



DIRECTIONS

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards

(AM2019/17)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 24 OCTOBER 2019

4 yearly review of modern awards – finalisation of exposure drafts – tranche 2 awards – transport awards.

[1] During the course of the Full Bench hearing on 9 October 2019¹ relating to the Tranche 2 Exposure Drafts an issue arose in relation to the Exposure Draft for the *Road Transport and Distribution Award 2010* (Road Transport Award). The issue is in relation to clause 12.2 – Minimum wage rates – oil distribution workers and whether the divisor for the calculation of hourly wage rates for oil distribution workers is 35 or 38.

[2] The National Road Transport Association (Natroad) filed a [submission](#) on 14 October 2019 in support of the divisor being 38:

‘This submission records the NatRoad position that certain of the Schedules in the Draft should be deleted as there has been no determination of the Commission that the divisor for oil distribution workers in respect of the weekly wage rate is 35. Whilst clause 23 of the current Award specifies that employees engaged in the transport and/or distribution of petroleum products in their raw or manufactured state enjoy a 35 hour week, the dispute arises as to whether the weekly rates are divided by 35 or by 38. If the Draft stands unaltered the question is decided in favour of the divisor being 35. NatRoad advises its members that the current divisor is 38.

We note that Schedule C2.3, C2.4, C3.3, C3.4, C4.3 and C4.4 are affected and, in NatRoad’s submission, should either be deleted or changed to reflect a divisor of 38.’²

[3] A telephone mention was held on 24 October 2019 to discuss the issue. The parties in attendance were Natroad, Ai Group and the Transport Workers’ Union of Australia and it was generally agreed that the issue in contention be the subject of further submissions.

¹ [Transcript of Proceedings](#), 9 October 2019, see PN474 – PN484

² [Natroad submission](#), 14 October 2019, see paragraphs 4 - 5

[4] Accordingly, the Commission makes the following directions:

1. All interested parties are to file a written submission setting out whether they support a divisor of 35 or 38 for the calculation of hourly wage rates for oil distribution workers covered by the Road Transport Award and the submissions they advance in support of that position.
2. The submissions are to be filed by no later than by **4:00 pm on Thursday, 21 November 2019**.
3. All submissions should be filed in Word document format, via email to amod@fwc.gov.au.

[5] The following awards in Tranche 2 are designated as ‘Transport Awards’:

- Road Transport Award;
- *Passenger Vehicle Transportation Award 2010*;
- *Road Transport (Long Distance Operations) Award 2010*;
- *Transport (Cash in Transit) Award 2010*; and
- *Waste Management Award 2010*.

[6] The Transport Awards will be listed for the hearing of oral submissions at **2:00 pm (AEDT) on Tuesday 17 December 2019**.

PRESIDENT

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