

**VACC, MTA–NSW, MTA–SA, MTA
QLD, MTA–WA**

**Motor Trades Organisations
submissions**

**Tranche 2 Exposure Drafts
Vehicle Repair, Services and Retail
Award**

[2019] FWCFB AM 2019/17

Dated 27 November 2019



THE VEHICLE REPAIR, SERVICES AND RETAIL AWARD

The Motor Trades Organisations make the following submissions in relation to the exposure draft issued by the Full Bench on 14 October 2019. While this submission predominantly focuses on making some minor changes to the exposure draft there are some changes which have been added to clarify some clauses in the exposure draft.

1. Clause 2 - Definitions

- (a) The definition of **'automotive parts interpreter – specialist'** in **clause 2** on page 7 of the exposure draft needs to be bolded in line with other definitions in this clause.
- (b) The above definition also needs to be amended to reflect the correct application of the definition. The word **'or'** needs to be added at the end of the third dot point. The definition should read:

'automotive parts interpreter – specialist' means an adult employee who:

- has completed a formal course of technical school training in the automotive parts distribution industry;
- is regulated by an apprenticeship authority or apprenticeship board constituted under this award and who is required by their employer to perform the duties related to automotive parts sales and distribution; and
- is required in the performance of such duties to have and utilise a detailed knowledge of the workings of a wide range of vehicles and uses such knowledge to interpret the proper application of all component parts as required; **'or'**
- who has at least 7 years' experience in the automotive parts distribution industry and who is required by their employer to perform the duties related to automotive parts sales and distribution; and
- is required in the performance of such duties to have and utilise a detailed knowledge of the workings of a wide range of vehicles and uses such knowledge to interpret the proper application of all component parts as required.'

The definition in the predecessor award, the Federal Vehicle Industry Repair, Services and Retail Award 2002 (**'predecessor award'**)¹ included the word 'or' in the definition of an **'automotive parts interpreter – specialist'** but it was not picked up in the Vehicle Manufacturing, Repair, Services and Retail Award and the most recent exposure draft.

The Motor Trades Organisations submit that the word should be included as a parts person having 7 years' experience could be entitled to be paid the equivalent wage as the **'automotive parts interpreter – specialist'** if they met the requirements set out in the last two dot points of the definition.

- (c) The definition of **Dismantler** on page 8 should be deleted. A dismantler is not covered in the classification structure of the current award, the exposure draft or in the predecessor award.

2. Clause 12.2. (b) - Prohibited Work

The wording in clause 12.2. (b) *'However, minors other than apprentices or probationers for apprenticeship may be employed in all aspects of the work described in the definition of automotive parts interpreter in this award'* appears confusing.

The sub clause could be clearer by commencing the clause with the following wording:

¹ The Federal Vehicle Industry, Repair, Services and Retail Award 2002 AP824308CAV - Clause 38 Definitions

'Notwithstanding sub clause 12.2 (a), minors other than apprentices or probationers for apprenticeship may be employed in all aspects of the work described in the definition of automotive parts interpreter in this award'

3. Clause 16.6- Vehicle Industry RS&R – Unapprenticed juniors.

- (a) **'Driver – courtesy vehicle in relation to sales or sales promotion or in the course of registration or collection from or delivery to a customer'**
- (b) This classification is referred to in **clause 16.6 (b)** on page 30 and in **clause 16.6(d)** on page 32 of the exposure draft. This later classification covers the 'Driver – courtesy vehicle in relation to sales or sales promotion or in the course of registration or collection from or delivery to a customer – **vehicle maker's capacity over 3 tonnes**'.

The classification under clause 16.6 (b) on page 30 should be amended to read:

'Driver – courtesy vehicle in relation to sales or sales promotion or in the course of registration or collection from or delivery to a customer – vehicles up to and including makers capacity of 3 tonnes'.

This amendment would also reflect the two classifications and related wage rates as set out in Schedule A - Vehicle Industry RS&R - Skill Level Definitions. Under A.1.1 (Level 2 R2): 'Driver of a courtesy car or vehicle **up to and including makers capacity of 3 tonnes**'; and under A.1.3 (Level 4 R4): 'Driver of a courtesy car or vehicle**maker's capacity over 3 tonnes.**'

(c) Dent knocker – Clause 16.6

This classification on the top of page 32 of the exposure draft should be deleted. The classification does not have a classification level. The Motor Trades Organisations submit this term is a manufacturing classification and not therefore relevant to the VRSR industry.

(d) Driver of commercial vehicle under 8 tonnes – clause 16.6 (d)

On page 31 of the exposure draft, the parties were asked to make submissions on the *'accuracy of including this classification of drivers in clause 16.6 (d) in accordance with the time table issued in [2019] FWCFB at page 36'*.

This classification was included in the unapprenticed junior section when the Vehicle Manufacturing, Repair, Services and Retail Award was handed down by the Award modernisation Full Bench on 4 September 2009.² The classification was not in the predecessor award.

