

**Tony Sheldon** National Secretary

21 December 2016

Senior Deputy President Hamberger  
Fair Work Commission  
80 William Street  
SYDNEY NSW 2000

**BY EMAIL:** [amod@fwc.gov.au](mailto:amod@fwc.gov.au)

Dear Senior Deputy President Hamberger,

**Re: AM2016/32 – TRANSPORT INDUSTRY AWARDS**

AM2014/216 – *Waste Management Award 2010*  
AM2012/212 – *Road Transport and Distribution Award 2010*  
AM2014/211 – *Road Transport (Long Distance Operations) Award 2010*

We refer to Your Honour's directions dated 20 December 2016. Interested parties seeking variation/s to the above awards were to file draft determinations by 19 December 2016.

Please find attached draft determinations in relation to the above awards.

Yours sincerely,



Wendy Carr  
**Director of Legal**  
**Transport Workers' Union of Australia**

## DRAFT DETERMINATION

*Fair Work Act 2009*  
Part 2-3, Div 4 – 4 Yearly reviews of modern awards

**Road Transport and Distribution Award 2010**  
(AM2016/32 & AM2014/112) MA000038

Road transport industry

SENIOR DEPUTY PRESIDENT HAMBERGER

DEPUTY PRESIDENT SAMS

COMMISSIONER LEE SYDNEY, XX YYY 2017

*Review of modern awards to be conducted.*

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport and Distribution Award 2010* be varied as follows.
- [2] Insert a new subclause (j) to the definition of **road transport and distribution industry** in Clause 3 Definitions and Interpretation as follows:
  - “(j) the distribution and or relocation by road of new or used vehicles as described in the classifications within this award where the vehicle itself is required to be driven from one location to another for the purposes of delivery and or relocation of the vehicle
- [3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

## DRAFT DETERMINATION

*Fair Work Act 2009*  
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Road transport industry

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SYDNEY, XX YYY 2017

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- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport and Distribution Award 2010* be varied as follows.
- [2] Insert a definition of **driver** within the Clause 3 Definitions and interpretation as follows:

“**Driver** means an employee who is engaged to drive a rigid vehicle, a rigid vehicle with trailer combinations, an articulated vehicle, a double articulated vehicle and/or multi axle platform trailing equipment. A Driver may also undertake non-driving duties or other tasks in connection with driving the vehicles described in this definition including loading and unloading of vehicles; consolidating goods, wares, merchandise or other materials for loading; refueling a vehicle; operation of on-board computer equipment; routine vehicle inspections; washing or cleaning of vehicles; basic vehicle maintenance tasks; and log book maintenance and other paperwork associated with the driving task.”

[3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

DRAFT

## DRAFT DETERMINATION

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SYDNEY, XX YYY 2017

*Review of modern awards to be conducted.*

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport and Distribution Award 2010* be varied as follows.
- [2] Insert a new subclause 27.8 to clause 27 Overtime as follows:  

“27.8 Where an employee who ordinarily performs work under another award is temporarily required to engage in work covered by this award shall have the hours worked under both awards count towards the ordinary hours of work. Any hours performed outside the combined ordinary hours of work shall be paid in accordance with 27.1 of this clause.”
- [3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

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Road transport industry

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COMMISSIONER LEE

SYDNEY, XX YY 2017

*Review of modern awards to be conducted.*

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport and Distribution Award 2010* be varied as follows.
- [2] Delete existing Schedule C – Classifications Structure and Minimum Rates of Pay and replace with the following:

***Transport  
worker  
grade***

***Classification***

1

*General hand:  
greaser and cleaner, yardperson, vehicle washer and  
detailer, motor driver's assistant/furniture removers' assistant*

