

Working for your business.
Working for South Australia



Business SA Submission

Submissions in Reply Group 3 Exposure Drafts

6 May 2016

Executive Summary

Business SA is pleased to provide these response submissions to the Fair Work Commission. This submission will respond to submissions made by other employer and employee parties in regard to Group Three Exposure Drafts. Business SA agrees with many submissions made by other parties. To assist in navigating this document each exposure draft response has been placed in a table signifying: the party making the submission; a link to that party's submission; the page or paragraph number of that party's specific submission; the exposure draft clause that specific submission applies to; the title for that clause; and Business SA's response. Where Business SA has disagreed with a submission, or agreed but wished to make further comment, clear reference has been provided to each discussion point.*

Why this matter is important to South Australian businesses

As South Australia's Chamber of Commerce and Industry, Business SA is the peak business membership organisation in the State. Our members are affected by this matter in the following ways:

- SA businesses will be impacted by any changes to the award system.
- In the current economic environment SA employers need certainty that the award system is not going to change unnecessarily.
- SA employers and employees will benefit from a well-considered modern award review enabling both parties to better understand their rights and responsibilities.

Further information: Tyson Gherghetta, Business SA, (08) 8300 0088

***Note:** Unless otherwise stated, all clauses refer to the relevant exposure draft.

Contents

1.0	Banking, Finance and Insurance Award 2015.....	5
2.0	Business Equipment Award 2015	6
3.0	Clerks – Private Sector Award 2015	8
4.0	Commercial Sales Award 2015.....	10
5.0	Educational Services (Post-Secondary Education) Award 2015	11
6.0	Fitness Industry Award 2015.....	13
7.0	Gardening and Landscaping Services Award 2016.....	15
8.0	Horticulture Award 2016.....	17
9.0	Legal Services Award 2015.....	19
10.0	Nursery Award 2016	22
11.0	Pastoral Award 2016	23
12.0	Sporting Organisations Award 2015	26

1.0 Banking, Finance and Insurance Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
1.1	Australian Industry Group (AiG)	Submission – Group 3 Exposure Drafts (AiG)	[74]-[78]	3.1	Coverage	Agree
1.2	AiG	AiG	[80]	3.5	Coverage	Agree
1.3	AiG	AiG	[81] – [83]; [89] – [90]	6.3(b); 6.3(c)(i)	Part-time employees – rate of pay; casual loading	Agree
1.4	AiG	AiG	[84]-[89]	6.3(d)	Part-time employees	Agree
1.5	Australian Business Industrial and the New South Wales Business Chamber Ltd (ABI)	Submissions: Group 3 Exposure Drafts (ABI)	[3.1]	7.7	Shiftworkers	Agree
1.6	AiG	AiG	[96]-[99]	9.1(a)	Minimum wages – Adult employees	Agree
1.7	ABI	ABI	[3.2]	11.2	Allowances	Agree
1.8	ABI	ABI	[3.3]	11.3(b)	Stand-by and call-back allowance	Agree
1.9	AiG	AiG	[109]-[111]	13.6(a)	Length of rest period	Agree
1.10	AiG	AiG	[116]-[117]	Schedule B.3.1	Casual employees other than shiftworkers – ordinary and penalty rates	Agree
1.11	AiG; ABI	AiG ; ABI	[118]; [3.4]-[3.6]	Schedule H	Definitions	Agree

