

IN THE FAIR WORK COMMISSION

Fair Work Act 2009

s.157 variation of modern awards

(C2019/5259)

Review of certain C14 rates in modern awards

REPLY SUBMISSIONS

**CONSTRUCTION, FORESTRY AND MARITIME EMPLOYEES UNION
(MANUFACTURING DIVISION)**

(5 December 2023)

Construction, Forestry and Maritime Employees Union (Manufacturing Division)	Contact Person: Vivienne Wiles Senior National Industrial Officer	Address: Level 2, 165 Bouverie Street Carlton VIC 3053	Tel: Email:	0419 334 102 vwiles@cfmeumd.org industrial@cfmeumd.org
---	--	--	----------------------------------	--

(AM2019/5259)
s.157 – Variation of modern awards
Review of certain C14 rates in modern awards

Reply Submissions
CFMEU-Manufacturing Division

BACKGROUND

1. On 22 September 2023, a Statement¹ (**September 2023 Statement**)¹ was issued by the full bench in this matter, effectively broadening the scope of the review into C14 rates in certain modern awards and expanding the list of relevant awards to 43.²

2. At paragraph [27] of the September 2023 Statement, directions were issued in respect of the expanded proceedings, including at [27.1]:

- *submissions in respect of the Commission’s provisional view at paragraph [8];*
- *submissions as to the accuracy of the table at Attachment D of the September 2023 Statement;*
- *draft determinations or proposals for any specific award variations that might be necessary; and*
- *evidence upon which they intend to rely.*³

3. The September 2023 Statement set out the *provisional* view of the C14 rates full bench at paragraph [8] stating that ‘*the following principles should guide the completion of the review*’:

‘(1) The lowest classification rate in any modern award applicable to ongoing employment should be at least the C13 rate.

(2) Any classification rate in the modern award which is below the C13 rate (including but not limited to the C14 rate) must be an entry-level rate which operates only for a limited period and provides a clear transition to the next classification rate in the award (which must not be less than the C13 rate in the award).

¹ (C2019/5259) Review of certain C14 rates in modern awards, Statement [2023] FWCFB 168

² *Ibid*; at [2]

³ *Ibid*; at [27.1]

(3) The transition period for the purpose of (2) should not exceed six months.⁴

2. On 9 November 2023, the Construction, Forestry, Maritime, Mining and Energy Union – Manufacturing Division (CFMMEU-MD) filed submissions and/or proposed variations⁵ to a number of modern awards in which it has an interest, including the:

- *Dry Cleaning and Laundry Industry Award 2020 (DC&LI Award)⁶*
- *Joinery and Building Trades Award 2020 (Joinery Award)⁷*
- *Manufacturing and Associated Industries and Occupations Award 2020 (Manufacturing Award)⁸*
- *Textile, Clothing, Footwear and Associated Industries Award 2020 (TCF Award)⁹*
- *Timber Industry Award 2020 (Timber Award)¹⁰*

3. In the CFMMEU-MD submissions (9 November 2023) we stated at [7]:

‘The CFMMEU-MD supports the provisional view expressed by the full bench at paragraph [8] of the September Statement. We consider the provisional view is broadly consistent with the decision of the Expert Panel in the Annual Wage Review Decision 2022-2023.’¹¹

4. We continue to rely on our 9 November 2023 submissions previously filed.

REPLY SUBMISSIONS

4. Direction [2] of the September 2023 Statement provided:

- *Parties to file evidence and submissions in reply to material filed in accordance with direction 1 by no later than Friday 1 December 2023.¹²*

5. On 1 December 2023, the CFMEU-MD was granted an extension to file its Reply Submission by 5pm, 5 December 2023.

⁴ Ibid; at [8]

⁵ (C2019/5259) Submission of the Construction, Forestry, Maritime, Mining and Energy Union-Manufacturing Division (9 November 2023)

⁶ Op cit; Statement, Attachment D – referenced on page 17

⁷ Op cit; Statement, Attachment D – referenced on page 19

⁸ Op cit; Statement, Attachment D – referenced on page 19

⁹ Op cit; Statement, Attachment D – referenced on page 26

¹⁰ Op cit; Statement, Attachment D – referenced on pages 26-27

¹¹ Op cit; Submission of the CFMMEU-MD at [7]

