

Outline of Submissions

Vary award – Rail Industry Award 2020

(AM2023/30, AM2024/1, AM2024/2, AM2024/3, AM2024/4, AM2024/5, AM2024/7)

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Introduction

This outline of submissions seeks to provide information and justification regarding the above applicant's request to vary the Rail Industry Award 2020. It follows the order found in the draft determination.

Justification for clause

Clause 2

The rail industry like many industries uses industry specific language. The job roles and tasks performed by the applicants are specialized and may not be well understood even by some in the industry. Therefore an explanation of what "Rail Safety", "Safeworking", "Track Protection", and the related positions such as "Track Protection Officer" is requested.

Clause 15.1

The applicants argue for a significant safety net in the award for safeworking employees for the following reasons.

From level 1 safeworking staff are responsible for an incredible amount of human life and material assets. For example...

- At level 1 when acting as a handsignaller an incident regardless of fault can lead to a train entering a track work authority and endangering the worksites and personnel within.
- At level 3 there is 15 seconds between life and death as that is the lowest minimum warning time when undertaking lookout working and the protection officer is ultimately responsible even if the lookout has erred.
- At level 6 any issues with possession protection or arrangements may expose an entire local possession authority to danger. There are many more examples at all levels.

Appropriately safeworking employees are subject to detailed and extensive rules, procedures and penalties. Safeworking staff always work under the knowledge that any incident could endanger those they protect and place their livelihoods at risk. A

Safeworking employee can expect to be suspended and investigated if an incident occurs regardless of whether they are at fault or not.

Safeworking employees have specialist knowledge and undertake leadership, worksite management and supportive roles in the rail industry.

Safeworking staff are required to analyse requirements provided by stakeholders before researching and preparing for work in our own time. This is highlighted by the protection officer guidelines at Sydney Trains requiring "Offsite Planning".

Safeworking staff are often required to take on multiple job roles during a shift including being an electrical permit holder whilst acting as a protection officer and handsignaller at the same time.

A great deal of knowledge and training takes place before becoming qualified including psychometric tests, classroom training and onsite training.

Safeworking employees are subject to the most stringent medicals, the highest levels of communication, great levels of responsibility and high levels of stress.

Safeworking employees can oversee large and complex safeworking arrangements therefore the applicants argue that the industry needs to attract and retain employees of the upmost quality and a significant safety net is required to attract an appropriate workforce. An airline pilot may be responsible for a hundred, at levels 3 and 4 a safeworking employee may also be responsible for a hundred, at level 6 a safeworking employee can ultimately be responsible for thousands in a track possession.

Clause 18.XX

The applicants argue for fair allowances to cover costs involved in safeworking tasks. Safeworking personnel are usually required to travel between worksites in their personal vehicles. Safeworking staff are usually required to provide the paperwork and equipment necessary for day to day work and are not reimbursed. Some companies may provide certain equipment according to their generosity, but it is far from uniform across the industry and never covers the full extent of equipment used.

Clause a

The applicants have used their long running industry experience to provide a detailed list of tasks and functions. The applicants have also looked at rules, procedures and job descriptions when writing the tasks and functions

DRAFT DETERMINATION

Fair Work Act 2009

s.157—Variation of modern award

Vary award – Rail Industry Award 2020

(AM2023/30, AM2024/1, AM2024/2, AM2024/3, AM2024/4, AM2024/5, AM2024/7)

RAIL INDUSTRY AWARD 2020

[MA000015]

Rail industry

SYDNEY, XX FEBRUARY 2024

Variation of Modern Award

A. Pursuant to s 157 of the *Fair Work Act 2009*, the above award is varied as follows:

1. By adding to clause 2 the definitions as follows:

Rail Safety means the safe management and operation of persons, infrastructure and assets including rolling stock in the rail environment.

Safeworking means the systems used to fulfill rail safety.

Track Protection means the safeworking systems used to prevent rolling stock from entering a worksite or other portion of line, or to prevent road or pedestrian access from entering a level crossing.

Handsignaller means the safeworking person responsible for providing hand signals to drivers and track vehicle operators.

Track Protection Officer means the safeworking person responsible for carrying out track protection.

Systems of Safeworking means a higher safeworking qualification involved with the safe operation of rolling stock.

2. By inserting the following to clause 15.1:

(d) Safeworking (SAF)

Classification	Annual salary equivalent¹ (full-time employee)	Minimum weekly rate (full-time employee)	Minimum hourly rate
	\$	\$	\$
Level 1 Rail Worker (SAF)	79,463	1523.25	40.09
Level 2 Rail Worker (SAF)	81,768	1567.44	41.25
Level 3 Rail Worker (SAF)	86,382	1655.88	43.58
Level 4 Rail Worker (SAF)	88,684	1700.01	44.74
Level 5 Rail Worker (SAF)	90,992	1744.26	45.90
Level 6 Rail Worker (SAF)	93,294	1788.38	47.06
Level 7 Rail Worker (SAF)	108,662	2082.98	54.82

¹ Annual salaries are calculated by multiplying the relevant minimum weekly rate by 313 and then dividing the result by 6 (rounded to the nearest whole dollar).

