CFMEU
CONSTRUCTION

**IN THE FAIR WORK COMMISSION**
**Matter Numbers:** AM2014/260, 274 and 278

*Fair Work Act 2009*
Part 2-3, Div 4 –s.156 - 4 yearly review of modern awards

**4 yearly review of modern awards – award stage – group 4C Awards (Construction Awards) – exposure drafts**
**(AM2014/260, 274 and 278)**

# SUBMISSION OF THE CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CONSTRUCTION & GENERAL DIVISION) ON DRAFTING AND TECHNICAL ISSUES IN GROUP 4C AWARDS

1st July 2016


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| **Construction, Forestry, Mining and Energy Union (Construction and General Division)**<br><br>ABN 46 243 168 565 | **Contact Person:**<br><br>Stuart Maxwell, Senior National Industrial Officer | **Address for Service:**<br>Level 9,<br>215-217 Clarence Street<br>Sydney NSW 2000 | **T:**<br><br>**F:**<br><br>**E:** | (02) 8524 5800<br><br>(02) 8524 5801<br><br>hearings@fed.cfmeu.asn.au<br>smaxwell@cfmeu.org |

## Introduction

1. On 23rd March 2016 the President, Justice Ross issued a Statement ([2016] FWC 1838) on the programming for the review of the 73 awards in groups 3 and 4, of the 4 yearly review of modern awards (the Review). The timetable contained in the Statement identified that the exposure drafts for group 4C awards, which include the awards commonly referred to as the construction awards, would be published in April 2016 and that submissions on the drafting and technical issues concerning the exposure drafts were required to be filed by 23 June 2016.

2. In a further Statement and Directions issued by the President on 10th May 2016 ([2016] FWC 2924) the date for the release of the exposure drafts for the group 4C awards was amended to 20th May 2016 and the date for the filing of submissions on drafting and technical issues for these award was amended to 30th June 2016.

3. This submission is made in accordance with the amended timetable[1] and specifically addresses drafting and technical issues concerning the exposure drafts for the Building and Construction General On-site Award 2016, the Joinery and Building Trades Award 2016 and the Mobile Crane Hiring Award 2016.

## Exposure Draft for the Building and Construction General On-site Award 2016

4. The first comment we would make on the exposure draft for the Building and Construction General On-site Award 2016 relates to its structure. In the exposure draft, types of employment and classifications are contained in Part 2 and termination of employment and redundancy provisions are contained in Part 8. As both parts essentially deal with issues related to the contract of employment we suggest that there would be a better flow to the award if the conditions in these parts followed one another.

5. We make the same comment in regard to Parts 3 – Hours of Work, and 5 – Overtime and Penalty Rates. As both parts contain provisions affecting the hours of work and at what rate the specific hours are to be paid at, we suggest that it would be a better flow to the award to have them follow each other and not have the wages and allowances stuck in between.

6. The last comment on the structure concerns the allowances. The parties are currently in discussion as to the best way of expressing the allowances in the award, and whether or not they can agree on how the allowances may be rationalised. Any agreed outcome from those discussions would obviously influence the parties' views on the exposure draft.

Clause 2- Definitions

6. In regard to clause 2. – Definitions, we suggest that the adult apprentice definition be deleted. No other definition related to apprentices is contained in clause 2, whereas clause 14.1 contains a number of specific definitions related to apprentices. The definitions in 14.1(a) and (d), taken together, have the same effect as the definition in clause 2. If any further clarification is needed 14.1 (a) and (b) could be amended to read as follows:

**14.1 Definitions**

[1] We apologise to the Commission for filing 1 day late.

(a) An **adult apprentice** is an employee who is 21 years of age or over at the time of signing the contract of training for a construction apprenticeship.

(b) An **apprentice** is an employee who is bound by a contract of training for a construction apprenticeship registered with the appropriate State or Territory training authority.