¹² Op cit; Statement at [27]

6. The CFMEU-Manufacturing Division (**CFMEU-MD**)¹³ files these Reply submissions specifically in relation to the awards in which it has an interest in response to the submissions filed on behalf of the:
- Australian Industry Group (**AIG**)¹⁴
 - Australian Business Industrial NSW Business Chamber (**BNSW**)¹⁵
 - Australian Workers Union (**AWU**)¹⁶ and Australian Manufacturing Workers Union (**AMWU**)¹⁷ with respect to the Manufacturing Award.

SUBMISSIONS OF THE AIG AND BNSW

The AWR 2023 Decision

7. The position contended by the AIG, on its face, seems to seek to challenge the Commission's *provisional* view in this matter by attacking its foundations in the Annual Wage Review 2022/2023 (**AWR 2023**)¹⁸. We submit that the findings and decision of the Expert Panel in the AWR 2023 are not open to challenge in these proceedings.
8. What the Commission has sought comment on in the September 2023 Statement is its *provisional* view that “*..principles should guide the completion of this [C14 rates] review*”. Further, it has set out its *provisional* view as what those principles should be and sought comment on them.¹⁹
9. Whilst we endorse and support both the view that principles should guide this review and the principles themselves, we recognise that principles need not be prescriptive or hard and fast rules and there is room for exceptions argued on a reasoned basis. In this context, the **AIG's contentions at paragraphs [22]-[28], [32]-[33] and [38]-[39]** of its submission to the effect that the *provisional* view should not be adopted because they do not enable the outcome of the review to be predicted with certainty, are respectfully not really to the point.

¹³ Note: the name of the relevant registered employee organisation changed to the 'Construction, Forestry and Maritime Employees Union' from 1 December 2023, consequent of the demerger of the Mining and Energy Division from the CFMMEU.

¹⁴ (C2019/5259) Submission of the Australian Industry Group (6 November 2023)

¹⁵ (C2019/5259) Submission of the Australian Business Industrial NSW Business Chamber (3 November 2023)

¹⁶ (C2019/5259) Submission of the Australian Workers Union (3 November 2023)

¹⁷ (C2019/5259) Submission of the Australian Manufacturing Workers Union (10 November 2023)

¹⁸ (C2019/5259) Submission of the Australian Industry Group (6 November 2023) at [9]-[17]

¹⁹ Op cit; Statement at [8]

Relevantly, the Commission has in the more recent period, erred on the side of adopting a principled rather than prescriptive or “mechanistic” approach to wage fixation.²⁰

Work Value Considerations

10. Both the AIG and BNSW raise the issue of ‘work value’ as an issue of concern as to the Commission’s *provisional* view in these proceedings – see **AIG submission at [40]-[41]**²¹ and the **BNSW submission at [14]-[32]**.²² In our submission, these concerns are misplaced and detract from the clear purpose of the expanded C14 rates proceedings currently before the Commission.

11. It is important to consider that the “interim step” taken in the AWR 2023 was to re-set the level of the National Minimum Wage (**NMW**). In the Annual Wage Review 2023/2023 Decision (**AWR 2013 Decision**), the Expert Panel in relation to the NMW determined as follows:

“[8] We have decided to take two steps in relation to the NMW. *First*, for the reasons we set out in section 5 of this decision, we have decided to end the alignment between the NMW ad C14 classification wage rate in modern awards – an alignment which has existed since 1997. The C14 rate is the lowest modern award minimum wage rate but was only ever intended to constitute a transitional entry rate for new employees. As such, it does not constitute a proper minimum wage safety net for award/agreement free employees in ongoing employment. A wider review, including supporting research, concerning the needs and circumstances of low paid award/agreement free employees is required, but the interim step we have decided to take in this Review is to align the NMW with the current C13 classification wage rate, which in nearly all modern awards is the lowest modern award classification rate applicable to ongoing employment. Second, we have decided to further increase the NMW by 5.75 per cent having regard to the circumstances relevant to the considerations in s 284(1). These increases will take effect from 1 July 2023...”²³
[emphasis added]

