

Fair Work Act 2009

FAIR WORK COMMISSION

s. 157 – FWC may vary etc. modern awards if necessary to achieve modern awards objective – Review of certain C14 rates in modern awards

C2019/5259

## **Australian Rail Tram and Bus Industry Union Outline of Submissions**

### **Overview**

1. The Australian Rail Tram and Bus Industry Union makes the following submission in response to the statement issued by the Fair work Commission on 22 September 2023 (September Statement)
2. The Expert Panel conclusions in the Annual Wage Review Decision 2022-2023 (AWR 2023 decision) have necessarily required a refocusing of the objective the review initially commenced.
3. The September Statement identified that it would be necessary to consider the following:
  - a. Consider more closer awards that were previously excluded from the view on the basis that they contained only transitional C14 rates.
  - b. Undertake an assessment in the review of all classifications rates in modern award that fall below the C13 level but are higher than the C14
  - c. Propose to include modern enterprise awards and state reference public sector modern awards into the review
4. At paragraph [8] of the September 2023 Statement, the Full Bench set out directions inviting interested parties to file
  - a. submissions in respect of the provisional view stated in paragraph [8]

above;

- b. submissions as to the accuracy of the table at Attachment D;
- c. draft determinations or proposals for any specific award variations that might be necessary; and
- d. evidence upon which they intend to rely;

by no later than Friday, 3 November 2023

### **RTBU's Response**

#### **a. provisional view stated in paragraph [8] above;**

- 5. The RTBU has an interest in the *Rail Industry Award 2020* (Rail Award)
- 6. The RTBU agrees with the provisional views expressed by the Full Bench in the September Statement at paragraph [8].
- 7. However, while we agree that transition period should not exceed six months, we are of the view that it is more appropriate for the transition period to not exceed 1 month for the purposes of the Rail Award for the following reasons.
- 8. Level 1 Rail Operations is competency based and employees at that level undertake and successfully complete standard induction training.
- 9. Level 1 Technical and Civil Infrastructure (TCI) is also competency based and employees at this level undertake structured training to enable them to work within the confines of this level.
- 10. Undertaking standard induction or structured training consists for both classifications of the following requirements general requirements:<sup>1</sup>
  - a. General Construction Industry Induction Card (White Card) (Mandatory)
  - b. Safely Access the Rail Corridor Course (Previously known as RISI)  
(Mandatory)

---

<sup>1</sup> Talbot Statement, paragraph [12]

c. Current Railway Medical (Mandatory)

11. An employee can complete their White Card and Safely Access the Rail Corridor course through a training course. There are multiple Registered Training Organisations (RTO) that provide for one day training<sup>2</sup>. There is even an RTO that provides training that includes Railway Medical, Safely Access to the Rail Corridor and White Card training to be completed all on the same day.<sup>3</sup>
12. Then an employee is required to undertake a rail medical which consists of attending an appointment with a medical practitioner.
13. The RTBU is aware that there are Rail Operators who provide for as little as 80 hours for entry level training to be completed.<sup>4</sup> This shows that entry level training can be obtained quickly.<sup>5</sup>
14. It is clear that the rail operations level 1 classification appears to have only intended to apply where an employee is undertaking basic standard induction training. Although there is no fixed outer limit on the duration that an employee can remain in these classifications, an employer would seemingly contravene the award if an employee was paid at the Level 1 rates after completing basic competency training. However, the lack of clarity on the transitional period does not represent a safe and relevant safety net for those employees.
15. The TCI level 1 classification is not currently a transitional level, and the applicable wage rate sits below the C13 rate of pay but is higher than the C14 rate.
16. Regard must always be had to a 'stepping stone' effect. Low-paid employment is often temporary and can act as a 'stepping stone' to higher-paid work. A

---

<sup>2</sup> Ibid, [14] – [15]

<sup>3</sup> Ibid, [17]

<sup>4</sup> Ibid, [18]

<sup>5</sup> Ibid, [13]

classification with no transitional period undermines the ability of employees to progress and be appropriately remunerated for their increased capacity and proficiency

17. Therefore, the RTBU is of the view that defined transitional period should be no more than 1 month given that the entry level training that is required to be able to work within the confines of the respective level 1 classification in the Rail Award can be undertaken within a day.