2.0 Business Equipment Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
2.1	AiG	AiG	[120]-[121]	5.2	Facilitative Provisions	Agree
2.2	AiG	AiG	[135]	7.2(c)	Flexibility in relation to ordinary hours of work – day workers	Agree
2.3	AiG	AiG	[137]	8.1	Meal Breaks	Agree
2.4	ABI; AiG	ABI ; AiG	[4.4]; [122]-[123], [127]	9	Minimum wages	Agree
2.5	AiG	AiG	[143]-[145]	9.5(a)	Higher duties	Agree
2.6	AiG	AiG	[146]-[148]	10.3(b)	Exemptions for employees in the commercial traveller's stream	Agree
2.7	AiG	AiG	[153]-[155]	11.3(d)(i)	Area allowance	Agree
2.8	AiG	AiG	[156]	11.4(c)(ii)(C)	Expenses and accommodation reimbursement	Agree
2.9	AiG	AiG	[161]-[162]	15.1	Special provisions for shiftworkers	Agree
2.10	ABI	ABI	[4.10]	15.4	Daylight saving	Agree
2.11	ABI	ABI	[4.11]	16.1	Overtime	Agree
2.12	ASU	ASU – Business Equipment Submission	[8]-[9]	16.3	Paid rest break during overtime	Disagree – see discussion at 2.16
2.13	AiG	AiG	[168]-[170]	16.6, 16.6(b)(ii)	Rest period after working overtime	Agree
2.14	AiG	AiG	[175]-[176]	Schedule B	Summary of hourly rates of pay	Agree
2.15	AiG	AiG	[179]-[183]	Schedule B.3.2	Full-time and part-time shiftworkers – overtime rates	Agree

2.16 The ASU has submitted that use of the word “may” in clause 16.3(d)(iv) could cause ambiguity and uncertainty as to whether an employee is entitled to the meal allowance. Business SA disagrees and submits the word “may” is appropriate in cl 16.3(d)(iv). Clause 16.3(d)(iv) states “An employee on a paid rest break **may** be entitled to a meal allowance in accordance with clause 11.3(c)” (emphasis added). Clause 11.3(c)(i) sets out an employee’s entitlement to the meal allowance, while cl 11.3(c)(ii) states this allowance will not apply where the employer provides the employee with a meal while on overtime or where the employee can reasonably return home for a meal. Any potential ambiguity regarding an employee’s meal allowance entitlement is clarified by cl 11.3(c)(ii).

3.0 Clerks – Private Sector Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause/s	Clause Title	Business SA Response
3.1	ABI	ABI	[5.1]	6.3(b)(i), 13	Casual loading, overtime	Agree
3.2	AiG	AiG	[188]-[190]	5.2	Facilitative provisions	Agree
3.3	AiG	AiG	[191]-[194]	6.2(a)(ii), 6.2(a)(iii)	Part-time employment	Agree
3.4	AiG	AiG	[197]	8.1(a)(ii)	Weekly hours of work – day workers	Agree
3.5	AiG	AiG	[198]-[202]	8.1(c)	Weekly hours of work – day workers	Agree
3.6	AiG	AiG	[217]	9.2(c)	Paid rest break	Agree
3.7	AiG	AiG	[218]-[221]	10.1	Minimum wages – Adult employees	Agree
3.8	AiG	AiG	[224]-[226]	10.5	Higher duties	See comment below at 3.18
3.9	AiG	AiG	[227]-[229]	11.3(a)	Transport of employees – shiftworkers	Agree
3.10	AiG	AiG	[230]-[232]	11.3(a)	Transport of employees -shiftworkers	Agree
3.11	ABI	ABI	[5.6]	13.1	Definition of overtime	Agree
3.12	AiG	AiG	[233]	13.3(a)	Payment for working Saturdays and Sundays	Agree
3.13	AiG	AiG	[234]-[236]	13.4(a)	Length of rest period	Agree
3.14	AiG	AiG	[236]-[239]	13.4(b)(i), 13.4(b)(ii), 13.4(d)	Where the employee does not get a 10 hour rest	Agree
3.15	AiG	AiG	[240]	14.5(b), 14.5(c)	Overtime	Agree
3.16	AiG	AiG	[241]-[242]	14.7	Special rates not cumulative	Agree
3.17	ABI	ABI	[5.6]	13.1	Definition of overtime	Agree

- 3.18** Business SA submits the point AiG raises is valid but we would suggest the words “clause 10.5 – Higher Duties” be added as a dot point to 10.4(a)(i). The higher duties provision sits well within clause 10 rather than the allowances clause as it is not strictly an allowance.