²⁰ Annual Wage Review 2013-2014; [2014] FWCFB 3500 at [6]

²¹ (C2019/5259) Submission of the Australian Industry Group (6 November 2023) at [40]-[41]

²² (C2019/5259) Submission of the Australian Business Industrial NSW Business Chamber (3 November 2023) at [14]-[32]

²³ Annual Wage Review 2022/2023, [2023] FWCFB 3500 at [8]

12. Annual Wage Reviews have consistently faced an evidential barrier in identifying exactly who receives the NMW, the work such employees actually perform and the characteristics of their employment. The AWR 2023, which re-set the NMW and uncoupled it from the C14 benchmark award rate, was no different.²⁴ In the AWR 2023 Decision, the Expert Panel relevantly observed: [citations not included]

“[47] The proportion of the Australian employee workforce which is award/agreement free and to which the NMW rate applies (‘NMW reliant’) is small. Based on 2021 data, it appears that only 0.7 per cent of the employee workforce falls into this category and thus would be directly affected by any adjustment made to the NMW. Beyond this data, it is difficult to identify in practical terms any occupations or industries in which NMW-reliant employees are engaged. In previous Commission proceedings, parties have been unable to identify with precision any such award free employees. Further, the number of such low-paid, award free employees is likely to have diminished sine the coverage of the Miscellaneous Award 2020 was adjusted effective from 1 July 2020. Accordingly, it cannot be concluded that any adjustment to the NMW considered in isolation will have discernible macroeconomic effects. Further, although any adjustment to the NMW is likely to have an effect upon a small segment of employers and employees, we are not in a position to identify any particular characteristics of such employers and employees beyond stating that any employee reliant on the NMW will (as we discuss later) necessarily be low paid and likely to be experiencing difficulty in meeting day-to-day living expenses.” [emphasis added]

13. This underscores the fact that the NMW is not set by reference to any particular work value considerations. There is obviously an assumption that there must be “some” nominal work value in order for a job to exist at all, but beyond this there is no actual assessment.

14. In this context, we submit it would be a highly inequitable outcome to permit a situation whereby job roles classified under awards that had been assigned particular work value were paid less than those unknown national minimum wage jobs that were merely assumed to have nominal work value.

²⁴ See AWR 2022/2023, Transcript of Consultations (17 May 2023) at PN [74]-[75]

15. The inequity of such an approach is particularly stark in circumstances where the key concern identified with the NMW in the AWR 2023 was that it “..was not established by reference to the needs of the low paid” and “...was simply aligned with the lowest classification rate established for what was then the *Metal Industry Award 1984 – Part 1* (Metal Industry Award)²⁵. [emphasis added]
16. Further, it is evident from the extract of the 1997 Safety Net Review decision set out at paragraph [107] of the AWR 2023 decision that not only was the FMW predecessor of the NMW established without a link to a measure of needs, but the C14 rate also lacked such benchmarking.
17. The current statutory framework requires, as part of the minimum wages objective (s.284) that, amongst other factors, the “relative living standards and the needs of the low paid” be considered in setting and maintaining both the NMW and modern award minimum wages. Whilst the Fair Work Act 2009 (**FW Act**) does not explicitly require the NMW to act as a floor for modern award minimum wages generally, considerations of equity and fairness weigh strongly in favour of such an outcome in respect of adult wages.
18. These systemic equity considerations are important to the overriding obligations to maintain a “fair and relevant safety net” and “safety net of fair minimum wages” expressed in the modern awards objective (s.134) and minimum wages objective (s.284).²⁶
19. Additionally, and in response to **paragraph [18] of the BNSW submission**, the extent to which work value considerations arise under section 157(2) are conditioned by the meaning of “modern award minimum wages” in section 284(3), which refers to “rates of minimum wages” and “wage rates”, but not classification descriptors. In this respect, we do not accept that the Commission in these proceedings is, in the way suggested by BNSW, constrained in making variations to classification descriptors in modern awards, should it determine it is necessary to do so. [emphasis added]

