

IN THE FAIR WORK COMMISSION

Matter No.: AM2014/93

Re: *Vehicle Manufacturing, Repair, Services and Retail Award 2010*

SUBMISSIONS OF THE AUSTRALIAN MANUFACTURING WORKERS UNION AND THE AUSTRALIAN MANUFACTURING WORKERS UNION - VEHICLE DIVISION (together referred to as the "AMWU")

INTRODUCTION

1. The "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU), files these submissions in respect of the AM2014/93 matter before Commissioner Bissett to determine the drafting of the new *Manufacturing and Associated Industries and Occupations 2010 Award* ('Manufacturing Award'). The new award is to include coverage of vehicle manufacturing, previously covered by the *Vehicle Manufacturing Repair, Service and Retail 2010 Award* ('VMRSR Award'), as decided in the recent decision by the Full Bench.¹
2. The AMWU has been a party to the AM2014/93 proceedings since the commencement of the matter in 2014. The Union has made various submissions in respect of contested and sought changes to the VMSRR Award, and vigorously opposed the split of the VMRSR Award and placement of the vehicle manufacturing conditions into the Manufacturing Award.
3. Given that the Vehicle Division of the AMWU represents a membership which is almost exclusively covered by the VMRSR Award, these proceedings have been of great importance to the union. In spite of the closure of the major vehicle manufacturing plants, the last of which will cease operation in 2017, the industry will still remain significant with various members within vehicle manufacturing set to remain post the closure of the Toyota plant. These members are predominantly employed in the bus, truck and trailer sectors but may also extend to areas such as OEM (Original Equipment Manufacturer), component suppliers and after market providers. The preservation and protection of hard-won and industry specific vehicle manufacturing entitlements and conditions will therefore remain relevant and important going into the future.

¹ [2016] FWCFB 4418

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4. Given that the Full Bench have decided to proceed with the split, the AMWU does not intend to agitate further against the move and will focus in these submissions on substantive issues still facing the Commission in respect of drafting, the transfer of entitlements, the structure of the new Manufacturing Award and procedural matters.
5. The decision to merge the vehicle manufacturing conditions into the Manufacturing Award is now of extended relevance to the AMWU membership, with the majority of its overall members being covered by the Manufacturing Award. In order to preserve the interests of all of our membership, it is the fundamental position of the AMWU that any change in respect of this matter should amount to no overall loss by either vehicle or general manufacturing workers and nor should the Manufacturing Award be disturbed in any significant way. We note that this position is in line with the Commission's decision on the matter, whereby the Full Bench stated that:
 - a. *"We do not intend to alter the Manufacturing Award in a way which would significantly affect employers and employees already covered by it..."*²; and
 - b. *"It is not our intention that employees should suffer any non-trivial loss of income."*³
6. With this as a primary basis, this submission will deal with the following outstanding matters that the union has identified:
 - a. Commencement date of award split
 - b. Structure of the new Manufacturing Award
 - c. Coverage of vehicle manufacturing provisions to be transferred to Manufacturing Award
 - d. Training arrangements & classification structures
 - e. Entitlements and conditions – Outstanding concerns with the Manufacturing Award Exposure Draft⁴
 - f. Proposed process going forward
7. The AMWU and the AIG have begun discussions in respect of each of these matters and intend to reach agreement on the issues identified. Ultimately, the parties intend to formulate a jointly supported draft award to submit to the Commission. At this stage, the

² Ibid at [50(2)]

³ Ibid at [50(3)]

⁴ 4 March 2016 version. Please note that all references to the Manufacturing Award Exposure Draft refer to this publication.

parties have arranged to meet further at the end of November and early December to continue working through these matters.

8. Finally, to assist Commissioner Bissett and the bench in these proceedings, previous written submissions and relevant correspondence filed by the AMWU are set out below for reference:

#	Date	Title	URL/Annexure #
1.	9 May 2014	Letter to the Commission in respect of the 4 Yearly Review of Modern Awards	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201475andors-sub-amwu-090514.pdf
2.	6 November 2014	Submissions of Australian Manufacturing Workers Union – Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-061114.pdf
3.	13 November 2014	Reply Submissions of Australian Manufacturing Workers Union - Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-replysub-amwu-vehicle-131114.pdf
4.	25 March 2015	Submissions of Australian Manufacturing Workers Union – Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-250315.pdf
5.	6 March 2015	Submission of Australian Manufacturing Workers Union – Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-060315.pdf

