## 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 has been updated following the Conference on 4 August 2016 [PN398–604]. Updates since last publication on 24 June 2016 are marked in red text.

The summary does not include materials filed in relation to AM2016/5 – regarding award coverage and classification see Statement [2016] FWC 1191.

ITEM	PARTY	DOCUMENT	CLAUSE (Exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	MIAL	<u>Sub – 14/04/16</u>	3.2	4	Coverage Subject to review in AM2016/5. Consequential amendments to coverage may be necessary.	Page 2	To be determined by Full Bench – Mention <u>6 June 2016</u> [PN207].
							Confirmed above at conference 4 August 2016 [PN405–408].
2.	SeaSwift	Sub – 12/04/16	3.2	4.1	Coverage Delete word 'above' and insert 'following'.	Page 3	To be dealt with after Full Bench – Mention 6 June 2016
	MUA	Sub - 14/04/16			Change 'above awards' to 'awards identified in clause 3.3'.	Page 4, item 1	[PN208].
	MIA	<u>Sub - 14/04/16</u>			Referencing anomaly at clause 3.2.	Page 2	Confirmed above at
	SeaSwift	<u>Sub - 15/04/16</u>			Referencing error at clause 3.2.	Item 65	conference <u>4 August</u>
	AWU	Reply-5/05/16			Agrees with MUA, MIAL	Para 12, 13	2016 [PN405–408].
3.	SeaSwift	<u>Sub - 12/04/16</u>	3.3	4.1	Coverage	Page 3	To be determined by
					Delete '(f) the Seagoing Industry Award		Full Bench –
					2016; and', and renumber accordingly.		Mention 6 June 2016
		Sub - 15/04/16			Seeks clearer demarcation between	Items 66 – 68	[PN207].
					Seagoing, Maritime and PHEWV		
					Awards. Deletion of exclusions will		Confirmed above at

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	AMOU	Sub - 05/05/16			nullify any contention contract towage operations are not covered by award by virtue of an exclusion referring to employees wholly or substantially covered by another award. This would remove ambiguity and uncertainty.  Seek application be dealt with by Full Bench in AM2016/5.  Opposed to SeaSwift claim.	p. 1	conference 4 August 2016 [PN405–408].
4.	MUA SeaSwift MUA	Sub - 14/04/16 Sub - 12/04/16 Sub - 14/04/16	3.3	4.1	Opposes SeaSwift proposal  Coverage Insert a new clause 3.3(a). Draft clause provided in submission.  Oppose SeaSwift proposal	Page 4, item 2 Pages 3 - 4 Page 4, item 2	To be determined by Full Bench – Mention 6 June 2016 [PN208].
							Confirmed above at conference 4 August 2016 [PN405–408].
5.	AIMPE	<u>Sub-02/03/15</u>	3.3	4.1	Coverage Because of how the coverage clause is drafted, Inshore Enterprise Agreements incorrectly refer to this award. Award's coverage broader than it should be. Propose number of changes to coverage.	Para 1	Withdrawn – Mention 6 June 2016 [PN214-15]  Confirmed matter is withdrawn. Conference 4 August 2016 [PN405–408].
6.	AWU	<u>Sub – 18/04/16</u>	6.4(g)	10.4(f)	Part-time Reference to 'regular' part-time employee unnecessary and creates	Para 6	Not opposed – Mention <u>6 June 2016</u> [PN219].

AM2014/241

ITEM	PARTY	DOCUMENT	CLAUSE (Exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
			diaity	awaru)	ambiguity. There is no other type of part-time employee.		Confirmed that matter is being dealt with by Part-time and Casual Employment Full Bench in AM2014/196 and AM2014/197. Conference 4 August 2016 [PN405–408].
7.	MUA	Sub - 14/04/16	6.4(h)	10.4(g)	Part-time overtime  Parties are asked to make submissions on how clause 6.4(h) applies. In particular, how does a part-time employee work additional hours that aren't overtime hours?  Provision based on AN120376. Words 'excluding any additional hours' is confusing in context of MA. Words should be deleted.	Item 1	To be referred to conference – Mention 6 June 2016 [PN222].  Directions for the filing of further material will be issued. Conference 4 August 2016
	BusSA	Sub-15/04/16 Sub-18/04/16			If wording 'additional hours' is kept, a definition should be inserted into Sch D. Historically 'additional hours' systems were agreed between employers and unions. Commission should seek feedback as to whether the system still operates in the industry.  Overtime is payable outside ordinary	12.1.1 Paras 2 – 4	[PN423–458].