7. We note that the definition of all purposes is taken from the Full Bench decision ([2015] FWCFB 4856), however given the number of all purpose allowances contained within this award we suggest that it should also include reference to the ordinary time hourly rate so that it reads as follows:

> "**all purposes** means that the payment will be included in the rate of pay of an employee who is entitled to the allowance, when calculating ordinary time hourly rates, any penalty or loadings, or payment while they are on annual leave"

8. We also note that there is a new definition of ordinary hourly rate and that this term has replaced ordinary time hourly rate when referring to the calculations in 19.3(a), etc. We do not support this change as the definitions of ordinary time hourly rate were agreed to by the parties during the 2012 Award Review (see [2013] FWC 4576) and are now well understood by the industry parties.

9. On a similar vein we do not support "ordinary hourly rate" replacing "ordinary time hourly rate" wherever it appears in the exposure draft (e.g. see the definition of accident pay).

Clause 4 - Coverage

10. In the exposure draft the old clause 4.2 has been moved and is now clause 4.4 in the exposure draft. We do not support this change as it could lead to confusion as to what the opening words "Without limiting the generality of the exclusion" actually refer to. In the 2010 version of the award the words clearly refer to the exclusion in 4.1, i.e.

> 4.1 This industry award covers employers throughout Australia in the on-site building, engineering and civil construction industry and their employees in the classifications within Schedule B – Classifications Definitions, to the exclusion of any other modern award.
>
> 4.2 Without limiting the generality of this exclusion this award does not cover employers covered by: ....."

11. We would add that the CFMEU has already identified that we believe the coverage clause of the award needs to be amended to ensure the primacy of this award applying to work performed on-site. We understand that this matter is being dealt with in the specific variations and is a matter currently before SDP Watson for conciliation. For completeness we also raise the issue here and suggest that both of our concerns could possibly be addressed by amending clause 4.4 to read as follows:

> "4.4 Except for employers and their employees engaged on-site performing work in the classifications contained in this award, as provided for in clauses 4.1 and 4.2, this award does not cover employers covered by:

(a) the *Manufacturing and Associated Industries and Occupations Award 2016*;

(b) the *Joinery and Building Trades Award 2016*;

Etc."

Clause 11 – Part-time weekly hire employment

12. The CFMEU is unaware of any claim being dealt with in AM2014/196 that would affect this award.

Clause 12 – Casual employment

13. In the exposure draft at clause 12 the parties are asked if the inclement weather provisions apply to casual employees and how these provisions are to be applied, given that the provisions are based on a 4 week accrual period. We submit that the inclement weather provisions do apply to casual employees as they are not specifically excluded. Prior to the making of the modern award the inclement weather provisions were mainly a feature of daily hire awards (clause 21 – Inclement Weather – Tradespersons and Labourers, of the National Building and Construction Industry Award 2000 did not apply to operators who were weekly hire), however when the modern award was made the Award Modernisation Full Bench decided that the inclement weather provision would apply to all employees (see for example the transcript of 24th and 25th February 2009 and the decision in 2009 AIRCFB 345). No exclusion was inserted for casual employees.

14. As to how the clause applies, this will to a large degree depend on the letter of employment at the time the casual is engaged (see clause 12.3 of the exposure draft) which would identify the actual or likely number of hours to be worked. Depending on the number of hours engaged per day the casual employee would be entitled to up to 8 ordinary hour's payment in accordance with clause 23.7 of the exposure draft. The starting date of the casual employee would also be important in determining the maximum number of hours pay that the casual employee would be eligible to receive in a 4 week period (as per clause 23.8). It should be noted that the inclement weather provisions do not accrue over a 4 week period, it is actually the reverse in that they decrease over the 4 week period.

15. In regard to clause 12.5 of the exposure draft, the issue of the rate of pay to which the casual loading of 25% is applied to is before the Full Bench in AM2014/197.

16. A final point in regard to this clause is that the award is not clear as to what the relevant penalty rate is for a casual who works shiftwork. We suggest that an additional subclause be inserted which specifies that 25% be added to the relevant shift penalty.

