

Australian Industry Group

Review of C14 Rates

Submission
(C2019/5259)

26 October 2022



C2019/5259 REVIEW OF C14 RATES

1. INTRODUCTION

1. The Australian Industry Group (**Ai Group**) files this submission in response to the statement and directions ¹ issued by the Fair Work Commission (**Commission**) on 6 October 2022. The directions require parties to file ‘*submissions in response to the proposals*’ filed by other parties as well as in relation to the background paper published by the Commission (**BP**).²
2. Of the awards listed at paragraph [30] of the aforementioned statement, Ai Group has an interest in the following:
 - (a) The *Concrete Products Award 2020* (**CP Award**);
 - (b) The *Meat Industry Award 2020* (**Meat Award**);
 - (c) The *Rail Industry Award 2020* (**Rail Award**); and
 - (d) The *Sugar Industry Award 2020* (**Sugar Award**).(collectively, **Relevant Awards**)
3. Proposals have been filed by various unions to vary the Relevant Awards in respect of the C14 classification level. In summary:

Relevant Award	Union	Proposal
CP Award	Australian Workers' Union (AWU)	The descriptors at A.1.3 (level 1) and A.3.4 (level 3) should be swapped. In addition, the level 1 classification descriptor should state that an employee at that level ‘ <i>must be undertaking training that will enable them to progress to a higher classification level within three months</i> ’.
Meat Award	Australian Meat Industry Employees' Union (AMIEU)	The MI1 classification level should be deleted or, in the alternate, it should be amended such that employees cannot be classified at that level for more than one week.

¹ Review of certain C14 rates in modern awards [2020] FWCFB 183.

² Review of certain C14 rates in modern awards [2020] FWCFB 183 at [33].

Rail Award	Rail, Tram and Bus Union (RTBU)	The Operations Level 1 classification descriptor should be amended to require that employees successfully complete standard induction training within the first month of employment and once this is completed, employees will be reclassified to level 2.
Sugar Award	AWU	Milling, distillery and refinery employees - the lowest level classification descriptor should state that an employee at that level is required to <i>'undertake training that will enable them to progress to a higher classification level within three months'</i> .

4. As we have previously foreshadowed, in order to ascertain the practical implications of the amendments proposed to the Relevant Awards, it will be necessary for us to engage with our members. It has not been feasible to do so within the limited period of time afforded since the proposals were filed.
5. We nonetheless make the following preliminary observations about the proposals.

2. THE PROPOSALS

The CP Award

6. In relation to the CP Award, the AWU argues that the extant provisions are the product of an error that was made in the context of the *Cement and Concrete Products Award 2000*. In order to respond to this proposition, it is necessary to review and consider various sources relevant to variations made to it and other predecessor instruments, including but not limited to the material contained in the BP. In the time available since the AWU filed its proposal, it has not been feasible to do so.
7. We also note that the AWU has not advanced a basis for the new element of the level one classification definition that it has proposed.

The Meat Award

8. In relation to the Meat Award; the AMIEU's proposal would reflect a radical departure from the manner in which the existing classification structure operates.
9. If its primary position were adopted, it would eliminate the current entry-level classification level. The proposal appears to proceed on the premise that all employees would be capable of being classified at level 2 or higher; a proposition that we contest.
10. As for the union's secondary position, we do not accept the factual propositions advanced by the union in its written submissions about the period of time over which employees covered by the Award complete their initial on-the-job training, nor do we consider that a one-week limitation on the period of time during which an employee may be classified at level 1 is appropriate. It is our understanding that some employees with no experience in the industry undergo on-the-job training for periods that well exceed one week.

The Rail Award

11. If adopted, the RTBU's proposal would result in the level 1 classification level *requiring* that employees complete their induction training within one month. It would not be appropriate for a classification descriptor to create such a requirement.
12. We also note that the RTBU's submission provides little justification for the proposal other than to say that *'the standard induction and basic competency training can be obtained and completed relatively quickly after an employee commences employment'*. The submissions do not reveal the specific period of time within which, in the union's view, induction training is in fact completed.

The Sugar Award

13. The AWU's submission does not provide any explanation for its proposal in relation to the Sugar Award. The reason for which three months has been selected as the outer limit is not apparent from its material. Rather, it appears to have been arbitrarily selected.

3. THE BP

14. We do not propose to make submissions about the accuracy or otherwise of the BP at this stage. In the time that has lapsed since its publication, we have not had a sufficient opportunity to verify whether it properly reflects the history preceding the relevant extant award terms. We intend to deal with the BP in due course, in the context of any submissions that are filed about the Relevant Awards.

4. NEXT STEPS

15. The Commission should, in our submission, afford a further period of time for respondent parties to consider the proposals filed and for discussions to take place with the moving parties, with a view to identifying whether there is any common ground or scope for agreement.
16. The matter should be listed for a report back, not before December 2022, to receive an update from the parties as to the progress made and to hear from them as to how the matter should proceed in relation to the Relevant Awards.