

Please note: this summary was updated on 22 March 2017 to include the [ACTU submission in reply](#)

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
1.	<i>Accrual of wages–Proposed new term</i>				
	Mark Irving & Andrew Stewart	Submission – 15/12/16	<i>General</i>	Pg 1	<ul style="list-style-type: none"> Propose a new default term in all modern awards dealing with the accrual of wages as follows: “Wages accrue on a day to day basis.” This new term could be modified where industry circumstances require.
	SDA	Submission in reply – 2/02/2017	<i>General</i>	22	<ul style="list-style-type: none"> Support the submission of Irving and Stewart.
	ACTU	Submission – 21/12/16	<i>General</i>	8	<ul style="list-style-type: none"> Accept that awards should deal with when the entitlement to payment accrues. No concluded view about where the clause should sit but support the consideration of any clause for adaptation on an award by award basis.
	CFMEU (FFPD)	Submission – 21/12/16	<i>Timber Award</i>	Para 33	<ul style="list-style-type: none"> Support Irving and Stewart’s proposal to insert a model clause in respect to the basis upon which wages accrue, however have issue with unit of a ‘day’ and propose relevant unit is dealt with on a case by case basis. Support ACTU submission in regard to popular payroll practice of hours being rounded to 15 minute intervals. The <i>Timber Award</i> currently provides for hourly minimum rates of pay. NES entitlement to annual leave is calculated according to ordinary hours of work. Possible implications for flexi-time and TOIL. “Day” is not defined in the FW Act or the <i>Timber Award</i> and may have different meanings for different employees.
	CFMEU (M&E)	Submission – 22/12/2016		5	<ul style="list-style-type: none"> Agree with the need to ensure that all payments due for the relevant period are made. Submit that the wording necessary to ensure due payment may vary between awards and the issue may need to be addressed further.

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2.	<i>Model Clause: Payment of Wages: General</i>				
	SDA	Submission – 22/12/16		Pg 1	<ul style="list-style-type: none"> • Broadly supportive of the Commission developing a model clause for the payment of wages. • Strong preference that the Commission adopt the use of appropriately adapted model terms where payment arrangements currently exist. This provides clarity without changing existing entitlements and helps to ensure stability.
	Ai Group	Submission – 23/12/2016	<i>General</i>	5-13	<ul style="list-style-type: none"> • Submit that the implementation of any model term should be considered on an award by award basis, taking into account existing practices within particular industries and occupations. • Submit further that achieving a degree of standardisation across the awards system may assist in making awards simple and easy to understand. However, this factor alone does not warrant the making of significant change.
	NFF	Submission in reply – 22/02/2017		3	<ul style="list-style-type: none"> • Broadly supportive of the AiGroup submission dated 23 December 2016.
	Master Builders	Submission – 22/12/16		Para 2.1	<ul style="list-style-type: none"> • General view that these matters should be considered and addressed by Parliament in the first instance. • However, support the concept of a version of the model terms with appropriate amendments to be applied to the Group 4C Construction Awards.
	ABI & NSWBC	Submission – 6/01/2017	<i>General</i>	2.5-2.6	<ul style="list-style-type: none"> • Implementation of model term across all award not consistent with the modern awards objective. In principle, ABI have less difficulty with the model term being adapted on an award by award basis.

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	HIA	Submission – 16/12/16	<i>Building Award, Joinery Award and the Timber Award</i>	2.1	<ul style="list-style-type: none"> Support the provisional view that all modern awards should include a term providing for the method and frequency of payment as well as placing a limit on payment in arrears. Generally supportive of model term: payment of wages <i>and all other amounts</i> within 7 days, flexibility in determination of pay cycle, distinction between pay period and pay day and obtaining agreement for monthly cycle. Award specific tailoring appropriate e.g. <i>Timber Award</i>.
	CFMEU (M&E)	Submission – 22/12/2016			<ul style="list-style-type: none"> Submit that the current provisions in modern awards should not be unnecessarily disturbed. The issue should be addressed on an award by award basis.
	CFMEU (FFPD)	Submission – 21/12/16	<i>General</i>	31	<ul style="list-style-type: none"> Oppose the replacement of existing provisions with a model term wherever this results in detriment to workers.
	CFMEU (CG)	Submission – 22/12/16	<i>Building Award, Joinery Award and the Timber Award</i>	4-6	<ul style="list-style-type: none"> Generally supportive of the proposition that all modern awards should contain a provision that provides for the method and frequency of payment. Support the proposed approach of adapting provisions on an award by award basis.
	AMWU	Submission – 22/12/2016	<i>General</i>	2.1-2.4	<ul style="list-style-type: none"> Support and adopt the submissions of the ACTU. Submit that where payment arrangements already exist in an award, parties should be consulted prior to the insertion of the model term in an award.

