

### SUMMARY OF SUBMISSIONS ON FURTHER REVISED EXPOSURE DRAFT

This table is a summary of reply submissions lodged for this award after the 23 October 2015 decision [\[2015\] FWCFCB 7236](#) and in response to the Further Revised Exposure Draft published on [30 October 2015](#). The summary includes submissions received before 23 September 2016.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	AIG	<a href="#">Sub-20/11/15</a>	3.8		<b>Coverage</b> The text found at clause 3.8 is a note and therefore should not be given a clause number.	288	Error – ED amended
	AWU	<a href="#">Reply-04/12/15</a>			Agree with AIG	4	
2.	AIG	<a href="#">Sub-20/11/15</a>	6.4(b)(ii)		<b>Casual employees</b> Clause should be deleted – not in current award and is unnecessary and problematic. Submit same concern raised by ACTU and other unions.	289	Clause deleted in accordance with [69] of <a href="#">[2014] FWCFCB 9412</a>
	AWU	<a href="#">Reply-04/12/15</a>			Agree with AIG	5	
3.	AIG	<a href="#">Sub-20/11/15</a>	8		<b>Ordinary hours of work and rostering</b> Ordinary hours of work provisions do not meet requirements of s.147 of the Act. Propose clause 8.2(a) be amended by inserting the words ‘up to’ after the words ‘average of’.	290 and generally 30–33	
	AWU	<a href="#">Reply-04/12/15</a>			Not opposed	6	
4.	AMWU	<a href="#">Sub-23/11/15</a>	6.3(c) and 8.2(c)		<b>Part-time employees and Ordinary hours—shiftworkers</b> Reiterate claim that clause is ambiguous. Refer to paras 10–14 of its <a href="#">submission-20/11/15</a> re AM2014/75. Submit cross-reference	1–4	Refer to <a href="#">sub-25/11/14</a>

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					to clause 22.2 should be added to clauses 6.3(c) and 8.2(c). Intend to submit a list of awards which it believes are affected by this clause for consideration at the conclusion of the Award Stage.		
	ABI/ NSWBC	<a href="#">Reply-07/12/15</a>			Inclusion of a cross-reference to clause 22 is unnecessary.	3.1	
	AIG	<a href="#">Reply-Sub-07/12/15</a>			Disagree with AMWU – clauses should not be varied to include cross-reference to clause 22.2.	162–173	
5.	AWU	<a href="#">Sub-23/11/15</a>	9.1(b)		<b>Unpaid meal breaks</b> Submit change in ED to ‘ordinary hourly rates’ from ‘ordinary time rates’ could technically result in non-continuous shift workers losing their shift loading when they continue working for more than 5 hours without a meal break. Submit this arises because definitions of ‘ordinary hourly rate’ and ‘minimum hourly rate’ proposed by the FB ( <a href="#">[2015] FWCFB 4658</a> at [42]) do not include shift allowances. Submit definition of ‘Applicable rate of pay’ could be inserted (as for AM2014/75 – see <a href="#">[2015] FWCFB 7236</a> at [103]) and clause amended – alternatively, reference to ‘ordinary time rates’ could be retained.	4–7	

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	ABI/ NSWBC	<a href="#">Reply-07/12/15</a>			Agree with AWU and refer to <a href="#">[2015] FWCFB 7236</a> at [102]–[104].	3.2	
	AIG	<a href="#">Reply-Sub-07/12/15</a>			Strongly oppose AWU submission. Do not oppose retention of words ‘ordinary time rates’ in the alternative and refer to its <a href="#">submission</a> of 20/11/15 – section 6.1 re AM2014/75.	174–175	
6.	AWU	<a href="#">Sub-23/11/15</a>	10.6(a)		<b>Higher duties</b> Reference to ‘A full-time employee engaged on duties...’ should be changed to ‘ <u>An</u> employee engaged on duties...’ (in accordance with paragraph [171] of <a href="#">[2015] FWCFB 7236</a> ).	8	Error – ED amended
	ABI/ NSWBC	<a href="#">Reply-07/12/15</a>			Agree with AWU	3.3	
	AIG	<a href="#">Reply-07/12/15</a>			Agree with AWU	176	
7.	AIG	<a href="#">Sub-20/11/15</a>	11.2(a)		<b>First aid allowance</b> Clause should be amended by inserted ‘who is’ after the words ‘an employee’ to make clear the employee is only entitled to allowance during the period where the employee is appointed as a first aid officer in accordance with the clause. That is, payment of allowance does not extend to circumstances in which an employee was once appointed, but is no longer.	291	