*Loader—other than freight forwarder  
Courier—foot or bicycle*

**Transport  
worker  
grade**

**Classification**

- 2      *Loader—freight forwarder  
Tow motor driver  
Driver of a rigid vehicle (including a motor cycle) not exceeding 4.5 tonnes gross vehicle mass (GVM)*
- 3      *Driver of a fork-lift up to and including five tonnes lifting capacity*
- Driver of a two—axle rigid vehicle on any other rigid vehicle exceeding 4.5 tonnes, but not exceeding 13.9 tonnes gross vehicle mass (GVM) unless by special permit or registration such vehicle may be up to 15 tonnes gross vehicle mass (GVM)*
- Driver of a concrete mixer up to and including two cubic metre bowl*
- Distribution facility employee level 1*
- 4      *Driver of a 2/3 axle rigid vehicle exceeding 13.9 tonne gross vehicle mass (GVM).*
- Driver oil tractor*
- Radio operator*
- Driver of fork-lift with a lifting capacity in excess of five tonnes and up to and including 10 tonnes*
- Weighbridge attendant*
- Driver of a straddle truck*
- Driver of a concrete mixer over two cubic metre bowl and up to 4.9 cubic metre bowl*
- Crane chaser/dogger*
- Distribution facility employee level 2*
- 5      *Driver of a fork-lift with a lifting capacity in excess of 10 tonnes and up*

**Transport  
worker  
grade**

**Classification**

to 34 tonnes

*Driver of a rigid vehicle with four or more axles and a GVM exceeding 13.9 tonnes*

*Driver of a rigid vehicle and heavy trailer combination with three axles and a GCM of 22.4 tonnes or less*

*Driver of an articulated vehicle with three axles and a GCM of 22.4 tonnes or less*

*Driver of a concrete mixer with five cubic metre bowl and over*

6 *Driver of a rigid vehicle and a heavy trailer combination with more than three axles and a GCM greater than 22.4 tonnes up to and including 53.4 tonnes*

*Driver of a mobile crane lifting up to and including 25 tonnes*

*Driver of an articulated vehicle with more than three axles and a GCM greater than 22.4 tonnes*

*Driver of a low loader with a GCM up to and including 43 tonnes*

*Driver of a fork-lift with a lifting capacity over 34 tonnes*

*Driver of a concrete mixer with 4 axles and with a seven cubic metre bowl and over.*

*Transport rigger*

7 *Driver of a double articulated vehicle up to and including 53.4 tonnes GCM—including B—Doubles*

*Driver of a concrete mixer with 5 axles and eight cubic metre bowl and over.*

*Driver of a low loader with a GCM exceeding 43 tonnes*

*When driving a low loader for each additional complete tonne over 43 tonnes GCM an extra 0.18% of the standard rate (as part of the*



**Transport  
worker  
grade**

**Classification**

*weekly rate for all purposes) will be payable*

*Provide that no load will exceed the limit prescribed by or under any State or Territory Act*

*Distribution facility employee level 3*

8 *Driver of a mobile crane with a lifting capacity in excess of 25 tonnes and up to 50 tonnes*

*Driver of a rigid vehicle and trailer(s) or double articulated vehicle exceeding 53.4 tonnes GCM including B—Doubles*

*Driver of multi-axle platform trailing equipment with a carrying capacity up to and including 70 tonnes capacity*

*Driver of an articulated concrete mixer with more than 3 axles and with a nine cubic metre bowl and over.*

9 *Driver of a mobile crane with a lifting capacity in excess of 50 tonnes*

*Driver of a gantry crane*

*Driver of a rigid vehicle with trailer combinations or articulated vehicle with trailer combinations exceeding 94 tonnes GCM*

*Distribution facility employee level 4*

*Aerodrome attendant*

10 *Driver of a multi-axle platform trailing equipment with a carrying capacity in excess of 70 tonnes and up to and including 100 tonnes or each additional 10 tonnes or part thereof in excess of 100 tonnes an extra 2.18% of the [standard rate](#) (as part of the weekly wage rate for all purposes) up to 150 tonnes will be payable*

*Driver of a mobile slewing crane with gross combination mass in excess of 100 tonnes (CGM)*

