

AM2014/211: Road Transport (Long Distance Operations) Award 2010

TABLE 1:

Variation proposals post-conference before Senior Deputy President Harrison at Sydney on 27 March 2015

Note: this document should be read in conjunction with the corresponding documents distributed after the 16 January and 13 February conferences

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES FROM CONFERENCE
1.	Fair Work Ombudsman	Correspondence , 24 November 2014	11.2(c)	13.2(c) - Guaranteed minimum payment	Clause uses the phrase 'held on call' but the award does not provide a definition	Not discussed.
2.			11.1, 11.2, 11.3(a), 11.4, 11.5, 11.6 -	13.1, 13.2, 13.3(a), 13.4, 13.5, 13.6 - Guaranteed minimum payment	Unclear whether an employee engaged in long distance driving operations should be paid in accordance with the 'cents per kilometre' rates (clause 13.4) or the hourly rate (clause 13.5), and whether the effect of clause	Not discussed.

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					13.2 is to merely guarantee a minimum amount	
3.			8.1, 11.5(a), 11.5(d)	13.1, 20.5(a), 20.5(d) - Rostered days off	Unclear how the payment for an RDO is calculated by reference to a weekly rate	Not discussed.
4.			12.2(c)(i)	14.1(c)(i) - Other allowances	Unclear whether the allowance is payable on an hourly basis or per occasion	Not discussed.
5.	National Road Transport	Proposed variation , 25 November	Schedule G	3 - Definitions and interpretation	Amendment to 'loading or unloading'	<ul style="list-style-type: none"> Claim withdrawn by NatRoad at 27 March conference.

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	Association	2014			definition	
6.			6	10 - Types of employment	Insert a new sub-clause on part-time employment	<ul style="list-style-type: none"> Employer parties to file the proposed variation by 8 May. Any opposing party to file response and any counter-proposal by 22 May.
7.			11.3(b)	13.4(b) - Rates of pay—kilometre driving method	Amend 'Schedule of agreed distances'	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.
8.			11.3(a)(i)	13.5(a)(i) - Rates of pay—hourly driving method	Amend clause to allow for use of real time tracking systems	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.

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9.			11.3(c)	13.5(c) - Rates of pay—hourly driving method	Amend 'Schedule of agreed driving hours'	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.
10.			11.6	13.6 - Loading or unloading	Amend clause to reflect efficiencies and operational standards within the industry	<ul style="list-style-type: none"> Claim withdrawn by NatRoad at 27 March conference.
11.			12	14 - Allowances	Consider alignment of the seven allowances common to the <i>Transport (Long Distance Operations) Award</i> and <i>Road Transport and Distribution Award</i>	<ul style="list-style-type: none"> Claim withdrawn at 16 January conference.

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12.			12.3(e)	14.2(e) - Training allowance	Insert a new clause to allow for a bonding arrangement in connection with employer sponsored training	<ul style="list-style-type: none"> Employer parties to file the proposed variation by 8 May. Any opposing party to file response by 22 May.
13.			8.5(b)	20.5(b) - Rostered days off	Amend clause to allow for RDOs to be paid out as a weekly allowance	<ul style="list-style-type: none"> Employer parties to file the proposed variation by 8 May. Any opposing party to file response by 22 May.
14.			7	Schedule A - Classification Structure	Amend to align with classification structure of <i>Road Transport and Distribution Award</i> by	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.

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					reverting to pre-modern award structure	
15.	Australian Industry Group	Proposed variation , 25 November 2014	6	10 - Types of employment	Insert a new sub-clause on part-time employment	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.
16.	Transport Workers' Union of Australia	Proposed variation , 25 November 2014	Schedule G	3.1 - Definitions and interpretation	Remove 'cartonised, or otherwise covered' from the definition of 'furniture'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
17.			Schedule G	3.1 - Definitions and interpretation	Remove definition of 'interstate operation'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES FROM CONFERENCE
18.			Schedule G	3.1 - Definitions and interpretation	Amend the definition of 'long distance operation'	<ul style="list-style-type: none"> • TWU to file the proposed variation by 8 May. Any opposing party to file response by 22 May. • TWU presses variation as per draft of 25 November 2015 (see correspondence of 15 May 2015).
19.			6	10.1 - Types of employment	Amend clause to require employer to inform employees of their classification at the time of engagement	<ul style="list-style-type: none"> • TWU to file the proposed variation by 8 May. Any opposing party to file response by 22 May. • TWU presses variation as per draft of 25 November 2015, subject to discussions with employer parties as an alternate solution to issue (see correspondence of 15 May 2015).
20.			11.2	13.2 - Guaranteed minimum fortnightly payment	Amend clause to reflect fact that ordinary hours are 38 per week and remove	<ul style="list-style-type: none"> • In-principle agreement. • AiG to file the proposed variation by 8 May. Any opposing party to file response by 22 May.

