

REVISED SUMMARY OF SUBMISSIONS

Revised as at 14 October 2015 following hearing 7 October 2015

Status:	A = Agreed	C = referred to Common issue Full Bench	O = Outstanding technical/drafting issue
	R = Resolved by previous Full Bench decision	S = Substantive issue	W = Withdrawn/Not pressed

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES	STATUS
1.	BusSA	Sub-04Feb15			Full Bench decision – Ensure award is updated in line with [2014] FWCFB 9412 .	Item F.1		R
2.	BusSA	Sub-04Feb15	6.3		Full-time employees —The words “over a four week period” should be added to the end of the clause.	Item F.2		W
	AWU	Reply-19Feb15 Reply-15Jul15				Addition of the words “over a four week period” is not opposed, but it appears unnecessary.		
3.	Ai Group	Sub-04Feb15	6.4(a)(i)		Part-time employees – Words “ordinary hours” should be inserted after “38”.	Para 7.1		A
	BusSA	Reply-04Mar15				p.11		

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES	STATUS
	AWU	Reply-19Feb15			Clause should read "...works less than 38 ordinary hours per week."	Para 1; p.1		
4.	AWU	Sub-15Dec14 Reply-19Feb15	6.5(d)	10.3	Casual employees – The ED has altered the effect of the current award to the effect that casual employees are excluded from ordinary hour, penalty rate and overtime conditions.	Para 2 Para 4; p.3	Suggested clause wording is provided.	A
	BusSA	Sub-04Feb15			Clause should reflect that these provisions do not apply when casual employees are on night cleaning duties.	Item F.3		
	Ai Group	Reply-04Mar15			Ai Group does not oppose the submissions of AWU or BusSA.	Para 61		
5.	AWU	Sub-15Dec14	6.5(e)		Casual employees – The clause should be deleted.	Para 3		A
	Ai Group	Reply-04Mar15		No opposition to the AWU submission.	Para 62			
6.	AWU	Sub-15Dec14	8.1(f)		Ordinary hours – The word "when" can be deleted so it reads "...of ordinary work once fixed are not to be altered..."	Para 4		A
	Ai Group	Reply-04Mar15				Para 63		
	BusSA	Reply-04Mar15		AWU submission is not opposed.		p.11		

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7.	Ai Group	Sub-04Feb15	8.2(a)(ii)	21.2(a)(ii)	Ordinary hours – Change from “minimum wage” to “ordinary hourly rate” increases the cost to employers as the all purpose allowance is now included.	Paras 7.2-7.3	Decision [2015] FWCFB 4658 – ordinary hours of pay	R
	AWU	Reply-19Feb15 Reply-15Jul15			The submission of Ai Group should be rejected.	Para 2; p.1 Paras 7–12		
8.	Ai Group	Sub-04Feb15	9.1(c)	22.1(b)	Breaks – Change from “minimum wage” to “ordinary hourly rate” increases the cost to employers as the all purpose allowance is now included.	Paras 7.4-7.5	Decision [2015] FWCFB 4658 – ordinary hours of pay	R
	AWU	Reply-19Feb15			The submission of Ai Group should be rejected.	Para 3; p.1		
9.	Ai Group	Sub-04Feb15	9.3(a)		Breaks – The concluding words of clause 9.3(a) should be amended to read “after such a break” or “after the break”. The current wording is unclear and ambiguous.	Para 7.6		A
	AWU	Reply-19Feb15		Amended wording suggested by Ai Group is no opposed.	Para 4; p.1			

