

FURTHER REVISED SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 4 November 2016 and updated following the Conference on [4 August 2016](#) [PN130–159]. Updates since last publication on 24 June 2016 are marked in red text.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	AWU	Sub-18/04/16	3.3(a)		Coverage Typographical error – delete ‘by the covered’ in the opening sentence.	Para 3	ED amended. Conference 4 August 2016 [PN16].
2.	MUA	Sub-14/04/16	5.2		Facilitative provisions <i>In response to FWC query:</i> Clause 9.2(a) is in relation to when breaks can be taken. Any decision to delay a break so it occurs after 5 hours from start of a shift should be by agreement between employer and majority of employees.	Para 1	Directions for the filing of further material will be issued. Conference 4 August 2016 [PN16–42].
	AWU	ReplySub-05/05/16			Agrees with MUA	Para 1	Proposed wording included (for cl 9.2(a)).
3.	MUA	Sub-14/04/16	6.3		Types of employment – Full time employment <i>In response to FWC query:</i> Supports removal of words ‘at least’.	Para 2	ED amended – FWC query removed. Conference 4 August 2016 [PN44].
	AWU	Sub-18/04/16			Supports removal words ‘at least’.	Para 4–5	
	AWU	ReplySub-05/05/16			Supports MUA submissions	Para 4	

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4.	MUA	Sub-14/04/16	6.5(a)(ii)		Types of employment – casual employment <i>In response to FWC query:</i> Considers current provision clear and the introduction of concept of ‘former’ unnecessary.	Para 3	Agreed, clause 6.5(a)(ii) to be deleted – ED amended, FWC query removed. Conference 4 August 2016 [PN44–50]
	AWU	Sub-18/04/16		<i>In response to FWC query:</i> Concerned clause purports to exclude NES (s.117 FW Act) – if employee is engaged on full time or part time basis, but then deemed a casual employee if dismissed on first day or within 4 weeks, then they appear to have lost an entitlement to prescribed period of notice. Should be removed.	Para 6		
	AWU	ReplySub-05/05/16		Refer to their 18 April submission.	Para 6		
	MUA	ReplySub-06/06/16		Notes AWU seek to delete clause. Support position given NES applies.	Page 1		
5.	AWU	Sub-18/04/16	6.5(b)(ii)		Casual loading Clause excludes application of allowances for casual employees. Should be removed or otherwise replaced with same wording used in the Building modern award.	Para 7	Confirmed matter is being dealt with by Part-time and Casual Employment Full Bench in AM2014/196 and AM2014/197 . Conference 4 August 2016 [PN50–51]

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6.	AWU	Sub-18/04/16	8.2(a)(ii)		Hours of work – span of hours Concerned clause allows workers to agree to work any number more hours than 12 at ordinary rate of pay, and without regard to nature of clause being about ‘day workers’. Suggest use of clause similar to that in Manufacturing modern award. 14 hours is the dredging industry standard for extension of ordinary hours by agreement.	Para 8–13	Proposed wording included. Directions for the filing of further material will be issued. Conference 4 August 2016 [PN52–93]
7.	AWU	Sub-18/04/16	9.2(a)		Breaks – meal break <i>In response to FWC query:</i> Suggests subclause be added to clarify which parties can agree to change time of meal break	Para 14	Proposed wording included for new 9.2(b). Items 7–11 are related. FWC will redraft clause 9 taking into account the parties’ positions. Conference 4 August 2016 [PN94–134]
8.	AWU	Sub-18/04/16	9.2(c) and 9.2(e)		Subclauses differ by method of calculation for compensation of denied meal break. AWU not able to provide explanation for difference in entitlement. If there is no reason to be found, submits that to simplify clause, cl. 9.2(e) could be removed and incorporated into 9.2(c)	Para 17	Proposed wording included. Items 7–11 are related. FWC will redraft clause 9 taking into account the parties’ positions. Conference 4 August 2016 [PN94–134]