ITEM	PARTY	DOCUMENT	CLAUSE (Exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
					hours. Proposed amended clause contained in submission.		
	AWU	Reply-5/05/16			Agree with MUA's submission, clause is confusing. Agrees with BusSA's proposal for 'additional hours' to be defined in award, rather than AWU submission Sub	Para 1	
	MIAL	Reply-5/05/16			- 18/04/16 at para 4.  Part-time employee may work additional hours within span of hours defined in cl.7.2. AWU submission would facilitate this practice.	Page 1	
8.	FWO	Corr-02/03/15	6.5(b)(i)	10.3(b)	Casual loading Unclear whether casual loading applies instead of, or in addition to overtime and shiftwork rates.	Item 30 page 8	Being dealt with by Part-time and Casuals Full Bench in AM2014/196 and
	AWU	Sub-18/04/16			Casual loading applies on overtime hours in accordance with award. Propose same wording as <i>Building MA</i> .	Para 5	AM2014/197.
	MUA	Sub-28/05/15			Proposes to add after 'loading which incorporates the casual employees' entitlements to annual leave, annual leave loading and any other rates and allowances contained in this award except overtime and shift allowances'.	Page 1	
	MUA	<u>Sub – 14/04/16</u>			Suggest amendment to clarify casual loading is in addition to overtime and shiftwork penalties.	Item 11	Proposed clause at item 11 of submission.
	AWU	Reply – 5/05/16			Agrees with MUA's proposal.	Para 11	

ITEM	PARTY	DOCUMENT	CLAUSE (Exposure	CLAUSE (current	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
			draft)	award)			
9.	FWO	<u>Corro-</u> <u>02/03/15</u>	7.2	18.2	Ordinary hours Unclear under which circumstances an employee can work ordinary hours on Saturday or Sunday, given cl. 20.1(b) and 20.3 refer to ordinary hours worked on Saturday or Sunday, whereas cl. 18.2 states ordinary hours can be worked Monday to Friday.	Item 31 page 8	To be referred to conference – Mention 6 June 2016 [PN222].  Linked to item 23. Directions for the filing of further material will be issued. Conference 4 August 2016 [PN459–493, PN594 and PN598–602].
10.	MUA BusSA	Sub - 15/04/16	8.2 to 8.4	19	Breaks  Parties should make submissions to clarify which of the breaks in clauses 8.2 to 8.4 are paid and which are unpaid.  Clause based on AP816677 breaks clause and did not specify which breaks were paid. Suggest all breaks (cl.8.2, 8.3, 8.4) unpaid. No payment for breakfast break consistent in context of option to convert it to a paid 20 minute break.  Meal breaks in cl. 8.2-8.4 are unpaid.	Item 2	Agreed breaks are unpaid – Mention 6  June 2016 [PN225-28].  Agreed – ED amended to clarify breaks are unpaid. FWC query removed.  Conference 4 August
	AWU AWU	Sub – 14/04/16 Sub – 18/04/16 Reply –			Meal breaks in cl. 8.2-8.4 are unpaid.  Meal breaks in cl. 8.2-8.4 are unpaid.  Where breaks are not taken, payment as per 8.2(c) apply.  Agree with MUA, MIAL, BusSA. All	Page 3, paras 2  - 3  Para 2, 14, 22	2016 [PN411–412].

