



AUSTRALIAN RAIL TRACK CORPORATION LTD

our ref: SL090520 Union Log of Claims Response (ASU)

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Australian Services Union
Suite 2, Level 2
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Redfern, NSW, 2016

20 May 2009

Dear Georgie

ARTC Response to Union Log of Claims

Please find ARTC's detailed response to each of the issues put forward to ARTC by the Unions. Should you require further clarification, please don't hesitate to contact me. This document is formatted as follows:

Union claim
ARTC response

1. Wage Increases.

A 6.0% per annum increase in wages and all allowances.

ARTC will continue to align salary increases to Consumer Price Index (CPI) and relevant market trends. This means a potential increase twice per calendar year and that over the term of the Enterprise Agreement all employees will at least maintain their salaries in real terms.

For consistency across the organisation, ARTC proposes to change the CPI in the Agreement from the All Groups NSW Consumer Price Index (based on NSW CPI only) to the All Groups National Consumer Price Index (based on National CPI figures).

For the life of the agreement the increases were as follows:

Table with 4 columns: Category, 2009, 2008, 2007. Rows: NSW, All States.

There are only two allowances in the Agreement, the On-Call allowance and the Work Away from Home allowance which was set in 2008. ARTC proposes to increase the On-Call allowance by 23% (to \$20.00) per rostered day or shift and 25% (to \$40.00) per non-rostered day or shift.

A safety net outcome shouldn't be any less than the 4% per annum that is currently being delivered to several hundred NSW ARTC Maintenance employees over the next 2 years. (Why shouldn't other NSW employees secure the same outcome as a number of these employees work side by side?)



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ARTC proposes to align the safety net outcome with CPI for the life of the new Agreement. As well as CPI, ARTC also has a Market Review to adjust salaries, potentially resulting in two salary increases per year. This method has been successful over the course of the existing agreement, and will continue to be employed by ARTC.

2. Nominal Term Workplace Agreement

2 years

Historically, all of ARTC's Enterprise Agreements negotiated with the relevant Union(s) have been for nominal term of three years. For the longer term assurance of both ARTC and Employees and for consistency with ARTC's other Agreements, ARTC will maintain the nominal term of the ARTC (NSW) Enterprise Agreement 2009 at three years.

3. Apprentice Rate Increase

Upgrade apprentice table with wage adjustment of 4.0% per year from ARTC 2006 EA

As an ARTC proposal, this will form part of the new Agreement.

A 6.0% per annum increase to apprentice wages.

Future increases to be calculated and documented on a yearly basis in ARTC Workplace Agreement.

ARTC will increase the apprentice base salary will increase by CPI consistent with all other ARTC employees. Annual increases will not be known at the time of writing the Agreement, and therefore can not be published upfront.

The RTBU has agreed with ARTC's proposal to increase the third year apprentice rate from 75% to 78%.

4. Superannuation

1.0% increase in superannuation guarantee contributions for all employees.

ARTC will continue to pay the Super Guarantee Contribution amount as per current legislation. Currently, this amount is equal to 9% of base salary and forms part of an employee's TRP.

5. Redundancy

4 weeks pay per year of service, uncapped, upon being made redundant.

ARTC currently provides a redundancy payment of 3 weeks' pay for every year of service, plus one additional week's pay in lieu of notice for employees aged over 45. The redundancy payment is capped at the equivalent of 1 year's pay.

6. Long Service Leave

Clarification and recognition process for long service leave accrual.



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This item is outside the Enterprise Agreement negotiations and has already been addressed with the Union. For further information, employees should contact their Human Resource Advisor.

7. Additional Day's Leave

Provision for the accrual or pay out of the additional days leave (If the day is not taken on the Tuesday following Easter Monday employees would clear the day by the 31st December or receive payment).

Write new clause to amend existing additional days leave (Designate Tuesday after Easter Monday to give NSW employees same status as other states).

Feedback from employees has indicated that many employees have a preference to take this additional day on their birthday or other event of personal significance. As such, ARTC believes that the current arrangements are more flexible and seek to maintain this flexibility for employees. ARTC will continue to offer the additional day's leave as per the current arrangements to be taken at the discretion of the employee in consideration of the operational demands of the business. The additional day's leave does not accrue, and will not be paid out if untaken.

It has been ARTC practise to remind employees to take their additional day of leave by way of a bulletin every 6 months. ARTC will continue to do this.