4.0 Commercial Sales Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
4.1	AiG	AiG	[244]-[246]	9.1	Classifications and minimum wages	Agree
4.2	AiG; ABI	AiG ; ABI	[247]; [6.3]	10.2(f)(i)	Expenses and accommodation reimbursement	Agree

5.0 Educational Services (Post-Secondary Education) Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
5.1	National Tertiary Education Union (NTEU)	NTEU Submissions on Exposure Drafts issued 18 December 2015 (NTEU)	Page 14	3	Coverage	Agree
5.2	NTEU	NTEU	Page 14	5.2	Facilitative Provisions	Agree
5.3	NTEU	NTEU	Page 15	9	Breaks	Disagree – see below at 5.10
5.4	NTEU	NTEU	Page 15	10.1(a)	Minimum wages – Academic teachers – full-time and part-time	Disagree – see below at 5.11
5.5	NTEU	NTEU	Page 15	11.2(d)(iii) and (e)	Living away from home, travel time and fares	Disagree – see below at 5.12
5.6	NTEU	NTEU	Page 16	14.1(c)	Penalty rates – Public holiday work	Agree
5.7	NTEU	NTEU	Page 16	15.5(d)	Overtime – teaching staff and general staff classified at Level 8 or 9	Disagree – see below at 5.13
5.8	Australian Higher Education Industrial Association (AHEIA)	Submissions by AHEIA on Exposure Drafts	Page 4	15	Overtime	Agree
5.9	NTEU	NTEU	Page 16	20.2	Public holidays – Substitution of public holidays by agreement	Agree – see comment at 5.14

5.10 NTEU contends that the breaks at subclause 9.4(a) and (b) are paid. Business SA submits that the clause does not change from the current award and does not need to be varied.

NTEU requests clarification that 9.4(c) provides paid breaks for all overtime worked. Business SA submits that the clause at 9.4 states that it applies to all employees. As such, no change is necessary.

- 5.11** Business SA submits the changes to 10.1(a) requested by NTEU are unnecessary as classification levels are already clear. Schedule A.7.1(c) clearly states that “*an employee holding a relevant doctorate or responsible for the co-ordination of a subject or unit, will not be paid less than the sixth step of Level A.*”

Clause 10.1(a) gives no detail regarding how to categorise academic teachers, simply their appropriate minimum wages. Employers and employees necessarily consult the classification structure to determine what level the academic teacher should be paid at. Schedule A.7 (Classification descriptors) directs employers to classify an academic teacher into the level that “*most accurately describes the duties they undertake and their academic standing and experience.*” The reader will observe Schedule A.7.1(c) and it will be clear that those teachers holding a relevant doctorate or co-ordinating a subject/unit are not to be paid below Level A Step 6.

- 5.12** Business SA disagrees with the NTEU’s submissions regarding clauses 11.2(d)(iii) and (e). See discussion of this point at [paragraph 5.2.5](#) in Business SA’s submission of 15 April 2016.

- 5.13** Business SA submits the NTEU’s interpretation of clause 15.5(d) is incorrect. Clause 15.5(a) clearly states this class of workers will be entitled to time off instead of overtime payment, on the basis of one hour for each hour worked. This terminology indicates the accrued hours will be paid out at the worker’s minimum hourly rate. No part of clause 15.5 discusses allowances applicable in circumstances envisaged by clause 15.5(d). Where one hour of time off is accrued for one hour worked, the absence of any further direction shows the minimum hourly rate should be used. This view was shared by our members at [paragraph 5.2.7](#).

- 5.14** Business SA wishes to maintain NES compliance and therefore agrees with the NTEU’s submission regarding clause 20.2.