*Driver of a rigid vehicle with trailer combinations or articulated vehicle*

**Transport  
worker  
grade**

**Classification**

*with trailer combinations exceeding 103 tonnes GCM.*

*For each additional 10 tonnes or part thereof in excess of 150 tonnes an extra 2.09% of the standard rate (as part of the weekly wage rate for all purposes) up to 200 tonnes will be payable*

*For work performed in excess of 200 tonnes and up to 300 tonnes an additional payment of 2.04% of the standard rate (as part of the weekly wage rate for all purposes) to be added to the 200 tonnes rate*

[3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

## DRAFT DETERMINATION

*Fair Work Act 2009*  
Part 2-3, Div 4 – 4 Yearly reviews of modern awards

**Road Transport (Long Distance Operations) Award 2010**  
(AM2016/32 & AM2014/212) MA000039

Road transport industry

SENIOR DEPUTY PRESIDENT HAMBERGER

DEPUTY PRESIDENT SAMS

COMMISSIONER LEE SYDNEY, XX YYY 2017

*Review of modern awards to be conducted.*

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport (Long Distance Operations) Award 2010* be varied as follows.
- [2] Insert a new sub-clause 13(3)(d)(ii) as follows:  
“13(3)(d)(ii) the pickup and drop-off allowance as prescribed by clause 13.7;”
- [3] Consequential renumbering of remainder of sub-clause 13(3)(d).
- [4] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

# DRAFT DETERMINATION

*Fair Work Act 2009*  
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SYDNEY, XX YYY 2017

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- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport (Long Distance Operations) Award 2010* be varied as follows.
- [2] Insert a new sub-clause 13.7 as follows:
- “13.7 Pickup and Drop-off allowance
- (a) Where an employee engaged in a long distance operation is required to pick up or drop off at two or more locations at the principal point of commencement or principal point of destination, the employee must be paid an hourly rate for all additional hours worked calculated by dividing the weekly award rate prescribed by clause 13.1 by 40 and multiplying by 1.3 (industry disability allowance).
- (b) Where an employee engaged in a long distance operation is required to pick up or drop off at a location on route between the principal point of commencement and principal point of destination, the employee must be paid an hourly rate for all additional hours worked calculated by dividing the weekly award rate prescribed by clause 13.1 by 40 and multiplying by 1.3 (industry disability allowance).
- ”

[3] Consequential renumbering of remainder of clause 13.

[4] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

DRAFT

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- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport (Long Distance Operations) Award 2010* be varied as follows.
- [2] Delete existing Clause 13.5(a)(iii) – Rates of Pay – Hourly Driving Method and replace with the following:
  - “(iii) where the employer has an accredited Fatigue Management Plan in place, the hourly rate may be used to calculate a trip rate for any journey by multiplying the hourly rate by the number of driving hours specified in the FMP for that journey. For the purposes of this clause **accredited Fatigue Management Plan** means any program which is approved under an Act of a Commonwealth, State or Territory parliament for the purposes of managing driver fatigue. A copy of the FMP for that journey must be provided to the driver.”
- [3] The determination shall operate on and from XX YYY 2017.

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- [2] Insert a new sub-clause 13(3)(d)(iii) as follows:  
“13(3)(d)(iii) the passenger allowance as prescribed by clause 13.8;”
- [3] Consequential renumbering of remainder of clause 13.
- [4] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

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SYDNEY, XX YYY 2017

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- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport (Long Distance Operations) Award 2010* be varied as follows.
- [2] Insert a new sub-clause 13.8 as follows:  

“13.7 Where an employee is required by their employer to travel by road as a passenger either to or from a location other than their usual commencement place of employment or the employers depot in order to perform driving duties must be paid for such duties at an hourly rate for all hours worked calculated by dividing the weekly award rate prescribed by clause 13.1 by 40 and multiplying by 1.3 (industry disability allowance).”
- [3] Consequential renumbering of remainder of clause 13.
- [4] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT



## DRAFT DETERMINATION

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- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Road Transport (Long Distance Operations) Award 2010* be varied as follows.
- [2] Delete the existing clause 13.6 Loading and unloading and insert the following:
  - “13.7 Loading or unloading and excessive waiting time
    - (a) Where an employee is engaged on loading or unloading duties, that employee must be paid for such duties at an hourly rate calculated by dividing the weekly award rate prescribed by clause 13.1 by 40 and multiplying by 1.3 (industry disability allowance).”
    - (b) Where an employee is required to spend in excess of one hour waiting to effect the pick-up or delivery of a load and are not engaged in loading or unloading duties that employee must be paid for such duties at an hourly rate calculated by dividing the weekly award rate prescribed by clause 13.1 by 40 and multiplying by 1.3 (industry disability allowance).