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		<u>5/05/16</u>			parties agree these breaks are unpaid.		
11.	AIMPE	Sub-02/03/15	9.1	13.1	Wages Incorrect relativity between rate of pay for Master and Engineer. Seeking parity between Engineer classification at 100% relativity and Master.	Para 2	To be referred to a separately constituted Full Bench for determination – AM2016/5.
12.	MUA	<u>Sub – 14/04/16</u>	9.1	13.1	Wages – crane driver  Parties are asked to clarify payment for a crane driver at 20 tonnes.  Rate sourced from AN120350, which only provided for rates over and under 20 tonnes. Propose a driver of 20 tonne crane be paid higher rate. Amend wording to "Crane Driver (20 tonnes or over)".	Item 3	Not agreed – will be addressed after Full Bench has determined coverage issue in AM2016/5. Conference 4 August 2016 [PN413–421 and PN494–547].
	BusSA	<u>Sub – 15/04/16</u>			Will seek member feedback regarding appropriate rate of pay for Crane Driver at 20 tonnes.	12.2.3	
	AWU	<u>Reply – 5/05/16</u>			Agree with MUA, crane diver of a 20 tonne crane should be paid the higher rate. AWU reserves position pending BusSA submission.	Para 3, 23	
	MIAL	<u>Reply – 5/05/16</u>			Submits, as identified by MUA, the schedule relating to crane drivers appears to derive from <i>Motor Boats and Small Tugs (State) Award</i> . MIAL submits clause to be amended to read 'under and including 20,000 tonnes'		

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13.	MUA	<u>Sub - 14/04/16</u>	9.1	13.1	Wages – classification definitions	Item 4.	To be dealt with by
					Parties are asked whether classification		Group 3 Full Bench
					definitions should be inserted in this		– Mention <u>6 June</u>
					award.		<u>2016</u> [PN234].
					Issue was raised during making of award.		
					Classifications definitions should not be		Not agreed – Parties
					inserted.		will be provided
	BusSA	<u>Sub - 15/04/16</u>			Supports insertion of classification	12.2.3	with a further
					definitions into award.		opportunity to
	MIAL	<u>Sub - 14/04/16</u>			This will be dealt with by full bench.	Page 2	comment after the
	AWU	<u>Sub - 18/04/16</u>			Classifications are not necessary.	Page 3, para 4	revised ED is
	AWU	Reply –			Agree with MUA	Para 4	published.
		<u>5/05/16</u>					Conference <u>4 August</u>
	MIAL	Reply –			MIAL notes other parties do not consider	Page 2	<u>2016</u> [PN547–555].
		<u>5/05/16</u>			definitions necessary, MIAL is content		
					with this position but reserves its position		
					should definitions currently contained in		
					the award change.		
14.	AWU	<u>Sub - 18/04/16</u>	9.3	14.27	Higher duties	Page 2, Para 1	Not opposed –
					Suggest the following change: " on		Mention <u>6 June 2016</u>
					duties work carrying a higher rate than		[PN237-41]
					their ordinary classification level".		
					Change would reflect that not all the		Not opposed, ED
					duties of the classification must be		amended –
					performed on each particular occasion.		conference <u>4 August</u>
							<u>2016</u> [PN421].

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15.	AWU	<u>Sub - 18/04/16</u>	10.1(d)	14.4	Allowances – dual capacity allowance This is an all-purpose allowance and should be expressed as an hourly rate. Suggest allowance reads "will be paid an allowance of \$4.68 [(0.58a per hour)]	Page 3, para 5	Not opposed – Mention <u>6 June 2016</u> [PN241-42] Not opposed, ED amended –
					an allowance of \$4.68 [(0.58c per hour)] for each day"		conference 4 August 2016 [PN421].
16.	MUA	Sub – 14/04/16	10.1(e), (f) and (o)	14.6, 14.7, 14.18	Allowances – uniforms, compensation for loss of personal effects, waiting orders  Parties are asked whether the allowances in clauses 10.1(e), (f) and (o) should be classed as expense related allowances.  Allowances for uniform and compensation for loss of personal effects should be classed as expense related allowances. Allowance for waiting orders is a work related allowance.	Item 5	Agreed – clauses 10.1(e) and (f) are expense related allowances and clause 10.1(o) is work related allowance – Mention 6 June 2016 [PN243].  Confirmed agreed –
	BusSA AWU AWU MIAL	Sub – 14/04/16  Sub – 15/04/16  Sub – 18/04/16  Reply–5/05/16  Reply – 5/05/16			These allowances should not be considered expense related allowances.  Note this submission is amended in reply sub see below.  Agrees with MUA.  Agree with MUA and BusSA, consistent with AWU submission.  Agrees with other parties. Clause 10.1(e) and (f) are expense related allowances, 10.1(o) is work related. This amends their previous position above.	Page 5  12.2.4  Page 3, para 6  Para 5, 15, 24	ED amended, FWC query removed. Conference 4 August 2016 [PN421].