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					references to 'fortnightly period'	
21.			11.4(a)	13.4(a) - Rates of pay—kilometre driving method	Add provisions specifying the method of calculation where an RDO system is in place and where an RDO system is not in place	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
22.			11.5(a)(iii)	13.5(a)(iii) - Rates of pay—hourly driving method	Include a provision stating that the fatigue management plan is to be based on no more than 75kph	<ul style="list-style-type: none"> TWU to file the proposed variation by 8 May. Any opposing party to file response by 22 May. TWU presses variation as per draft of 25 November 2015 (see correspondence of 15 May 2015).

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23.			11.6	13.6 - Loading or unloading	Expand the scope of the clause to include payment for other 'necessary non-driving duties'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
24.			12.1(c)(i)	14.1(c)(i) - Other allowances	Add a provision specifying a minimum payment, and that an employee is only to perform work under one award per day	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.
25.			12.2(c)	14.2(c) - Travelling allowance	Align allowance rates between <i>Transport (Long Distance)</i>	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.

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					<i>Operations) Award and Road Transport and Distribution Award</i>	
26.			Transitional provision removed - obsolete	16 - Accident pay	Maintain transitional provision in recognition of heightened risk of injury in the industry	<ul style="list-style-type: none"> • Claim withdrawn by TWU at 13 February conference.
27.			11.2	20.2 - Hours of work and fatigue management	Amend clause to make reference to '60 hours in any week' rather than '120 hours in any fortnight'	<ul style="list-style-type: none"> • Claim withdrawn by TWU at 13 February conference.

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28.			14	23.1 - Annual leave	Amend clause to reflect NES requirement for a definition of 'shiftworker' for the benefit of the additional weeks' leave	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.
29.			14.2(b)(ii)	23.2(b)(ii) - Payment for a period of annual leave	Amend clause to specify that the leave loading is payable upon termination	Not discussed. Query if a Common Matter which will be dealt with by a Full Bench. No further action to be taken.
30.			14.2(c)	23.2(c) - Payment for a period of annual leave	Amend clause to specify that the rate of pay for annual leave is the greater of	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.

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					two options	
31.			TBC	New clause	Add a new clause allowing for payment where an employee is required to travel as a passenger	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.
32.			TBC	New clause	Add a new clause specifying the rates for employees engaged in 'two-up' driving	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.
33.			TBC	New clause	Add a new clause providing for payment for	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.

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					drivers spending excessive amounts of time waiting during loading or unloading	
34.			22	9 - Dispute resolution	Add a new clause providing for dispute resolution training leave	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.

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35.	Australian Industry Group	18.2 - Payment of wages	AiG foreshadowed application to amend clause to read “4 business days”.	<ul style="list-style-type: none">• AiG to file the proposed variation by 8 May. Any opposing party to file response by 22 May.

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1.	BusinessSA	Submission 4 February 2015	3.2	3.1	Coverage The definition of the term ‘Long Distance Operation’ should not be repeated in Schedule H, but should simply refer to the definition in clause 3.2.	
2.	Australian Industry Group	Submission 11 February 2015	5	–	Facilitative provisions Last sentence of clause 5.1 should be deleted consistent with the approach adopted in the Full Bench’s decision of 23 December 2014.	
3.	Australian Industry Group	Submission 11 February 2015	5.2	–	Facilitative provisions References to clause 8.5(b) in clause 5.2 of the Exposure Draft should be substituted with a reference to clause 8.5(c).	
4.	Australian Industry Group	Submission 11 February 2015	6.3	10.2	Types of employment—Full-time employment New wording introduces a substantive change to current provision. The former wording should be reinserted.	
	Australian Workers’ Union	Reply submission 4 March 2015			Not opposed to retaining wording of current clause.	
5.	Australian Road	Submission 4 February 2015	8.2	20.2	Hours of work and fatigue management Does not reflect the current provisions of the award.	