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10.	Ai Group	Sub-04Feb15	9.3(b)	22.3(b)	Breaks – Change from “minimum wage” to “ordinary hourly rate” increases the cost to employers as the all purpose allowance is now included. The submission of Ai Group should be rejected.	Paras 7.7-7.8	Decision [2015] FWCFB 4658 – ordinary hours of pay	R	
	AWU	Reply-19Feb15				Para 5; p.2			
11.	AWU	Sub-15Dec14 Reply-19Feb15	10.7(c)		Late payment of wages – <i>Parties are asked to consider whether the penalty in clause 19.8(c) should be payable “through circumstances beyond the reasonable control of the employer” or “through circumstances not beyond the reasonable control of the employer”.</i> The payment is intended to arise in circumstances where the employer is at least partly to blame for the delay.	5; Para 6; p.2 Para 1; p.2	Suggested clause wording is provided.	A	
	BusSA	Sub-15Jul15				Wording proposed by AFEI is supported.			p.11-12
	Ai Group	Sub-04Feb15 Reply-04Mar15				It is both unfair and illogical to penalise an employer for the late payment of wages due to circumstances beyond the employer’s control. The amendment proposed is consistent with similar clauses contained in other awards			Paras 7.9-7.10; Para 64

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	AFEI	Sub-06Feb15			The clause, as it is currently worded in both the award and the ED, incorrectly translates the original drafting of the term that was contained in the AIRC exposure draft.	Paras 15-16	Suggested wording is provided.	
12.	BusSA	Sub-04Feb15	11.1(b)(i)		Allowances – Table should include a column stating the percentage of the standard rate.	Item F.5	Not addressed in hearing of 7 October 2015.	-
	Ai Group	Reply-04Mar15			Formulae relating to the allowances should be retained, but no problems have been identified with the formulae being contained in the schedule instead.	Para 65		
13.	AWU	Sub-15Dec14 Reply-19Feb15	11.2(d)		Allowances – <i>The loss of clothing allowance in clause 11.2(e) is based on the standard rate and adjusted as a wage related allowance. Parties are asked to consider whether it is better expressed as an expense related allowance and adjusted with the CPI.</i>	Para 6; Para 2; p.2		A
	AFEI	Sub-06Feb15			This type of allowance would normally be regarded as expense-related. Allowance should be expressed as expense-related and adjusted with CPI.			
14.	Ai Group	Sub-04Feb15	13.1-13.5	23.4	Penalty rates – Change from “minimum wage” to “ordinary hourly rate” increases the cost to employers as the all purpose allowance is now included.	Paras 7.16-7.17	Decision [2015] FWCFB 4658 – ordinary hours of	R

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	AWU	Reply-19Feb15			The submission of Ai Group should be rejected.	Para 7; p.2	pay	
15.	Ai Group	Sub-04Feb15	13.5		Penalty rates – Delete words “calculated hourly on a public holiday”.	Para 7.18		A
	AWU	Reply-19Feb15			Words “public holiday” should be deleted, but “calculated hourly” should remain unless shown that they serve no practical purpose.	Para 11; p.2		
16.	Ai Group	Sub-04Feb15	14.1(a)	23.1(a)	Overtime – clause should be amended to refer to ordinary hours.	Para 7.11		A
	AWU	Reply-19Feb15			Wording in ED is the same as the wording in the current award. Not opposed to AIG submission at this stage but reserve right to revisit.	Para 8; p.2 Paras 13–15		
	BusSA	Sub-15Jul15			Support Ai Group.	p.12		
17.	Ai Group	Sub-04Feb15	14.1(a)	23.1(a)	Overtime – Change from “minimum wage” to “ordinary hourly rate” increases the cost to employers as the all purpose allowance is now included.	Paras 7.12-7.13	Decision [2015] FWCFB 4658 – ordinary hours of pay	R
	AWU	Reply-19Feb15			The submission of Ai Group should be rejected.	Para 9; p.2		

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18.	Ai Group	Sub-04Feb15	14.2(3)	23.2(c)	Rest period after overtime – Change from “minimum wage” to “ordinary hourly rate” increases the cost to employers as the all purpose allowance is now included.	Paras 7.14-7.15	Decision [2015] FWCFB 4658 – ordinary hours of pay	R
19.	BusSA	Sub-04Feb15	15.4		Annual leave—Provision requiring annual leave be taken within six months of four week entitlement accruing should be inserted. Current wording is also problematic.	p.8	Suggested clause wording is provided.	W
	AWU	Reply-19Feb15 Reply-15Jul15			The variation suggested by Business SA is not opposed, but if the model clause is adopted, the clause would become unnecessary and should be deleted.	Para 5; p.3 Paras 16–19		
20.	Ai Group	Sub-04Feb15	15.5	23.4	Payment for annual leave – Change from “minimum wage” to “ordinary hourly rate” increases the cost to employers as the all purpose allowance is now included.	Paras 7.19-7.20	Decision [2015] FWCFB 4658 – ordinary hours of pay	R
	AWU	Reply-19Feb15			The submission of Ai Group should be rejected.	Para 12; p.2		
21.	BusSA	Sub-04Feb15	Schedule B		Summary of hourly rates—Wage tables are of concern. Rounding rules should be specified.	p.8	Full Bench is referred to submission on groups 2A and 2B.	W