#	Date	Title	URL/Annexure #
6.	2 April 2015	Supporting Submissions of Australian Manufacturing Workers Union – Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-020415.pdf
7.	13 May 2015	Reply Submissions of Australian Manufacturing Workers Union – Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-130515.pdf
8.	29 September 2015	Report to the Full Bench	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-amwu-joint-report-290915.pdf
9.	30 September 2015	Further Supplementary Submissions Of Parties	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwuandors-300915.pdf
10.	9 November 2015	Letter to Vice President Hatcher from AMWU-Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201475andanor-sub-amwu-091115.pdf

#	Date	Title	URL/Annexure #
11.	16 November 2015	Letter to Vice President Hatcher from Paul Bastion (National Secretary of AMWU)	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201475and93-sub-amwu-161115.pdf
12.	25 November 2015	Submissions Of Australian Manufacturing Workers Union - Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-251115.pdf
13.	7 December 2015	Submissions Of Australian Manufacturing Workers Union - Vehicle Division	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-071215.pdf
14.	9 May 2016	Submissions Of The Australian Manufacturing Workers Union And The Australian Manufacturing Workers Union - Vehicle Division (Together Referred To As The "AMWU")	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-110516.pdf
15.	20 May 2016	Correction To AMWU Submission	https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-corr-amwu-200516.pdf

A. Commencement Date of Award Split

9. The AWMU supports the proposal made by the Commission to delay the transfer of the vehicle manufacturing coverage to the Manufacturing Award until the end of 2017, when large-scale manufacturing in Australia is set to come to an end.⁵ This would both allow parties and the Commission sufficient time to finalise the content of the new award, whilst avoiding the burden of placing those large-scale manufacturers in a position where they need to contend with a new award as they near the end of their substantive operations.

B. Structure of the new Manufacturing Award

10. Currently the exposure draft of the Manufacturing Award incorporates provisions from the Vehicle Manufacturing section of the VMRSR by placing them within the body of the Award. The AMWU submits that an alternative structure worth considering is to incorporate the vehicle manufacturing provisions within a distinct section in the Manufacturing Award, as they are currently placed within the VMRSR Award.
11. The AMWU intends to make further submissions outlining the benefits and disadvantages of these two proposed structures, and to consider whether there are any further alternative layouts which may assist in keeping the award simple and easy to understand.

C. Coverage of Vehicle Manufacturing provisions to be transferred to Manufacturing Award

12. The current Manufacturing Award Exposure Draft deals with coverage by inserting clauses 4.1(e) and (f) from the VMRSR Award into the MA10 (at clauses 3.8(xi) and (xii)).
13. It is the AWMU's position that this drafting will not assist parties in identifying which provisions apply specifically to vehicle manufacturing workers, where distinct entitlements and structures are carried across from the VMRSR Award. For example, in respect of classification and training structures, as well as key entitlements which need to be transferred across in order to protect vehicle manufacturing workers from suffering a loss as a result of the incorporation of vehicle manufacturing into the Manufacturing Award. For example, their advantageous Time off in Lieu of Overtime (TOIL) entitlement.
14. Additionally, erroneous drafting in the coverage clause also needs to be amended, most significantly at clause 3.10(j), where it states incorrectly that Manufacturing and Associated Industries and Occupations does not mean:

⁵ n1 at [52]

- a. *An employer who, on 31 December 2009 was engaged in the manufacture and/or assembly of metal parts or accessories and was bound to observe the Metal, Engineering and Associated Industries Award 1998.*

15. The AMWU intends to draft a proposed coverage clause that attends to these concerns and to make further submissions on this matter.

D. Classification structures

16. Currently the exposure draft of the Manufacturing Award has merged the vehicle manufacturing classifications into the award largely by marrying them alongside the existing manufacturing classifications. For example, where a classification level C5 is referenced in the Manufacturing Award, the provision now applies to the vehicle classification level V10 as well.
17. Classifications are classed according to the percentage of the trade rate that they represent. It is apparent that the vehicle classifications have been tabled alongside the equivalent manufacturing classification, where they share the same percentage of the trade rate. This is evident, for example, in various provisions contained in Part 4 (Wages, Allowances and Classifications) of the exposure draft.
18. Whilst this works relatively well in terms of wage structures (for example, in clause 15.1(a) of the exposure draft), it does not where a provision references the applicable competencies attached to the classification level (for example clauses 15.1(d), 15.1(e) and 16.5 of the exposure draft). This is because the two industries have distinct training packages which directly affect how employees are classified. This means that the competencies, training packages and skill sets required are drastically different between the awards. Therefore, by marrying the classifications together alongside competency requirements, the distinct vehicle manufacturing competencies are lost.
19. It is the AMWU's position that an alternative structure needs to be provided for within the Manufacturing Award to correctly reflect the unique vehicle manufacturing competencies. This may require a complete separation of the classifications, or a more thorough analysis of where there are genuine cross-overs. The union intends to make further submissions on this point and present the Commission with an alternative structure.