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	Transport Industrial Organisation				ED drafted so 8.2(c), (d) and (e) are not subject to sub-clause (a) as current award provides.	
	Australian Industry Group	Reply submission 4 March 2015			Does not oppose ARTIO submission that subclause 8.2(e) should also be subject to 8.2(a) but acknowledges this would represent a substantive change to award.	
6.	Australian Workers' Union	Submission , 4 February 2015	8.2(a)	20.2(a)	Hours of work and fatigue management Wording of the current clause should 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.	
	Transport Workers' Union of Australia	Submission , 4 February 2015			Oppose proposed change as existing clause requires compliance with Commonwealth, State and Territory laws relating to the control of driving and working hours of heavy vehicle operators as well as the management of fatigue. The proposed clause relates only to rules and regulations regarding fatigue.	
	Australian Industry Group	Reply submission 4 March 2015			Consideration should be given to whether it is sufficiently clear that the phrase " <i>rules and regulation regarding fatigue</i> " is a defined term and	

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					whether this could be made clear via a note or reference to definitions section of Exposure Draft.	
	ABI	Reply Submission 5 March 2015			Generally agree with submissions of the TWU and AWU. Do not consider it necessary that the clause contain an exhaustive list of such legislation and regulations.	
7.	Australian Industry Group	Submission 11 February 2015	8.2(b)-(e)	20.2(b)	Hours of work and fatigue management Proposed clause significantly alters existing arrangements. Clause 8.2 now appears to provide entitlements under clause 8.2(c) and (d) that are not currently applicable in circumstances where clause 20.2(a) of the award applies.	
	Australian Workers' Union	Reply submission 4 March 2015			Does not agree with AIG and submits the draft clause reflects the current clause.	
	BusinessSA	Reply Submission 5 March 2015			Hours and Fatigue Management Supports the view of Ai Group and the AWU that the wording of the current award be retained.	
8.	Australian Industry Group	Submission 11 February 2015	8.3(c)(i)	20.3	Requirement to work reasonable additional hours Clause deviates from current award by omitting the words “from working the additional hours”. These	

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					words should be reinstated to assist in clarifying that consideration given to an employee’s health and safety must relate specifically to any risk arising from the employee working additional hours.	
	Australian Workers’ Union	Reply submission 4 March 2015			Not opposed to retaining wording of current clause.	
	ABI	Reply Submission 5 March 2015			Ai Group submission is correct and should be adopted.	
9.	Australian Industry Group	Submission 11 February 2015	8.4	20.4	Ordinary hours of work and rostering Change to clause in exposure draft means clause will no longer merely deal with the computation of time but will instead provide for a definition of hours of work.	
	Australian Industry Group	Reply submission 4 March 2015			Clause deviates substantively from current provision.	
10.	Australian Road Transport Industrial	Submission 4 February 2015	8.5	20.5(a)	Rostered days off RDOs do not accrue as they do in other awards. Clause 20.5(a) of the current award provides entitlement to an employee when not on leave.	

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	Organisation				Should not be interfered with in the ED.	
	Australian Workers' Union	Submission , 4 February 2015			Payment for RDOs must be paid in accordance with clause 11.5(b) of Award.	
11.	Australian Business Industrial and NSW Business Chamber LTD	Submission , 4 February 2015	8.5(a)	20.5(a)	Rostered days off Reference to sick leave should be updated to “personal/carer’s leave” to reflect current terminology.	
	Australian Industry Group	Reply submission 4 March 2015			Not opposed to amendment proposed by ABI & NSW Business Chamber.	
12.	Australian Business Industrial and NSW Business Chamber LTD	Submission , 4 February 2015	8.5(b)	20.5(b)	Rostered days off The word “maybe: should be replaced with the phrase “may be”.	
	Australian Industry	Submission 11 February			The word “maybe” should be substituted with “may be”.	