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	TCFUA	Submission – 23/12/2016	<i>Textile Award and the Dry Cleaning Award</i>	2.3	<ul style="list-style-type: none"> Acknowledge that there may be some utility in the development of a model term however this should not have the effect of reducing existing conditions. Submit that the inclusion of a model term should be considered and adapted on an award by award basis.
	NatRoad	Submission – 22/12/16	<i>Road Transport and Distribution Award and the Long Distance Operations Award</i>	8	<ul style="list-style-type: none"> Wording and substance of provisional model term is supported on the basis of the modern awards objective.
	ABI & NSWBC	Submission in reply – 2/02/2017	<i>General</i>	2.1-2.11	<ul style="list-style-type: none"> Submit that in the context of a modern award safety net, it should not be assumed that uniformity equates with simplicity. Submit further that caution should be adopted before industry specific terms are replaced with a model term and that it is important that the impact of the model term is considered on an award-by-award basis. Submit that there are currently 34 awards that unconditionally permit the payment of wages to employees on a monthly basis. A list of these awards is attached to the submissions. The ABI submit that it is not aware of any issues that have arisen with these existing terms.
	ACTU	Submission in reply – 14/02/17	<i>General</i>	3	<ul style="list-style-type: none"> In relation to ABI & NSWBC submission at para 2.1-2.3 the ACTU observe that the decision at para [41] indicates the restrictions proposed were motivated by a concern to guard against inadvertent contraventions of s.323 of the Act.

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	SDA	Submission in reply – 2/02/2017		Para 8	<ul style="list-style-type: none"> Support the submissions of other parties that the ‘one size fits all’ approach is not appropriate.
3.	x.1(a) The employer must pay each employee no later than 7 days after the end of each pay period: (i) the employee’s wages for the pay period; and (ii) all other amounts that are due to the employee under this award and the NES for the pay period				
	Mark Irving & Andrew Stewart	Submission – 15/12/16	<i>General</i>	Pg 1 & Pg 7	<ul style="list-style-type: none"> Propose clause x.1(a)(i) (at para [34] of the Decision) be amended to read: ‘the employee’s wages for <i>accrued during</i> the pay period’.
	ACTU	Submission – 21/12/16	<i>General</i>	9	<ul style="list-style-type: none"> X.1(a)–The 7 day prescription may result in hardship for employees where the current interval is shorter. This should be dealt with on an award by award basis. X.1(a)(i)–Consider amending to “the employee’s wages that are due for the pay period” or “the employee’s wages accrued during the pay period” or similar.
	Ai Group	Submission – 23/12/2016		16-21 and 38-42	<ul style="list-style-type: none"> Submit that this represents a significant change to the safety net which has the potential to disrupt existing practices (eg annualised salary and pay averaging arrangements). Given the potential disruption of current arrangements and the absence of evidence establishing current pay practices, the Commission should not impose a uniform obligation in relation to payment in arrears. Submit that it is unclear what payments are to be captured by reference to ‘wages’. Concerned that this may include over-award payments. Suggest amending x.1(a) to: “The employer must, by no later than 7 days after the end of each pay period, pay each employee all amounts that are due to the employee under this award and the NES for the pay period.”

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	ACTU	Submission in reply – 14/02/17	<i>General</i>	4	<ul style="list-style-type: none"> In response to Ai Group’s submission, submit that contractual pay averaging or annualised salary arrangements are subject to s.323 of the Act Considerable risk that contractual arrangements may be found to be unenforceable. More desirable to have safety net in place that guards against inadvertent non-compliance while still providing for appropriate payment methods.
	ABI & NSWBC	Submission – 6/01/2017	<i>General</i>	2	<ul style="list-style-type: none"> Do not oppose the requirement for payment within 7 days after the end of the pay period in clause x.1(a)
	ABI & NSWBC	Submission in reply – 2/02/2017	<i>General</i>	3	<ul style="list-style-type: none"> Submit that the model term may be interpreted to regulate the payment of over-award payments. Over-award payments do not form part of the safety net and should not be subject to the model term. Propose that x.1(a)(i) be amended as follows: “(a) The employer must pay each employee no later than 7 days after the end of each pay period all amounts that are due to the employee under this Award or the NES.”
	NatRoad	Submission – 22/12/16	<i>Road Transport and Distribution Award and the Long Distance Operations Award</i>	6-11	<ul style="list-style-type: none"> Supportive of flexibility offered by this provisional term given current award provisions of ‘two days’ and ‘four days’ in the Transport Awards.
	TCFUA	Submission – 23/12/2016	<i>Textile Award and the Dry Cleaning Award</i>	3.4-3.6	<ul style="list-style-type: none"> X.1(a)–Oppose the introduction of a 7 day period for the receipt of payments. Submit that as a general principle, payment for wages and other amounts should occur at the end of the pay period or shortly thereafter. Practical operation of the ‘7 day period’ would be detrimental to employees in the TCF industry who are currently entitled to be paid

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					<p>weekly and no later than Thursday of any particular week.</p> <ul style="list-style-type: none"> This detriment is potentially exacerbated when an employee is part-time or a casual engaged on less than full time hours.
	CFMEU (FFPD)	Submission – 21/12/16	<i>Timber Award</i>	23	<ul style="list-style-type: none"> Provisional term's wider scope, '<i>and other amounts due</i>', may provide greater clarity in relation to employer's obligations to pay award entitlements. Submit that 7 days is too long for an employee to wait to be paid after the end of a pay period but do not express a concluded view at this stage.
	CFMEU (CG)	Submission – 22/12/16	<i>Building Award, Joinery Award and the Timber Award</i>	Paras 4-6	<ul style="list-style-type: none"> Not supported. A pay period may be up to a month, meaning employees may not receive payment of wages and other amounts for 5-6 weeks in some circumstances. Payment ought to occur within stipulated pay period.
	Ai Group	Submission in reply – 13/02/2017	<i>General</i>	6-9	<ul style="list-style-type: none"> Acknowledge that there may be some consequences for an employee at the point in time at which the first pay day falls after the model term takes effect. Submit that if the Commission considers that such a change would render the clause incapable of providing a fair and relevant safety net (which is not conceded), that issue should be dealt with in the context of specific awards in relation to which the issue arises.
	Master Builders	Submission – 22/12/16	<i>Construction Awards</i>	Para 4	<ul style="list-style-type: none"> Clause x.1 should be titled 'Payment of Wages' or 'Payment of Wages for the Pay Period' to avoid overlap with other provisions that deal with payments of amounts or entitlements arising elsewhere. Clause x.1(a)(ii) should be deleted for same reasons above. Alternatively, insert words 'and payable' after 'all other amounts that are due'.
4.	(b) An employee's pay period may be: (i) one week; (ii) two weeks; or				