E. Entitlements and Conditions – Outstanding Concerns with Manufacturing Award Exposure Draft

20. The AMWU identified approximately 80 concerns with the drafting of specific clauses and loss of entitlements, in respect of vehicle manufacturing workers, in the current Manufacturing Award Exposure Draft. These were detailed in a table annexed to the union's

Final Written Submissions filed in respect of the MA2014/93 proceedings before the Hatcher VP Full Bench.⁶ For reference, this same table is annexed to these submissions (**Annexure 1**).

21. Broadly, the issues identified fall into one of the following categories:

- a. **The Manufacturing Award does not contain an entitlement that existed under the VMRSR Award** - For example, in respect of paid morning or afternoon tea-breaks, accident pay and minimum overtime payment on a Sunday or a Public Holiday.
- b. **The Manufacturing Award allowance has a monetary value which is less than the equivalent VMRSR Award allowance** – For example, the First Aid Allowance is higher under VMRSR Award (\$15.30 v \$15.22).
- c. **Other than in respect of allowances, the Manufacturing Award entitlement is less beneficial than the equivalent VMRSR Award entitlement** – For example, vehicle manufacturing workers are entitled under the VMRSR Award to TOIL at overtime rates (clause 21.6(e)). The Manufacturing Award conversely provides that TOIL is to be paid at ordinary time rates (clause 30.7).
- d. **The Manufacturing Award is drafted in a confusing/inferior manner compared to the equivalent VMRSR Award clause** – For example, clauses 6.4 (b) (iii) and (iv) [Casual Employment] have not been properly identified as having come from section 3 of the VMRSR Award, it is therefore unclear that it refers to employees in the vehicle manufacturing sector.
- e. **The Manufacturing Award provision adds terms which are not contained within the VMRSR Award** – For example, in clause 20.2 of the Manufacturing Award it is unclear why vehicle classifications have been included. Junior employees would be excluded from performing this work under the VMRSR Award (see clauses 7.2(a)-(f)). The reference to vehicle workers in this clause is therefore inappropriate.

22. It is the AMWU's position that each of these concerns need to be dealt with and it intends to make further submissions in respect of this. The vast majority of these concerns could most likely be dealt with satisfactorily through a simple re-wording of identified provisions. In some cases, however, it will be the union's position that entitlements will need to be transferred across from the VMRSR Award so as to preserve the more beneficial provisions for vehicle manufacturing workers. The union is, however, working to take into account and offset any gains that the vehicle manufacturing workers have inherited via the incorporation of vehicle manufacturing into the Manufacturing Award. Discussions with the AIG have already been had in respect of this.

⁶ Filed 9 May 2016, see Annexure 1 at

<<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201493-sub-amwu-110516.pdf>>

F. Proposed Process Going Forward – Draft Directions

23. Attached at **Annexure 2** of these submissions are draft directions in respect of how best to proceed with the matter going forward, which the AMWU request be considered by the Commission. The AIG have indicated that they are content with the proposed directions.

CONCLUSION

24. It is the AMWU's position that there is still considerable work to be done to address the myriad of drafting concerns in respect of structure, coverage, classifications and general provisions within the current Manufacturing Award Exposure Draft. This will require the pain-staking task of assessing each provision carefully and considering the best way forward, keeping in mind the position of protecting both the Manufacturing Award from unnecessary disturbance and the Vehicle Manufacturing workers from overall loss. The parties have, however, already made progress on these issues and have indicated that they are committed to working together towards consensus and assisting the Commission in meeting these objectives.