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	Group	2015				
	Australian Workers' Union	Reply submission 4 March 2015			Does not oppose replacing the word “maybe” with “may be”.	
13.	Australian Industry Group	Submission 11 February 2015	8.5(c)	20.5(b)	Rostered days off Words “Alternatively, subject to mutual agreement” have been removed from clause 8.5(c) and should be reinserted as they assist in making the award simple and easy to understand. The absence of those words may give rise to an argument that clause 8.5(c) is inconsistent with clause 8.5(b) as that clause states an employee “must” take RDOs. Party also proposes to insert reference to “any number of accrued RDOs” to clarify parties have capacity to cash out some rather than all of the accrued RDOs.	
	BusinessSA	Reply Submission 5 March 2015			Opposes TWU submission on the basis that clause 20.5(b) already provides that RDO’s are paid at 20% of the applicable minimum weekly rate.	
14.	Australian Business Industrial and NSW Business	Submission , 4 February 2015	8.5(e)	20.5(d)	Rostered days off – response to question Question posed by FWC: ‘ <i>Clause 11—Minimum wages does not contain any provisions as to how RDO’s are to be paid. Parties are asked to comment on the operation of clause 8.5(e). Are they to be paid</i>	

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	Chamber LTD				<p><i>at 20% of the applicable minimum weekly rate per RDO as per 8.5(c) or the rate including overtime and industry allowance as per clause 11.5(b)?</i></p> <p>The current clause 20.5(d) provides that "employees must be paid for RDOs at the rate prescribed by clause 13.1". Clause 13.1 of the existing Award then sets out the relevant minimum weekly rates of pay. Whilst it is correct that the clause only sets out weekly rates, it is clearly the intention that employees be paid at the rate of 20% of the minimum weekly rate. Those rates at clause 13.1 do not include the industry allowance. The industry allowance only applies when an employee is engaged in a long distance operation pursuant to clause 13.3 - in which case the employee must be paid the "minimum driving rate" as set out in either clause 13.4 or 13.5. Accordingly, it may simply be easier to refer to clause 8.5(c) rather than clause 11.1.</p>	
	Transport Workers' Union	Submission , 22 July 2015			Disability allowance is equivalent to an all purpose allowance as defined in [2015] FWCFB 4658.	
	Australian	Reply			Oppose TWU's assertion that the disability	

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	Industry Group	submission , 28 August 2015			allowance is payable during an RDO.	
	Australian Business Industrial and NSW Business Chamber LTD	Reply submission , 3 September 2015			Oppose TWU’s assertion that the disability allowance is payable on an RDO as it is not an all-purpose allowance.	
	Transport Workers’ Union of Australia	Submission , 4 February 2015			Payment for RDOs should be the applicable base rate plus the 30% disability allowance. The disability allowance is payable for all hours worked including those hours being credited to the RDO total. This is commensurate with the provisions of proposed clause 8.6(a) where a day work is equated to 20% of the employee’s average weekly wage.	
	Australian Industry Group	Submission 11 February 2015			The rates that include overtime and/or the industry allowance are not required to be included in any payment in respect of RDOs. Such rates are driving rates and are only payable in relation to driving work performed.	
	Australian Industry	Reply submission			Oppose TWU submission and submit it inappropriately seeks a substantive variation to	

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	Group	4 March 2015			entitlements currently provided by Award that would significantly increase employer costs.	
	ABI	Reply Submission 5 March 2015			Disagree with submissions of the TWU and AWU. Rely on submission of 4 February 2015.	
15.	Transport Workers' Union of Australia	Submission , 4 February 2015	8.6(a)	20.6(a)	Absence from duty Following uts submission re clause 8.5(e), party submits that a common approach should be taken in relation to clauses 8.5(e) and 8.6(a).	
	Australian Industry Group	Reply submission 4 March 2015			No reason for a common approach to be taken in relation to clauses 8.5(e)and 8.6(a). Corresponding clauses in current award deal with different matters and are worded differently.	
16.	Australian Industry Group	Submission 11 February 2015	8.6(c)	20.6(c)	The redrafting of the current provision has created an obligation to pay an employee “during the week” that the rostered day off is taken. Party submits this should be rectified by replacing the word “during” with the words” in respect of” as found in the current award.	
	ABI	Reply Submission			Ai Group submission is correct and should be adopted.	