Clause 16 – Ordinary hours of work and rostering arrangement

17. In the exposure draft they have added the words "and rostering arrangement" to the title in clause 16. We do not support the inclusion of these words as the clause does not deal with rostering arrangements as is generally understood by the general community (i.e. setting different start and finish times for individual employees).

18. The exposure draft asks a question, above clause 16.12, regarding the applicable code for work in compressed air. The CFMEU requests further time to investigate this issue and the

limitations on the hours that can be worked. We are aware that Safe Work Australia has published a Guide for Tunnelling Work[2] which includes the following requirement for work in compressed air:

> "If the shift lasts for more than 4 hours a break of at least 30 minutes per hour should be taken."

It may be preferable to insert a specific provision rather than referring to a code or standard.

19. We also note that the "Hours - underground work" provision is numbered as 16.12(a). This should be a separate provision and numbered 16.13. We also suggest that the references to measurements in feet should be deleted and that the wording in 16.12(a)(iii) should be changed so that the 30 hours per week is applicable to the cases identified in the dot points.

20. A further issue relating to hours of work is the ordinary hours of casuals which has been raised during the current conferences before SDP Watson. The CFMEU has suggested that the following provision (amended to reflect the exposure draft numbering and noting our comment in paragraph 19 above) be added to clarify the issue:

> "Insert a new clause 16.14 as follows:
>
> 16.14 Hours of work – casual employees
>
> (a) The maximum ordinary hours of work of a casual employee shall be eight hours per day and 38 hours per week worked between 7am and 6pm Monday to Friday. All hours worked in excess of ordinary hours (per day and/or per week) and on weekends and public holidays will be paid at the appropriate penalty rates.
>
> (b) If a casual employee works under an RDO system of hours of work, 0.4 of an hour of the ordinary hours worked each day, Monday to Friday, shall accrue towards a paid rostered day off.
>
> (c) All other provisions of clause 16 shall apply."

Clause 19- Minimum wages

21. The wording in clause 19.1(a) needs to be changed as it is misleading (as all employees are entitled to the industry allowance and the special allowance) and conflicts with 19.1(b). It should only say that "The following are the minimum classification rates under this award: .....". Also the column of minimum hourly rates should be deleted.

22. In clause 19.1(b) the last sentence should be changed to, "The ordinary time hourly rate for an employee's classification, other than an apprentice or trainee, is set out in clause 19.3."

23. In 19.7(d)(iii) (and any other clause where it occurs) the reference to the Construction and Property Services Industry Skills Council will need to be changed and reference made to the "relevant Industry Skills council and/or relevant training package".

[2] http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/824/Guide-Tunnelling.DOCX

24. Under the heading of clause 19.10 – National training wage, a question is asked in regard to the rates in clause E.5.2 of Schedule E. The CFMEU submits that the rates in E.5.2 do not apply under this award. Any part-time trainee rates or school based trainee rates should be calculated from the rates contained in clause 19.10.

25. in clause 19.11 – Higher duties, the words at the end of the last sentence have been changed to read "worked at the higher classification". We do not agree to this wording as it could imply that the employee needs to be performing all of the duties of the higher classification. We submit that the words in the last sentence should not be changed from that in the existing clause 30 of the award.

26. Clause 19.12 – Payment of wages may be affected by AM2016/8.

Clause 20 – Expense related allowances

27. In clause 20.1(b)(vi) the reference to "a light coat or jacket with high visibility red markings" in the 3rd dot point should be changed to "a high visibility garment that meets the relevant legislative requirement". Most of the States and Territories now adopt the Australian Standard AS/NZS 4602.1:2011 which specifies the visual requirement for high visibility safety garments for occupational wear by people who may be exposed to hazard from moving traffic, moving plant or equipment in high risk situations.

28. In clause 20.1(c), sub paragraphs (iv) and (v) should be removed and paced as additional dot points under clause 20.1(b)(vii) as they are not related to the use of toxic substances (see clause 24.3.3(e) of the National Building and Construction Industry Award 2000).