**b. Accuracy of the table at Attachment D**

18. The RTBU can confirm the accuracy of the list of awards is accurate regarding the Rail Award.

**Proposal**

19. In light of the above, the RTBU proposal to vary the classifications in Schedule A is as follows

Operations Classifications

Level	Task and function
1	<p>Employees at this level undertake and successfully complete standard induction training <u>within the first month of employment. On completion of the required induction training the employee will be reclassified to level 2. Employees at Level 1 will be required to</u></p>
	<ul style="list-style-type: none"> <li>• Be responsible for personal safety and use the protective equipment provided to perform work safely.</li> <li>• Undertake a range of functions with a basic knowledge of policies, procedures and guidelines using a sound level of skill to perform the functions.</li> <li>• Perform routine customer service, presentation and operations duties requiring minimal judgment.</li> <li>• Undertake tasks with direct supervision and guidance.</li> </ul>

## Technical and Civil Infrastructure Classification

Level	Task and function
1	<p>An employee at this level performs routine duties essentially of a manual nature and to the level of their training. <u>An employee cannot remain at level 1 for longer than 1 month. An employee at level 1 will be required to undertake duties that</u> include:</p>
	<ul style="list-style-type: none"><li>• Performing general labouring and cleaning duties.</li><li>• Exercising minimal judgment.</li><li>• Working under direct supervision.</li><li>• Undertaking structured training so as to enable them to work at a Level 1.</li><li>• Observes and applies all relevant rules, regulations, and instructions including attendance policies and instructions, rostered hours, wearing protective clothing, footwear and equipment, and safety and safeworking notices or instructions.</li></ul>

On behalf of the Australian Rail Tram and Bus Industry Union

Minna Davis

RTBU National Industrial Officer

3 November 2023

Fair Work Act 2009

FAIR WORK COMMISSION

s. 157 – FWC may vary etc. modern awards if necessary to achieve modern awards objective – Review of certain C14 rates in modern awards

C2019/5259

**Witness Statement of Gary Talbot**

I Gary Talbot of 5.01/377-383 Sussex Street Sydney NSW 2000, National Manager, Industry Skills and Standards of the Rail, Tram and Bus Union affirm:

1. In or about 1985 I became a linesman for State Rail Authority
2. In or about 1987 I became a workplace representative for the Australian Rail, Tram and Bus Industry Union (RTBU)
3. In or about 2000 I became an Organiser for the New South Wales Branch of the RTBU
4. In or about 2010, I became National Organiser for the RTBU
5. In or about 2022, I became National Manager, Industry Skills and Standards for the RTBU
6. As a National Organiser, I was responsible for negotiating national and state rail enterprise agreements. I negotiated approximately 12 agreements per year.
7. In my current role, I am responsible for overseeing skills, national qualifications, and competencies in the rail industry.
8. Throughout my time bargaining for enterprise agreements, I gained an in depth understanding of the nature of work required for the different classifications under the Rail Industry Award 2020 (Rail Award)

9. Under the Rail Award, Level 1 Rail Operations Classification is competency based. Level 1 Rail Operations employees must undertake and successfully complete standard induction training.

10. In order to successfully complete standard induction training employees are required to undertake and complete the following:

- a. General Construction Industry Induction Card (White Card)  
(Mandatory)
- b. Safely Access the Rail Corridor course (Previously known as RISI)  
(Mandatory)
- c. Current Railway Medical (Mandatory)

11. Under the Rail Award, Level 1 Technical and Civil Infrastructure Classification (TCI) is competency based. Level 1 TCI employees must perform routine duties essentially of a manual nature and to the level of their training. This consists of undertaking structured training to enable them to work at a level 1.

12. Structured training at level 1 consists of the following:

- a. General Construction Industry Induction Card (White Card)  
(Mandatory)
- b. Safely Access the Rail Corridor course (Previously known as RISI)  
(Mandatory)
- c. Current Railway Medical (Mandatory)

13. All of the above competencies are easy to learn and can be obtained quickly.

14. I am aware of the following registered training organisations (RTO) that provide one day training to obtain a Safely Access the Rail Corridor course.

- a. Urban Rail Safety
- b. GoTrain

c. Pinnacle Safety

15. I am aware of the following RTO's that provide one day training to obtain a White Card

a. EOT Express Online Training

b. TCP Training

c. Edway Training

16. Obtaining a current Railway medical consists of attending an appointment with a doctor.

17. I am also aware that the RTO Training Ahead Australia provide a single day of training that includes Railway Medical, Safely Access to the Rail Corridor and White Card training.

18. I previously negotiated an Enterprise agreement for Taylor Rail that stipulated a timeframe of 80 hours to successfully complete entry level training along with site familiarity before transitioning to a higher classification (Annexure GTI)

19. I believe the contents in this statement are true and correct to the best of my knowledge.

Gary Talbot

3 November 2023