ITEM		DOCUMENT	CLAUSE (Exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
17.	MUA	Sub – 14/04/16	10.1(j) now 10.1(h)	14.11	Allowances – Slipway etc. allowance This award does not provide for junior rates or a definition of junior. Should the allowance in clause 10.1(j) apply to all employees? Yes, replace 'A junior employee' with "An employee".	Item 6	Agreed – clause to be removed as no junior classification within the award – Mention <u>6 June 2016</u> [PN266-67].
	MIAL	<u>Sub - 14/04/16</u>			Allowance should be deleted given no provision for juniors.	Page 5	Confirmed agreed, ED amended, FWC
	MIAL	<u>Reply – 5/05/16</u>			Clause should be deleted, as allowance was only payable to juniors (under Deckhands (Passenger Ferries Launches and Barges) Award). PHEWV MA does not have juniors. Clause redundant.	Page 2	query removed. Conference <u>4 August</u> 2016 [PN421].
	BusSA	<u>Sub - 15/04/16</u>			Clause should apply to all employees.	12.2.5	
	AWU AWU	Sub – 18/04/16  Reply – 5/05/16			'A junior' should be replaced with 'An'.  Agree with MUA, MIAL, BusSA.	Page 4, para 8 Para 6, 16, 25	
18.	AWU	Sub – 18/04/16	10.1(n) now 10.1(k)	14.16	Allowance – Loading and discharge of cargo and supplies Clause does not provide coverage for part-time employees. Allowance should be expressed as a daily payment. Suggest amendment in submission.	Page 4, para 9	Not opposed – revision to be made to ED –Mention 6  June 2016 [PN268-73].  Confirmed not opposed, ED amended. Conference 4 August 2016 [PN421].

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19.	MUA	<u>Sub - 14/04/16</u>	10.1(o)(i)	14.18(a)	Allowances – Waiting orders	Item 7	To be discussed at
			now		Parties are asked whether clause 10.1(o)		conference –
			10.1(l)(i)		should be updated to take into account		Mention <u>6 June 2016</u>
					mobile phones.		[PN277].
					Retain current clause. No requirement to		
					provide mobile phones should be placed		Revised ED will be
					on employer.		published with the
	AWU	<u>Sub – 18/04/16</u>			It would be sensible to update clause to	Page 3, para 7	current clause.
					account for work-related calls whether on		Parties will be
					landline or mobile.		provided with a
	BusSA	<u>Sub - 15/04/16</u>			Clause should be updated to take account	12.2.6	further opportunity
					of mobile phones to reimburse employee		to file submissions
					for ringing in for orders.		should they wish to
	MIAL	<u>Sub - 14/04/16</u>			Allowance out of step with contemporary	Page 5	pursue this claim.
					society. Should be updated to provide		Conference <u>4 August</u>
		Reply –			reimbursement for phone call regardless of	Page 2	<u>2016</u> [PN555–577].
		<u>5/05/16</u>			<del>phone used.</del>		
					Given parties do not agree with their		
					proposal MIAL does not press it.		
	AWU	Reply –			Reply to MUA, AWU does not have a	Para 7, 26	
		<u>5/05/16</u>			strong opinion on clause. However		
					believes it sensible to update clause to		
					account for work related class whether on		
					mobile or landline. Agrees with MIAL.		
					Unsure of BusSA' submission whether		
					employer should not have to provide a		
					mobile phone or that employer should not		
					have to pay for calls on phone which are		
					not work related?		

