

IN THE FAIR WORK COMMISSION

AM2014/211

February 2019 Exposure draft – *Road Transport (Long Distance Operations) Award* (the Draft)

Submissions of the National Road Transport Association (NatRoad)

Background

1. These submissions are filed on behalf of the National Road Transport Association (**NatRoad**) in response to the release of a revised Exposure Draft of the *Road Transport (Long Distance Operations) Award (the Draft)* on 15 February 2019. We respond to the publication of the Draft by making comments on individual clauses, noting also minor or typographical issues.
2. We note that the monetary amounts set out in the Draft relate to the period ending 30 June 2019.
3. NatRoad is a not-for-profit industry association. It represents the interests of more than 1000 contract carriers, operators and owner-drivers working within the road transport industry throughout Australia. Most of NatRoad's members are small business owners and operators.
4. We submit that in the next iteration of the Draft all clauses should be sequentially numbered without the use of alphanumeric.

Response to Specific Clauses in the Draft

5. **Clause 3.2** – pivotal to the coverage of this Award are the definitions of *long distance operation* and *interstate operation*. However, clause 3.2 only contains the definition of long distance operation. As these definitions are in Schedule F, we submit they do not need to be in the body of the Award or if a reference to long distance operation remains in the current clause 3.2 then interstate operation should also be included.
6. **Clause 3.3** — the date 2015 appears in the last line. The current protocol appears to be that rather than set out a date the expression “20XX” is used.
7. **Clause 6.3** — the word “employee” in the first line is misspelt.
8. **Clause 6.4(g)** — we note that the expression “for driving or loading and unloading work” is used in the latter part of this subclause. We suggest changing the word “work” to “duties” consistent with the way the expression is used in clauses 6.5(c) and 11.6.
9. **Clause 6.5(b)** — in the second line the expression cents per kilometre is followed by the abbreviation (CPK) which also appears at clause 6.4(g)(i). However, the abbreviation is not elsewhere used in the Draft. We suggest the abbreviation be deleted as the expression in full is used in the Draft e.g. in 6.5(d)(i).

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10. **Clause 7** – rather than merely having N/A in the description for grades 1 and 2, we would suggest words that accord with the note to the table be inserted, along the following lines: “These grades are not used to classify employees covered by this Award.”
11. **Clauses 8.2 and 9.2** — clause 8.2(a) contains the expression “Commonwealth, State or Territory laws, relating to the control of driving and working hours of heavy vehicle operators or the management of fatigue.” However, this expression is a defined term in Schedule F where it is defined as “fatigue management rules/regulation.” That definition is used in clause 9.2. where the following appears: “fatigue management rules/regulations (as defined in Schedule F) as varied from time to time.” The expression of these terms should be consistent. In addition, the expression “as varied from time to time” in clause 9.2 is otiose given the terms of the definition in Schedule F.
12. **Clause 11.1(a)** - having rates which are inserted and then crossed out may confuse some readers. We therefore suggest having wording inserted which is consistent with the wording we proposed earlier for Clause 7 as follows: “These grades are not used to classify employees covered by this Award.”
13. **Clause 11.4(a)** – the cents per kilometre rates shown are to two decimal places. But the rates at Schedule A are to 4 decimal places. These provisions should be consistent. We favour showing the rates at two decimal places.
14. **Clause 11.7** — it is not clear from the Draft that the former clause 11.7 has been deleted in its entirety. This appears to be a matter of formatting.
15. **Clause 11A.1** — the word “day” in the first line is misspelt.
16. **Clause 12.2(d)(i) and (ii)** — the Codes referred to are not given their correct titles. The “Australian Explosives Code by Public Road” is in fact entitled “Australian Code for the Transport of Explosives by Road and Rail”¹.The “Australian Dangerous Goods Code” is short hand for the full title which is “Australian Code for the Transport of Dangerous Goods by Road & Rail”.²
17. **Clause 12.3(a)** — refers to a “weekly employee.” The definition at Schedule F says that a weekly employee “means an employee on weekly hiring.” These are the only two places in the Draft where the expression is used. The expression should be defined to mean “a full time or part time employee.”
18. **Clause 12.3(c)** — despite the current attempt to correct the language, we suggest that the word “on” in the first line remains as part of the text – this would assist clarity of language.

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https://www.safeworkaustralia.gov.au/system/files/documents/1702/australian_code_transport_explosives_road_rail_3rd_edition.pdf

² [https://www.ntc.gov.au/Media/Reports/\(A890348C-BEE7-3C64-A770-E98CFD8DDEFA\).pdf](https://www.ntc.gov.au/Media/Reports/(A890348C-BEE7-3C64-A770-E98CFD8DDEFA).pdf)

Schedules

19. **Schedule A** — we submit that the note should be deleted as it is too general a statement. Meeting the obligations under Schedule A is not equivalent to meeting all obligations under the Award.

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4 March 2019