

# IN THE FAIR WORK COMMISSION

Annual Wage Review 2019/20

Commissioner Hampton

20 February 2020

## ARTBIU Submissions

### Apprentice Rates of Pay in the Rail Award

1. This submission is made by the Australian Rail, Tram and Bus Industry Union to the Expert Panel conducting the Annual Wage Review 2019/20 in relation to a specific issue concerning apprentice rates, in particular *Rail Industry Award 2010 (Rail Award)*.
2. RTBU filed submissions on the 14<sup>th</sup> of May 2019 that brought the Panels attention to an issue regarding apprentice rates in the *Rail Award*. It appears that many apprentices in the *Rail Award* currently receive a lower rate than award- free apprentices covered by the *National Minimum Wage Order 4 (NMW04)*.
3. This issue arises as a result of the fact that most of relevant apprentice rate percentages in the Rail Award are lower than those in the *NMWO4*.
4. In setting and varying modern awards, the Panel is to have regard to the minimum wages objectives and the modern awards objective.
5. The minimum wage objectives require the Commission to “Maintain a safety net of minimum wages, taking into account...providing a comprehensive range of fair minimum wages to... employees to whom training arrangements apply.”<sup>1</sup>
6. As part of the modern awards objective, the Commission is required to “provide a relevant minimum safety net of terms and conditions taking into the account of the low paid”.<sup>2</sup>

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<sup>1</sup> Fair Work Act 2009 s 284(1)

<sup>2</sup> Fair Work act 2009 s 134(1a)

7. Apprentices receiving 45% to 88% under the *Rail Award* of an adult minimum rate clearly constitute apprentices as part of the low- paid workforce referred to in the modern award objectives.
8. It is not appropriate that any apprentice rates in the Railway be less than the equivalent apprentice rates provided or award-free employees under the special *NMWO4*.
9. The wage rates are insufficient to meet community expectations of a reasonable standard of living. The current apprentice wage rates in the *Rail Award* are not a sustainable way for the apprenticeship system to continue.
10. The *Miscellaneous Award 2010* provides some historical context relevant to apprentice rates of pay. The reference point is that while the *Miscellaneous Award* was not intended to “contain a comprehensive safety net designed for any particular occupation or industry” it was intended that it “should contain basic conditions only, leaving room for the application of an appropriate safety net in another modern award”.<sup>3</sup> Therefore it is inherently unfair that the apprentice rates are lower under the *Rail Award*.
11. The Union is not aware that there are any apprentices who started before 1 January 2014 that have not already completed their apprenticeship. Even if there were still any serving apprentices who started before 1 January 2014 the number would be very low. The union submits that any reference to pre 2014 apprentice rates should be removed in its entirety due to its limited relevance in the *Rail Award*. This would mean that the apprentice rates that remain in the *Rail Award* should apply to all apprentices regardless of the date of commencement.
12. The RTBU is also unaware if this issue regarding apprentice rates occurs more generally in other modern awards.
13. For the foregoing reasons, the Panel should make a determination to do the following

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<sup>3</sup> [2009] AARCFB 945

- a. Vary the apprentice rates percentages in the Rail Award to the same percentages for apprentices under the *Miscellaneous Award*
- b. Vary clause 14.3(d) to apply to all apprentices regardless of commencement date of apprenticeship.
- c. Vary clause 14.3(e)(i) and (ii) to apply to all apprentices regardless of commencement date of apprenticeship.
- d. Remove clause 14.3(c) which contain the pre 2014 apprentice rates of pay

Kind regards



Minna Davis

Industrial Officer