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		5 March 2015				
17.	Transport Workers' Union of Australia	Submission , 4 February 2015	8.7	20.7	Call-back The call-back rate should be payable at double the base rate of pay as a call-back would only occur after the completion of the employee's rostered hours for the day.	
	Australian Industry Group	Submission 11 February 2015			Greater clarity would be achieved by adding the words "divided by 38" after the reference to clause 11.1.	
	Australian Industry Group	Reply submission 4 March 2015			Submits proposal by TWU should be rejected as it inappropriately proposes a substantive change to existing entitlements that would increase employer costs.	
	BusinessSA	Reply Submission 5 March 2015			Opposes TWU submission that call back rate is double the base rate of pay. Existing award provides for a minimum engagement of four hours at the rates prescribed in clause 13.1. Supports the submission by Ai Group to insert the wording 'divided by 38' after the reference to clause 11.1.	
18.	Transport Workers'	Submission , 22 July 2015	9.2	21.2	Unpaid meal breaks References to Commonwealth, State or Territory	

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	Union				Acts has been removed and should be replaced.	
	Australian Industry Group	Reply submission , 28 August 2015			Does not agree with TWU that ‘Commonwealth, State or Territory’ should be reinstated.	
	Australian Business Industrial and NSW Business Chamber LTD	Reply submission , 3 September 2015			Neither support nor oppose submission by TWU. Wording of the exposure draft does not alter any substantive obligations incumbent on the employer.	
	Australian Industry Group	Reply submission 4 March 2015			“Fatigue management rules/regulations” is defined in Schedule H and party is of the view the clause does not alter the substance of the current provision.	
19.	Australian Road Transport Industrial Organisation	Submission 4 February 2015	11.1	13.1	Minimum weekly rates of pay – response to question Question posed by FWC: ‘Parties are asked to make submissions as to whether inserting a daily rate would be useful and if a daily rate is inserted whether references to ‘20% of the applicable minimum weekly rate’ could be changed to ‘applicable minimum daily rate’ There is already a de facto ‘daily rate’ in both the	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					annual leave and public holiday clause of the Award at 23.2 and 26.3. A daily rate would be 20 per cent of the applicable weekly rate.	
	Australian Business Industrial and NSW Business Chamber LTD	Submission , 4 February 2015			Party considers the inclusion of a ‘minimum daily rate’ calculated on the basis of 20% of the minimum weekly rate to be useful. Also supports suggestion of making consequential changes by using the phrase ‘applicable minimum daily rate’ where appropriate.	
	Transport Workers’ Union of Australia	Submission , 4 February 2015			Opposes the proposed change to existing clause 13.1 as it results in the clause being interpreted to mean the published rates are mandatory for all transport workers. Party submits the clause should read as follows: ‘ <i>The minimum weekly rates of pay for ordinary hours of work are as follows</i> ’. Party further opposes the inclusion of an applicable minimum daily rate and seeks retention of reference to “20% of the applicable minimum weekly rate”.	
	Australian Industry Group	Submission 11 February 2015			Text of clause creates an obligation on an employer to pay the prescribed amounts for ordinary hours worked by an employee. This is not how the remuneration structure under this award operates.	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					Text in clause should be substituted with the text currently found at clause 13.1 of the Award.	
	Australian Industry Group	Submission 11 February 2015			A daily rate would not be appropriate. There is currently no obligation to pay employees a minimum amount per day.	
	Australian Industry Group	Submission 11 February 2015			Note at clause 11.1 should be amended by substituting references to the “ <i>Road Transport and Distribution Award 2010</i> ” with “ <i>Road Transport and Distribution Award 2014</i> ”.	
	Australian Industry Group	Reply submission 4 March 2015			Support TWU’s proposed amendment to preamble contained in clause 11.1 of Exposure Draft but opposes submissions of ABI to insert minimum daily rates.	
	ABI	Reply Submission 5 March 2015			Do not press for the inclusion of daily rates.	
20.	Australian Road Transport Industrial Organisation	Submission 4 February 2015	11.2	13.2	Guaranteed minimum payment Clause 8.6 fits with the minimum guarantee of payment of twice the weekly rates. Specified in clause 11.2 of the ED.	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
21.	Australian Road Transport Industrial Organisation	Submission 4 February 2015	11.2(d)	13.2(d)	Minimum wages – guaranteed minimum payment – response to question Question posed by FWC: ‘ <i>clause 11.2(d) appears ambiguous. Parties are asked to clarify how payments are calculated where an employee works less than eight hours</i> ’ This is hypothetical – minimum engagement under award for a casual is 500ks or 8 hours (clause 10.3(d)). Improbable that ‘long distance operation’ be done in less than 8 hours.	
