Vice President Hatcher

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Dear Vice President Hatcher

Subject: Casual Employment AM2014/196 and 197; AM 2014/208

I refer to your decision regarding casual and part time employment of 5 July 2017 and to your directions relating to the common claims and, more specifically, to the Passenger Vehicle Transport Award 2010 (Bus Award).

With respect to the common claims and the proposed draft model casual conversion clause we raise the following issues.

1. Is it intended that draft clause 11.6 (o) applies to all current casual employees who may have already worked for at least 12 months? If so, APTIA's view is that whilst the notice period for a new employee is defined it isn't for existing casual employees and therefore the following amendments should be made to clause 11.6 (o):

"or, if already employed as a casual employee, within 90 days from the commencement date of this clause."

2. APTIA further seeks to the following addition to clause 11.6 (p) to give effect to a transitional period for existing casual employees:

"(p) A casual employee can exercise their right to convert at anytime they become eligible under paragraphs 11.6(c) and 11.6(d), except for casual employees employed at the commencement date of this paragraph who are not permitted to convert for a period of at least 90 days after such commencement."

3. The inclusion of a new subclause 11.6 (p) would then necessitate a further subclause 11.6 (q) as follows:

"(q) A casual employee's right to convert under paragraph 11.6 (p) is not affected if the employer fails to comply with the notice requirements in paragraph (o)."

4. It is APTIA's position that a notice period should apply to a casual employee who wishes to convert and that this right to convert should not be recurring once the opportunity to convert has been afforded.

   Clause 11.6 (a) should therefore be amended to include the following additional words:

"A regular casual employee, who is entitled to request that their employment is converted to full time or part time employment must make such a request for conversion within 21 days of their eligibility, as defined, otherwise such a right, exercisable on one occasion only, will lapse."

5. APTIA provided evidence in its submissions, lodged 22 February 2016, about the uniqueness of the public transport industry, particularly regarding the employment of school bus drivers and the uncertainty of the day and long distance tour and charter industry. Our position had been replicated by consent into the New South Wales Transport Industry, Motor Bus Drivers & Conductors (State) Award AN 120607 (reference: Statement of Geoffrey Ivan Ferris, dated 18 February 2016; Exhibit 142) which recognized that its members' employ school bus drivers for 40 weeks a year (i.e. school terms) and furthermore some members may not be able to provide work over a 52 week period.

6. To this extent APTIA seeks the following additional words to be added to clause 11.6 (g) (i), as follows:

"For example; a casual employee's hours of work are not capable of being worked over 52 weeks of the year and the employer is not able to reasonably offer hours of work for a full year."

ROAD TRANSPORT AWARDS

With respect to the specific decision relating to clause 10.5 (d) of the Bus Award APTIA accepts the draft variation to clause 10.5 (d), as set out in paragraph 824 of the Decision.

Clause 10.5 (d) should therefore read:

"A casual employee is to be paid a minimum payment of three hours pay for each shift. A casual employed solely engaged for the purposes of transportation of school children to and from school may be rostered to perform one engagement or two separate engagements per day with a minimum of two hours for each separate engagement."

Yours faithfully

Ian MacDonald, National Industrial Relations Manager