29. In clause 20.2(a) the reference to "Clause 17 – Shiftwork, or 30 –Annual leave" should in fact be to "Clause 16 – Ordinary hours of work, or 17 - Shiftwork" (see clause 24.9.1 of the National Building and Construction Industry Award 2000). This appears to be an error not corrected when the 2010 award was made.

Clause 21- Site and general wage related allowances

30. Clause 21.6 – Laser safety officer allowance should not be a separate subclause, but instead should be a paragraph of clause 21.5.

Clause 22 – Special rates

31. In clause 22.2(d) – confined space, we suggest that the definition in (d)(ii) should be replaced with the following:

> "(ii) **Confined space** means an enclosed or partially enclosed space that:
>
> - is not designed or intended primarily to be occupied by a person; and
> - is, or is designed or intended to be, at normal atmospheric pressure while any person is in the space; and
> - is or is likely to be a risk to health and safety from:
>   - an atmosphere that does not have a safe oxygen level, or

- contaminants, including airborne gases, vapours and dusts, that may cause injury from fire or explosion, or
- harmful concentrations of any airborne contaminants, or
- engulfment. "[3]

32. In clause 22.2(o)(iii) "heaving blocks" should be "heavy blocks" (see clause 12(o) of the National Building and Construction Industry Award 1990).

Clause 22.3 – special rates applicable only to the general building and construction sector

33. Clause 22.3(a)(ii) should be deleted as it is not relevant to the towers allowance and it is already covered by clause 22.2(o).

Clause 23 – Inclement Weather

34. A question is asked in the exposure draft as to whether clause 23.9 is obsolete. We submit that it is not but do indicate that a more relevant date for the start of the first period can be inserted close to the date that the 2016 award is finalised.

35. In clause 23.10 the words "part-time daily hire" should be changed to "part-time weekly hire" as there is no part-time daily hire under the award.

Clause 24 – Living away from home – distant work

36. This clause is subject to proposed variation by the CFMEU. Attached at Appendix A is the clause proposed by the CFMEU.

Clause 25 – Fares and travel patterns allowance

37. Clause 25.1 has been given a title of "travelling time". The CFMEU does not support this addition as the provisions in 25.1(a) to (d) relate to the conditions under which the fares and travel patterns allowance is paid.

Clause 26 – Accident Pay

38. The definition of accident pay in clause 26.3 should be deleted as a definition is already included in clause 2.

Clause 28 – Overtime

39. A question is asked after clause 28.4 as to whether the words "beyond an employee's ordinary time of work" should be amended. For consistency with the wording we have suggested be inserted in clause 16 (see paragraph 20 above), we submit that the words "in excess of an employee's ordinary time of work per day" would be appropriate.

Schedule A – Classification Definitions

40. The definitions in clause A.1.7 (and the terms wherever they are used in the Schedules) will need to be reviewed in light of the Federal Governments re-organisation of industry skills

[3] See http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/634/confined-spaces.docx at 1.1

councils and the replacement of the National Quality Council by the Australian Industry Skills Committee.

Schedule E – National Training Wage

41. The terminology in this schedule will have to be reviewed in light of the re-organisation referred to in paragraph 40 above.

42. After clause E.3.3 in the exposure draft there is a box requiring parties to identify any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997, that they consider should not be covered by this schedule. The qualifications/training programs that we have identified so far include the following:

CPC31011 - Certificate III in Solid Plastering

CPC31511 - Certificate III in Formwork/Falsework

CPC32011 - Certificate III in Carpentry and Joinery

CPC32211 - Certificate III in Joinery (Stairs)

CPC30211 - Certificate III in Carpentry

CPC31211 - Certificate III in Wall and Ceiling Lining

CPC32111 - Certificate III in Signage

CPC30611 - Certificate III in Painting and Decorating

CPC30111 - Certificate III in Bricklaying/Blocklaying

CPC31311 - Certificate III in Wall and Floor Tiling

CPC31812 - Certificate III in Shopfitting

CPC30812 - Certificate III in Roof Tiling

CPC31912 - Certificate III in Joinery

CPC32313 - Certificate III in Stonemasonry (Monumental/Installation)

43. At clause E.7 the parties are asked to review the training packages listed to ensure the list are complete and up-to-date. Again this may be affected by the re-organisation referred to in paragraph 40 above.

