

SUMMARY OF SUBMISSIONS ON REVISED EXPOSURE DRAFT – OUTSTANDING ISSUES

This table has been revised to include submissions received in response to paragraph 125 of Full Bench Decision [\[2017\] FWCFB 3177](#) regarding outstanding issues and the exposure draft. The summary includes submissions received before 11 July 2017.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
1.	AWU	Sub 23-11-15	5.2(b)	Facilitative provisions – Error. Should read 8.3(b).	4	RESOLVED. ED corrected
	AIG	Reply 7-12-15		Agree with AWU.	28	
2.	AWU	Sub 23-11-15	6.5(c)	Types of employment – casual employees – Delete clause.	5	RESOLVED. Clause deleted in accordance with [69] of [2014] FWCFB 9412
	AIG	Sub 20-11-15		Proposes same deletion.	106	
	BSA	Sub 27-11-15		Proposes same deletion.	1	
3.	AIG	Sub 20-11-15	9.1(b), 9.1(c), 9.1(d)	Meal breaks – Insert ‘of the minimum hourly rate’ after ‘200%’ (clause 9.1(b)) and after ‘150%’ (clauses 9.1(c) and (d)).	107-109	REMAINS OUTSTANDING
		Sub 11/07/17		Strongly opposes AWU’s assertion that ‘applicable rate of pay’ should be introduced to these provisions.	253-254	
	BSA	Sub 27-11-15		Proposes same amendment.	2	
	AWU	Reply 4-12-15		Proposed variation may substantively reduce current entitlements. Suggest ‘applicable hourly rate’ inserted.	5, 6	
4.	AWU	Sub 23-11-15	9.2	Breaks – Wording incorrect, 13.6 does not deal with breaks <i>during</i> overtime. Amend to ‘Breaks <i>after</i> overtime are dealt with in clause 13.6’.	6	RESOLVED by agreement. Amendment to insertion of ‘after’ appears to be agreed, change made to ED in red text. <i>Note: issue of whether clause to be deleted not dealt with.</i>
	AIG	Reply 7-12-15		Do not oppose AWU’s proposal. In the alternate, provision should be deleted.	33	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
4A	AIG	Sub 11/07/17	10.1	Minimum wages Submit that it is not confined to full-time employees. A literal interpretation may extend to adult employees, including part-time and casual employees. Suggest including 'full-time employees' in the table.	255	REFERRED Referred to the Plain Language Full Bench (AM2016/15), see [2018] FWC 1544 .
5.	AIG	Sub 20-11-15	13.8	Overtime and penalty rates – Concern about change to terminology relating to penalties, loadings and allowances in EDs. Amend clause to make clear amounts payable for afternoon or night shift work are loadings, not penalties.	2.2, 110	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 . See also item 6.
	AWU	Reply 4-12-15		Disagree with concern. However, there is merit in using consistent terminology throughout an award.	8 - 12	
	AMWU	Sub 30/06/17		Submit that the use of the term 'penalty' should be used and should not be changed to 'loading'.	22	
6.	AIG	Sub 20-11-15	14.5(a)(i), 14.5(a)(ii)	Annual leaving loading – Same concern as item 5. Substitute 'allowance' with 'loading'.	2.2, 111-112	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 . See item 5.
	AWU	Reply 4-12-15		Disagree with concern. However, there is merit in using consistent terminology throughout an award.	8 - 13	
	AMWU	Sub 30/06/17		Submit that the use of the term 'penalty' should be used and should not be changed to 'loading' or 'allowance'.	23	
7.	AIG	Sub 20-11-15	14.6(a)	Payment of accrued annual leave on termination – Delete clause.	113	REMAINS OUTSTANDING This matter is being dealt with by the AM2014/47 Annual Leave Full Bench.
	BSA	Sub 27-11-15		Proposes same deletion.	3	
	AWU	Reply 4-12-15		Agree with AIG.	14	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
8.	AWU	Sub 23-11-15	19.2	Termination – Notice of termination by employee – Error. Insert ‘from’: ‘... the employer may withhold <u>from</u> any money due to an employee ...’	7	RESOLVED. ED corrected.
	AIG	Sub 20-11-15		Proposes same amendment.	114	
	BSA	Sub 27-11-15		Proposes same amendment.	4	
9.	AWU	Sub 23-11-15	Sch B.2.2	Summary of Hourly Rates of Pay – Casual employees overtime rates – Error. Should refer to ‘First 2 hours’ and ‘After 2 hours’.	8	RESOLVED. ED corrected.
	AIG	Reply 7-12-15		Do not oppose proposed amendment.	36	
10.	BSA	Sub 27-11-15	Sch G	2014 Part-day public holidays – Should be amended in accordance with [2015] FWC 3317 and PR573679 .	5	RESOLVED. ED updated to reflect PR580863
	AWU	Reply 4-12-15		Not opposed.	18	
	AIG	Reply 7-12-15		Agree with BSA.	37	
10A	AIG	Sub 11/07/17	Sch H	Definitions ‘Availability duty’, currently appearing at clause 3.1 of the Award has been removed from the ED. It should be re-inserted. It is to be read with clause 11.3 of the ED, which requires the payment of an ‘availability duty’ allowance.	262	REMAINS OUTSTANDING

List of abbreviations (in alphabetical order)

AIG	Australian Industry Group
AMWU	Australian Manufacturing Workers' Union
AWU	The Australian Workers' Union
BSA	Business SA
ED	Exposure draft of the <i>Gas Industry Award 2010</i>
FWC	Fair Work Commission