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	AWU	<a href="#">Reply-04/12/15</a>			Change unnecessary	7	
8.	AIG	<a href="#">ReplySub-23/11/15</a>	11.2(d)		<b>Wage related allowances - Respirator</b> Typo- the words 'is' should be inserted after the words 'while the employee'.	291	Drafting error – ED amended
	AWU	<a href="#">Reply-04/12/15</a>			Agree with AIG	8	
9.	AIG	<a href="#">Sub-20/11/15</a>	13		<b>Penalty rates</b> Clause heading should be 'shiftwork' consistent with terminology used at clause 13.2 (which reflects clause 23.3(f) of current award).	293–294	
	AWU	<a href="#">Reply-04/12/15</a>			Propose heading be amended to read 'Penalty rates—shiftwork'. Amendment allows clause 15.3(e)(ii) to remain unchanged as per paragraph 11 of submission re 15.3(e).	13	
	AIG	<a href="#">ReplySub-31/08/16</a>			The heading for clause 13 is 'Penalty rates'. Clause 13.2 refers to 'shift allowances' but the clause contains rates, not allowances. Clause 15.3(e)(ii) refers to 'penalty rate payments'.	37	Linked to item 12
10.	AWU	<a href="#">Reply-05/11/15</a>	13.1(a)(iv)		<b>Penalty rates</b> Maintain second dot point in clause should be deleted. Do not intend to file additional material in support of variation – submit self-evident.		ED amended in red text to reflect agreed change.
	AIG	<a href="#">Reply-07/12/15</a>			Do not oppose AWU submission.	177	

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					Propose wording in submission.		
11.	AIG	<a href="#">Sub-20/11/15</a>	14.2		<b>Overtime</b> Second column in heading row should be amended to delete the word 'time' after the word 'Overtime', and the words '% of the minimum hourly rate' should be added after the words 'Overtime rate'.	295	Drafting error – ED amended
	AWU	<a href="#">Reply-04/12/15</a>			Agree with AIG	10	
12.	AIG	<a href="#">Sub-20/11/15</a>	15.3(e)(ii)		<b>Annual leave</b> Second dot point should be amended to ensure proper identification of shift premiums which are characterised as 'shift allowances' rather than 'penalties' under clause 13.2 of the ED. Propose wording: 'the <u>shift allowance including relevant weekend penalty rates payments</u> the employee would have received...'	296–297	Linked to item 9
	AWU	<a href="#">Reply-04/12/15</a>			Wording proposed by AIG is unclear given ordinary hours cannot be worked on the weekend under this award. Wording should remain unchanged and the heading of clause 13 amended – see item 9 above.	11	
13.	AWU	<a href="#">Sub-23/11/15</a>	20.2		<b>Termination of employment</b> Typo – provision should read '...the employer may withhold <u>from any</u>	9	Drafting error - ED amended.

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					money due to the employee on termination...'		
	ABI/ NSWBC	<a href="#">Reply-07/12/15</a>			Agree with AWU	3.4	
	AIG	<a href="#">Reply-07/12/15</a>			Agree with AWU	178	

**List of abbreviations (in alphabetical order)**

ABI/NSWBC	Australian Business Industrial and NSW Business Chamber
AIG	Australian Industry Group
AWU	The Australian Workers' Union
ED	Exposure Draft of <i>Pharmaceutical Industry Award 2010</i>