- (b) Any amount that a part-time employee earns under this award in relation to work undertaken in accordance with an employer request to work on days other than those agreed in accordance with clause 10.3(b), or varied in accordance with clause 10.3(c), will not be taken into consideration when calculating the guaranteed minimum fortnightly payment referred to in clause 13.2. Nor will such amounts form part of the agreed minimum weekly rate of pay for ordinary hours of work performed by a part-time employee. Such amounts will instead

be a payment in respect of work performed outside of an employee's ordinary hours.

8. By deleting the reference to clause "10.3(d)" in renumbered clause 13.2(c) and inserting "10.4(d)".

9. By deleting clause 13.2(d) and inserting the following:

(d) A full-time or part-time employee, having already earned the guaranteed fortnightly payment, and held on call for any part of the second week, must be paid on an hourly basis for the period during which the employee remains on call at the rate prescribed for the appropriate classification of this award, in addition to the guaranteed fortnightly payment.

10. By deleting clause 26.4 and inserting the following:

26.4 For all time worked by a full-time or part-time employee on a public holiday, payment must be made at the following rates:

(a) on Good Friday and the Christmas Day holiday—30% of the applicable minimum weekly rate specified in clause 13.1(a) plus payment for the work performed in accordance with the designated method of payment specified in clause 13.

(b) on any other holiday—20% of the applicable minimum weekly rate specified in clause 13.1(a), plus payment for the work performed in accordance with the designated method of payment specified in clause 13.

An employee must be paid for a minimum of four hours' work.

11. By deleting the reference to clause "13.1" wherever it appears in clause 26.5 and inserting "13.1(a)".

12. By updating cross-references accordingly.

B. This determination comes into operation from 27 February 2018. In accordance with s.165(3) of the *Fair Work Act 2009* these items do not take effect until the start of the first full pay period on or after 27 February 2018.

VICE PRESIDENT

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