ITEM	PARTY	DOCUMENT	CLAUSE	CLAUSE	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
			(Exposure draft)	(current award)		REFERENCE	
20.	MUA	Sub – 14/04/16	10.1(p)(iii)	14.20(c)	Allowances – Towing	Item 8	Opposed – Mention
			now	, ,	Parties are asked whether the references		6 June 2016
			10.1(n)(iii)		to 'normal wage' in clause 10.1(p)(iii)		[PN208].
					should be to 'ordinary hourly rate'		
					Replace "normal wage for each day" with		FWC will identify
					"ordinary rate of pay for each day" to		outstanding issues
					reflect language of ED. Proposed		when revised ED is
					reference to hourly rate inconsistent with		published and set out
					payment being for each day.		a short summary of
	BusSA	<u>Sub – 15/04/16</u>			Change to ordinary hourly rate not	12.2.7	the parties'
					appropriate. Clause does not apply for all		respective positions
					purposes and therefore should not be paid		thus far. Parties will
					at ordinary hourly rate.		be provided with a
	MIAL	<u>Sub – 14/04/16</u>			Award terminology should be consistent.	Page 5	further opportunity
		Reply –			Agrees with BusSA, would amount to	Page 2	to file submissions
		<u>5/05/16</u>			substantive change. No amendment.		and submissions in
	AWU	<u>Sub - 18/04/16</u>			'Normal wage' should be replaced with	Page 4, paras	reply. Conference
					'ordinary hourly rate' to incorporate any	11 – 12	4 August 2016
					applicable all-purpose allowances and to		[PN578–591].
					establish consistency with updated		
					language across modern awards. 'Normal		
					wage' not defined elsewhere in award.		
	AWU	Reply –			Agrees with MUA. Proposes 'ordinary	Para 8, 18, 27	
		<u>5/05/16</u>			hourly rate'. Agree with MIAL. Disagree		
					with BusSA, while allowance not an all-		
					purpose allowance, it must be paid in		
					addition to the allowances for all		
					purposes at subclauses (i) and (ii).		

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21.	MUA BusSA AWU	$\frac{Sub - 14/04/16}{Sub - 15/04/16}$ $\frac{Sub - 18/04/16}{Reply - \frac{5/05/16}{}}$	10.2(i)(ii) now 10.2(j)(ii)	14.26(b)	Allowances – Living away from home  Parties are asked whether 'attendances' can be replaced by an alternative work or term.  The word 'attendances' can be deleted.  Unsure of meaning of attendances in context of this clause. Provides two alternatives in submission.  Word 'attendances' can be removed.  Agrees with MUA. Notes BusSA submission, AWU prefers 'attendance' to be deleted. If not, to be replaced with 'eating utensils'.	12.2.8 Page 4, para 10 9, 28	Agreed – ED to be revised – 'attendances' to be replaced with 'eating utensils', further comment may be sought – Mention 6 June 2016 [PN283].
22.	AWU	<u>Sub – 18/04/16</u>	10.2(f) now 10.2(g)	14.22	Allowances – Transport Insert 'is' after the words 'employee who' in the clause.	Page 4, para 13	Not opposed – Mention <u>6 June 2016</u> [PN289-91].  Confirmed agreed, ED amended – conference of <u>4 August 2016</u> (PN423).
23.	MUA	Sub – 14/04/16	12.2	20.1	Overtime Parties are asked whether the span of ordinary hours in clause 7.2 should also be defined to clarify under what circumstances an employee can work 'ordinary hours' on a weekend. Repeat submissions of 28/05/15. Cl. 7.1	Item 10	Opposed – Mention 6 June 2016 [PN292- 93].  Linked to item 9.  Directions for the