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9.	AWU	Sub-18/04/16	9.2(d)		Breaks – meal break Unclear how clause is to be observed. Suggests clause be replaced and directly refer to cl.9.2(a) and (c).	Para 15	Proposed wording included. Items 7–11 are related. FWC will redraft clause 9 taking into account the parties' positions. Conference 4 August 2016 [PN94–134]
10.	AWU	Sub-18/04/16	9.2(e)		Clause requires words 'an additional' to be added to read '...employees must be paid an additional one hour at ordinary time rates'	Para 18	Items 7–11 are related. FWC will redraft clause 9 taking into account the parties' positions. Conference 4 August 2016 [PN94–134]
11.	MUA	Sub-14/04/16	9.3		Breaks <i>In response to FWC query:</i> Clause 9.2(c) and (e) are two exceptions to overriding requirement in cl. 9.3. Suggests cl.9.3 be amended	Para 4	Proposed wording included. Items 7–11 are related. FWC will redraft clause 9 taking into account the parties' positions. Conference 4 August 2016 [PN94–134]
	AWU	Sub-18/04/16			<i>In response to FWC query:</i> Clause 9.2(c) and (e) operate as an exception to clause 9.3	Para 4	
	AWU	Sub-18/04/16			Clause should be deleted. In conflict with cl. 9.2 and creates ambiguity.	Para 19	

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	AWU	ReplySub-05/05/16			Prefers MUA wording over current ED wording, but would prefer clause was deleted entirely.	Para 7	
	MUA	ReplySub-06/06/16			Does not support AWU's position to delete. Wording MUA provided 14/04/16 should be adopted.	Page 1-2	
12.	FWO	Corro-2/3/15	10.3	14.3	Weekly aggregated wage Unclear what is meant by 'weekly aggregated wage'. Use of term in cl 14.3 differs from cl.14.1 and 14.2 which both provide 'minimum weekly rates' in respect of different categories of employees. In absence of definition of 'weekly aggregated wage', may be unclear which entitlements have been 'aggregated' (and as a result it may be unclear which, if any, entitlements remain separately payable).	Page 5	Information based on common queries raised with FWO.
	MUA	Sub-14/04/16			<i>In response to FWC query:</i> New definition of aggregate rate be inserted into Sched D of ED.	Para 5	Proposed wording included.
	AWU	Sub-18/04/16			Definition should be included to clarify how final wage is calculated. Query why there is no minimum wage for positions 'Trailer master' and 'Chief engineer'	Para 20	ED amended – weekly and hourly aggregated wage rates included. Rates calculated using the methodology used for calculating the 'trailer shift master' shiftworker rate. Conference 4 August

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							<p>2016 [PN135–157]</p> <p>Correspondence was sent to the parties and published on 7 October 2016 attaching research in relation to the calculation of the ‘aggregate wage’. Parties were asked to confirm if the MUA’s methodology is correct and if so, is it proposed that the modern award rates be adjusted accordingly.</p>
13.	AWU	Sub-18/04/16	10.4		<p>Higher Duties The word ‘work’ be used rather than ‘duties’ to reflect that not all duties must be performed, rather work of that higher position, on that occasion. Same amendment made to Asphalt Industry modern award during review of group 1A and 1B awards.</p>	Para 21	<p>FWC will publish research in relation to the higher duties provision and directions for the filing of further material will be issued.</p> <p>Conference 4 August 2016 [PN157–161]</p>
14.	AWU	Sub-18/04/16	11.2(b)		<p>Dual certificate allowance should also be expressed as hourly rate. This reflects that allowance will form component of ordinary rate.</p>	Para 25	<p>Proposed wording included.</p> <p>ED amended – wage tables inserted for employees who may be</p>

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							entitled to the dual certificate allowance. Conference 4 August 2016 [PN163–184]
15.	MUA	Sub-14/04/16	11.2(h)(ii)		Additional allowances—cooks <i>In response to FWC query:</i> Allowance should be paid weekly.	Para 6	Agreed – ED amended. FWC query removed. The words ‘per week’ will be inserted after the reference to ‘\$40.29. Conference 4 August 2016 [PN186–187]
	AWU	Sub-18/04/16			On one construction appears appropriate that payment be on each occasion. Second construction is that payment should be weekly.	Para 26	
	AWU	ReplySub-05/05/16			Supports MUA submissions	Para 4	
16	MUA	Sub-14/04/16	11.2(j)(i)		Vessels proceeding from port to port <i>In response to FWC query:</i> Reference to ‘Navigations Act’ should be updated.	Para 7	Agreed – ED amended. Conference 4 August 2016 [PN188–190 and PN193–195]
17.	MUA	Sub-14/04/16	11.2(j)(ii)		Reference to the <i>Seamen’s Compensation Act 1974</i> should be updated to <i>Seafarers Rehabilitation and Compensation Act 1992</i>	Para 7	Agreed – ED amended. Conference 4 August 2016 [PN191–193].
	AWU	ReplySub-05/05/16			Supports MUA submissions	Para 4	
18.	MUA	Sub-14/04/16	11.3(b)(iv)		Protective and industrial clothing allowances	Para 8	Agreed – ED amended. FWC query removed.