	Australian Workers’ Union	Submission , 4 February 2015			Submits that to maintain the intention of the clause and to remove ambiguity, the second sentence of clause 11.2(d) must be deleted.	
	Transport Workers’ Union of Australia	Submission , 4 February 2015			The calculation of rates paid in these circumstances would be the hourly driving rate for the hours actually worked and the difference between 8 hours and the time worked would be paid at base plus 30% disability allowance.	
	Australian Industry Group	Submission 11 February 2015			Relevant text of the current clause be reinstated. The reference to an employee working less than eight hours does not adequately differentiate between work	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					performed under another party of the award and remuneration to which an employee is entitled under this clause.	
	Australian Industry Group	Submission 11 February 2015			The current clause makes the employer ultimately responsible for the cost of transport while the new wording appears to require the employer to directly pay for the transport. The new wording would appear to prohibit arrangements involving an employee initially paying for the transport but being subsequently reimbursed by the employer. The former wording should be reinstated.	
	Australian Industry Group	Reply submission 4 March 2015			No basis in the wording of the current clause 13.2(d) to support TWU's submission.	
	BusinessSA	Reply Submission 5 March 2015			Guaranteed minimum payment Opposes AWU submission to delete second sentence in clause 11.2(d). This clause provides clarity in situations when an employee works less than 8 hours. Willing to discuss alternative wording.	
	ABI	Reply Submission			Agree with AWU and Ai Group that new wording of clause is ambiguous. Wording of clause 13.2(d)	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
		5 March 2015			current award should be reinstated.	
22.	Australian Industry Group	Submission 11 February 2015	11.3(d)	13.3(c)	Minimum wages—rates of pay Clause should be amended by substituting the reference to clause 11.3(a) with a reference to clauses 11.3(a) and (b). This properly reflects the cross reference in the current clause 13.3(c).	
23.	Australian Industry Group	Submission 11 February 2015	11.4(a)		Minimum wages—rates of pay—kilometre driving method Casual rates column should include a footnote to explain amounts specified include 15% loading mandated by clause 6.4(b).	
	Australian Industry Group	Submission 11 February 2015			Minimum wages—rates of pay—kilometre driving method Party is concerned the table gives the reader the incorrect impression that casual rates are applicable on a public holiday.	
	Transport Workers' Union of Australia	Reply submission , 6 March 2015			Opposes AiG submission and submits casual loading does apply.	
	ABI	Reply			Agree with Ai Group that the table should make it	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
		Submission 5 March 2015			clear that the casual rates include the 15% casual loading.	
24.	Australian Business Industrial and NSW Business Chamber LTD	Submission , 4 February 2015	11.5(b)		<p>Rates of pay—hourly driving method—response to question</p> <p>Question posed by FWC: <i>‘Parties are asked to make submissions in relation to whether ‘dividing minimum weekly rate prescribed by clause 11 by 40 can be changed to ‘by 38 (as per maximum ordinary hours of work).’</i></p> <p>The number ‘40’ must not be replaced with ‘38’ as it would substantially alter the entitlements provided for in the Award. The change would have the effect of increasing the rates of pay for drivers whose pay is calculated by the hourly method.</p>	
	BusinessSA	Submission 4 February 2015			Objects to varying the method of calculating the hourly rate of pay from a divisor of 40 to 38. This would increase the hourly rate of pay and is inconsistent with the objectives of the Modern Award Review.	
	Transport Workers’	Submission , 4 February 2015			Supports the inclusion of separate calculations based on 40 hours, where an RDO is provided, and 38	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	Union of Australia				hours where no RDO is provided.	
	Australian Industry Group	Submission 11 February 2015			A footnote should be inserted to explain that the amounts specified include the 15% loading mandated by clause 6.4(b). Clause should not be varied as proposed by the comment in the exposure draft as it does not reflect the manner in which the rates are calculated.	
	Australian Industry Group	Submission 11 February 2015			No need for the frequency of allowance to be specified as it may change depending upon when the rent is charged.	
	Australian Industry Group	Reply submission 4 March 2015			TWU submission should be rejected and party notes a similar claim has been advanced by the TWU currently the subject of Conferences conducted by Harrison SDP.	
	Transport Workers' Union of Australia	Reply submission , 6 March 2015			Opposes AiG submission and supports amendment contained in the exposure draft.	
	BusinessSA	Reply Submission 5 March 2015			Supports Ai Groups view that the frequency of clause 11.5(b) should not be prescribed as it is determined by the frequency that the employer requires the	