3. By deleting 18.4(b)(i) and inserting

- (i) A tradesperson or safeworking employee required to provide and maintain the tools or equipment ordinarily required by that job role in the performance of work as a tradesperson or safeworking employee must be paid a tool and equipment allowance of **\$20.39** per week.

4. By adding the following to clause 18

18.5 Wage-related allowances—Safe working employees

(a) Multiple Job Roles

- (i) Where the employee is required to perform multiple job roles an allowance of **\$5.03** an hour is payable for the shift.
- (ii) Multiple job roles are defined as a requirement to perform at least one additional job role(s) concurrently during a shift. An example being a track protection officer also being required to hold an electrical permit and or perform hand signaller duties.

18.6 Expense-related allowances—Safe working employees

(a) Site travel

- (i) Where the employee is required to travel between sites in their personal vehicle in the performance of their duties the employee will be paid at the rate of **\$0.85** a kilometre.

(b) Living away from home allowance

- (i) Were the employee has worked in excess of 11 hours more than 50km from their place of residence or is in danger of breaching a networks fatigue management requirements a living away from home allowance of **\$230** is payable per night.

(c) Travel allowance

- (i) Were the employee is required to travel more than 50km from their place of residence a travel allowance of the hours required for travel will be paid at the level of their job role.

(d) Mandatory recertification

- (i) Were the employee’s qualification to perform their job roles are subject to mandatory recertification the recertification is to be re imbursed by their primary employer.

(e) Phone allowance

- (i) A phone allowance of \$14.43 is payable to all safe working employees who have worked more than 20 hour a week for a single employer.

5. By adding the following to clause A

Safeworking (SAF) Classifications

Preamble:

Employees at each level hold specialist skills and knowledge in a rail network’s safe working systems under national rail safety law. They have the direct responsibility for the safety of workers in a rail network on a day-to-day basis as well as taking part in ensuring assets and infrastructure are used safely. Employees per their qualification and role take a supporting, supervisory and management role in the creation and maintenance of rail worksites and are responsible for the safe working component of a worksite or delegated component.

Level	Tasks and Functions
1	Employees at this level often provide a supporting role. They are required to take direction before working independently using a networks rules and procedures whilst maintaining safety critical communication.
	<ul style="list-style-type: none"> • Act as a lookout. • Act as an inner or outer handsignaller • Hand signal rail traffic at a worksite and within a track possession. • Can competently use communication equipment. • Identify hazards in the rail environments. • Use audible warning devices. • Read, understand, apply and use safety critical documentation. • Interpret and follow a rail networks rules and procedures. • Identify trackside signals and signs. • Have a working knowledge of safety critical communication.
2	Whilst performing similar duties employees at this level are required to perform more advanced forms than level 1. They are still required to take direction before working independently using a networks rules and procedures whilst maintaining safety critical

	communication.
	<ul style="list-style-type: none"> • Performing the duties of an inner or outer handsignaller at a fixed signal • Perform the duties of a handsignaller at a defective signal • Act as a handsignaller at a block post. • Perform the duties of a handsignaller at a level crossing. • Pilot rail traffic within, into and out of a track possession area.
3	<ul style="list-style-type: none"> • Employees at this level are qualified to implement track protection methods, they are required to research, prepare, implement and manage track protection on a worksite by worksite basis.
	<ul style="list-style-type: none"> • Implement and manage lookout working. • Implement and manage absolute signal blocking. • Be the primary safeworking employee responsible for the safety of workers in the rail environment. • Conduct pre work briefings and sign workers onto a worksite protection plan. • Create worksites in the rail environment and communicate with stakeholders. • Identify, assess and control hazards in the rail environment independently and with stakeholders through the risk management process. • Safety critical monitoring within worksites. • Additional safety critical communication methods. • Place and remove worksite protection. • Protect worksites from adjacent live lines. • Provide direction based on a networks rules and procedures.
4	Employees at this level are required to implement track protection in a local possession authority or a track occupancy authority.
	<ul style="list-style-type: none"> • Implement and manage a track occupancy authority. • Piloting rail traffic within a track occupancy authority or a track possession. • Creation of and maintenance of worksites within a track possession. • Place and remove delineation within a track possession. • May act as a supervising protection officer for training purposes. • Ensure their worksite within a local possession authority are certified by qualified worker's. • Provide direction to other safeworking personnel within an authority.
5	Employees manage a track work authority and co ordinate the worksites with that authority. They manage and provide direction to handsignaller's and oversee the movement of rail traffic within that authority.
	<ul style="list-style-type: none"> • Implement and manage a track work authority. • Manage passage of rail traffic through multiple worksites. • Manage groups of safeworking personnel within the authority.
6	Employees manage and or coordinate large and complicated track work authorities known as a local possession authority and are expected to oversee hundreds of worksites concurrently depending on the possession requirements.
	<ul style="list-style-type: none"> • Implement and manage a local possession authority in the role of a possession protection officer. • Implement and manage a co ordinated worksite within a track possession as a co ordinating protection officer. • Provide the role of an assisting possession protection officer. • Take part in the planning of a local possession authority. • Provide possession briefings. • Manage and direct a large amount of safeworking personnel within an authority. • Take responsibility for the safe working arrangements of a track possession area and oversee possession protection placement. • Provide training, support and mentoring to junior track protection officers. • Have an expert understanding of national rail safety law. • Provide expert interpretation to stakeholders of a networks rules and procedures. • Liase with stakeholder's to ensure the scope of a track possession is completed. • Interface with other network operators as necessary.