6.0 Fitness Industry Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
6.1	Australian Worker's Union (AWU)	AWU submission on the Exposure Draft for the Fitness Industry Award 2016 (AWU Fitness Sub)	[4]	6	Classifications	Disagree – see below at 6.10
6.2	Aussie Aquatics (AAq)	Response to the Exposure Draft (AAq Sub)	[A.1]	7.3(a)(iii), 11.1	Part-time employees, Allowances	Agree
6.3	AWU	AWU Fitness Sub	[6]	7.4(a)	Casual employees	Agree – see comment at 6.11
6.4	ABI	ABI	[8]	7.4(c)(b)	Casual loading	Agree
6.5	Gymnastics Australia (GA)	Submissions on Technical and Drafting Issues Related to Group 3 Exposure Draft Modern Awards (GA Sub)	[11]	8.3	Ordinary hours of work and rostering	Agree
6.6	AWU	AWU Fitness Sub	[8]-[9]	8.3	Ordinary hours of work and rostering	Disagree – see below at 6.12
6.7	GA	GA Sub	[14]	14.3	Break between shifts	Agree
6.8	AWU	AWU Fitness Sub	[11]	14.3	Break between shifts	Disagree – see below at 6.13
6.9	AAq	AAq Sub	[D.3]	Schedule A	Classification Definitions	Disagree – see below at 6.14

6.10 Whilst Business SA disagrees with the wording suggested by the AWU regarding clause 6, we agree that the proposed wording is too broad in its current form. Business SA is prepared to collaborate to determine more appropriate wording.

- 6.11** Business SA agrees with the AWU's submission regarding clause 7.4(a) in remedying inconsistency with the *Fair Work Act 2009* (Cth) s 147.
- 6.12** Business SA disagrees with the AWU's submission that overtime is payable to casual employees. See our earlier submissions on this issue at [paragraph 6.2.1](#).
- 6.13** The AWU's contention that the minimum 10 hour break in clause 14.3 starts at the end of overtime on one shift is incorrect. The draft clearly states the break operates between "*rostered shifts*". Nothing in this clause suggests the 10 hour break begins at the end of overtime. See further at [paragraph 6.2.2](#).
- 6.14** Business SA disagrees with Aussie Aquatics' proposed additions to the Classification Definitions in Schedule A. These additions would amount to a substantive change to the award.

7.0 Gardening and Landscaping Services Award 2016

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
7.1	AWU	AWU submissions on the Exposure Draft for the Gardening and Landscaping Services Award 2016 (AWU GLS Sub)	[4]	5.2	Facilitative provisions	Agree
7.2	AWU	AWU GLS Sub	[6]	6.4	Part-time employees	Disagree – see below at 7.10
7.3	Australian Federation of Employers and Industry (AFEI)	AFEI Submission concerning Group 3 Exposure Drafts (AFEI Sub G3)	[24]	6.4	Part-time employees	Agree
7.4	ABI	ABI	[16.1]	6.4(b)	Part-time employees	Agree
7.5	AWU	AWU GLS Sub	[5]	6.4(c)	Part-time employees	Agree
7.6	AWU	AWU GLS Sub	[11]	9.2	Paid breaks	Agree
7.7	AWU	AWU GLS Sub	[12]	9.3	Rest breaks	Disagree – see below at 7.11
7.8	AWU	AWU GLS Sub	[18]	13.3(a)	Rest period after overtime duty	Agree – see discussion at 7.12
7.9	AWU	AWU GLS Sub	[20]	14.5(b)	Payment for annual leave	Agree

7.10 Business SA does not support the AWU’s proposal regarding clause 6.4 as it amounts to a substantive change. This matter is being dealt with as part of the part-time/casual common matters.

- 7.11** Business SA cannot support the AWU's proposal regarding clause 9.3 as shifts don't exist in this award. If the AWU wishes to continue with this submission the term 'shift' would have to be defined.
- 7.12** While Business SA agrees this clause could be improved, the proposed change would need to apply to both 13.3(a) and 13.3(b).