COMPARISON OF VMRSR AWARD 2014 and MA10

Clause reference - VMRSR Award (Exposure Draft 4 November 2015)	MA10 Clause (Exposure Draft 4 March 2016)	Comments
6.3 Full-time Employees	6.2	The current VMRSR Award (VMRSR) clause makes it clear that Full Time employees work no less than an average of 38 ordinary hours per week. In contrast, the MA10 Award (MA10) clause is not explicit on this point.
7 Juniors	11	<p>The VMRSR stipulates types of work which Junior employees are prohibited from engaging in. These exclusions are designed to protect Junior employees from engaging in dangerous work for which they do not have adequate training or experience.</p> <p>Whilst the MA10 does provide for Juniors, no prohibited work exclusions apply. Clause 11 of the MA10, for example, provides that Juniors may be employed in any classification under the Award. Clause 20.4 further provides that in certain positions Junior employees must be paid the adult pay rate.</p>
7 Juniors	20.1	It is unclear why vehicle classifications have been included in this table. Clause 7 of the VMRSR deals with juniors. However, there is no table similar to that in clause 20.1 of the MA10 which sets out the wage rates in section 2 of the VMRSR Award. This is likely to create confusion for existing Award readers.
7 Juniors	20.2	It is unclear why vehicle classifications have been included in this list. Junior employees would be excluded from performing this work by virtue of clause 7.2(d). It also may be prohibited by clause (a)-(c), (e) and (f). The reference to vehicle workers in this clause is inappropriate.
7.2(d) and (e), (f) Juniors - Prohibited Work	20.4(b) and (j)	This work is prohibited under the VMRSR clause. Juniors are also prohibited from working unsupervised. The absence of this exclusion expands the work that juniors can perform under the MA10. They also cannot work unsupervised under the VMRSR but now they can under MA10.

8 Apprentices (including adult and school-based apprentices) and trainees	7	<p>The VMRSR combined Apprentice and School Based apprentice conditions. The MA10 splits them up with the conditions of school based apprentices being listed in clause 8. The VMRSR clause is easier to read because it is more straight-forward for Award readers. The separation of these provisions in MA10 is therefore likely to cause confusion for Award readers.</p> <p>Clause 8.2 of the VMRSR contains a list of apprenticeship trades, which are not contained within the MA10.</p>
11.1(e) Meal and Rest Breaks	13.1	Unlike in the VMRSR there are no paid morning or afternoon tea-breaks provided for in the MA10.
11.4 Minimum Break Between Shifts	30.11 (d)/ (e)	In the MA10, by agreement between an employer and an employee the period for rest can be reduced to 8 hours. No equivalent clause exists in VMRSR. This is arguably a more detrimental clause for vehicle manufacturing workers.
13.1/13.3 Payment of Wages	23.1(a)(ii)	The MA10 introduces payment according to average no. of hours worked per fortnight, as opposed to base on actual ord. hours worked per week, fortnight or month - depending on when payment is made. This averaging arrangement is not preferred in the Vehicle Industry.
13.2 Payment of Wages	23.2	Clause 13.2 in the VMRSR notes that an employer is responsible to pay any fees or charges associated with a bank transfer. MA10 clause has no such requirement. This is a loss of entitlement for vehicle manufacturing workers.
13.3(c) Payment of Wages	No equivalent	The VMRSR requires that 4 weeks notice is to be given to employees if the pay day/period will change. This entitlement is lost in the MA10.
13.3(d) Payment of Wages	No equivalent	The VMRSR provides that wages will be paid no later than Thursday in a pay cycle, or Wednesday if a public holiday falls on the Thursday or Friday. There is no equivalent provision in the MA10, meaning employees lose the guarantee that their wages will be paid before the weekend.
13.3(e) Payment of Wages	No equivalent	Provides an employer cannot keep more money in hand than has accrued to an employee in respect of work performed on that day or previous day where wages are paid after 1.30pm. This provision is not replicated in the MA10.

13.3(f) Payment of Wages	No equivalent	Provides that an employer must state in writing the total amount of wages paid, including overtime and any deductions made. This provision is an additional safeguard in to s 535 of the Fair Work Act. The MA10 has no equivalent provision.
13.4(a)(iii) Payment of Wages on Termination of Employment	No equivalent	The MA10 does not require that an employer pay an employee an addiitonal 4 hours' ordinary pay where the employee is required to collect their wages on termination of employment from the employers's place of business. This represents a loss of entitlement.
13.7 Make Up time after stand-down	No equivalent	The 'make up time after stand-down' entitlement contained in the VMRSR is lost in the MA10.
16.3/16.4/18.5 Allowances	26.2(j)(k(l)	It is not clear that these allowances apply to Vehicle Workers.
16.3 Inspector Allowance	26.2(j)	The Inspector Allowance has been changed in the MA10. In the VMRSR the allowance is \$31.21, in contrast to \$30.44 in the MA10. This represents a loss of 0.77 cents/hour.
16.5 First Aid Allowance	16.5	First aid allowance is higher under VMRSR -\$15.30 v \$15.22.
16.7 Confined Spaces	26.3(f)	Clause 16.7 of the VMRSR Award is more detailed than the MA10. Although the allowance is higher under MA10, 16.7(b) gives specific examples of what confined spaces would be in the context of the Vehicle Industry. By comparison the MA10 clause is much more simplistic.