8. On-Call Allowances

On- Call increase \$20.00 Rostered Day \$40.00 Non Rostered Day

The Union agree with ARTC's proposal that an increase in the On-Call Allowances to \$20 for a rostered day and \$40 for a non-rostered day or shift should be implemented.

ARTC agree with this increase to the on-call allowances provision and it will form part of the new Agreement.

9. Meal Break Clauses

Inclusion of a penalty clause where meal breaks are not taken or are delayed.

When an employee on day work is required to work during his meal break, he shall be paid at the rate of time and a half until he is allowed the usual meal interval time, unless he is allowed twenty minutes for crib, and is paid overtime for the balance of the meal interval time worked by him.

(You have a clause in your SA Services Agreement 2008 that relates to this)

- **Paid crib breaks.**

When more than one and a half hours overtime is required to be worked immediately after ordinary working hours, or after what would be the ordinary working hours if the employee be working on a day he ordinarily has off, an employee before starting to work such overtime shall be allowed a meal break of twenty minutes which shall be paid for at ordinary rates.

An employee who works four hours overtime after having had the meal break provided in the clause above shall be allowed a further meal break of twenty minutes without deduction of pay if he is required to continue working.



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An employee recalled for duty after ceasing work on one shift and before commencing work on the next shall be allowed a crib of twenty minutes without deduction of pay after having worked four hours overtime and if required to continue at work. If required to work more than four hours additional overtime at the conclusion of such crib he shall be allowed a further crib of twenty minutes without any deduction in pay.

- **Overtime meal allowance.**

An employee required to work overtime for more than two hours immediately after ordinary finishing time without being notified the day before that he would be so required to work, shall either be supplied with a meal by the employer or paid \$20.00 for the first meal, and for each subsequent meal. If an employee pursuant to notice has provided a meal or meals and is not required to work overtime he shall be paid as herein prescribed for meals so provided.

- **Meal Payment 2 for 1.**

Employees when engaged on work away from their home stations to and from which they are able to journey daily shall be granted a meal allowance of \$20.00 if it is necessary for them to have more than one meal away from their home stations or from the time they sign on until they return to their home stations.

ARTC encourage staff to take meal breaks as required throughout their day. However there will be times, such as in cases of emergency, that this may not always be possible. ARTC does not believe that this should be compensated for in terms of extra remuneration. We would expect staff to take their break at the most practical time.

ARTC encourages flexibility in the manager/employee relationship to manage time appropriately and therefore do not support these additional meal clauses.

10. Classification Equity

Standardisation of pay scales for Signal Electricians, Work Group Leaders, Team Leaders, Team Managers and Asset Data Administrators.

ARTC currently pays employees in these groups a TRP within a range according to skills, experience and scope of work. ARTC believes this arrangement is fair and proposes to continue to apply this method to classifications and salaries. It is a structured arrangement using a widely used and accepted approach known as the Mercer Evaluation System. ARTC has used this approach for job evaluation and salary levels for over ten years.

11. New Definitions

The Union has asked that new definitions be included in the Enterprise Agreement, for 'reasonable unpaid overtime' and 'on-call'.

ARTC stands by the existing process of allowing a manager and employee to effectively manage their working relationship to achieve required outcomes. ARTC does not wish to place restrictions on flexible working arrangements.

The UNION would like a definition for an 'out of hours response' to be included in the Agreement to cover employees that provide this service.

ARTC agree to discuss this for specific categories of employees and will address this outside of the enterprise agreement negotiations.



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12. Dispute Settlement Procedure Clause

Improved Dispute Settlement Procedure clause (add paragraph below)

Where a dispute exists and whilst that dispute remains unresolved and is being addressed through this procedure, the parties will return to the situation and arrangements that existed prior to the issue which caused the dispute, such that no party is prejudiced during the process to resolve the matter.

ARTC considers the current clause to be adequate and already covers the concerns raised by the UNION in the suggested additional clause. Notably, in the three years of the existing Agreement, there has been no requirement to invoke the Dispute Settlement Procedure.

13. Consultation

Development of improved consultation procedure defining what consultation and agreement prior to implementation means and role of management & union representatives.

Organisational Change (as per below) needs to be incorporated into the Consultation clause. On this basis we are suggesting the two (2) levels below would replace the existing Consultative Committee arrangements.