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					<i>In response to FWC query:</i> Pre reform award requirement to reimburse did not apply where employer supplied protective clothing and equipment. ED should maintain position and delete clause reference to cl.11.3(b)(ii) and insert cl.11.3(b)(iii)		Conference 4 August 2016 [PN196–208]
	AWU	ReplySub-05/05/16			Supports MUA submissions	Para 4	
19.	MUA	Sub-14/04/16	13.3		Shiftwork penalties <i>In response to FWC query:</i> Does not consider necessary to convert rates to penalties based on an employee's ordinary hourly rate	Para 9	Agreed – ED amended. FWC query removed. Conference 4 August 2016 [PN208–214]
	AWU	Sub-18/04/16			Shiftwork loading should be based on the 'ordinary rate' in order to capture the all-purpose allowance.	Para 28	
	AWU	ReplySub-05/05/16				Para 8	
	MUA	ReplySub-06/06/16			Supports AWU's position, shift work penalties be based on an employee's ordinary hourly rate in light of terms of pre-reform awards referred to in AWU submission 18/4/16.	Page 2	
20.	AWU	Sub-18/04/16	13.3(a)		Shiftwork penalties Wording of clause confusing. Proposes alternative wording	Para 27	Proposed wording included. AWU withdrew part of claim – proposed wording amended. Conference 4 August 2016 [PN214–244].

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21.	AWU	Sub-10/12/15	14	23	Annual leave loading Seeks insertion of annual leave loading provision	Paras 3–13	Parties to confirm whether they wish to pursue claim. Conference 4 August 2016 [PN245–263].
	AWU	Sub-18/04/16				Para 29	
22.	MUA	Sub-14/04/16	14		Annual leave <i>In response to FWC query:</i> The hours of work for shiftworker are set out in cl 8.2(b) and consist of 12 hour shifts for 7 days for a week followed by 12 hour shifts for 6 days for a week. This work pattern should be used for the purpose of the NES.	Para 10	Parties to confirm whether they wish to pursue claim. Conference 4 August 2016 [PN263–266].
	AWU	ReplySub-05/05/16			Agree with MUA. As long as employee weekly hours amount to 38 hours when averaged over a specified period, the pattern set out under award is consistent with the NES	Para 9	
23.	AWU	Sub-18/04/16	A.4		Casual employees Seeks insertion of a definition of ‘ordinary hourly rate’ to be included to ensure all-purpose allowance is included when calculating casual wages. Submits same clause as set out at cl. A.1.1 could be used again at A.4		AWU understands matter being dealt with by the Full Bench dealing with Part-time and Casuals in AM2014/196 and AM2014/197 Confirmed – conference 4 August 2016 [PN267–268].

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24.	MUA	Sub-14/04/16	C.3.3(c)		Coverage <i>In response to FWC query:</i> Not aware of a training program that should not be covered by Schedule.	Para 11	FWC query removed. Conference 4 August 2016 [PN269].
25.	AWU	Sub-18/04/16	Sched E		Definitions For consistency, suggest defining terms ‘not fully operational’ instead of ‘laid up’. Would require replacing terms used in cl. 11.2(b)(i), 11.2(e) and in column 1 of table in cl. B.1.1.	Para 22 – 24	Proposed wording included ED amended. FWC query added – parties to consider whether change in term gives rise to any practical issues. Conference 4 August 2016 [PN269–324].

List of abbreviations (in alphabetical order)

AWU	The Australian Workers’ Union
ED	Exposure Draft
FWC	Fair Work Commission
FWO	Fair Work Ombudsman
MA	Modern Award
MUA	The Maritime Union of Australia