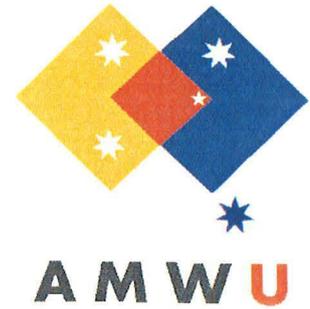


16 October 2014



Associate to the Honourable Justice Ross AO, President  
Fair Work Commission  
11 Exhibition St  
Melbourne VIC 3000

BY EMAIL: [chambers.ross.j@fwc.gov.au](mailto:chambers.ross.j@fwc.gov.au)

Dear Associate,

**Re: AM2014/1 and Ors – FWO Correspondence re Inconsistencies between the National Employment Standards (NES) and Modern Awards**

***Revised Variation***

1. On 29 September 2014, the Australian Manufacturing Workers' Union ('AMWU') – Vehicle Division filed submissions in relation to the inconsistency identified by the Fair Work Ombudsman ('FWO') between the NES provision dealing with the accrual of annual leave and the seven day shiftworker provision in the *Vehicle Manufacturing, Repair, Services and Retail Award 2010* [MA000089] ('Vehicle Award').
2. Since filing these submissions we have read the submissions in reply filed by the Textile, Clothing & Footwear Union of Australia ('TCFUA') dated 15 October 2014 and submission of the AMWU dated 15 October 2014 in relation to the same issue.
3. Although we continue to rely on our submissions filed on 29 September 2014, we support the submissions of the AMWU and TCFUA, as well as the terms of the draft determinations filed in support of those submissions.
4. As a result, to ensure a consistent approach is adopted by the Commission to resolve this issue of inconsistency, we attach with this letter a revised draft determination regarding the variation sought in relation to clause 29.5 of the Vehicle Award.

Yours sincerely,

**Alessandra Moussa**  
National Industrial Officer – AMWU (Vehicle Division)

Australian Manufacturing  
Workers' Union  
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## DRAFT DETERMINATION

*Fair Work Act 2009*  
Part 2-3, Div 4 – 4 Yearly reviews of modern awards

**Vehicle Manufacturing, Repair, Services and Retail Award 2010**  
(ODN AM2008/62) MA000089

Vehicle industry

MELBOURNE, XX YYY 2014

*Review of modern awards to be conducted.*

[A] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Vehicle Manufacturing, Repair, Services and Retail Award 2010* be varied as follows:

### **Clause 29.5 Seven day shiftworkers**

[1] By deleting clause 29.5 in its entirety and inserting the following:

#### **29.5 Seven day shiftworkers**

(a) For the purpose of the additional week of annual leave provided for in s.87(1)(b) of the Act, a shiftworker is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays.

(b) Where an employee is engaged for part of a 12 month period as a seven day shiftworker, the employee must have their annual leave increased by half a day for each complete month the employee is engaged as a seven day shiftworker.

(c) An employee engaged for only part of a month as a seven day shiftworker will accrue leave for the part month proportionate to the leave prescribed in (b) above.

[4] The determination shall operate on and from XX YYY 2014

JUSTICE ROSS, PRESIDENT