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	(iii) subject to paragraph (e), one month.				
	ACTU	Submission – 21/12/16	<i>General</i>	9	<ul style="list-style-type: none"> • X.1(b)(iii)–could refer to x.1(e) and (f) to encourage consideration of all of conditions relevant to monthly payment. • Submit that consideration should be given to exempting casual employees from the option of monthly payment as their variable hours of work make payment in advantage problematic.
	Ai Group	Submission in reply – 13/02/2017	<i>General</i>	15-16	<ul style="list-style-type: none"> • Submit that the amendment to x.1(b)(iii) proposed by the ACTU is unnecessary and would render the clause unduly lengthy and confusing.
	TCFUA	Submission – 23/12/2016	<i>Textile Award and the Dry Cleaning Award</i>	3.7-3.9	<ul style="list-style-type: none"> • X.1(b)–Oppose this clause particularly in relation to the TCF award which currently requires weekly payment. Submit that there is no merit based justification for the inclusion of longer pay periods for award dependant, low paid workers in the TCF or dry cleaning and laundry industries.
	SDA	Submission – 22/12/16		Pg 1-2	<ul style="list-style-type: none"> • Concerned about introduction of monthly pay cycle in Awards where there is no existing provision. Would not provide safety net for low paid workers as most low paid workers live pay cycle to pay cycle and extending the pay cycle likely to be financially unmanageable for most. Would not meet modern awards objective; particularly detrimental to those employed on casual basis and those who work a low number of hours. • Supports and adopts submissions of ACTU.
	NFF	Submission in reply – 22/02/2017		5	<ul style="list-style-type: none"> • Oppose the ACTU proposal to exempt casual employees from the option of monthly payment.
	HIA	Submission in reply – 2/02/2017		2.13-2.15	<ul style="list-style-type: none"> • Oppose the ACTU proposal to exempt casuals from monthly pay.

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5.	(c) The employer must notify each employee in writing of their pay day and pay period.				
	ABI & NSWBC	Submission – 6/01/2017 And Submission in reply – 2/02/2017	<i>General</i>	4	<ul style="list-style-type: none"> • Oppose the requirement for written notification of the pay day and pay period in clause x.1(c). • Submit that the obligation to notify the pay day in writing may give rise to innocent non-compliance by small business, who commonly engage employees with little formality and without entering into a contract of employment.
	Ai Group	Submission – 23/12/2016	<i>General</i>	22-33	<ul style="list-style-type: none"> • Submit that it should not be accepted that it is necessary for every award to provide for the setting of a regular pay day and that imposing such a requirement will reduce existing flexibilities. • Submit that the requirement in x.1(a) that an employer must pay an employee within 7 days after the end of each pay period provides an outer limit and is sufficient. • A final decision should not be made in the absence of evidence about engagement practices in each industry affected by the proposed change. • The Commission should seek to minimise the regulatory burden flowing from awards.
	TCFUA	Submission – 23/12/2016	<i>Textile Award and the Dry Cleaning Award</i>	3.10	<ul style="list-style-type: none"> • X.1(c)–Do not oppose this provision on its face however, submit that it needs greater clarity as to when the obligation is triggered.
	TCFUA	Submission in reply – 3/02/2017	<i>Textile Award and the Dry Cleaning Award</i>	2	<ul style="list-style-type: none"> • Oppose the Ai Group’s submissions. • Submit that it is fair and reasonable for employees to have certainty in relation to their pay day and pay period.
	ACTU	Submission in reply – 14/02/17	<i>General</i>	5	<ul style="list-style-type: none"> • In response to Ai Group submission note the asserted inconvenience of committing to regular pay dates is at odds with submissions made by other employer parties. • Rely on TCFUA submissions.

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	CFMEU (FFPD)	Submission – 21/12/16	<i>Timber Award</i>	23	<ul style="list-style-type: none"> For notification to have practical benefit, “Prior to the commencement of the pay period”, or similar should be added to clause x.1(c).
	HIA	Submission 16/12/16	<i>Building Award</i>	2.1	<p><u>Application – AM2016/23</u></p> <ul style="list-style-type: none"> Clause 31.3 of the Onsite Award is a constant source of frustration for HIA members. Application to vary this is on foot (AM2016/23). See submission. Seeks to vary clause to provide for a fortnightly and if mutually agreeable, a monthly pay cycle. Also to protect employers when circumstances beyond their control prevent payment on pay day. Acknowledge these aspects are addressed in model term. Seeks guidance as to status of application in AM2016/23.
6.	<p>(d) Subject to paragraph (e), the employer may change an employee’s pay day or pay period after giving 4 weeks’ notice in writing to the employee.</p> <p>(e) An employer may only change from a one week or two week pay period to a one month pay period by agreement with affected employees. If employees in a particular classification were paid monthly prior to <i>[insert date of commencement of this clause]</i>, the employer may continue to pay employees in that classification monthly without further agreement.</p>				
	Mark Irving & Andrew Stewart	Submission – 15/12/16	<i>General</i>	Pg 7	<ul style="list-style-type: none"> Suggest that ‘paid monthly’ be changed to ‘paid monthly in accordance with this award’. This is so employees who were being paid monthly but should have been paid on another basis, aren’t unintentionally covered by this provision.
	ACTU	Submission – 21/12/16	<i>General</i>	9	<ul style="list-style-type: none"> X.1(e) and (f)–Endorse submissions of Irving and Stewart.
	CFMEU (FFPD)	Submission – 21/12/16	<i>Timber Award</i>	23	<ul style="list-style-type: none"> Submit that this provision is deeply concerning and gives employers carte blanche to change pay cycles from weekly to fortnightly and back again at will provided notice is given. Disrupts and disadvantages workers eg. – having to change direct debit arrangements. Submit any