Peak Level – a regular forum will be established to provide consultation regarding matters which have an organisational-wide impact (i.e. UCA) or implications. This forum will include representation from Senior Management and one nominee of each of the Union parties to this Agreement.

Local Level – shall take place with the affected Employee(s) or through local consultative committees and working parties established as and when required. Such committees include representation from Local Management and Employee Representatives nominated or elected by the affected workforce.

ARTC recognises that communication and participation are essential elements for the effective operation of the organisation and therefore intend to keep the consultation and dispute resolution process the same as the current agreement with the Divisional Consultative Committee and Joint Consultative Committee remaining in place.

14. Organisational Change

Development of an improved procedure for managing organisational change & restructures.

The paragraphs below would be incorporated into the new Consultation clause.

Employer to notify regarding major change :-

Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives.

Significant effects include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or reduction of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

Employer to discuss change :-

The employer must discuss with the employees affected and their representatives, the introduction of any changes referred to above the effects that the changes are likely to have on employees, and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.



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The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to above.

For the purposes of such discussions, the employer must provide in writing to the employees concerned and their representatives, all relevant information about the changes including the nature of changes proposed; the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interest.

ARTC's current arrangement requires ARTC to discuss any significant organisational changes with employees. This is covered in both the current Agreement (clause 2.2) and in ARTC policy.

15. Sick Leave

Improved sick leave procedure and clause. To cover rostered workers so as not disadvantaged with sick leave around Saturdays and Sundays when these days fall mid roster.

This is not an enterprise agreement issue however ARTC agrees and has incorporated changes to the Leave Policy to adequately cover rostered/shift workers and the policy is currently awaiting Executive Committee endorsement.

16. Living Away from Home Allowance

Introduce a Living Away from home clause that incorporates the option of a fixed amount (as per the NSW 2008 Maintenance Agreement and the SA 2008 Services Agreement) or actuals.

The inclusion of this clause would fix the inequity that exists currently affecting the following classifications as examples; Team Managers, Team Leaders, Work Group Leaders, Signal Electricians, Engineers and Risk & Compliance Officers.

Note: ARTC has already agreed that Team Leaders and Work Group Leaders would be entitled to claim the fixed monetary amount.

ARTC currently pays actual expenses for those required to work away from home (either by direct payment to the service provider or by reimbursement), except for infrastructure maintenance workers covered by this Agreement who will continue to receive the option of the fixed amount or actuals.

Opening the option of a fixed amount to other employees is not consistent with ARTC culture.

17. Rostering

New rostering clause aligned to clause in the NSW 2008 ARTC Maintenance EA.

With additional points :-

- *Minimum breaks between ordinary shifts. (to be changed to 10 hours) refer to SA Services Agreement 2008 clause 2.4.3*
- *Minimum breaks between overtime shifts and ordinary shifts. (to be changed to 10 hours) refer to SA Services Agreement 2008 clause 2.4.3*

ARTC encourages flexibility and does not want to restrict a manager's ability to ensure work completed for their area of responsibility.



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18. Training

Greater access to training and assessment for staff to ensure skill retention and improvement. (access to personal training plans and participation in training plans)

Training is not covered in these enterprise agreement negotiations; however, All ARTC Employees have a personal development plan (training plan) through which an employee's training needs are agreed each year. This arrangement has worked well for the life of the existing Agreement. All employees have access to these arrangements.

19. Work/Life Balance Measures

Improvements to provisions relating to taking personal/carers leave. Adoption of Family Provisions Test Case provisions and consideration of family circumstances in workplace decisions such as rostering.

ARTC request further clarification from the UNION regarding which provisions they seek as a result of the Family Provisions Test Case.

20. Generic Claims TRP/ Salary Cut Off

RDOs:

Rostered day off and removal of current cut off level.

ARTC maintains RDOs are a benefit to employees who's TRP is below \$66,421 (adjusted by CPI). It does not suit ARTC's current business needs to extend RDOs to all employees or to raise the cut-off point.

Overtime cut - off:

Paid overtime and remove current cut off level. (\$91,626 is Railcorp's nominal salary)

ARTC may require employees to work additional hours which are reasonable and necessary to do the job without additional remuneration. ARTC provides commensurate remuneration for roles and does not intend to vary the current arrangements.