**Exposure Draft for the Joinery and Building Trades Award 2016**

44. The general comments regarding the structure of the exposure draft of the Building and Construction General On-site Award 2016 made in paragraphs 4 to 6 above would equally apply to this award.

Clause 2 – Definitions

45. The comments made above for the definitions of accident pay, all purpose and ordinary hourly rate, in the exposure draft of the Building and Construction General On-site Award 2016, would also apply for this award.

Clause 13 – Apprentices

46. The reference to the Construction and Property Services Industry Skills Council in clause 13.5(c) will have to be reviewed in light of the Federal Governments re-organisation of industry skills councils.

47. In the exposure draft the parties are asked if clause 13.16 is still required. At this stage we doubt it but suggest its inclusion be reviewed prior to the finalisation of the award.

Clause 18 – Meal Breaks

48. In the exposure draft a question is asked as to whether 18.2(b) is a paid rest period. We submit that it is. We also submit that the provision regarding the rest period being taken in the third hour of duty should also apply to the rest period in 18.2(a).

Clause 19 – Minimum Wages

49. In clause 19.1 there is no reference to the rates being minimum classification rates only. We submit that an addition paragraph should be inserted to read,

> "(b) The rates in 19.1 (a) prescribe minimum classification rates only. Employees may also be entitled to allowances, loadings or other penalties under other clauses of this award."

Clause 20.4 – Expense-related allowances

50. Paragraph (g) of this clause is subject to a proposed variation by the CFMEU. Attached at Appendix A is the clause proposed by the CFMEU (we are seeking the same clause as that proposed for the Building and Construction General On-site Award).

Clause 20.5 – Special rates – wage-related allowances

51. Subject to further checking we suggest that the bagging allowance, tower allowance and roof repairs allowance could be deleted from the award.

Clause 24.2(f) – Hours of work for shiftworkers

52. The exposure draft queries whether this clause means an employee is paid 300% of the ordinary rate for working on their paid shift off. No it doesn't, as the payment would be more. The employee's paid shift off is the shiftworker's paid rostered day off. Under clause 24.2(b) this is paid at the appropriate shift rate. If the employee is required to work on that day without any alternative arrangement being agreed (see for example 24.2(e)), the employee is paid at 200% of the ordinary hourly rate as defined by clause 2 (being the minimum hourly rate set out in clause 19 plus any applicable all purpose allowance) plus their regular payment for the paid shift off.

Schedules B, C, E and F

53. The CFMEU notes the manner in which the rates and allowances have been set out but seeks to review the rates and allowances in light of the decision of the Commission in the Annual Wage Review 2015-16 decision.

Schedule E – National Training Wage

54. The terminology in this schedule will have to be reviewed in light of the re-organisation referred to in paragraph 40 above.

55. After clause E.3.3 in the exposure draft there is a box requiring parties to identify any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997, that they consider should not be covered by this schedule. The qualifications/training programs that we have identified so far include the following:

CPC31011 - Certificate III in Solid Plastering

CPC31511 - Certificate III in Formwork/Falsework

CPC32011 - Certificate III in Carpentry and Joinery

CPC32211 - Certificate III in Joinery (Stairs)

CPC30211 - Certificate III in Carpentry

CPC31211 - Certificate III in Wall and Ceiling Lining

CPC32111 - Certificate III in Signage

CPC30611 - Certificate III in Painting and Decorating

CPC31812 - Certificate III in Shopfitting

CPC31912 - Certificate III in Joinery

CPC32313 - Certificate III in Stonemasonry (Monumental/Installation)

Additional qualifications may apply from other training packages covering glass and glazing work.