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					changes to pay cycles require agreement between employer and a majority of employees or individual employee as the <i>Timber award</i> currently provides. If term is adopted, safeguards such as a requirement to consult amongst other things, should be built in.
	ABI & NSWBC	Submission in reply – 2/02/2017		5.1-5.3	<ul style="list-style-type: none"> • Oppose the submission of CFMEU (FFPD) proposing that changes to pay periods or pay days should only be allowed with the agreement of the majority of employees. Submit that such an approach is unnecessarily restrictive.
	CFMEU (CG)	Submission – 22/12/16	<i>Building Award, Joinery Award and the Timber Award</i>	4-6	<ul style="list-style-type: none"> • Submit that the ability of an employer to unilaterally alter a pay period by giving notice has potential to operate disadvantageously to employees, particularly the low paid who are reliant on consistent payment of wages. Should only be allowed with agreement of the majority of employees.
	Ai Group	Submission – 23/12/2016	<i>General</i>	43-48	<ul style="list-style-type: none"> • Submit that the model term restricts the operation of monthly pay periods and that there are no cogent reasons for such a restriction. • If the Full Bench does decide to restrict monthly payments, submit that an additional facilitative provision which allows for monthly payments with the agreement of a majority of affected employees. • Submit further that the reference to particular classifications in the saving provision in x.1(e) is too narrow and that that employers that currently use monthly pay periods should be allowed to continue such practices.
	ACTU	Submission in reply – 14/02/17	<i>General</i>	6	<ul style="list-style-type: none"> • A tailoring of the model term on an award by award basis would seem to address Ai Group's concern. • Ai Group do not mount an evidentiary case in support of allowing monthly payment arrangements outside of industries where it currently occurs.
	ABI & NSWBC	Submission – 6/01/2017	<i>General</i>	2	<ul style="list-style-type: none"> • Oppose the grandfathering arrangement in clause x.1(e) which is also referred to in x.1(b) and x.1(d)

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					<ul style="list-style-type: none"> Do not oppose the balance of x.1(d)
	Master Builders	Submission – 22/12/16	<i>Construction Awards</i>	Para 4	<ul style="list-style-type: none"> In clause x.1(e) reference to a ‘particular classification’ is unnecessary and may restrict operation of term as proposed.
	Master Builders Australia	Submission in reply – 2/02/2017	<i>Building Award and the Joinery Award</i>	Para 2.1-2.4	<ul style="list-style-type: none"> Submit that the CFMEU submission is misleading. Under the model term employees would only be paid monthly where such an arrangement is already in place or where there is an agreement between the employer and employee for monthly pay. The model clause requires that, where an employee is paid monthly, 2 weeks must be paid in advance. Therefore the clause operates to limit the amount of entitlements held in arrears.
	NatRoad	Submission – 22/12/16	<i>Road Transport and Distribution Award and the Long Distance Operations Award</i>	6-11	<ul style="list-style-type: none"> Provisional term in relation to changing weekly pay to monthly pay is too large a change given current industry practices. <u>“...all other amounts that are due”</u> <ul style="list-style-type: none"> Submit that proposed wording in provisional term be adopted.
	TCFUA	Submission – 23/12/2016	<i>Textile Award and the Dry Cleaning Award</i>	3.11-3.17	<ul style="list-style-type: none"> X.1(d)–Strongly oppose this term and submit that any changes to pay periods should be by genuine agreement between an employer and employees. Under the proposed x.1(d) there is nothing to prevent an employer unilaterally altering an employee’s pay period multiple times in any year as long as the 4 weeks written notice is given. X.1(e) and x.1(f)–Strongly oppose the establishment of a monthly pay period. Submit that requiring agreement with affected employees is an ineffective safeguard.
	Ai Group	Submission in reply – 13/02/2017	<i>General</i>	29-47	<ul style="list-style-type: none"> In response to the submissions of the TCFUA, the CFMEU–FFPD and the CFMEU–C&G, Ai Group submit that it is their primary position that awards should not mandate that a pay day or pay period be set.