8.0 Horticulture Award 2016

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
8.1	National Farmer's Federation (NFF)	Submissions on Exposure Draft – Horticulture Award 2016 (NFF H Sub)	[23]-[24]	3.5, 3.6	Coverage	Agree
8.2	AiG	AiG	[316]-[318]	5.2	Facilitative provisions	Agree
8.3	AiG	AiG	[319]	6.4(b)	Part-time employees	Agree
8.4	AiG; NFF	AiG; NFF H Sub	[320]; [28]	6.5(c)(i)	Casual employees – casual loading	Agree
8.5	AWU	AWU Horticulture Sub (AWU H Sub)	[5]	6.5(c)(i)	Casual employees – Casual loading	Agree
8.6	AiG	AiG	[322]	8	Ordinary hours of work and rostering	Agree
8.7	AiG	AiG	[323]	8.1	Ordinary hours and roster cycles	Agree
8.8	AiG	AiG	[324]	8.1(a)(iv)	Ordinary hours and roster cycles	Agree
8.9	AWU	AWU H Sub	[7]	8.1(a)(iv)	Ordinary hours and roster cycles	Disagree – see below at 8.25
8.10	AiG	AiG	[327]-[328]	9.1(c)	Meal break	Agree
8.11	AWU	AWU H Sub	[10]	9.3(a)	Ten hour break after ceasing work for the day	Agree
8.12	AiG; NFF	AiG; NFF H Sub	[330]; [35]	11.3(b)(i)	Tool and equipment allowance	Agree
8.13	AWU	AWU H Sub	[22]	11.3(c), 15.4	Meal Allowance	Agree
8.14	Voice of Horticulture (VoH)	Submissions by the Voice of Horticulture (VoH Sub)	[4]	14.1(b)	Shiftwork	Agree

8.15	AiG	AiG	[331]	14.1(h)	Shiftwork	Agree
8.16	AWU	AWU H Sub	[17]	14.1(h)	Shiftwork	Agree
8.17	NFF	NFF H Sub	[37]-[41]	15.1	Overtime	Agree
8.18	VoH	VoH Sub	[5(d)]	15.3(c)	Payment of overtime	Agree
8.19	VoH	VoH Sub	[5(e)]	15.4	Meal allowance	Agree
8.20	NFF	NFF H Sub	[42]-[43]	20.3	Public holiday rates	Agree
8.21	AiG	AiG	[335]	Schedule B	Summary of Hourly Rates of Pay	Agree
8.22	AiG	AiG	[337]	Schedule G	Definitions – ordinary hourly rate	Agree
8.23	NFF	NFF H Sub	[12]-[13]	Schedule G	Definitions	Disagree – see below at 8.26
8.24	NFF	NFF H Sub	[14]	Schedule G	Definitions	Agree

8.25 In reference to paragraph 8.9 above, Business SA submits the current wording of the clause sufficiently indicates when clause 15 will apply. Any changes may lead to confusion regarding the correct interaction between clauses 8 and 15. Additionally the AWU’s proposal differs from the entitlement in clause 15. The AWU proposes “All time worked by full-time and part-time employees in excess of **or outside of** the ordinary hours will be deemed overtime and paid in accordance with clause 15 – overtime.” (addition emphasised). This addition is not present in the current award¹ nor in the exposure draft’s overtime clause.² On these grounds Business SA cannot support the AWU’s proposal.

8.26 Business SA respectfully disagrees with the NFF’s suggestion to retain definitions in the body of the award. Business SA considers the award easier to understand and navigate if all relevant definitions are contained in the same schedule, rather than scattered throughout the award. Any use of these terms outside this schedule should clearly refer the reader to the definitions to avoid any ambiguity or confusion about important terms.

¹ *Horticulture Award 2010* cl 22.1(d).

² *Horticulture Award 2016* cl 8.1(iv).

