



RTBU

Fair Work Act 2009
s.158 - Application to vary or revoke a modern award

Application by Alexander Smith
(AM2024/7)

RAIL INDUSTRY AWARD 2020

Australian Rail Tram and Bus Industry Union's Response

Introduction

1. The Applicant, Alexander Smith, applied to the Fair Work Commission (Commission) under s. 158 of the Fair Work Act 2009 (the Act) to vary the Rail Industry Award 2020 (Rail Award) to cover the role of Protection Officers in the rail industry.
2. A case management hearing was held on 5 April 2024 where directions were made for Australian Rail, Tram and Bus Industry Union (RTBU) to advise the Commission in writing of our position on whether it supports, opposes or seeks to advance an alternative proposal.

The Proposed Variation

3. The RTBU does not make any submissions regarding the merit of the proposed variation.
4. The RTBU does however provide a short submission regarding the correct coverage of Protection Officers under the Rail Award.

Protection Officer Coverage

5. Protection officers are covered under the *Rail Award* pursuant to the coverage provisions set out in clause 4.

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6. Clause 4 provides that that the industry award covers employers throughout Australia who are rail transport operators and their employees in the Classification listed in Schedule A.
7. Additionally, Clause 4.4 also explicitly provides that this award covers any employer which supplies labour on an on-hire basis to a rail transport operator in classifications covered by this award, and those on hire employees which are engaged in the performance of work for a business in that industry.
8. Therefore, the Rail Award covers any rail transport operators and any employer which supplies labour to a rail transport operator which fall under the coverage of the rail award. This is regardless of what industry the labour hire company may be in.
9. Protection officers fall under the technical civil infrastructure stream listed in Schedule A due to the specific nature of their duties and they integral role in supporting the technical and civil infrastructure aspect of the rail industry.
10. Their multifaceted duties include but are not limited to safeguarding the infrastructure of the rail network, monitoring and implementing safe working systems, performing work within the infrastructure environment by working in rail corridor and protecting infrastructure and the workers from rail traffic.
11. While there may be overlap between the functions of the protection officers and certain roles in other classifications the distinct focus of protection officers on railway safety places them squarely within the technical civil infrastructure classification of the Rail Award.

On behalf of the Australian Rail Tram and Bus Industry Union
19 April 2024

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