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					<ul style="list-style-type: none"> • Submit that the imposition of a 4 week notice period may be unduly restrictive and impractical. • Issues could be remedied by limiting the application of x.1(d) to an employee's <i>regular</i> pay day or pay period. • Parties position is as follows: • If the Commission nonetheless determines that a set pay day and pay period should be introduced: <ul style="list-style-type: none"> ○ the model clause should permit greater flexibility to an employer seeking to vary the pay day or pay period; ○ the model clause should not require agreement between an employer and its employees to alter the pay day or pay period; and ○ the model clause should not require consultation by an employer with its employees to alter the pay day or pay period. • Submit further that there is no evidence to support the contention that a move to monthly pay will disadvantage low paid workers (submissions of the SDA and TCFUA).
	HIA	Submission in reply – 2/02/2017		2.1.9-2.1.12	<ul style="list-style-type: none"> • Disagree with the CFMEU submission in relation to an employer's ability to unilaterally change a pay period. Submit that this is legitimately within managerial prerogative.
7.	(f) Where an employee's pay period is one month, two weeks must be paid in advance and two weeks in arrears.				
	Mark Irving & Andrew Stewart	Submission – 15/12/16	<i>General</i>	Pg 1 & Pg 7	<ul style="list-style-type: none"> • Propose that clause x.1(f) be amended to read: 'Where an employee's pay period is one month: (i) at least two weeks' wages must be paid in advance; and (ii) the balance of the wages, and all other amounts that are due under this award and the NES for the pay period, are to be paid in arrears.' This is because most months do not have 4 weeks. Second, the amounts payable to an employee may not be certain until the end of the pay period. Third, the current clause x.1(f) raises a problem in the

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					application of clause x.1(a)(ii) payments by linking the arrears payment with ‘two weeks’. Fourth, we have divided clause x.1(f) into sub-paragraphs because the current clause x.1(a) requires a payment at the end of the pay period. The current clause x.1(f) requires payment in the middle of or at the start of the monthly pay period. This creates a tension that is best resolved by clarity.
	Ai Group	Submission in reply – 13/02/2017	General	19-23	<ul style="list-style-type: none"> • Submit that the other submissions in relation to this clause identify various difficulties with this clause. Submit that the Full Bench should consider simply deleting x.1(f) from the model term. • Removing x.1(f) would afford parties the capacity to implement or maintain arrangements that reflect their individual circumstances including monthly payment in arrears.
	ABI & NSWBC	Submission – 6/01/2017	General	9	<ul style="list-style-type: none"> • Oppose the restriction on payment in arrears in x.1(f)
	ABI & NSWBC	Submission in reply – 2/02/2017	General	5.5	<ul style="list-style-type: none"> • Submit that ABI & NSWBC’s preference is for employers to be able to continue to pay employees monthly in arrears. • If the model terms does require monthly payments to be made two weeks in advance and two weeks in arrears, submit that this will make paying casuals impossible.
	Master Builders	Submission in reply – 2/02/2017		2.1-2.4	<ul style="list-style-type: none"> • Submit that the CFMEU (CG) claim that employees may have to wait 5-6 weeks for their entitlements is misleading. X.1(e) and x.1(f) operate to limit monthly payment.
8.	x.2 Method of payment Payments under clause x.1(a) must be made by electronic funds transfer to the account at a bank or financial institution nominated by the employee, or by cash or cheque.				
	NFF	Submission in reply – 22/02/2017		4	<ul style="list-style-type: none"> • Submit that payment by cheque is still a feature in the agriculture industry.

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	ACTU	Submission – 21/12/16	<i>General</i>	9	<ul style="list-style-type: none"> • X.2–contemplates payment by cheque. It is submitted that it would be beneficial to consider the extent to which payment by cheque remains prevalent in any particular industry.
	TCFUA	Submission – 23/12/2016	<i>Textile Award and the Dry Cleaning Award</i>	3.18-3.21	<ul style="list-style-type: none"> • X.2–Oppose the inclusion of payment by cheque in the TCF and Dry cleaning awards which both only allow for payment by cash or EFT. • Payments by cheque are problematic due to employees having to bank the cheque in their own time; the delay in employees receiving the cleared funds; the potential for cheques to be dishonoured by the bank if insufficient funds are in the employer’s account; the consequences to the employee of any delay in received cleared funds in terms of budgeting, direct debit arrangements.
	Ai Group	Submission in reply – 13/02/2017	<i>General</i>	48-54	<ul style="list-style-type: none"> • In response to the ACTU and the TCFUA the Ai Group submit that it is appropriate that the model term enable an employer to pay employees by cheque. Accept that the majority of transactions are completed by EFT but that it cannot be assumed that a provision that allows for payment by cheque would be otiose. • Submit that if the ability to pay by cheque is removed from the model term, it should at least be allowed to continue in those awards that presently allow for payment by cheque.
	ABI & NSWBC	Submission in reply – 2/02/2017	<i>General</i>	5.6-5.10	<ul style="list-style-type: none"> • Oppose the submissions by the ACTU and the TCFUA that cheque payments are obsolete. Submit that cheques are still a relevant payment method to some employers and s.323 specifically contemplates cheque payments.
	Master Builders	Submission – 22/12/16	<i>Construction Awards</i>	4	<ul style="list-style-type: none"> • In clause x.1(e) reference to a ‘particular classification’ is unnecessary and may restrict operation of term as proposed.
	NatRoad	Submission – 22/12/16	<i>Road Transport and Distribution Award and the</i>	10	<ul style="list-style-type: none"> • Subsection x.2 of provisional term is supported.