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Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					employee to pay rent.	
	ABI	Reply Submission 5 March 2015			Oppose submissions of TWU and AWU re calculations based on 38 hours.	
25.	Australian Business Industrial and NSW Business Chamber LTD	Submission , 4 February 2015	11.6(c)		Loading or unloading Question posed by FWC: <i>‘Parties are asked to make submissions as to whether ‘dividing the weekly award rate prescribed by clause 11.1 by 40 can be varied to ‘dividing the weekly award rate prescribed by clause 11.1 by 38’ (as per maximum ordinary hours of work).</i> The number ‘40’ must not be replaced with ‘38’ as it would substantially alter the entitlements provided for in the Award.	
	BusinessSA	Submission 4 February 2015			Objects to varying the method of calculating the hourly rate of pay from a divisor of 40 to 28. This would increase the hourly rate of pay and is inconsistent with the objectives of the Modern Award Review.	
	Transport Workers’	Submission , 4 February 2015			Supports the inclusion of separate calculations based on 40 hours, where an RDO is provided, and 38	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	Union of Australia				hours where no RDO is provided.	
	Australian Industry Group	Submission 11 February 2015			Proposal should not be adopted as it is a substantive change that would increase employer costs.	
	Australian Industry Group	Reply submission 4 March 2015			TWU submission should be rejected as it is an inappropriate attempt to increase the entitlements of employees.	
	ABI	Reply Submission 5 March 2015			Oppose submissions of TWU and AWU re calculations based on 38 hours.	
26.	Australian Industry Group	Submission 11 February 2015	11.7(d)		Minimum wages—payment of wages Current clause 18.4 makes it clear that a decision to pay an employee via EFT is at an employer’s discretion whereas the wording in the exposure draft is merely permissive. A reference to the employer’s discretion should be reinserted.	
27.	Australian Industry Group	Submission 11 February 2015	11.11		Minimum wages—Penalty rates Could should have the words “payable for work performed on a public holiday” inserted at the conclusion of the clause to ensure the clause more accurately described the content of clause 18.	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
28.	BusinessSA	Submission 4 February 2015	12	14	Allowances Clauses have removed the percentage of the required standard weekly rate. Party would recommend that percentages should remain for clarity and transparency, particularly for when there are future variations.	
	Australian Industry Group	Reply submission 4 March 2015			Agree with BusinessSA’s submission but note that it has not identified any difficulty arising from retention of relevant percentages in Schedule D, rather than the body of the Award.	
	Transport Workers’ Union of Australia	Reply submission , 6 March 2015			The resultant different from increasing a percentage rate compared to a monetary rate is negligible and supports the substitution of percentages with monetary amounts as proposed in the Exposure Draft.	
29.	Australian Industry Group	Submission 11 February 2015	12.1	14	Allowances Reference to “Schedule D” should be amended to read “Schedule B”.	
30.	Australian Business Industrial and	Submission , 4 February 2015	12.2(b)	14.1(b)	Wage related allowances—overtime allowance The words “minimum hourly driving rates” should be deleted from the Exposure Draft provision. The	

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Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	NSW Business Chamber LTD				current Award provisions only states that the rates per kilometre are inclusive of allowances.	
	Australian Industry Group	Reply submission 4 March 2015			Disagrees with ABI & NSW Business Chamber. Change in wording of Exposure draft does not result in any substantive alteration in award derived entitlements or obligations.	
31.	Australian Industry Group	Submission 11 February 2015	12.2(c)(i)	14.1(c)	Wage related allowances—other allowances Clause should be amended by substituting the reference to the “ <i>Road Transport and Distribution Award 2010</i> ” with “ <i>Road Transport and Distribution Award 2014</i> ”.	
32.	Australian Workers’ Union	Submission, 4 February 2015	12.3(a)	14.2(a)	Expense related allowances—work diary The term ‘weekly’ excludes casual employees from a reimbursement of work diaries, and should be replaced with “An employee”.	
	Australian Industry Group	Reply submission 4 March 2015			Opposes AWU proposal as it would amount to a substantive variation that would impose increased costs on employers.	
	ABI	Reply			AWU submission is opposed. This is a substantive	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
		Submission 5 March 2015			claim and should not be addressed through the exposure draft process.	
33.	Australian Road Transport Industrial Organisation	Submission 4 February 2015	12.3(d)(ii)	14.2(d)	Expense related allowances—housing—response to question Question posed by FWC: <i>Parties are asked to comment on whether clause 12.3(d)(ii) should specify how frequently the housing allowance payment must be made.</i> The housing payment is paid weekly.	
	Australian Business Industrial and NSW Business Chamber LTD	Submission , 4 February 2015			No need for Award to specify the frequency of payment of the allowance. Parties are capable of negotiating such matters between themselves.	
	Australian Industry Group	Reply submission 4 March 2015			Does not agree with ARTIO’s submission that housing allowance is paid weekly. Party also opposes AWU’s proposal as it would amount to a substantive change.	
34.	Australian Industry	Submission 11 February	12.3(e)(ii)	14.2(e)(ii)	Expense related allowances—training Removal of the word “provided” makes it less clear	