Additional award benefits issue

20. The **AIG at paragraphs [18] – [20]** of its submission, contend (in summary) that the fact that employees classified at C14 may receive additional ‘earnings enhanced benefits’ under

²⁵Annual Wage Review 2022/2023, [2023] FWCFB 3500 at [107]

²⁶ See [2013] FWCFB 4000 at [76]-[77], [2016] FWCFB 3500 at [634]-[636]

modern awards is a relevant consideration to whether ‘the lowest classification rate in a modern award applicable to ongoing employment should be at least the C13 rate, including for the reasons explained above’.²⁷

21. We oppose this contention. Whilst we accept that the take home pay of award reliant workers may sometimes exceed those of a NMW worker on the same base rate of pay (due to the payment of additional award benefits such as overtime, penalty rates, loadings or allowances) the AIG submission fundamentally mischaracterises the primary purpose of such additional award benefits.
22. The additional amounts award reliant workers receive are related to particular disabilities, disutility or expenses not compensated for in the base rate of pay. That is, they are contingent benefits, compensatory in nature and apply and operate with independent justification. We submit such additional award benefits should not be accounted for as satisfying an adequacy test with respect to base rates of pay in awards.
23. In this context, the Commission reinforced during the 4 Yearly Review of Modern Awards that the needs of low paid employees are best met through award minimum rates (considered separately from other award benefits). This approach was confirmed in the *Penalty Rates* decision in 2017 where the full bench found:

“[823] The ‘needs of the low paid’ is a consideration which weighs against a reduction in Sunday penalty rates. But it needs to be borne in mind that the primary purpose of such penalty rates is to compensate employees for the disutility associated with working on Sundays rather than to address the needs of the low paid. The needs of the low paid are best addressed by the setting and adjustment of modern awards minimum rates of pay (independent of penalty rates).”²⁸
24. In a similar vein, we disagree with the **BNSW submission at paragraph [40]** which provides a minimalist account of the purpose of industry allowances in awards and fails to properly reflect, that historically variable disability considerations have played a part in the

²⁷ (C2019/5259) Submission of the Australian Industry Group (6 November 2023) at [18]-[20]

²⁸ 4 Yearly Review of Modern Awards – Penalty Rates; [2017] FWCFB 1001 (23 February 2017) at [823] – where the Commission was considering, amongst other applications, an employer claim for the reduction of Sunday penalty rates in the *Hospitality Industry (General) Award 2010*.

determination of such allowances.²⁹ The **BNSW submits further at [40]** that ‘absent some specific application or proposal advanced by a party (or a concern that the rates of pay do not reflect the value of the work)’ a group of awards (including the Joinery Award) could be removed from the scope of the C14 Review.³⁰ In our view such a course should not be adopted by the Commission, given the Commission’s provisional views [2] and [3] (which we support).

Manufacturing Award

25. The **AIG submission at paragraphs [9] – [15]** make certain contentions regarding the C14 and C13 classifications of the Manufacturing Award. Specifically, the AIG take issue with one of the principles (which it categorises as ‘Key Proposition 1’) emerging from the AWR 2023 decision described as:

“4.(a) The C14 classification level in the *Manufacturing and Associated Industries and Occupations Award 2020 (Manufacturing Award)* and the *Metal Industry Award 1984-Part 1 (Metals Award)* ‘has only ever applied to an employee undertaking [up] to 38 hours induction training’ and was never intended to apply on an ongoing basis to a person’s employment’ (Key Proposition 1).”³¹

26. The AIG submit that the Expert Panel has effectively misunderstood ‘the operation of the C14 definition as it applies under the Manufacturing Award and as it previously applied under the Metals Award.’³² The **AIG submission at paragraphs [10]-[15]** proceeds to set out an alternative construction of the C14 classification in order to support its contention at **paragraph [13]** that ‘An employee classified at the C14 level, can therefore, be an employee who performs work of the nature of the work described at paragraphs (b) or (c) above, indefinitely.’ However, despite this contention, the AIG makes no ‘comment on the incidence of employees being classified in this manner’ but ‘are aware of circumstances in which employees are, or have been, so classified’ and ‘they are generally engaged, on an ongoing basis, to perform unskilled work.’³³

²⁹ For example, see *Re Hydro-Electric Commission of Tasmania Carpenters and Painters Award 1979 (1982)* 269 CAR 23

³⁰ (C2019/5259) Submission of the Australian Business Industrial NSW Business Chamber (3 November 2023) at [40] which refers to a group of awards at footnote 13.