7	Employee's at this level have completed a systems of safeworking qualification and take part in high risk work involving rolling stock.
	<ul style="list-style-type: none"> • Travel track vehicles under manual block working. • Operate stand alone signalling points control equipment. • Identify and respond to signals and trackside equipment.

6. By inserting the following to clause B:

B.1.9 Full-time and part-time Safeworking (SAF) employees—ordinary and penalty rates

	Ordinary hours	Early morning / afternoon	Night	Permanent night	Saturday	Sunday	Public holiday
	% of ordinary hourly rate ¹						
	100%	100% + \$3.47	100% + \$4.12	100% + \$7.82	150%	200%	250%
	\$	\$	\$	\$	\$	\$	\$
Level 1 Rail Worker (SAF)	40.09	43.56	44.21	47.91	60.14	80.18	100.23
Level 2 Rail Worker (SAF)	41.25	44.72	45.53	49.07	61.88	82.50	103.13
Level 3 Rail Worker (SAF)	43.58	47.05	47.70	51.40	65.37	87.61	108.95
Level 4 Rail Worker (SAF)	44.74	48.21	48.86	52.56	67.11	89.48	111.85
Level 5 Rail Worker (SAF)	45.90	49.37	50.02	53.72	68.85	91.80	114.75
Level 6 Rail Worker (SAF)	47.06	50.53	51.18	54.88	70.59	94.12	119.00
Level 7 Rail Worker (SAF)	54.82	58.29	58.94	62.64	82.23	109.64	137.05

¹ Rates in table are calculated on the minimum hourly rate, see clauses B.1.1 and B.1.2.

B.1.10 Full-time and part-time Safeworking (SAF) employees—ordinary and penalty rates

	Weekday – first 3 hours	Weekday – after 3 hours	Saturday – all day	Sunday – all day	Public holiday – all day
	% of ordinary hourly rate ¹				
	150%	200%	150%	200%	250%
	\$	\$	\$	\$	\$

Level 1 Rail Worker (SAF)	60.14	80.18	60.14	80.18	100.23
Level 2 Rail Worker (SAF)	61.88	82.50	61.88	82.50	103.13
Level 3 Rail Worker (SAF)	65.37	87.61	65.37	87.61	108.95
Level 4 Rail Worker (SAF)	67.11	89.48	67.11	89.48	111.85
Level 5 Rail Worker (SAF)	68.85	91.80	68.85	91.80	114.75
Level 6 Rail Worker (SAF)	70.59	94.12	70.59	94.12	119.00
Level 7 Rail Worker (SAF)	82.23	109.64	82.23	109.64	137.05

¹ Rates in table are calculated on the minimum hourly rate, see clauses B.1.1 and B.1.2.

B.2.4 Casual Safeworking employees—ordinary and penalty rates

	Ordinary hours	Early morning/afternoon	Night	Permanent night	Saturday	Sunday	Public holiday
	% of ordinary hourly rate¹						
	125%	125% + \$3.47	125% + \$4.12	125% + \$7.82	175%	225%	275%
	\$	\$	\$	\$	\$	\$	\$
Level 1 Rail Worker (SAF)	50.11	53.58	54.23	57.93	70.16	90.20	110.25
Level 2 Rail Worker (SAF)	51.56	55.03	55.68	59.38	72.18	92.81	113.44
Level 3 Rail Worker (SAF)	54.48	57.95	58.60	62.3	76.26	98.06	119.85
Level 4 Rail Worker (SAF)	55.93	59.93	60.05	63.75	78.30	100.67	123.04
Level 5 Rail Worker (SAF)	57.38	60.85	61.50	65.20	80.36	103.28	126.23
Level 6 Rail Worker (SAF)	58.83	62.30	62.95	66.65	83.3	105.89	129.42
Level 7 Rail Worker (SAF)	68.53	72.00	72.65	76.35	95.90	123.35	150.76

¹ Rates in table are calculated on the minimum hourly rate, see clauses B.1.1 and B.1.2.

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