

SUMMARY OF SUBMISSIONS ON 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. The summary includes submissions received before 11 July 2017.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES	
1.	AIG	Sub 20-11-15	5.2(a)	Facilitative provision – clause ‘0’ to be replaced with clause ‘8.2(a)’	119	RESOLVED. Typographical error corrected in exposure draft.	
	AMMA	Sub 25-11-15			Page 2		
	BusSA	Sub 27-11-15			6		
	AWU	Reply 4-12-15			4		
2.	AWU	Sub 20-11-15	6.4(c)	Casual employees whether casual loading payable on overtime has been referred to FB. For completeness, it submits that amendment should be made to remove ‘ordinary’ from ‘ordinary hours’.		REFERRED Referred to overtime for casuals Full Bench in AM2017/51	
3.	AIG	Sub 20-11-15	6.4(c)	Casual loading – clause to be amended to ‘ordinary hourly rate’ with ‘minimum hourly rate’. Consistent with current award all purpose allowances should not be incorporated.	120-128	RESOLVED. Related to item 9	
	AWU	Reply 4-12-15			Issue has been determined that casual loading payable on ordinary rate by [2015] FWCFB 6656 at [110], and [2015] FWCFB 7236 at [59].		8-9
	AIG	Reply 7-12-15			Continues to press the issue.		40-41
		Sub 11/07/17			No longer presses the issue.		264
4.	AMWU	Sub 20-11-15	8.2	Supports wording of FB in October decision.	2.1-2.2	RESOLVED. No change needed.	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
4A	AIG	Sub 11/07/17	10.1	Minimum wages Submit that this is not confined to full-time employees. A literal reading may require payment to all adult employees, including part-time and casual employees. Suggest including the words 'full-time employees' in the table.	265-267	REFERRED Referred to the Plain Language Full Bench (AM2016/15), see [2018] FWC 1544 .
5.	AWU	Sub 20-11-15	10.3(b)(i)	Apprentices – table of rates applying from 1 January 2014 could be deleted.	5	RESOLVED. ED has been amended.
	AIG	Reply 7-12-15		Does not oppose	42	
6.	AWU	Sub 20-11-15	11.2(a)	Wage related allowances – following July decision insert 'annual' before leave.		RESOLVED. ED amended in accordance with paragraph [91] of [2015] FWCFB 4658 .
	AIG	Sub 20-11-15			129	
7.	AWU	Sub 20-11-15	14.1(c)	Overtime – concerned clause may indicate casual only receives overtime if work in excess of weekly ordinary hours (set out in clause 6.4), contends casuals also entitled to overtime rates if work outside of span of hours or in excess of maximum daily hours. Amend clause to reference clause '8 – ordinary hours of work and rostering' in addition to clause 6.4.	7	REFERRED Referred to overtime for casuals Full Bench in AM2017/51 Related to item 2
	AIG	Reply 7-12-15		Opposes change as could extend overtime payment obligations beyond current award.	44	
8.	AIG	Sub 20-11-15	20.2	Notice of termination by an employee – 'from' to be inserted after 'withhold'.	130	RESOLVED. Typographical error corrected in exposure draft
	BusSA	Sub 27-11-15			7	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
9.	AIG	Sub 20-11-15	Sch B	Casual employees – if 6.4(c) amended (see submission above) rates need to be recalculated on minimum hourly rate.	131	RESOLVED. Related to item 3
		Sub 11/07/17		No longer an outstanding issue.	270	
	AWU	Reply 4-12-15		No recalculation required, AIG contention has been rejected by FB on at least 2 occasions.	12	
10.	AIG	Sub 20-11-15	Sch B	Casual employees – contends clause 14.5(b) specify that casual loading does not apply to overtime, shiftwork penalties, weekend penalties and public holiday penalties.	132-135	REFERRED Referred to overtime for casuals Full Bench in AM2017/51 Related to item 2 and 7
	AWU	Reply 4-12-15		Issue has been referred to casual and part-time full bench. Dispute AIG interpretation of clause 14.5(b), clause provides that employee only entitled to one extra amount of – shift loading, weekend/public holiday penalty or overtime rate. Provision is not directed at casual loading.	13-28	
11.	BusSA	Sub 27-11-15	Sch G	Part-day public holiday to be updated in relation to recent statement	8	RESOLVED. Exposure draft amended in accordance with PR580863 and replaced in 2017 with PR598110 .
12.	AMMA	Sub 25-11-15	Sch H	Definitions – bullet points in ‘permanent nightshift’ begin at (b), should begin at (a)	Page 2	RESOLVED. Typographical error corrected in exposure draft
	BusSA	Sub 27-11-15			9	
	AWU	Reply 4-12-15			5	
	AIG	Reply 7-12-15			46	

List of abbreviations (in alphabetical order)

AIG	Australian Industry Group
AMWU	Australian Manufacturing and Workers' Union
AMMA	Australian Mines and Minerals Association
AWU	The Australian Workers' Union
BusSA	Business SA
FB	Full Bench of the Fair Work Commission
FWC	Fair Work Commission