- (c) As an alternative to 13.6(a) and 13.6(b), where there is a written agreement between the employer and the employee a fixed allowance based on the hourly rate in clause 13.6(a) and 13.6(b) may be paid to cover loading and unloading duties and excessive waiting time, provided that such written agreement is attached to the time and wages record.
- (d) A casual employee attending to the loading or unloading of the vehicles must be paid a loading of 25% in addition to the rates prescribed by this clause.”

[3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

# **DRAFT DETERMINATION**

*Fair Work Act 2009*

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

## **Waste Management Award 2010**

(AM2016/32 & AM2014/216) MA000043

Road transport industry

SENIOR DEPUTY PRESIDENT HAMBERGER

DEPUTY PRESIDENT SAMS

COMMISSIONER LEE

SYDNEY, XX YYY 2017

*Review of modern awards to be conducted.*

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Waste Management Award 2010* be varied as follows.
- [2] Insert a new clause 33.1(a) and 33.1(b) as follows:
  - “33.1 Annual leave is provided for in the NES. This clause provides additional provisions.
    - (a) For the purposes of the additional week of the annual leave provided for in the NES a shiftworker is a seven-day shiftworker who is regularly rostered to work on Sundays and public holidays.
    - (b) In addition to the leave entitlement in Division 5 of the NES, where an employee is engaged for part of the twelve month period as a shiftworker, that employee must have their annual leave increased by half a day for each month the employee is continuously engaged as a seven day shiftworker.”
- [3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY

<<FileNo>> <<PrintNo>>

**FAIR WORK COMMISSION**

# **DRAFT DETERMINATION**

*Fair Work Act 2009*

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

## **Waste Management Award 2010**

(AM2016/32 & AM2014/216) MA000043

Road transport industry

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COMMISSIONER LEE

SYDNEY, XX YYY 2017

*Review of modern awards to be conducted.*

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Waste Management Award 2010* be varied as follows.
- [2] Delete existing clause 11.2 Types of employment and replace with the following:  
  
“At the time of engagement, an employer will inform each employee in writing of the terms of their engagement, including their classification, and in particular, whether they are to be full-time, part-time or casual. Such decision will then be recorded in the time and wages record.”
- [3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

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SYDNEY, XX YYY 2017

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- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Waste Management Award 2010* be varied as follows.
- [2] Delete existing clause 29.2(a) Overtime meal breaks and replace with the following:  
  
“An employee must be allowed a paid meal break of not less than 15 minutes and not more than 30 minutes after two hours of overtime.”
- [3] The determination shall operate on and from XX YYY 2017.

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- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Waste Management Award 2010* be varied as follows.
- [2] Insert new clause 28.9 Paid meal break as follows:

“28.9 Paid meal break

- (a) All shift workers whilst on afternoon or night shift shall be entitled to a paid meal break of twenty minutes. Meal times on any shift shall be at the time fixed in accordance with this award by the employer and shall not be varied except in an emergency and with the consent of the employee however, an employee shall not be required to work more than 5.5 hours without a meal break.
- (b) An employee performing shift work who works overtime shall be allowed a meal break of twenty minutes without deduction of pay after each four hours of overtime worked if the employee continues to work after such crib time. Unless the period of overtime is less than two hours, an employee before starting

overtime after ordinary hours shall be allowed a meal break of twenty minutes which shall be paid for at ordinary rates.”

[3] The determination shall operate on and from XX YYY 2017.

SENIOR DEPUTY PRESIDENT

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