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
			<i>Long Distance Operations Award</i>		
9	<i>Weekends and Public Holidays</i>				
	ACTU	Submission – 21/12/16	<i>General</i>		<ul style="list-style-type: none"> Support the inclusion of such a term subject to one reservation. Submit that it is unclear whether s40A of the FW Act alters the position expressed in the decision. Submit that the appropriate location for the term is immediately after x.1(a).
	SDA	Submission in reply – 2/02/2017		Para 9	<ul style="list-style-type: none"> Support the submission of the ACTU
	HIA	Submission – 16/12/16		2.1	<ul style="list-style-type: none"> Model term should address circumstances where payment of wages falls on weekend or public holiday. No set view on how best to achieve this.
	Ai Group	Submission – 23/12/2016	<i>General</i>	34-37	<ul style="list-style-type: none"> Submit that any award term regulating the payment of wages should allow payment to be made at a later point when a pay day falls on a public holiday. Reliance on the provisions of the <i>Acts Interpretation Act</i> is insufficient because employers may not be aware of this legislation. Further, the Commission should not rely on the continued operation of legislation to ensure that awards constitute a fair and relevant safety net. Submit that the inclusion of a note may overcome these issues but that a better approach would be for the award to specify what may occur when a pay day falls on a public holiday.
	ABI & NSWBC	Submission – 6/01/2017	<i>General</i>	2.7-2.8	<ul style="list-style-type: none"> Agree with the inclusion of a note referring to s.36(2) of the <i>Acts Interpretation Act</i>
	HIA	Submission in reply –		2.1.1	<ul style="list-style-type: none"> Submit that the provision proper should deal with this. For example the inclusion of a line that states:

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
		2/02/2017			<i>'If the regular pay day falls on a Saturday, Sunday or public holiday the wages may instead be paid on the next day that is not a Saturday, Sunday or public holiday.'</i>
	TCFUA	Submission in reply – 3/02/2017	<i>Textile Award and the Dry Cleaning Award</i>	2.14-2.18	<ul style="list-style-type: none"> • Oppose the submission of AiGroup that award terms should allow for payment at a later date after a public holiday. • Submit that if the Commission determines that it is appropriate to include a term dealing with public holidays, the term should require payment <u>before</u> a public holiday and not after.
	NatRoad	Submission – 22/12/16		11	<ul style="list-style-type: none"> • To remedy issue with payment being due on weekends and public holidays and the possibility of referencing the <i>Acts Interpretation Act 1901</i> (Cth), first preference is that a distinction be made between “days” and “business days”. Second preference is a reference to s.36(2) of the <i>Acts Interpretation Act 1901</i> (Cth).
	Ai Group	Submission in reply – 13/02/2017	<i>General</i>	10-14	<ul style="list-style-type: none"> • Confirm the previous submission that the model term should provide employers with the ability to make the relevant payment at a later point in time. • Do not agree with the insertion of a note.

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
10	Model Clause: Payment on Termination of Employment (a) Subject to paragraph (b), the employer must pay an employee no later than 7 days after the employee's last day of employment: (i) the employee's wages for any complete or incomplete pay period up to the end of the employee's last day of employment; and (ii) all other amounts that are due to the employee under this award and the NES.				
	Payroll Matters	Submission – 9/12/16	General	Pg-1-2	<ul style="list-style-type: none"> Submit that the proposed term poses significant administrative burden on employers. Prefer model term submitted by AIG. Cost to employers of payment within 7 days far outweighs receiving final payments in usual pay cycle time frame.
	ACTU	Submission in reply – 14/02/17	General	2	<ul style="list-style-type: none"> Cautions against accepting assumptions in Payroll Matters submission, in particular that payment within 7 days “will come at a significant cost to all employers which far outweighs receiving final payment in the usual pay cycle time frame.”
	Mark Irving & Andrew Stewart	Submission – 15/12/16	General	Pg 1	<ul style="list-style-type: none"> Propose clause (a)(i) be amended to read: ‘the employee’s <i>accrued</i> wages for any complete or incomplete pay period ...’.
	ACTU	Submission – 21/12/16	General	10-15	<ul style="list-style-type: none"> Support a model clause being developed to deal with the timing of termination payments and the amount that must be paid. Support the inclusion of such a term in awards that do not currently provide for payment on termination. Also support the review of existing clauses dealing with termination. Oppose the 7 day waiting period for termination payments, support submissions from other parties about why this would occasion hardship and represent a derogation of entitlements. In the alternative, if the Commission does determine that the establishment of a 7 day period for payment of termination payments, submit that this should be limited to terminations <i>other than at the initiative of the employer</i>.

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
					<ul style="list-style-type: none"> Support Irving and Stewart’s proposed amendment to (a)(i).
	SDA	Submission in reply – 2/02/2017	<i>General</i>	19	<ul style="list-style-type: none"> Support the submission of the ACTU
	HIA	Submission – 16/12/16	<i>Building Award, Joinery Award and the Timber Award</i>	2.2	<ul style="list-style-type: none"> Concerned that the use of the terms ‘<i>complete or incomplete pay period</i>’ at clause x.1(a)(i) of the model term may cause confusion. Concerns expressed by FWC in relation to accrual of wages and other amounts payable on termination has not been a significant concern (note: awards in which HIA have interest generally calculate wages on hourly basis). Seek to comment on award specific tailoring in future.
	Ai Group	Submission – 23/12/2016		50-55	<ul style="list-style-type: none"> Submit that if the model term is included in awards it should be amended to make clear that it operates subject to award clauses authorising deductions from termination payments. Such amendment would reduce the risk of employers being misled into paying an employee more than is necessary should they read the provision in isolation. Submit further that the model term should be amended to clarify that it only regulates the payment of amounts payable pursuant to the NES or the award.
	ABI & NSWBC	Submission – 6/01/2017		3	<ul style="list-style-type: none"> Maintain earlier submission that payment on termination should be in accordance with the normal pay cycle. Submit that the Full Bench’s provisional default term from the 14 October 2016 Statement is more appropriate Do not oppose the balance of the payment on termination model term.
	CFMEU (FFPD)	Submission – 21/12/16	<i>Timber Award</i>	6-10	<ul style="list-style-type: none"> Do not support provisional clause – it removes longstanding right for employees, in all circumstances except summary dismissal, to be paid on