16.8 Dirty Work	26.3(g)	Clause 16.8 of the VMRSR Award is more prescriptive in listing and describing how to resolve a dispute arising where there is disagreement about whether work is dirty work for the purposes of the clause, including having the assistance of a shop steward and requiring that the employer's rep representative must make a decision within 48 hours. It also sets out the min. payment of \$2.25/day for dirty work. This VMRSR clause is preferable due to the explanation of how to handle any disagreement about whether work is dirty.
16.11 Glass or Slag Wool	Related clause: 26.3(k)	The Glass or Slag Wool Allowance contained in the MA10 does not apply to vehicle manufacturer workers and therefore this entitlement is lost. Specifically, clause 26.3(k) of the MA10 provides the entitlement to employees who are 'employed on ship construction or ship repairing or on the construction, repair or demolitions of furnaces, walls, floors and/or ceilings.'
16.12 Handling Garbage	Related clause: 26.3(g)	There is no equivalent Handling Garbage Allowance provided for in the MA10 as provided for in the VMRSR. The VMRSR does provide for a 'Dirty Work Allowance' at clause 26.3(g), however this does not represent an explicit transfer of this entitlement to vehicle manufacturer workers.
16.13 Livestock Transport	No equivalent	The Livestock Allowance contained in the VMRSR is not replicated in the MA10. This represents a loss of an entitlement.
16.15 Height Money	26.3(h)	The Height Money condition in the VMRSR is 0.44 cents. In the MA10 it is 0.42 cents. This represents a loss of 0.02 cents/hour.
16.19 Fork-lifts or Cranes	No equivalent	The Fork-lift or Crane Allowance contained in the VMRSR is not replicated in the MA10. This represents a loss of an entitlement.

16.21 Combined Disabilities	Related clause: 26.3(a)	The Combined Disability Allowance is not explicitly replicated in the MA10. Clause 26.3(a) of the MA10 does set out a similar entitlement, which is that special rates are cumulative if they fall within a list of excepted allowances. The excepted allowances, however, differ between the two Awards differ. Specifically, the Handling Garbage and Livestock Transport Allowances as contained within the VMRSR, are not contained within the MA10 listed exceptions.
17.1 (e) Tool Allowance - tradespersons, Carpenters and Apprentices	26.1(c)(iv)	Clause 17.1(e) is clearer because it sets out in dollar amount how much allowance is payable to an apprentice in the clause itself.
17.2 Meal allowance	26.2(c)	Meal Allowance is higher under MA10 - \$13.51 v \$13.18. The VMRSR clause requires that it has to be paid if an employee is required to work more than 1.5 hours and not notified the previous day. Clause 17.2(c) also provides that unless the employee was advised on the previous day or earlier that overtime would include more than one meal, a second meal has to be provided.
17.3 Travelling Time, Accommodation and Meals	26.4 (a)/(e) (i)	Travelling time allowance for Saturday is lost in the MA10 - which only pays 150% for travel time when done on Sunday and public holidays. Under Clause 17.3 of VMRSR Award, the overtime rate is paid when travelling on Saturday, Sunday and public holidays. Clause 17.3(b) also states that if travel is done in business time, there is to be no loss of wages.
18A Accident Pay	No equivalent	Accident Pay was recently inserted back into the VMRSR. This re-insertion was made because the Commission determined that there was a clear industry standard in the Vehicle Industry that justified reinstating this entitlement. There is no equivalent Accident Pay provision in the MA10, representing a substantial loss of entitlement.
18.1(f) Protective Clothing	26.2(f)	The VMRSR clause 18.1(f) is more detailed and speaks to the type of work for which protective clothing would be required to be worn for the purposes of the Award. The MA10 clause by comparison is more general. A broader clause would be better as it would capture all work for which PPE is required to be worn.