³¹ (C2019/5259) Submission of the Australian Industry Group (6 November 2023) at [4]

³² *Ibid*; at [9]

³³ *Ibid* at [13]

27. In our submission, both AIG's alternative construction of the C14 classification descriptors and the conclusion sought to be drawn are flawed and should not be accepted by the Commission. We note that the C14 classification descriptors as set out in clause A.4.3 of the Manufacturing Award do not use the words 'or' or 'and/or' between the descriptors contained in sub-clauses A.4.3(a)(i) and (ii). The 4 dot points in sub-clause A.4.3(a)(ii) are not, in our submission, separate and distinct grounds which permit an employer to engage an employee on the C14 classification and rate, let alone to do so on an indefinite basis.
28. Further, the AIG make no attempt to provide any evidence (either witness or otherwise) to support its statement that employees have been engaged on the C14 rate on an ongoing basis to perform unskilled work. Even if this has occurred in the circumstances alleged by AIG, it may well be more reflective of an employer misclassifying an employee by not transitioning such employee to the C13 classification, rather than evidence of how the C14 descriptors are intended to apply in practice.
29. Additionally, we submit that the Ai Group's challenges to the Annual Wage Review characterisation of the classification description for the C14 rate in the *Manufacturing Award* and its predecessors do not sit well with the position it has taken in these proceedings to date. It is to be remembered that the present proceedings were initiated by way of a Statement³⁴ on 28 August 2019 which specifically invited comment on whether the lists of Awards the President had identified as either those "in which the C14 classification appears to be transitional but no particular transition period is specified" or alternately those "in which the C14 classification is not a transitional level".
30. In its submission responding to that Statement on 29 September 2019, the AIG took no issue with the Manufacturing Award not being identified in either category. It did however indicate, at paragraph [27] of that submission, that it had "...not had an opportunity to give sufficient consideration" to the issue. It did have such opportunity in the ensuing 4 years to make the point it now seeks to make in **paragraphs [13] and [25]** of its most recent submission regarding the Manufacturing and Vehicles Awards respectively. In this context, its current position should be viewed with some scepticism.

³⁴ (C2019/5259) Review of certain C14 rates in modern awards, Statement, [2019] FWCFB 5863 (28 August 2019)

AIG submission and responses to Attachment D to the September 2023 Statement

31. In its submission, the AIG provide a response to the accuracy of Attachment D to the 2023 Statement. Specifically, the AIG contest the accuracy of Attachment D with respect to the following awards in relation to the awards in which the CFMEU-MD has an interest:

- Joinery Award³⁵
- Manufacturing Award³⁶
- Timber Award³⁷

Joinery Award

32. Attachment D to the September 2023 Statement states that Level 1 of the Joinery Award comes within category 1 (i.e., transition to a higher classification occurs after 38 hours induction training). The AIG oppose this, and instead submit this award should be allocated to category (v), the Level 1 classification is not transitory in nature and an employee could be engaged at that level on an indefinite basis. Category (v) is described in the September 2023 Statement at paragraph [3] as ‘the classification level is not transitional’.

33. We submit the position of the AIG with respect to the Joinery award should not be accepted for the reasons outlined in the Reply submission of the CFMEU-Construction and General Division³⁸ (CFMEU-C&G) which we support and adopt.

Manufacturing Award

34. Attachment D to the September 2023 Statement states the C14/V1 classification of the Manufacturing Award comes within category (i) (i.e., transition to a higher classification occurs after 38 hours induction training). The AIG oppose this, and instead submit, “For the reasons set out in our submission [9] – [15], this award should be allocated to category (v).