56. At clause E.7 the parties are asked to review the training packages listed to ensure the list are complete and up-to-date. Again this may be affected by the re-organisation referred to in paragraph 40 above.

**Exposure Draft for the Mobile Crane Hiring Award 2016**

54. The general comments regarding the structure of the exposure draft of the Building and Construction General On-site Award 2016 made in paragraphs 4 and 5 above would equally apply to this award.

Clause 2 – Definitions

55. The comments made above for the definitions of accident pay, all purpose and ordinary hourly rate, in the exposure draft of the Building and Construction General On-site Award 2016 would also apply for this award. We submit that consistency in terminology is important for the construction awards.

56. We also note that the definition of injury is doubled up as it is also contained in 18.3(b), and the definition of mobile crane hire industry is also in clause 4.2.

Clause 9 – Casual employment

57. The CFMEU is unaware of any claim in AM2014/197 that would affect this award.

Clause 13 – Rostering arrangements

58. In the exposure draft they have changed the subclause to a separate clause and changed the tile to "Rostering arrangements". Whilst we do not oppose the creation of a stand-alone clause we do not agree with the new title. The clause does not deal with rostering arrangements as is generally understood by the general community (i.e. setting different start and finish times for individual employees), it deals with rostered days off and that is what the title should say.

Clause 15.2 – Meal break during overtime

59. A question is asked in the exposure draft as to whether or not the breaks in 15.2(c) and (e) are paid. We submit that they are paid meal breaks and this has always been the custom and practice.

Clause 16 - Minimum wages

60. In the table in clause 16.1 the titles of 2nd and 3rd columns should be changed to "Minimum weekly base rate" and "minimum hourly base rate".

Clause 17.3 – Expense related allowances

61. In the exposure draft the parties are asked whether clause 17.3(a)(iv) applies to 17.3(a)(ii), 17.3(a)(iii) and 17.3(a)(v). The CFMEU submits that 17.3(a)(iv) only applies to 17.3(a) (ii) and (iii).

62. In regard to clause 17.3(f) the CFMEU has proposed a significant change to this provision. The clause sought is based on that sought for the Building and Construction General On-site award as set out in appendix A to this submission.

Clause 22 – Shiftwork

63. In the exposure draft the parties are asked to clarify whether clause 22.9 only applies on Monday-Friday. The CFMEU submits that it does as ordinary hours can only be worked Monday to Friday.

Schedules B-E

64. The CFMEU notes the manner in which the rates and allowances have been set out but seeks to review the rates and allowances in light of the decision of the Commission in the Annual Wage Review 2015-16 decision.

Schedule E – National Training Wage

65. The terminology in this schedule will have to be reviewed in light of the re-organisation referred to in paragraph 40 above.

66. After clause E.3.3 in the exposure draft there is a box requiring parties to identify any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997, that they consider should not be covered by this schedule. There were no apprenticeships in a relevant award in 1997.

67. At clause E.7 the parties are asked to review the training packages listed to ensure the list are complete and up-to-date. Again this may be affected by the re-organisation referred to in paragraph 40 above.

**Appendix A**

**CFMEU Proposed New Distant Work Clause**

(NB - Clause numbering is based on the existing Building and Construction General Onsite Award 2010 and not the exposure draft.)

# 24. Living away from home—distant work

## 24.1 Qualification

**(a)** This clause operates when an employee is employed on construction work at such a distance from the employee's usual place of residence or any separately maintained residence that the employee cannot reasonably return to that place each night, provided that:

**(i)** the employee is not in receipt of relocation benefits; and

**(ii)** the employee has provided the details of their usual place of residence, or any separately maintained address to the employer.

**(b)** The employee is not entitled to payment under this clause if the employee has knowingly made a false statement regarding the details required in clause 24.2.