18.3 Damage to clothing and tools	26.2(d)	The MA10 provides that an employer does not need to pay an employee where the employee is entitled to workers compensation in respect of the damage. The same exclusion does not apply under the VMRSR and represents a less favourable condition for vehicle manufacturing employees.
21.5(a) Minimum Overtime Payment on a Sunday or Public Holiday	No equivalent	This provision stipulates that employees must get paid for one hour if they are required to work over-time on a Sunday or a Public Holiday where they are working in order to maintain electric light or power. Additionally, such workers are to be paid for time spent getting to and from work, which is to be counted as time worked except for when the work is more than 2 hours. There is no equivalent entitlement in the MA10.
21.5 (b) Minimum Overtime Payment on a Sunday or Public Holiday	30.6	A minimum payment of 4 hours for vehicle manufacturing workers is stipulated in the VMRSR. In the MA10 it is 3 hours. Continuous and non-continuous shiftworkers also affected under the MA10 provision, but in the VMRSR this is covered by clause 44.5 of the Award.
21.6 Time off instead of Overtime Payment (TOIL)	Clause 30.7	Vehicle Manufacturing workers are entitled under the VMRSR to TOIL at overtime rates (clause 21.6(e)). MA10, conversely provides that TOIL is paid at ordinary time rates (clause 30.7). The removal of overtime rates for TOIL was successfully opposed in AM2014/300 on the basis that it has been an industry standard for 25 years. [Further to this, the decision in [2016] FWCFB 2602 provides that the Commission will not include the model TOIL clause in the RSR Award until a decision is made about the exposure drafts. This is despite the fact that Vehicle Manufacturing workers are equally entitled to TOIL at overtime rates.]
21.1 0 Overtime	30.14	The MA10 clause is similar to the VMRSR clause except that transport obligations apply to an employer where an employee usually uses public transport and concludes either over-time or shiftwork. Under the MA10 the entitlement only applies if the employee isn't regularly rostered to work such a shift.
22.2 and 22.3 Annual Leave	No equivalent	These clauses set out employees' Annual Leave entitlements. No equivalent provisions are provided for within the MA10.

22.7 Annual Close Down	31.7(f)	The VMRSR provides that where there are two periods of Annual Close Down that one of those periods must be for at least 21 days. Conversely, the MA10 provides that one of those periods must be for a period of at least 14 days. This represents a loss of a beneficial condition for vehicle manufacturing employees.
25.3 Rostered Days Off or Accumulated Time of Falling on a Public Holiday	34.5	This provision provides for how to deal with the situation of an RDO falling on a public holiday. It is more prescriptive under the MA10 than under VMRSR and therefore is more onerous for vehicle manufacturing workers.
40.1(b) Ordinary Hours of Work	12.2(c)	The ordinary hours of work in the VMRSR are stipulated as being Monday - Friday and 7am- noon on Saturday. Under the MA10 employees can work Saturday and Sunday by agreement (12.2(c)).
40.1(d)	12.2(d)	40.1(d) of the VMRSR Provides that all work performed outside the spread of hours is to be paid at overtime rates and will be deemed to be part of the ordinary hours of work. Clause 12.2(d) of the MA10, conversely, provides an exception regarding any work performed by an employee prior to the spread of hours which is continuous. This represents a loss of entitlement to the vehicle manufacturing workers.
40.3 Methods of Arranging Ordinary Working Hours (re Rostered days off)	12.7	Both the VMRSR and MA10 provide that rostered days off (RDOs) can be negotiated. The VMRSR, however, mandates that such an agreement it made by majority consensus. The MA10, conversely, enables employers to negotiate with <i>either</i> an individual employee or the majority (as per facilitative provisions in clause 5.3, applicable as per clause 12.1). The provision that requires majority consensus is an important provision used by the union to apply a roster that provides for an RDO. Allowing for individual consensus runs the risk of undermining this entitlement.
40.5 Substitute Day	No equivalent	There is no equivalent provision in the MA10. This represents a loss of entitlement for Vehicle manufacturer workers.
41.8(d) Apprentice Wage Rates and Progression	No equivalent	This provisions sets out apprenticeship progression for vehicle manufacturing workers. It is not replicated in the MA10.

41.9 Higher Engineering Tradesperson	16.7	Clause 16.7 is likely to create confusion because clause 41.9 has not been copied from the VMRSR Award into MA10.
43.1/43.2 Shiftwork and Rates	28.1 Penalties, 28.2 (a)-(g) Rates for Shiftworkers	<p>Clause 43.1 and 43.2 in the VMRSR should have been cut and paste into the MA10 in this section because the definitions for shiftwork in VMRSR are different to the MA10 definitions. For example, the definition of night shift in the MA10 is commencing after 8pm; in the VMRSR it is commencing after 6pm.</p> <p>Further, these provisions have been paste into clause 12.4 and 12.6 of MA10 but these clauses are better read in conjunction with the yellow provisions in clause 29. A reference should exits directing the readers back to clauses 12.4 and 12.6.</p> <p>Currently this provision is very confusing.</p>
44.1 Crib Breaks	Related clause: 30.10	Sets out employee Crib Break entitlements for employees working on a Sunday or a public holiday for more that 9.5 hours. The MA10 deals with rest breaks at clause 30.10, however it does not explicitly provide for a paid crib break after 9.5 hours, as per the VMRSR.
44.2 Minimum break between shifts	No equivalent	Entitles an employee to 10 consecutive hours off duty without deduction of pay, where he/she works on a Sunday or a public holiday. The MA10 does not contain this condition.
44.4/44.5 Public Holiday Work	12.2(g)	The VMRSR provides more comprehensive public holiday provisions than the MA10. The VMRSR, for instance, stipulates the public holiday penalty rates for evening shifts. This is particulalry relevant in the context of the vehicle manufacturing industry.
44.6(a) Minimum payment - maintenance employee	No equivalent	Stipulates pay entitlements for maintenance workers. For example, the minimum period of enagement for wokring a public holiday for employees other than shiftworkers is 4 hours in the VMRSR but in the MA10 it is 3 hours.This provision is not replicated in the MA10 award and represents a loss of entitlements.
45 Security Staff - Special Conditions	No equivalent	The MA10 has deleted all entitlements/conditions for security staff.
49.1(a) and (b) Casual Employment	6.4 (b) (iii) and (iv)	Clause has not been properly identified as having come from section 3 of the VMRSR Award and it is unclear that it is referring to employees in the Vehicle Manufacturing sector.