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			urait)	awaru)	makes clear work on weekend is outside		filing of further
					span of ordinary hours. 12.2 should be		material will be
					amended as follows "Employees will be		issued. Conference
					paid the following fates for all overtime		4 August 2016
					and work on the weekend and public		[PN459–493, PN594
					holidays". The subheading in third line of		and PN598–602].
					table should be "Ordinary hours and		and 111370 002].
					overtime Weekend and Public Holidays".		
	BusSA	Sub – 15/04/16			Seeking advice from members on matter.	12.2.8	
	MIAL	Sub – 14/04/16			No need to define a span of hours given	12.2.0	
		<u>540 14/04/10</u>			the diversity of operations covered by		
					award. Span would create inflexibility.		
					Would be substantive issue.		
	AWU	Sub – 18/04/16			Span only applies to weekdays. Overtime	Pages 4 – 5,	
	11110	<u> </u>			on Saturday payable at 200% after three	para 14	
					hours, not penalty of 150%. Proposed	para	
					amendment in submission.		
	AWU	Reply –			Agree with amendments proposed by	Para 10	
		5/05/16			MUA to introduction and headings.		
					Reply to MIAL refers to proposed		
					amendments to cl.12 ( <u>Sub-18/04/16</u> para		
					14) which would leave clause 7.2 intact.		
	MIAL	Reply $- 5/05/16$			Disagrees with AWU. Would increase	Page 2	
					rate payable on Saturdays for any time		
					worked in excess of 3 hours. Rate for any		
					hours worked on Saturday is 150%		
					ordinary hourly rate. Proposes removing		
					reference to 'ordinary hours' in table and		
					refer to 'ordinary hours and overtime		

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				,	Weekend and Public holidays'.		
24.	MUA	Sub – 14/04/16	13.2	21.2	Shiftwork – Shiftwork rates  Parties are asked to make submissions on which rates apply to shiftwork on weekends. Issue of how casual loading applies in relation to shiftwork and weekend penalties has been referred to AM2014/197.  Repeat submissions of 28/05/15. Casual loading is in addition to overtime and shift rates. No amendment required.  Concerned that FWO think wording unclear. Cl.6–Casual employment should be amended.	Item 11	See above at item 8.
25.	BusSA	<u>Sub - 15/04/16</u> <u>Sub - 18/04/16</u>	13.2	21.2	Current ED does not provide for shiftwork on weekends. Span limited to ordinary hours Mon to Fri, 6 am – 6 pm with 8 hour work day. Should Cl.7.2 be amended to extend ordinary hours to weekends, appropriate rate would be 150% of ordinary hourly rate for first 8 hours, with an afternoon, night or permanent night shift attracting an additional rate through cl.13.2.  Casual loading applies in addition to overtime and shiftwork. Shiftwork rates not cumulative on weekend penalty rates. Shift work rates do not apply to work performed on weekends and public	12.2.10 Para 15	Has been referred to Part-time and Casuals Full Bench in AM2014/196 and AM2014/197 – Mention 6 June 2016 [PN296].

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					holidays.		
	AWU	Reply – 5/05/16			Agree with MUA, casual loading in addition to overtime rates. Agrees with BusSA, as per AWU <u>Sub-18/04/16</u> , shift work rates are not cumulative on weekend penalty rates and do not apply on weekends or public holidays.	Para 11, 30	
	MIAL	<u>Reply – 5/05/16</u>			Notes matter currently subject to  AM2014/197 – Casual employment full bench. Submits PHEWV Award does not provide for shiftwork rate on weekends.	Page 3	

## List of abbreviations (in alphabetical order)

AIMPE Australian Institute of Marine and Power Engineers

AMOU Australian Maritime Officers Union AWU The Australian Workers' Union

BusSA Business SA ED Exposure Draft

FWC Fair Work Commission FWO Fair Work Ombudsman

MA Modern Award

MIAL Maritime Industry Australia MUA Maritime Union of Australia

PHEWV Ports, Harbours and Enclosed Water Vessels

SeaSwift Sea Swift Pty Ltd