## 24.2 Employee's address

**(a)** On engagement, an employee must provide the employer with their address at the time of application, the address of any separately maintained residence and, if requested, reasonable documentary proof of those details.

**(b)** No subsequent change of address will entitle an employee to the provisions of this clause unless the employer agrees. Provided that the employer will not unreasonably refuse any request by an employee to change their address.

## 24.3 Entitlement

**(a)** Where an employee qualifies under clause 24.1 the employer will:

**(i)** pay a living away from home allowance of $700.00 per complete week. In the case of broken parts of the week the living away from home allowance will be $100.00 per day. This allowance will be increased if the employee satisfies the employer that the employee reasonably incurred a greater outlay than that prescribed; or

**(ii)** provide the worker with reasonable board and lodging in a well kept establishment with three adequate meals each day; or

**(iii)** provide the worker with accommodation and pay the following allowances for meals each day:

- Breakfast $20.00
- Lunch $20.00

- Dinner $35.00

;or

**(iv)** where employees are required to live in camp, provide all board and accommodation free of charge.

**(b)** The accommodation provided will be of a reasonable standard having regard to the location in which work is performed, including the provision of :

**(i)** a single room (not shared) which is quiet with air conditioning/heating, suitable ventilation, comfortable and clean bedding, appropriate lighting and furnishings, an ensuite with a toilet, shower and basin both with running hot and cold water, a television and tea and coffee making facilities;

**(ii)** reasonable ablution/laundry, recreational and kitchen facilities, as well as reasonable external lighting and fire protection;

**(iii)** communication facilities including email and internet access, and mobile phone coverage or other radio or telephone contact where mobile coverage is unavailable.

**(c)** Where the accommodation provided is in a camp type arrangement at a remote location for a specific construction project, an employee shall retain their own specific room for the duration of the time spent living away from home.

## 24.4 Messing system where employees are required to live in camp at any one site

**(a)** Where 10 or more employees are engaged, the employer will provide a cook. If there are less than 10 employees, the employer must reimburse employees for food reasonably purchased by them for their own use or must reimburse the reasonable cost of meals consumed in the nearest recognised centre, provided this subclause will not apply where the employee is provided with three meals per day in accordance with clause 24.3(a)(ii).

**(b)** In camps over 30 people the employer must employ a camp attendant.

**Camp attendant** means an employee engaged for the purpose of maintaining a camp in a clean and hygienic condition.

**(c)** In all camps the employer must provide labour for the purpose of maintaining the camp in a clean and hygienic condition.

**(d)** Where an employer has established a camp site and provides facilities for employees living in their own caravan, the employer must provide reasonable space for the caravans.

## 24.5 Camping allowance

An employee living in a construction camp where free messing is not provided must receive a camping allowance of $ 262.50 for every complete week the employee is available for

work. In the case of broken weeks, the camping allowance will be $ 37.50 per day including any Saturday or Sunday if the employee is in camp and available for work on the working days immediately preceding and succeeding each Saturday and Sunday. If an employee is absent without the employer's approval on any day, the allowance will not be payable for that day and if such unauthorised absence occurs on the working day immediately preceding or succeeding a Saturday or Sunday, the allowance will not be payable for the Saturday and Sunday.

### 24.6 Camp meal charges

Where a charge is made for meals in a construction camp, the charge will be fixed by agreement between the employer and the majority of affected employees.

### 24.7 Travelling expenses

An employee who is sent by an employer to a job which qualifies the employee for the provisions of this clause will not be entitled to any of the allowances prescribed by clause 25 – Fares and travel patterns allowance, for the period occupied in travelling from the employee's usual place of residence to the distant job, but instead will be entitled to the following benefits:

**(a) Forward journey**

**(i)** An employee must:

- be provided with appropriate transport from the employee's usual place of residence to the job, or be paid the amount of a fare on the most appropriate method of public transport (including bus, economy air, taxi, and rail with sleeping berths if necessary), and any excess payment due to transporting tools if such is incurred; and
- be paid for the time spent in travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel; and
- be paid the allowances set out in clause 23.3(a)(iii) for any meals incurred while traveling.