35. We submit the position of the AIG with respect to the Manufacturing Award should not be accepted for the reasons outlined above at paragraphs [25]-[30] of the CFMEU-MD’s Reply submissions.

³⁵ (C2019/5259) Submission of the Australian Industry Group (6 November 2023), Attachment D at pages 5-6

³⁶ Ibid; Attachment D at page 6

³⁷ Ibid; Attachment D at page 7

³⁸ (C2019/5259) Reply Submission of the CFMEU Construction & General Division (1 December 2023)

Timber Award

36. Attachment D to the September 2023 Statement states the classification ‘Wood and Timber Furniture Stream; Level 1’ comes within category (ii) (i.e., transition occurs after 3 months). The AIG submit that “Per clause B.1.7, an employee will transition from Level 1 to Level 2 if the employee has *‘demonstrated competency to undertake duties at Level 2’ in addition to the ‘successful completion of the induction program and the core units of the Furnishing Training Package.’* Thus, reclassification to Level 2 is not guaranteed upon completion of the training.”
37. The CFMEU-MD in its initial submission (9 November 2023) at paragraphs [45]-[53]³⁹ raised its concerns regarding the descriptors for the classification ‘Wood and Timber Furniture Stream; Level 1’ which, despite the 3 months outer limit, seemed on its face to make the transition to Level 2 otherwise conditional. We proposed a variation to clause B.1 to address this issue and to ensure the Level 1 classification was truly transitional in its operation. We continue to press the proposed variation as set out in paragraph [52] of the CFMEU-MD’s (9 November 2023) submission.

SUBMISSIONS OF THE AWU & AMWU – MANUFACTURING AWARD

38. In its submission (3 November 2023) the AWU’s primary argument is that the Commission “should give continued consideration to increasing any modern award (adult) minimum rates that are below the C13/national minimum wage (NMW) rate of \$23.23 per hour”.⁴⁰ The AWU’s alternative submission is “that where it is not determined to lift sub C13 rates” it supports the provisional view expressed at paragraph [8] of the September 2023 Statement.⁴¹
39. Specifically, in relation to the C14/V1 classification levels in the Manufacturing Award, the **AWU submit at paragraph [91]-[92]:**
- “[91] In the alternative to the broad contention referred to above, the AWU submits that payments at the C14/v1 classification level under the *Manufacturing and Associated Industries and Occupations Award* should be clearly delineated as being limited to employees who are undertaking up to 38 hours of induction training.

³⁹ (C2019/5259) Submission of the CFMEU-Manufacturing Division (9 November 2023) at [45]-[53]

⁴⁰ (C2019/5259) Submission of the AWU at [1]

⁴¹ *Ibid*; at [3]

Progression to the C13 rate should be automatic upon the completion of that training.

[92] This is likely to require the removal of, or amendment to, the last bullet point in clause A.4.3(a)(ii), which refers to an Engineering/Manufacturing Employee, Level 1, ‘undertaking structured training so as to enable them to work at the C13 level’, as well as clause A.4.4(a)(i) and (ii) which refers to a Level 2 employee having completed up to 3 months’ structured training and having certain skills and competencies.”⁴²

40. The **AMWU submission at paragraphs [6]-[9]** sets out its position with respect to the current Manufacturing Award C14 and C13 classifications:[citations not included]

“[6] The “C” Classification structure, as contained in the *Manufacturing and Associated Industries and Occupations Award 2020* (“Manufacturing Award”) is a skills-based classification system which provides the ability of workers to progress to higher skills and knowledge in the workplace. It is a symbiotic relationship; generally, work of higher value to the workplace requires the use of increased skills and knowledge. This should then be reflected in a higher classification for the worker, enabling them to earn higher wages.

[7] The AMWU supports the Commission’s determination in the Annual Wage Review decision that the C14 rate of pay ‘does not constitute a proper minimum wage safety net.’ In the AMWU’s opinion, the C14 classification has limited value as a stand alone qualification. It is, at best, a placeholder that enables a worker with no relevant skills or experience to gain enough knowledge to be able to perform tasks. As Mr Baxter says in his statement “There are no skill qualifications required for the C14 classification”.