49.3 Classifications - Notification of Classification	15.4(b)	The MA10 equivalent provision is not as explicit as the VMRSR. Where the MA10 stipulates that employees are to be advised on their classification, the VMRSR stipulates that this notification needs to occur within two weeks of being engaged or being promoted.
49.5 Lower grade and higher grade duty	No equivalent	This condition, regarding drafting technical and planning employees, has been removed from the MA10.
49.6 Trainees	19.2	The definition of trainee found in clause 49.6(a) has been left out of the MA10 Award provision.
49.8 Cadets	18.2(a)	<p>Clause 18.2 is more prescriptive than the equivalent clause in the VMRSR. It is unclear why references to the Vehicle Classifications were included in clause 18.2, as there is generally no corresponding provision in the VMRSR Award to clause 18.2 other than clause 49.8.</p> <p>If the rates specified in clause 49.4 were taken and inserted into clause 18.2(a), as appears to be a possibility, it is inappropriate because the rates in clause 49.4 are not specifically for cadets.</p> <p>It is highly likely that this provision will create confusion for existing users of the VMRSR.</p>
Related clause: 49.9		There is no equivalent separate clause in VMRSR. The MA10 clause is very comprehensive and could create confusion for new users of Awards, as it is not clear that this section only applies to manufacturing employees. Note that clause 49.8 deals with pay rates for cadets only - Section 3 Drafting, Planning and Technical Employees. This clause is very short as compared with the MA10 clause.
50.1 Wage Related Allowance	26.10 €	There is no reference in the MA10 that this provision applies to vehicle manufacturing workers covered by Section 3 of the VMRSR.
50.2(b) Clothing and equipment - specific for Drafting employees	26.2(d)	These conditions are mirrored in the MA10 to a certain extent (26.2(d)), however the MA10 provisions are not as comprehensive as the VMRSR. For example, clause 50.2(b)(iii) of the VMRSR regarding reimbursement entitlements of employees working in abnormal conditions, is not reflected in the MA10.
50.2(c) Travelling Expenses	Relevant clause: 26.4	This provision provides for employee travel entitlements. These are generally dealt with in the MA10, however the specific allowance of \$11.11 for meals during air travel has not been transferred into the MA10.

51 Penalty Rates	No equivalent	Clause 51.1(a) entitles workers on a Sunday to a minimum of 4 hours payment, the MA10 does not contain this entitlement.
53.4 Contract of Employment	6.7	Clauses have not been properly identified as having come from section 4 of the VMRSR Award and it is unclear that it is referring to employees in the Vehicle Manufacturing sector.
53.5 Conditions of Employment	6.8	Clauses have not been properly identified as having come from section 4 of the VMRSR Award and it is unclear that it is referring to employees in the Vehicle Manufacturing sector.
53.5 Conditions of Employment	No equivalent	A provision which explicitly deals with Conditions of Employment has not been included in the MA10, as it has in the VMRSR.
53.6(b) Wages, Classification and Related Matters	26.1(f)	It is unclear if this allowance is same allowance payable in section 4 of the VMRSR - 53.6(b).
53.6 (b) and (c) Wages, Classification and Related Matters	No equivalent	This allowance is payable for supervisors/trainers/co-ordinators. The allowance includes over-award payments. It does not appear to be captured within the MA10.
53.7 Method of Calculation	No equivalent	This method of calculation for the rates in clauses 53.6(b) and (c) is not contained within the MA10.
Schedule H	No equivalent	There is no reference to boiler attendant or fireperson, leading 1st class or 2nd class definition in the MA10.
No Equivalent	12.(c) Twelve hour days or shifts	This clause permits the introduction of 12 hour shifts. This is detrimental to vehicle manufacturing employees as currently there are no 12 hour shifts permitted in the VMRSR.
No Equivalent	15.1(g) Annualised Salary Arrangement for Supervisor/Trainer/Coordinator Levels I and II	The MA10 introduces an annualised salary option for supervisors/trainers/co-ordinators. This does not exist in the VMRSR. This equates to the introduction of a new arrangement for vehicle manufacturing supervisors/trainers/co-ordinators.