**(ii)** The employer may deduct the cost of the forward journey fare from an employee who terminates or discontinues employment within two weeks of commencing on the job and who does not immediately return to the employee's place of engagement.

**(b) Return journey**

**(i)** An employee will, for the return journey, receive the same payments provided for the forward journey (see clause 24.7(a)). In addition, daily hire employees will receive an amount of $20.81 to cover the cost of transport and transporting tools from the main public transport terminal to the employee's usual place of residence.

**(ii)** The return journey payments will not be paid if the employee terminates or discontinues employment within two months of commencing on the job or is

dismissed for incompetence within one working week of commencing on the job, or is dismissed for misconduct at any time.

**(c) Travelling time calculations**

For the purpose of this clause, travelling time will be calculated as the time taken for the journey from the main bus or rail terminal nearest the employee's usual place of residence to the locality of the work (or the return journey, as the case may be).

**(d) Daily fares allowance**

An employee engaged on a job who qualifies under the provisions of this clause and who is required to reside elsewhere than on the site (or adjacent to the site and supplied with transport) must be paid the allowance prescribed by clause 25 – Fares and travel patterns allowance.

**(e) Weekend return home**

**(i)** An employee who notifies the employer, no later than Tuesday of each week, of their intention to return to their usual place of residence at the weekend and who returns to such usual place of residence for the weekend, must be paid an allowance of $35.28 for each occasion provided that the employee does not miss any ordinary hours of work.

**(ii)** An employee who is receiving the living away from home allowance pursuant to clause 24.3(a)(i) or camping allowance pursuant to clause 24.5 is not entitled to payment under clause 24.7(e)(i).

**(iii)** When an employee returns to their usual place of residence for a weekend or part of a weekend and is not absent from the job for any of the ordinary working hours, no reduction of the allowance in clause 24.3 will be made.

**(f) Rest and recreation**

Where an employee is engaged on a job which qualifies the employee for the provisions of this clause and the duration of work on the job is scheduled for more than 2 months the employee will be entitled to rest and recreation in accordance with the following:

**(i)** After each continuous 3 week period of work away from home the employee will be entitled to a period of 7 days unpaid rest and recreation leave at the employee's usual place of residence. The 7 day period will be exclusive of any days of travel from the job to the employee's usual place of residence and return to the job. On each occasion that the employee returns to their usual place of residence they will be paid for travel expenses in accordance with clause 24.7(a), (b) and (c) above.

**(ii)** After 12 weeks continuous service (inclusive of periods of rest and recreation) the employee will be entitled to 2 days paid rest and recreation leave and an addition paid day of rest and recreational leave for each subsequent 12 weeks of continuous service.

**(iii)** Payment for leave and travel expenses will be made at the completion of the first pay period commencing after date of return to the job.

**(iv)** The provisions of clause 24.7(f)(i) do not continue to apply where the work the employee is engaged upon will terminate in the ordinary course within a further 28 days after the last period of rest and recreation leave.

**(v)** Service will be deemed to be continuous notwithstanding an employee's absence from work as prescribed in this clause.

**(vi)** Variable return home

In special circumstances, and by agreement with the employer, the return to the usual place of residence entitlements may be granted earlier or taken later than the prescribed date of accrual without alteration to the employee's accrual entitlement.

**(vii)** No payment instead

Payment of travel expenses and leave with pay as provided for in this clause will not be made unless utilised by the employee.

**(viii)** Alternative paid day off procedure

If the employer and the employee so agree, any accrued rostered days off (RDO) as prescribed in clause 33 – Ordinary hours of work, may be taken, and paid for, in conjunction with and additional to rest and recreation leave.

**(ix)** Termination of employment

An employee will be entitled to notice of termination of employment in sufficient time to arrange suitable transport at termination or must be paid as if employed up to the end of the ordinary working day before transport is available.