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
					<p>termination under the <i>Timber award</i> (clause 25.3).</p> <ul style="list-style-type: none"> Minimum notice period under NES is one week, so under current award provision, where notice is worked, employers would have one week to process final pay. Para [93] of Decision states it is not fair for all termination payments to be made on or within a few days of termination. Submit this is not the case in the <i>Timber award</i>.
	CFMEU (FFPD)	Submission – 21/12/16	<i>General</i>	11-14	<p><u>Long Service Leave</u></p> <ul style="list-style-type: none"> Provisional term may create a dual obligation for employers with respect to accrued leave payable under some State Long Service Leave Acts and render term otiose. NSW, Vic and SA Long Service Leave Acts provide for payment of accrued long service leave on termination “forthwith...in full”; “on the day the employment ended”; “immediately on the termination” respectively. This would have effect, for example, of employer having to pay long service leave entitlements on day of termination and then other monies owing under the award within 7 days.
	Ai Group	Submission in reply – 13/02/2017	<i>General</i>	56-58	<ul style="list-style-type: none"> In response to the CFMEU (FFPD) submissions regarding long service leave entitlements, the Ai Group submit that modern awards cannot contain terms dealing with long service leave. However, the possibility that an employer may have to make a payment of long service leave entitlements separately to termination payments does not warrant the Commission refraining from allowing greater flexibility in relation to termination payments.
	HIA	Submission in reply – 2/02/2017			<ul style="list-style-type: none"> Continue to support the model term outlined in the 14 October 2016 Statement allowing payment on termination in accordance with the normal pay cycle. In the alternative, support the model term set out in the Decision.
	TCFUA	Submission – 23/12/2016	<i>Textile Award and the Dry Cleaning</i>	4.1-4.3	<ul style="list-style-type: none"> Support the submissions of the ACTU and other union parties in opposing the 7 day waiting period for termination payments and the submissions regarding the operation of s.117 (2) , s119 and s120.

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
			<i>Award</i>		<ul style="list-style-type: none"> TCFUA relies on its previous submissions regarding the earlier provisional term on ‘payment on termination’ The TCFUA opposes the AIG’s proposal (at paragraphs [62]-[66] of its submission) whereby there would be no requirement for the Commission to make an order relieving an employer of the obligations in clause [see para 2.25 of the TCFUA’s reply submission 3/2/17].
	CFMEU (FFPD)	Submission – 21/12/16	<i>Timber Award</i>	6-10	<ul style="list-style-type: none"> Do not support provisional clause – it removes longstanding right for employees, in all circumstances except summary dismissal, to be paid on termination under the <i>Timber award</i> (clause 25.3). Minimum notice period under NES is one week, so under current award provision, where notice is worked, employers would have one week to process final pay. Para [93] of Decision states it is not fair for all termination payments to be made on or within a few days of termination. Submit this is not the case in the <i>Timber award</i>. For clarity, any model term referring to a time frame ought to refer to ‘calendar days’.
	NatRoad	Submission – 22/12/16	<i>Road Transport and Distribution Award and the Long Distance Operations Award</i>	12-16	<ul style="list-style-type: none"> The term proposed by AIG/ABI is supported as the optimal outcome however the term proposed by FWC is preferable to the current situation under the Transport Awards. If Full Bench considers that employees paid monthly would be prejudiced by this, have no objection to limiting Transport Awards so this option not available. The Distribution Award uses the word ‘forthwith’ in relation to termination payment whilst the Long Distance Award uses the term ‘immediately’. The term ‘forthwith’ should be replaced by ‘immediately’ for simplicity.
	CFMEU (M&E)	Submission – 22/12/2016		7	<ul style="list-style-type: none"> Submit that the current provisions in modern awards should not be unnecessarily disturbed. The issue should be addressed on an award by award basis. Do not support the 7 day period for payment on termination in awards

ITEM	PARTY	DOCUMENT	AWARD	REF	SUMMARY OF ISSUE
					that already provide for a shorter timeframe.
	Master Builders Australia	Submission in reply – 2/02/2017	<i>Building Award</i> and the <i>Joinery Award</i>	3.1-3.2	<ul style="list-style-type: none"> Support the inclusion of the model term in the Joinery and Building Awards. The model term would remedy an issue in the On-Site award which requires that daily hire employees receive termination payments on the same day that they provide notice.
11	<p>(b) The requirement to pay an employee no later than 7 days after the employee's last day of employment is subject to s.117(2) of the Act and to any order of the Commission in relation to an application under s.120 of the Act.</p> <p>Note 1: Section 117(2) of the Act provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.</p> <p>Note 2: Section 120 of the Act provides that in some circumstances an employer can apply to the Commission to reduce the amount of redundancy pay an employee is entitled to under the NES. In dealing with an application, the Commission could make an order delaying the requirement to make payment until after the Commission makes a decision on the application.</p>				
	TCFUA	Submission – 23/12/2016		4	<ul style="list-style-type: none"> Submit that the inclusion of a model term should be considered and adapted on an award by award basis. Support the submissions of the ACTU and other union parties in opposing the 7 day waiting period for termination payments and the submissions regarding the operation of s.117 (2) , s119 and s120.