9.0 Legal Services Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
9.1	AiG	AiG	[340]-[342]	6.4(a)(ii)	Part-time employment	Agree
9.2	AiG	AiG	[343]	6.4(a)(iii)	Part-time employment	Agree
9.3	AiG	AiG	[344]	8.1(d)(i)	Rostered days off	Agree
9.4	AiG	AiG	[345]-[348]	10.1	Minimum wages – Employee classification	Agree
9.5	Institute of Legal Executives	Submission – Legal Services Award	[1]	10.1	Minimum wages – Employee classification	Disagree see below at 9.10
9.6	ABI	ABI	[10.5]	11.2(b)	Allowances – Meal allowance	Agree
9.7	AiG	AiG	[350]	13.3(a)	Early morning, afternoon and night shift penalties	Agree
9.8	ABI	ABI	[10.2]-[10.4]	Schedule G	Definitions – Legal services industry	Agree
9.9	AFEI	AFEI	[22]	Schedule G	Definitions – Legal services industry	Disagree see below at 9.11

9.10 Business SA cannot support the Institute of Legal Executives’ (ILE) proposal as it does not accord with the modern awards objective, it may be in breach of the *Fair Work Act* and it does not properly apply to South Australian businesses. These are discussed in turn.

Business SA submits the proposal put forward by the ILE does not meet the modern awards objective,³ particularly in regards to subsections (1)(f) and 1(g). By requiring a ‘Level 7 – Legal Executive’ be a Fellow of the Institute of Legal Executives (Victoria) a substantial regulatory burden will be imposed on both employers and employees and would cause unnecessary complexity

³ *Fair Work Act 2009* (Cth) s 134(1).

within the *Legal Services Award 2015*. Should the ILE wish to establish this new classification is necessary, it must demonstrate the proposal meets the modern awards objective and establish a work value justification for the change.⁴

Business SA is also concerned that the ILE's proposal would amount to an objectionable term which would not be permitted in the *Legal Services Award 2015*.⁵ An objectionable term under the *Fair Work Act* (the Act) is deemed to include terms which are a contravention of Part 3-1 – General Protections.⁶ Part 3-1 includes protection of an employee's freedom of association, allowing them to become, or not to become, members of industrial associations.⁷ An industrial association is defined in the *Fair Work Act* as:

“an association of employees, or independent contractors, or both, (whether formed formally or informally), a purpose of which is the protection and promotion of their interests in matters concerning their employment or their interests as independent contractors”⁸

To access the proposed 'Level 7 – Legal Executive' classification the employee is forced to be a Fellow of the Institute of Legal Executives (Victoria). The ILE website states one function of the body is to “[make] a number of Submissions to Government on an ongoing basis. Some are to ensure the continued recognition of the Institute and its members, whilst others are made for the benefit of the wider community.”⁹ The ILE fits the Act's definition of an industrial association. By requiring a 'Level 7 – Legal Executive' be a member of an industrial association the ILE's proposal would breach an employee's freedom of association and constitutes an objectionable term under the Act.¹⁰ This cannot be included in a modern award.¹¹

⁴ *Fair Work Act 2009* (Cth) s 135(1)(a).

⁵ *Fair Work Act 2009* (Cth) s 150.

⁶ *Fair Work Act 2009* (Cth) s 12.

⁷ *Fair Work Act 2009* (Cth) s 336(1)(b)(i).

⁸ *Fair Work Act 2009* (Cth) s 12.

⁹ Institute of Legal Executives, *What does the Institute do?* <<http://www.liv.asn.au/LegalExecutives/What-does-the-Institute-do.aspx>>.

¹⁰ *Fair Work Act 2009* (Cth) ss 336(1)(b)(i), 12.

¹¹ *Fair Work Act 2009* (Cth) s 150.

Finally, Business SA must object to the ILE's proposal on the basis that it is not appropriate for a national modern awards system. The modern awards objective makes clear the intention for modern awards to be suitable for Australia.¹² The ILE is a Victorian institution which, if its proposal was adopted, would require Level 6 – Law Clerks from all parts of the nation sit their Examination in Legal Ethics or equivalent.¹³ These equivalent courses are undefined in the ILE's submission leaving employees from all States and Territories with little option but to undertake the Victorian exam. Given Business SA's primary obligation is to South Australian business we cannot support this Victoria-centric classification regime.