On-Call cut - off:

On-Call cut off level should align with Railcorp (\$94,030 is Railcorp's nominal salary rate for on-call).

ARTC provides commensurate remuneration for roles and does not intend to vary the current arrangements.

Out of hours response payment:

Provide out of hours response payment. (On-Call payment and payment of hours worked)

ARTC agree to discuss this for specific categories of employees.

Higher Grade:

Acting in higher grade payment for all work performed at 100% of TRP being acted in.

Additional Options for Acting Higher Grade

- a) *Align existing rate in clause 5.5.1 to the suggested overtime cut off level above (\$91,626 is Railcorp's nominal salary).*



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- b) *Higher Grade for a period longer than one (1) week to be paid at 100 %. (This would apply to clauses 5.5.1 & 5.5.2 of the 2006 Enterprise Agreement.)*
- c) *Clause 5.5.2 to incorporate Signal Electricians as per Clause 3.6.2 in NSW 2008 Maintenance Agreement*

The existing provisions will be maintained with the exception of Signal Electricians acting as Work Group Leaders. ARTC has agreed to pay higher duties when a Signal Electrician acts as a Work Group Leader for one day or more.

Travelling time:

Travelling time to align with NSW 2008 ARTC Maintenance EA. (ARTC agreed as per MOU 18th May 2006 that Infrastructure Maintenance employees would be paid overtime rates for travel outside rostered working hours.)

ARTC does not propose to change existing arrangements in regards to travel time.

Classification Streams:

Classification Structures (Introduce three (3) classification streams;

1) Infrastructure Maintenance [extension of current 5 level maintenance structure i.e. Work Group Leader Track Level 6, Signal Electrician Level 7, Work Group Leader Signals Level 8, Team Leader Level 9 and Team Manager Level 10]

2) Clerical, Administration & Professional [Introduce 9 levels]

3) Operations [Introduce 6 Levels]

List all classifications within pay bands

ARTC will not introduce classification streams with pay bands. ARTC's current Mercer Job Evaluation System has resulted in fair and equitable outcomes for employees for over ten years. ARTC will continue to use this system.

Meal Allowance:

Meal Allowance \$20.00 to rise in line with yearly pay increases.

ARTC will not introduce a meal allowance.

Living Away from Home Allowance:

Living Away Allowance to rise in line with yearly pay increases.

This is addressed in point 1, above (see Work Away from Home Allowance).

Rostering Principles:

Rostering principles above should apply to Infrastructure, Operations streams and any employee who doesn't work standard Monday to Friday day work.

The current rostering principles are adequate for all categories of employee covered by this Agreement.



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21. Probationary Clause

Insert new clause.

An employer may initially engage a full-time or part-time employee for a period of probationary employment for the purpose of determining the employee's suitability for ongoing employment. The employee must be advised in writing in advance that the employment is probationary and of the duration of the probation which is to be either:

- (a) Three months or less; or*
- (b) More than three months and is reasonable, having regard to the nature and circumstances of the employment.*

A probationary employee is for all purposes of this agreement a full-time or part-time employee.

Probationary employment forms part of an employee's period of continuous service for all purposes of this agreement, except where otherwise specified in this agreement.

This issue is dealt with in individual Employment Agreements (Employee Contracts) and within the law. ARTC does not see the need to place it in the Enterprise Agreement.

22. Casual Employees

Insert new clause.

A casual employee is one engaged and paid as such. A casual employee's ordinary hours of work are the lesser of 38 hours per week or the hours required to be worked by the employer.

For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for their classification, plus a casual loading of 25%.

The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment. The loading constitutes part of the casual employee's all purpose rate.

ARTC does not engage employees on a casual basis.

23. Definitions Clause

To include Signal Electricians in the definition for Infrastructure Maintenance employee's

ARTC agree with this suggestion and will incorporate it into the Enterprise Agreement.



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24. Memorandum of Understanding

Those items that have not been addressed or covered off in the new agreement will need to be addressed through a new Memorandum of Understanding.

ARTC do not propose to extend the arrangements in the Memorandum of Understanding as this was a transitional arrangement following the establishment of a new agreement.

Yours sincerely,
Australian Rail Track Corporation

A handwritten signature in black ink, appearing to read 'Jenny McAuliffe', is written over a faint, light-colored signature line.

Jenny McAuliffe
Manager, Human Resources.