The only reference to this classification is in the unapprenticed junior section. The VMRSR Award does not prescribe an adult wage rate for this classification in Schedule B of the current award. The VMRSR award and the exposure draft have separate clauses for adult and junior driver classifications. The adult driver classification section in **clause 16.3** on page 28 of the exposure draft sets out minimum wages rates for a driver of a commercial vehicle used in the course of the employer's business.

The adult wage rates cover commercial vehicles with a makers capacity of 3 tonnes or less and a driver of a commercial vehicle with a makers capacity of over 3 tonnes and under 8 tonnes. Additionally, junior wage rates for when driving commercial vehicles are set out in clause 16.7.

As the wage rates for junior 'driver of a commercial vehicles under 8 tonnes' is already covered under clause 16.7 and based on the '% of the relevant adult driver rate', the Motor Trades Organisations submit this unapprenticed junior classification should be deleted from the unapprenticed junior classification under clause 16.6.(d).

² 4 September [2009] AIRCFB 826: AM 2008/25-35

4. Junior Apprentices – Calculation of wage rates (clauses 16.9 (b))

Clause 16.9 (b) on page 33 of the exposure draft prescribes the percentages for calculation of minimum rates of pay for each year or stage of an apprenticeship for junior apprentices as follows:

Year of Apprenticeship	Has not completed year 12 (% of Level R6 rate)	Has completed year 12 (% of level 6 rate)
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The columns which bases the percentage calculation on the '*% of the Level R 6 rate*' has created uncertainty and disputes over the correct method of calculating the appropriate weekly rates for apprentices and has led to pay discrepancies.

This uncertainty has arisen because the minimum wage rate chart for junior apprentices in clause 16.9 do not show weekly rates unlike the wage chart for adult apprentices or whether the wage rates are calculated on an hourly rate or weekly rate of the level R6 tradespersons rate set out in clause 16.2.

Historically, calculation of apprentice wages has been based on the relevant % of the weekly Level R6 tradespersons rate set out in **clause 16.2** of the exposure draft. This clause sets out minimum weekly rates for all adult classifications in the wage table on page 28 of the exposure draft. Adult apprentice rates in **clause 16.10** are shown as weekly rates.

The Motor Trades Organisations submit that the following amendments to the junior apprentice minimum rates section in **clause 16.9 (a)** will remove the uncertainty over the correct calculation of apprentice pay rates and the potential for pay discrepancies:

Clause 16.9 (b) Junior Apprentices

Year of Apprenticeship	Has <u>not</u> completed Year 12 (calculated as a % of the Tradespersons Level R6 weekly rate)	Weekly minimum rate of pay	Has completed Year 12 (% of Level R6 rate) (calculated as a % of the Tradespersons Level R6 weekly rate)	Weekly minimum rate of pay
Stage 1 or 1 st year	50%	\$431.25	55%	\$474.38
Stage 2 or 2 nd year	60%	\$517.50	65%	\$560.63
Stage 3 or 3 rd year	75%	\$646.88	75%	\$646.88
Stage 4 or 4 th year	88%	\$759.00	88%	\$759.00

5. Clause 27.1 - Hours of work

Clause 27 sets out special provisions for driveway attendants, console operators and roadhouse attendants.

The words '*as prescribed by clause 19*' in 27.1 (a), have been included in the exposure draft, however the parties never reached agreement on the inclusion of these words. While initially supporting the inclusion of these words, the Motor Trades Associations agree with the earlier submission of the AMWU that the inclusion of these words is unnecessary.

6. Other issues

(a) Payment of wages

Payment of wages on termination is being considered in matter **AM 2016/8**.

(b) Clause 29.13 - Untaken leave on termination

This clause remains in the exposure draft outstanding with a further decision to be issued.

(c) Clause 29.6 - Annual close down

This clause remains in the exposure draft outstanding with a further decision to be issued.

7. Schedule B – Summary of Hourly Rates of Pay:

The Motor Trades Associations have an issue with the following hourly rates of pay set out in this schedule:

HOURLY RATE IN EXPOSURE DRAFT

B.7.1 – RS&R Vehicle Sales Employees – Casual employees – RS&R Level 4 Vehicle salesperson (less than 6 months experience) SUNDAY	\$43.08 not \$42.08
B.7.1 – RS&R Vehicle Sales Employees – Casual employees – RS&R Level 4 Vehicle salesperson (more than 6 months experience) SUNDAY	\$45.40 not \$45.45
B.7.2 – Casual junior RS&R vehicle sales employees – Sunday rate – 20 years	\$34.12 not \$34.02

8. Schedule C – Summary of Monetary Allowances

The Motor Trades Associations agree with the monetary allowances in this schedule.

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For and on behalf of VACC, MTA NSW, MTA Qld, MTA WA and MTA SA