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22.	Ai Group	Sub-04Feb15	Schedule B.2.1		Summary of hourly rates – References to “ordinary hourly rate” should be amended to read “minimum hourly rate”. Reference to “ordinary hourly rate” is also misleading as the rates have been calculated on the minimum hourly rate.	Paras 7.21-7.22	Not addressed in hearing of 7 October 2015.	-
	AWU	Reply-19Feb15			The submission of Ai Group should be rejected.	Para 13; p.2		
23.	AWU	Sub-15Dec14	Schedule B.2.1		Summary of hourly rates – The third footnote erroneously indicates this penalty can apply to work on weekends.	Para 7	Suggested footnote wording is provided.	A
	BusSA	Reply-04Mar15				p.11		
	Ai Group	Reply-04Mar15			The proposal of the AWU is not opposed.	Para 66		
24.	AWU	Sub-15Dec14	Schedule B.2.2		Summary of hourly rates – Overtime rates should be included.	Para 8		A
	BusSA	Reply-04Mar15				p.11		
	Ai Group	Reply-04Mar15			The submission of the AWU is not opposed, but Ai Group reserves the right to make further submissions on the accuracy of such rates, should they be published.	Para 67		

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25.	AWU	Sub-15Dec14	Schedule B.3		Summary of hourly rates – A table containing casual ordinary time weekend and public holiday penalty rates should be included.	Para 10		A
	Ai Group	Reply-04Mar15				The submission of the AWU is not opposed, but Ai Group reserves the right to make further submissions on the accuracy of such rates, should they be published.		
26.	AWU	Sub-15Dec14	Schedule B.3		Summary of hourly rates – A table containing casual overtime rates should be included.	Para 11		A
	Ai Group	Reply-04Mar15				The submission of the AWU is not opposed, but Ai Group reserves the right to make further submissions on the accuracy of such rates, should they be published.		
27.	AWU	Sub-15Dec14	Schedule B.3.1		Summary of hourly rates – Unclear why the ordinary time rates for morning work, evening work and work outside ordinary hours due to water restrictions have not been included.	Para 9		A
	Ai Group	Reply-04Mar15				The submission of the AWU is not opposed, but Ai Group reserves the right to make further submissions on the accuracy of such rates, should they be published.		

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28.	Ai Group	Sub-04Feb15	Schedule C.1		Summary of allowances – “Clause 0” should read “clause 11.2(b)”.	Para 7.23		A
	AWU	Reply-19Feb15		Agree reference to “0” should be “11.2(b)”.	Para 14; p.2			
29.	Ai Group	Sub-04Feb15	Schedule C.1		Summary of allowances —“Late payment of wages” allowance should be removed as it is not a monetary allowance but rather a penalty on the employer.	Para 7.23		W
	BusSA	Reply-04Mar15 Sub-15Jul15		p-11 p-12				
	AWU	Reply-19Feb15		Reference to \$29.10 for late payment of wages need not be deleted.	Para 14			
30.	BusSA	Sub-04Feb15	Schedule C.2		Summary of allowances —Recommend including the same format for both the wage related and expense related allowances. This would mean the addition of the column ‘% of standard rate’ be added to the table for C.2.	Item F.6		W
	Ai Group	Reply-04Mar15		The insertion of an additional column is unnecessary.	Para 70			

List of abbreviations (in alphabetical order)

Ai Group	Australian Industry Group
AWU	The Australian Workers' Union
BusSA	Business SA