

SUMMARY OF SUBMISSIONS ON FURTHER 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.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
1.	AWU	Sub 24-11-15	6.4(c)(iii) (10.3(a)(i) in current award)	Casual employees – casual overnight charter employees – ED wording appears to remove entitlement to casual loading on overtime hours ('ordinary hours' reference). Current clause requires loading be paid on all hours worked. Submit redrafting to: '(iii) must be paid the minimum rate in clause 10.1 for the classification in which they are employed; and (iv) must be paid a casual loading of 25%'. Casual employees – casual non-overnight charter employees – Hours of work conditions for these employees are difficult to comprehend. Lack of certainty regarding work outside ordinary hours in 8.2(c) – current provisions indicate such hours would be neither ordinary hours nor overtime. To resolve, submit insert the following at end of 13.1: 'A casual employee is entitled to the above overtime rates for all time worked outside the span of ordinary hours in clause 8.2(c)'.	4	REMAINS OUTSTANDING.
2.	AWU	Sub 24-11-15	6.4(d) 8.2(c) 13.1	Casual employees – casual non-overnight charter employees – Hours of work conditions for these employees are difficult to comprehend. Lack of certainty regarding work outside ordinary hours in 8.2(c) – current provisions indicate such hours would be neither ordinary hours nor overtime. To resolve, submit insert the following at end of 13.1: 'A casual employee is entitled to the above overtime rates for all time worked outside the span of ordinary hours in clause 8.2(c)'.	6-10	REMAINS OUTSTANDING.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
3.	AWU	Sub 24-11-15	6.4(d)(iv)	Casual employees – casual non-overnight charter employees – To clarify casual employees receive casual loading on overtime, amend clause to: ‘for each hour worked must be paid the minimum hourly rate in accordance with clause 10.2 for the classification in which they are employed plus a loading of 25%’.	11	REMAINS OUTSTANDING.
4.	AWU	Sub 24-11-15	9.3(c)	Minimum break between rostered duty times – Consistent with amendments to other clauses (9.6 and 13.2), replace ‘ordinary rate’ with ‘minimum hourly rate’.	12	RESOLVED. Consistent with [43] of [2015] FWCFB 4658 amendment made to ED.
		Reply 4-12-15			p.1	
	BSA	Sub 27-11-15		Proposes same amendment.	17	
5.	AWU	Sub 24-11-15	17.3(b)(i)	Non-overnight Charter Employees – Consistent with amendments to other clauses (9.6 and 13.2), replace ‘ordinary rate’ with ‘minimum hourly rate’.	12	RESOLVED. Consistent with [43] of [2015] FWCFB 4658 amendment made to ED. (Submission references 17.3(c). Assumed the party intended to refer to 17.3(b)(i).)
		Reply 4-12-15			p.1	
	BSA	Sub 27-11-15		Proposes same amendment.	17	
6.	AWU	Sub 24-11-15	19.2	Notice of termination by employee – Drafting error. Amend second sentence to ‘...may withhold <u>from</u> any money due to the employee...’	13	RESOLVED. ED amended.
		Reply 4-12-15			p.1	
	BSA	Sub 27-11-15		Proposes same amendment.	18	
7.	AWU	Sub 24-11-15	Schedules	Appears to be no substantive reason why rates tables should not be included in Schedules.	14	REMAINS OUTSTANDING. Could be resolved by inserting hourly rates tables in ED.
	BSA	Reply 4-12-15			Makes same submission.	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
8.	AFEI	Sub 23-11-15	C.3.3	National Training Wage – not aware of any program which should not be covered by schedule C.	9	RESOLVED. No change needed.
9.	BSA	Sub 27-11-15	Sch D	Part-day public holidays – Should be amended in accordance with [2015] FWC 3317 and PR573679 .	19	RESOLVED. ED updated in accordance with PR580863 .

List of abbreviations (in alphabetical order)

AFEI	Australian Federation of Employers and Industry
AWU	The Australian Workers' Union
BSA	Business SA
ED	Exposure draft of <i>Marine Tourism and Charter Vessel Award 2010</i>
FWC	Fair Work Commission