

IN THE FAIR WORK COMMISSION

MATTER NO: C2019/5259

Review of certain C14 rates in modern awards

SUBMISSIONS OF CFMMEU-MUA DIVISION

1. On 22 September 2023 the Full Bench of the Fair Work Commission (**FWC**) issued a Statement.¹ In that statement the Full Bench expressed a provisional view and invited interested parties to file evidence and submissions.
2. These submissions are in response to that invitation.
3. The CFMMEU-MUA Division is an interested party in relation to the following modern awards referred to in the Statement:
 - Marine Tourism and Charter Vessels Award 2020;
 - Maritime Offshore Oil and Gas Award 2020;
 - Port Authorities Award 2020;
 - Professional Diving Industry (Industrial) Award 2020;
 - Seagoing Industry Award 2020; and
 - Stevedoring Industry Award 2020.

Provisional view expressed in paragraph [8] of the Statement

4. The CFMMEU-MUA Division is supportive of the provisional view of the Full Bench as expressed in paragraph [8] of the Statement.

¹ [2023] FWCFB 168.

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Accuracy of the table in Attachment D to the Statement

5. The CFMMEU-MUA Division submits that in relation to the modern awards for which it is an interested party that the table in attachment D to the Statement is accurate.

Marine Tourism and Charter Vessels Award 2020

6. The award provides that transition from Crew Level 1 to Crew Level 2 occurs after 3 months providing the employee has completed the 5-day Introduction Deckhand Course. It is not clear, however, what occurs if the employee has not completed the course and the 3-month probationary period has elapsed. The CFMMEU-MUA Division submits that the following variation to the award should be made to resolve this issue:

In clause 12.1 delete the words “may be completed by the new employee” and insert in its place the words “is to be completed by the new employee unless the employee has previously completed it or has other acceptable experience/qualifications.”

Maritime Offshore Oil and Gas Award 2020

7. The chapeau to clause 13.1 provides an overriding rule that “an employer must pay employees the following aggregate annual salaries.” In determining whether any particular rate is at or below C13 the relevant rate is the aggregate annual salary which for every classification is above C13.
8. No variation to the award is sought.

Port Authorities Award 2020

9. In light of the evidence of Warren Smith filed with these submissions the CFMMEU-MUA Division submits that clause A.1 should be deleted, together with the related row in the table in clause 15.1(a) and the first dot point in clause A.2.

Professional Diving Industry (Industrial) Award 2020

10. Clause 32.1 provides that an employer is to pay full time employees a total weekly rate (minimum weekly rate plus aggregate weekly factor). In determining whether any particular rate is at or below C13 the relevant rate is the total weekly rate which for every classification is above C13.
11. No variation to the award is sought.

Seagoing Industry Award 2020

12. The rates in clause A.1.1 only apply to vessels granted a temporary licence under the *Coastal Trading (Revitalising Australian Shipping) Act 2012*. These licences enable a vessel to engage in coastal trading over a 12 month period.²
13. The classifications of OS (ordinary seaman), wiper, deckboy, catering boy, 2nd cook and messroom steward are discrete classifications that do not transition to another classification. Instead additional requirements must be met such as sea time and passing certificate of competency tests to transition.
14. In order to be consistent with the provisional view of the Full Bench expressed in paragraph [8] of the Statement the CFMMEU – MUA Division proposes that the table in clause A.1.1 be deleted and replaced with the following table:

Classification	Minimum weekly rate (full-time employee)
	\$
Master	1553.70
Chief engineer	1528.10
First mate/First engineer	1324.80
Second mate/Second engineer/Radio Officer/Electrical Engineer	1226.30
Third mate/Third engineer	1175.30
Chief integrated rating/Bosun/Chief cook/Chief steward/Carpenter/Fitter/Repairer/Donkeyman/Electrician	1112.10
Integrated rating/Able seaman/Fireman/Motorman/Pumpman/Oiler greaser/Steward	1013.40
OS/Wiper/Deckboy/Catering Boy/2nd Cook/Messroom Steward (first 3 months)	859.40
OS/Wiper/Deckboy/Catering Boy/2nd Cook/Messroom Steward (after 3 months)	882.74

² s 28 *Coastal Trading (Revitalising Australian Shipping) Act 2012*.

Stevedoring Industry Award 2020

15. In light of the evidence of Warren Smith filed with these submissions the CFMMEU-MUA Division submits that:
- (a) clause A.1 should be deleted;
 - (b) The first row in the table in clause 16.1 should be deleted;
 - (c) The words “Grade 1 to 5” in the table in clause 18.2(j)(i) be replaced with the words “Grade 2 to 5”; and
 - (d) The words “Grade 1 to 5” in the table in clause B.1.1 be replaced with the words “Grade 2 to 5”;

Dated: 3 November 2023



Nathan Keats
Solicitor for the CFMMEU – MUA Division

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STATEMENT OF WARREN SMITH

I WARREN SMITH of Level 2, 365 Sussex Street, Sydney, Deputy National Secretary, say:

1. I am the Deputy National Secretary of the MUA Division of the Construction, Forestry, Maritime, Mining and Energy Union (**Union**) and I am authorised to make this affidavit on the Union's behalf.
2. I have been in this role since 25 January 2021. I was the Assistant National Secretary of the Union from 2009 until 24 January 2021. I was the Secretary of the Maritime Union of Australia (**MUA**) Sydney Branch from 2007 to 2009 and the Assistant Secretary of the MUA Sydney Branch from 2003 to 2007, which was my first position with the MUA as an official.
3. From 1990 to 2003, I was employed by P&O Ports in Sydney and performed Stevedore work in the bulk and general area and in terminals from time to time.

Port Authorities Award 2020

4. I have National responsibility and oversight for the Union's members employed in the classifications covered by the Port Authorities Award 2020.
5. All employers who are port operators as defined in clause 4.2 (ie employers that have a statutory or contractual right to manage or control a port, provides access to the port and that provides port services) are covered by enterprise agreements.
6. To my knowledge there is no application of the level 1 award classification in port authorities and all wages are paid through collective agreements.

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Stevedoring Industry Award 2020

7. I have National responsibility and oversight for the Union's members employed in the classifications covered by the Stevedoring Industry Award 2020.
8. The grade 1 award classification has no application throughout the industry.

Dated: 26 October 2023

A handwritten signature in black ink, appearing to read 'W. Smith', with a large, sweeping flourish extending to the right.

Warren Smith