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	Mark Irving & Andrew Stewart	Submission – 15/12/16	<i>General</i>	Pg 1 & Pg 9	<ul style="list-style-type: none"> Propose wording to be used instead of ‘the employee’s last day of employment’: We suggest that it would be safer to refer instead to ‘the day on which the employee’s employment is terminated’ (first instance) or ‘the day of the termination’ (second and third instances). This has the virtue of aligning the clause with the language used by s 117 of the Fair Work Act.
	ACTU	Submission – 21/12/16	<i>General</i>	10-15	<ul style="list-style-type: none"> Support Irving and Stewart’s proposed amendment of “the employee’s last day of employment” to “the day on which the employee’s employment terminates” or similar. Submit that s120 may be problematic in any event in its present form, however, it may be useful to point to it either in the award or in the annotated award.
	ABI & NSWBC	Submission – 6/01/2017	<i>General</i>	3	<ul style="list-style-type: none"> Submit that it is important that the proposed clause not undermine the operation of s.120. Submit that the model term should be amended so that the obligation arising from the award does not apply in circumstances where a s 120 application is made. Further, if the s120 application is made outside of the 7 days required in the model term, the award obligation should be taken to have never applied. There is currently no limitation on the time for making a s120 application and awards should not operate to effectively create one. Propose the following alternative clause: “The requirement to pay an employee no later than 7 days after the employee’s last day of employment will not apply, and will be deemed to have never applied, if an employer makes application under s.120 of the Act to have the amount of redundancy pay payable to the employee reduced. In such circumstances any redundancy pay will be payable from a date determined by the Commission, provided that this date is not less than 7 days from the date of the Commission’s decision in relation

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					to the employer's application.”
	TCFUA	Submission in reply – 3/02/2017	<i>Textile Award and the Dry Cleaning Award</i>	2.23-2.26	<ul style="list-style-type: none"> Concerned that the inclusion of the note in relation to s.120 could encourage non-genuine s.120 applications to delay the payment of redundancy pay. In relation to Note 2: An application under s.120 may not be heard and determined for many months. Where the Commission found against an applicant, the employer retains the obligation to pay the redundancy pay under s.199 but has effectively subverted the beneficial obligation regarding timely payment. The Ai Group proposal would exacerbate this risk.
	CFMEU (FFPD)	Submission – 21/12/16	<i>Timber Award</i>	6-10	<ul style="list-style-type: none"> Object to inclusion of reference to s.120 in provisional term. Explicit reference to s.120 may incentivize s.120 applications and provide rogue employers with a clear path to delay or avoid their NES obligations. Also a question of what remaining entitlements would be payable within 7 day timeframe if employer made s.120 application.
	NatRoad	Submission – 22/12/16	<i>Road Transport and Distribution Award and the Long Distance Operations Award</i>	Paras 12-16	<p><u>Reference to s.117(2)(b)</u></p> <ul style="list-style-type: none"> No objection to proposal at [115] of the Decision.
	CFMEU (CG)	Submission – 22/12/16	<i>Building Award, Joinery</i>	Para 7	<ul style="list-style-type: none"> s.119 of the FW Act requires payment of redundancy pay on termination. Any term of a modern award that delayed redundancy

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			<i>Award and the Timber Award</i>		payment would be impermissible under s.55 of the Act. Model payment of wages term would require a carve out for redundancy under s.119 as well as notice under s.117.
	Master Builders	Submission – 22/12/16	<i>Construction Awards</i>	Para 5	<ul style="list-style-type: none"> • Submit that the inclusion of items as ‘notes’ is unnecessary. • Submit that the provisions of s.117 and s.120 are relevant but should not be specifically included in the model term. Seeks to address circumstances that are dealt with in other sections of modern awards (eg. clause 16 of the Onsite Award). Does not address termination at the initiative of the employee. There is no uncertainty about s.120 that needs to be addressed – any benefit of this is outweighed by inclusion of additional words that are arguably unnecessary. These sections of the act exist and operate irrespective of their inclusion in an award – no need for their inclusion. Submitted alternate model term.
	ACTU	Submission in reply – 14/02/17	<i>General</i>	7	<ul style="list-style-type: none"> • In response to paras 58-66 of Ai Group’s submission, doubt the solution suggested overcomes what in ACTU’s view are matters arising from s.120 of the Act rather than the model term. • Suggestion has the benefit of enabling the Commission to be involved at an early stage so Commission could, ‘express an opinion’ about the extent to which redundancy pay ought to be reduced were an application made under s.120.

Abbreviation	Party name
ABI & NSWBC	Australian Business Industrial and the New South Wales Business Chamber
ACTU	Australian Council of Trade Unions
AIG	Australian Industry Group
AMWU	“Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU)
CFMEU - CG	Construction, Forestry, Mining & Energy Union – Construction & General Division
CFMEU - FFPD	Construction, Forestry, Mining & Energy Union – Forestry, Furnishing, Building Products & Manufacturing Division
CFMEU – M&E	Construction, Forestry, Mining & Energy Union – Mining and Energy Division
HIA	Housing Industry Association
Master Builders	Master Builders Australia
NatRoad	National Road Transport Association
NFF	National Farmers Federation
SDA	Shop, Distributive and Allied Employees Association
TCFUA	Textile, Clothing and Footwear Union of Australia