[8] In relation to the Manufacturing Award, the C13 classification is designed to apply to the performance of work with 0-31 points weighting. As such, it can only apply to a worker with no relevant skills or knowledge, up to a rudimentary level of

⁴² Ibid; at [91]-[92]

skill. In most workplaces and for most workers in the manufacturing industry, it should also be properly seen as a transitional qualification.”⁴³

41. The AMWU further contend at **paragraph [11]** of its submission (in response to the Commission’s *provisional view*):

“[11] The AMWU supports the Commission’s view that if the C14 rate is to be retained at all that it should only be a transitional classification. The AMWU does not support that the transitional period should be a minimum of 6 months. It is the AMWU’s view that the C14 rate should only apply for an induction period which, ideally should be no longer than 38 hours.”⁴⁴

42. The AMWU do not specifically propose an amendment to the C14 classification at clause A.4.3 of the Manufacturing Award, however, proposes a variation to the C13 classification as outlined at paragraph [17] of its submission:

“[17] In relation to the general manufacturing classification structure, it is the AMWU’s position that the C14 classification (Clause 4.3) [A.4.3] could be deleted in its entirety. If the Commission, however, believes that a classification below the C13 level is required, then the AMWU proposes the following amendments to Clause 4.4 [A.4.4]. These amendments are designed to ensure that the time periods are not seen as a qualifying time to progress to the C13 level, but a situation where it is appropriate to bypass the C14 level.

A.4.4 Wage Group: C13

(a) Engineering/Manufacturing Employee-Level II

(i) An Engineering/Manufacturing Employee-Level II is an employee **who has completed up to 3 months training:**

a. previously completed a structured training program of at least three months duration or has equivalent experience in manufacturing; or

b. Completed the induction training program for the workplace

so as to enable the employee to perform work within the scope of this level.”⁴⁵

⁴³ (C2019/5259) Submission of the AMWU at [6]-[8]

⁴⁴ Ibid; at [11]

⁴⁵ Ibid; at [17]

43. In summary, a number of key contentions regarding the C14 and C13 classifications/rates in the Manufacturing Award emerge respectively from the AWU and AMWU submissions, including:

- As a primary contention, the C14 general classification in the Manufacturing Award has little utility and could be deleted and/or the C14 rate should otherwise be uplifted to at least the C13 rate;
- In the alternative, if the Commission determines in these proceedings to retain the C14 classification in the Manufacturing Award, it should be limited to employees who undertake up to 38 hours induction training with progression to C13 to be automatic on such completion.

44. The CFMEU-MD agrees and supports these contentions.

Proposed variation to the C14 classification of the Manufacturing Award

45. In circumstances where the Commission determines to retain the C14 classification in the Manufacturing Award we concur with the submission of the **AWU at paragraph [92]** of its submission, that the last bullet point of clause A.4.3(a)(ii) (i.e., “is undertaking structured training so as to enable them to work at the C13 level”) should be removed or amended.

46. The CFMEU-MD submits that the entire 4th dot point should be deleted, consistent with the general submission above that the C14 classification should be expressly limited to a requirement of up to 38 hours induction only.

Proposed variations to the C13 classification in the Manufacturing Award

47. The AWU (in general terms) and the AMWU (specifically) both seek an effective consequential variation to the C13 classification in clause A.4.4 (Engineering/Manufacturing Employee-Level 2) in context of their positions in relation to C14.

48. The CFMEU-MD agrees that a consequential variation to the C13 classification is necessary if a variation to C14 is accepted by the Commission. At this point, the CFMEU-MD does not hold a settled view on the form of a proposed variation to the C13 classification and considers that there may be some utility in further discussions between the 3 unions regarding a proposed agreed union formulation.

Filed on behalf of the:

**Construction, Forestry and Maritime Employees Union
(Manufacturing Division)**

Vivienne Wiles
Senior National Industrial Officer
CFMEU-Manufacturing Division

(5 December 2023)