- 9.11** Business SA respectfully disagrees with the AFEI's proposal to remove the definition of legal services industry from Schedule G. Business SA submits defined terms should primarily sit in the definitions schedule and any references to these definitions in the body of the award should refer the reader to this schedule. This ensures readers will not have to scour the award for a defined term, all definitions will be in the specific schedule.

¹² *Fair Work Act 2009* (Cth) s 134(1)(g).

¹³ Institute of Legal Executives [Submission – Legal Services Award](#) p2 [1(d)].

10.0 Nursery Award 2016

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
10.1	AWU	AWU submissions on the Exposure Draft for the Nursery Award 2016 (AWU N Sub)	[5]	5.2	Facilitative provisions	Agree
10.2	ABI	ABI	[18.4]	6.3, 9.2(a)	Full-time employees, ordinary hours of work	Agree
10.3	AFEI	AFEI	[27]-[28]	6.4(i)(ii)	Part-time employees – Rosters	Agree
10.4	AWU	AWU N Sub	[10]	10.2(a)	Paid rest breaks	Agree
10.5	AWU	AWU N Sub	[11]	11.1(b)	Minimum wages	Disagree see below at 10.7
10.6	AWU	AWU N Sub	[16]	Schedule H	Definitions – nursery industry	Disagree see below at 10.8

10.7 Business SA disagrees with the AWU’s submission regarding the inclusion of the word ‘ordinary’ in clause 11.1(b). The current award does not include the word ‘ordinary’ in its equivalent clause.¹⁴

10.8 Business SA reiterates its position regarding definition schedules. Business SA submits the definitions schedules serve an important purpose and any defined terms should be primarily found in these schedules. To avoid confusion or the risk of inconsistent definitions the reference to nursery industry in clause 3.2 should directly refer the reader to the Schedule H definition.

¹⁴ *Nursery Award 2010* cl 15.2.

11.0 Pastoral Award 2016

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
11.1	NFF	NFF Submissions on Exposure Draft – Pastoral Award 2016 (NFF P Sub)	[12]	1.4	Title and commencement – Definitions	Disagree – see above at 8.27
11.2	AWU	AWU submissions on the Exposure Draft for the Pastoral Award 2016 (AWU P Sub)	[5]	5.2	Facilitative provisions	Agree
11.3	NFF	NFF P Sub	[26]	6.3(b)	Full-time employees	Agree
11.4	NFF	NFF P Sub	[27]	6.4(b)	Part-time employment	Agree
11.5	NFF	NFF P Sub	[28]	6.4l	Part-time employment	Agree
11.6	AWU; NFF	AWU P Sub ; NFF P Sub	[8]; [29]	6.5(a)	Casual employment	Agree
11.7	AWU	AWU P Sub	[9]	6.5l(i)	Casual employment – casual pieceworkers	Agree
11.8	AWU	AWU P Sub	[10]	7	Breaks	Agree – see below at 11.38
11.9	NFF	NFF P Sub	[36]-[38]	7.1(c)	Breaks – Meal break	Agree
11.10	AFEI	AFEI	[31]	10.1(b)	Wage related allowances – Leading hands	Agree
11.11	AWU	AWU P Sub	[13]	10.1(c)	First aid allowance	Agree
11.12	NFF	NFF P Sub	[44]	10.1(e)	Wet weather clothing and footwear	Agree
11.13	NFF	NFF P Sub	[50]	14.4	Annual leave loading – Other than shiftworkers	Agree