No Equivalent	15.4(c) Procedure for Classifying Employees Covered by the National Metal and Engineering Competency Standards	<p>This clause in the MA10 sets out the procedure for classifying employees covered by the National Metal and Engineering Competency Standard. It is unclear on what basis the Vehicle Classifications have been inserted into this clause.</p> <p>References to Vehicle Classifications have been intergrated but it is unclear if this is appropriate. The VMRSR does not specify that in order to classify employees an employer is to have regard to the Metal Engineering competency standards, or any other standards. No similar explanation is found in schedule B of the VMRSR. The relevant classifications in the Vehicle Award are based on the explanations/definitions to be found in Schedule B. This is the competency strcuture to which vehicle manufacturing workers are to be classified in accordance with. Our view is that the intergration of the Vehicle Classifications without proper analysis is confusing and inappropriate.</p>
No Equivalent	16.3 Apprentice Minimum Wages	It is unclear why a reference to V10 has been inserted in a clause dealing with an apprentice completing a Diploma of Engineering. Clause will create confusion for Award reader.
No Equivalent	19.1 Trainee Minimum Wages	<p>In the VMRSR Award, Schedule F is relied upon for the relevant trainee wages and conditons. It is unclear how/why references to vehicle classifications have been included in the tables in clause 19.1(b), as there are no equivalent provisions in the VMRSR Award stipulating the same.</p> <p>By inserting references to Vehicle classifications throughout clause 19.1, the Commission has made it very confusing for the Award reader. This is apticularly the case bcause the traineeships referred to in clause 19 refer to those as advised by the Manufacturing skills council. It is unclear again whether any of the Vehicle Classifications/traineeships are consistent with those set out in clause 19.1</p>
No Equivalent	19.3 Trainee Engineer and Trainee Scientist Minimum Wages	The reference to vehicle workers in this clause is inappropriate.

No Equivalent	26.1(c)(v) Tool Allowance - Tradespersons and Apprentices	It is unclear why this does not apply to vehicle manufacturing workers
No Equivalent	27.4 Superannuation Funds	The VMRSR lists the following funds which are not referred to in the MA10 - Statewide Super Trust, TWUSuper, Retail Employees Superannuation Trust (REST)
No Equivalent	Rate for Working on Saturday Shifts	This rate for working a Saturday shift does not exist in the VMRSR. It creates confusion because of specific provisions in the VMRSR for working continuous or non-continuous shifts; including working on Saturday. There is not a separate provision for working on a Saturday like there is in the MA10.
No Equivalent	36 Absence from Duty	This represents a new condition for Vehicle manufacturing workers because not present in VMRSR Award.
No Equivalent	37 Abandonment of Employment	This represents a new condition for Vehicle manufacturing workers because not present in VMRSR Award.

[2016] FWCFB XXXX

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FAIR WORK COMMISSION

DIRECTIONS

Fair Work Act 2009
s.156 – 4 Yearly reviews of modern awards

VEHICLE MANUFACTURING, REPAIR, SERVICES AND RETAIL AWARD 2010 (AM2014/93)

COMMISSIONER BISSETT

MELBOURNE, X DECEMBER 2016

Manufacturing and Associated Industries and Occupations Award 2010

In the decision of the Full Bench on 16 August ([2016] FWCFB 4418) it was decided that coverage of Vehicle Manufacturing is to be moved from the *Vehicle Manufacture, Repair, Service and Retail 2010 Award* to the Manufacturing Award. Commissioner Bissett held a conference in relation to the proposed changes to the Manufacturing Award on **5 December 2016**. The Commission issues the following further directions in relation to the matter:

[1] Any party that wishes to file submissions and/or evidence in relation to the Manufacturing Award 2010 exposure draft (dated published 4 March 2016) is to do so by **5.00pm 3 March 2017**.

[2] Any interested party which wishes to adduce evidence and/or make submissions in reply to any of the evidence and/or submissions filed in accordance with direction (1) shall file such evidence and/or submissions in the Commission by **5.00pm 17 March 2017**.

[3] All submissions and evidence shall be sent to amod@fwc.gov.au.

[4] This matter will be listed for a further conference in Melbourne before the Full Bench after **17 March 2017**.

COMMISSIONER