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TABLE 2:

Summary of submissions received – exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	Group	2015			that the reimbursement of fees is permitted to be made at the end of the prescribed course or annually and that it is subject to the reports of attendance at such course, even if the expenditure has been provided at an earlier time.	
35.	Australian Industry Group	Submission 11 February 2015	14.6	23.6	Annual leave—rostered day off falling during annual leave The hyphen between the words “upon returning” should be deleted.	
36.	Australian Industry Group	Submission 11 February 2015	18.3(a)	26.2(a)	Public holidays—substitution of certain public holidays by agreement at the enterprise Propose variation alters the operation of current award and should not be adopted. The NES does not provide for a paid day off as referred to in the second sentence of clause 18.1. This sentence should be deleted.	
	BusinessSA	Reply Submission 5 March 2015			Supports the submission by Ai Group to vary clause 18.3. Agrees that clause 18.1 does not accurately reflect the provisions of the NES and should be deleted.	
37.	Australian	Submission	Schedule A	–	Summary of hourly rates of pay	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	Industry Group	11 February 2015			If the schedule is to include public holiday rates it should also include a reference to clause 18.5 given it limits the circumstances when the penalty is applicable.	
38.	Australian Road Transport Industrial Organisation	Submission 4 February 2015	Schedule A A.1 and A.2	–	Summary of Hourly Rates of Pay Footnote is incorrect as the amount is only payable in addition to the hourly or cents per kilometre rate, not the weekly rate.	
39.	BusinessSA	Submission 4 February 2015	Schedule A.1	–	Summary of Hourly Rates of Pay—Full-time employees The following wage rates contain rounding errors: <ul style="list-style-type: none"> • Transport Worker Grade 1, loading or unloading (\$22.90 not \$22.89) • Transport Worker Grade 3, loading or unloading (\$23.60 not \$22.31) 	
40.	BusinessSA	Submission 4 February 2015	Schedule A.2	–	Summary of Hourly Rates of Pay—Casual employees The following wage rates contain rounding errors: <ul style="list-style-type: none"> • Transport Worker Grade 1, loading or 	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					unloading (\$23.60 not \$22.61) <ul style="list-style-type: none"> • Transport Worker Grade 3, loading or unloading (\$29.50 not \$29.51) • Transport Worker Grade 7, loading or unloading (\$31.68 not \$31.69) • Transport Worker Grade 8, loading or unloading (\$32.47 not \$32.46). 	
41.	Australian Road Transport Industrial Organisation	Submission 4 February 2015	Schedule F	3.1	Schedule F – Definitions Defines ‘accredited fatigue management plan’ but it is seldom used in the ED. The term ‘fatigue management rules/regulations’ seems to have been adopted. This is somewhat confusing as that term is not defined.	
	Australian Industry Group	Reply submission 4 March 2015			Commission should consider whether the term “fatigue management rules/regulations” is sufficiently clear that it is a defined term as it has led to confusion amongst parties.	
42.	Transport Workers’ Union	Reply submission , 21 August 2015	New clause	New clause	Accident pay Seeks to insert provisions relating to Accident Pay in accordance with industry standard that existed in the pre-reform awards.	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	Australian Business Industrial and NSW Business Chamber LTD	Reply submission, 3 September 2015			Accident pay Does not intend to oppose the claim of inserting a provision for Accident Pay.	It appears that Australian Business Industrial and NSW Business Chamber LTD have listed their position regarding this clause in the Reply Submission to the Road Transport and Distribution Award rather than the Road Transport (Long Distance Operations) Award. The Transport Workers' Union make their claim against the Road Transport and Distribution Award and not the Road Transport (Long Distance Operations) Award.

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