11.14	AWU	AWU P Sub	[16]	14.4(a)(i)	Annual leave loading – Other than shiftworkers	Agree
11.15	AWU	AWU P Sub	[17]	14.8	Proportionate leave on termination	Disagree – see below at 11.39
11.16	AWU	AWU P Sub	[18]	18.2(b)	Substitution of certain public holidays	Agree
11.17	NFF	NFF P Sub	[56], [72], [82]	24.2, 29.2, 36.2	Junior wages	Agree
11.18	AWU	AWU P Sub	[21]	25.3(a)	Special allowances	Agree
11.19	AWU	AWU P Sub	[25]	27.4	Time off instead of payment for overtime	Disagree – see below at 11.40
11.20	NFF; AWU	NFF P Sub ; AWU P Sub	[65]; [26]	27.5	Overtime – Time off instead of overtime	Agree
11.21	NFF	NFF P Sub	[71]	27.6	Public holidays	Agree
11.22	AWU	AWU P Sub	[32]	31.2(e)	Ordinary hours and roster cycles – shiftworkers	Agree
11.23	AWU	AWU P Sub	[33]	32.2	Overtime and penalty rates	Agree
11.24	AWU	AWU P Sub	[34]	32.6	Overtime and penalty rates	Agree
11.25	AWU	AWU P Sub	[35]	32.9(a)	Paid breaks during overtime – Meal break	Agree
11.26	AWU	AWU P Sub	[39]	38.1(a)	Overtime	Agree
11.27	AWU	AWU P Sub	[41]	39.2(c)(ii)	Minimum daily payment	Agree
11.28	NFF	NFF P Sub	[88]-[90]	40.3	Rates for crutching	Agree
11.29	AWU	AWU P Sub	[44]	41.2	Allowance where sleeping quarters are not provided	Agree
11.30	NFF	NFF P Sub	[99]-[100]	42.3(a)(ii)	Allowance for delays for Woolclassers paid at piecework rate	Agree
11.31	NFF	NFF P Sub	[103]	44.2(b)	Special conditions relating to shed employees – Where there is a joint mess	Agree

11.32	NFF; AWU	NFF P Sub ; AWU P Sub	[104]; [45]	44.7	Allotment of sheds	Agree
11.33	NFF	NFF P Sub	[105]-[106]	45	Hours of work and overtime rates for Shed hands and Woolpresser-shed hands	Agree
11.34	NFF	NFF P Sub	[114]	Sch B.1	Ordinary hourly rate	Agree
11.35	NFF	NFF P Sub	[115]	Sch B.2.3	Full-time and part-time adult station cooks – additional overtime rates	Agree
11.36	NFF	NFF P Sub	[117]	Sch B.4	Pig Breeding and raising – piggery attendant employees	Agree
11.37	NFF	NFF P Sub	[124]-[125]	Sch C.2.2	Adjustment of expense-related allowances	Agree

- 11.38** While Business SA agrees with the AWU's submission regarding clause 7, the proposed wording is unclear and may confuse readers. A succinct reference to the specific clause mentioned by the AWU should be made.
- 11.39** Business SA disagrees with the AWU's submission to amend clause 14.8. The wording, as proposed, can be interpreted too broadly.
- 11.40** Clause 27.4 serves an important function in this award and Business SA cannot support its deletion. Business SA further submits deletion would be a substantive change.

12.0 Sporting Organisations Award 2015

Number	Party/Parties	Document/s Link	Reference	Exposure Draft Clause	Clause Title	Business SA Response
12.1	AWU	AWU Submissions on the Exposure Draft for the Sporting Organisations Award 2016 (AWU SO Sub)	[4]-[5]	6.5(a)	Casual employment	Agree – see below at 12.3
12.2	AWU	AWU SO Sub	[8]-[10]	10.2(b)(i)	Minimum wages – clerical and administrative staff	Disagree – see below at 12.4

12.3 Business SA agrees with the AWU on this matter to the extent of any inconsistency with the *Fair Work Act 2009* (Cth).

12.4 Business SA refers to our [previous submission](#) at paragraph 13.2.1 regarding this clause.

Working for your business.
Working for South Australia

