

AM2014/212: Road Transport and Distribution Award 2010

TABLE 1:

Variation proposals post-conference before Senior Deputy President Harrison at Sydney on 27 March 2015

Note: this document should be read in conjunction with the corresponding documents distributed after the 16 January and 13 February conferences

Note: please refer to Table 2 on p.15 of this document for a summary of submissions received on the exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES FROM CONFERENCE
1.	Fair Work Ombudsman	Correspondence , 24 November 2014	Schedule G	3.1(f), 4.1, 23 - Definitions and interpretation	Absence of a definition of 'petroleum products' is problematic	Not discussed.
2.			Schedule G	3.1, 4 - Definitions and interpretation; Coverage	It is unclear whether the definition of the industry extends to transportation of the empty vehicles themselves	This issue has been the subject of litigation in various jurisdictions; currently in the Federal Court.
3.			6.4(a), 12.2	12.4(f), 23.2 - Types of employment; Ordinary hours of work for oil distribution	Difficult to determine the hourly wage for part-time oil distributions workers	Not discussed.

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				workers		
4.			13.2	16.2 - Allowances	Method of calculating the amount of 'money handled', for purpose of the allowances, is unclear	Not discussed.
5.			8	22.4 - Ordinary hours of work	Unclear how the 30% loading applies in certain circumstances	Not discussed.
6.			15.3, 15.4, 16.1 and 16.3	22.3, 22.4, 24.1, 24.3 - Shiftwork	Rate of pay is unclear where an employee is working shiftwork but those shifts do not	Not discussed.

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					fit within the definition of afternoon, day or night shift	
7.			17, 17.1	22, 27.1 - Overtime	The overtime provisions relating to day workers and shiftworkers, respectively, are worded differently and it is unclear whether the application is different	Not discussed.
8.			15, 16.2	23, 24.2 - Shiftwork	Unclear whether shiftwork provisions in clause 24.2 apply	Not discussed.

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					to oil distribution employees undertaking shiftwork	
9.			Schedule B	Schedule C - Classification Structure and Minimum Rates of Pay	Unclear whether the award covers employees engaged to clean the premises of a transport company (and not the vehicles)	Not discussed.
10.			Schedule B	Schedule C - Classification Structure and Minimum Rates of Pay	May be unclear to parties that additional loadings are payable to particular drivers when driving	Not discussed.

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					particular vehicles	
11.	National Road Transport Association	Proposed variation, 25 November 2014	15.1	24.1 - Shiftwork definitions	‘Early morning shift’ clause should be included	<ul style="list-style-type: none"> Parties to have further discussions about possible amendments. Parties to advise outcome by 22 May.
12.			16.3	24.3 - Shift allowances	‘Early morning shift’ should attract a loading of 17.5%	See item 11.
13.			18	29 - Annual leave	Remove obligation to pay leave loading on termination	<ul style="list-style-type: none"> Claim not to proceed at this stage, pending outcome of other matters at the FWC and associated parliamentary processes.
14.	Australian Industry Group	Proposed variation, 25 November 2014	18.3	29.2 - Annual leave	Remove obligation to pay leave loading on termination	See item 13.

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15.			13	26 - Allowances	Additional limitations on circumstances where the meal allowance is paid should be introduced	<ul style="list-style-type: none"> AiG to file the proposed variation by 8 May. Any opposing party to file response by 22 May.
16.			TBC	General	Award should be amended to provide greater capacity for ordinary hours of work to be performed early in the morning	See item 11.

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17.	Transport Workers' Union of Australia	Proposed variation , 25 November 2014	Schedule H	3.1 - Definitions and interpretation	Amend definition of 'dirty material' by replacing the reference to 'Quickardo cement' with 'cement'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
18.			Schedule H	3.1 - Definitions and interpretation	Amend definition of 'furniture' to remove reference to furniture being 'otherwise covered'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
19.			Schedule H	3.1 - Definitions and interpretation	Remove definition of 'interstate operation'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
20.			Schedule H	3.1 - Definitions and interpretation	Remove definition of 'long distance'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.

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					operation'	
21.			Schedule H	3.1 - Definitions and interpretation	Amend definition of standard rate to be calculated by reference to a grade 6 worker, in order to align the <i>Transport (Long Distance Operations) Award and Road Transport and Distribution Award</i>	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
22.			27	11 - Dispute resolution training leave	Amend existing table at clause 11.5 so that it doesn't end at '101 and over'	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.

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					but extends, incrementally, to '201 and over'	
23.			6.2	12.2 - Types of employment	Amend to include a requirement to notify the employee of their classification	<ul style="list-style-type: none"> Likely to be resolved. TWU to file the proposed variation by 8 May. Any opposing party to file response by 22 May. TWU presses variation as per draft of 25 November 2014 (subject to discussions with employer parties as alternate solution to issue) See correspondence of 15 May 2015
24.			24.3	14.2 - Transfer to lower paid duties	The current clause undermines the NES in relation to the 'suitable alternative employment' test	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.

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					(s.120 of the Act) and should be deleted	
25.			13.4(a)	16.1(f) - Travelling allowance	Clause should be amended to align the allowance rate between <i>Transport (Long Distance Operations) Award</i> and <i>Road Transport and Distribution Award</i>	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.
26.			12.6	19 - Higher duties	Amend clause to allow for review of classification where higher duties are being	<ul style="list-style-type: none"> AiG to file the proposed variation by 8 May. Any opposing party to file response by 22 May.

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					performed	
27.			12.7	20 - Payment of wages	Amend clause to reinstate terms of the <i>Transport Workers' Award 1998</i> regarding penalties for late payment of wages and termination payments	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.
28.			8.4(b)	22.3 - Ordinary hours of work	Remove 'Agreement may thereafter be reached between the employer and an individual employee' from the end of the clause	<ul style="list-style-type: none"> AiG to file the proposed variation by 8 May. Any opposing party to file response by 22 May.

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29.			11.1	26.1 - Regular meal break	Insert a new provision allowing for payment at the ordinary time rate where a meal break must be taken in the cabin of the vehicle	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.
30.			13.4(f)	26.3 - Meal allowance	Insert a new provision allowing for an additional meal allowance if an employee is required to work overtime for 4 hours after having qualified for the first meal break	<ul style="list-style-type: none"> Claim withdrawn by TWU at 27 March conference.

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					(in line with the <i>Transport Workers' Award 1998</i>)	
31.			17.5	27.3 - Rest period after overtime	Remove the exclusion of casuals from the entitlement	<ul style="list-style-type: none"> Claim withdrawn by TWU at 13 February conference.
32.			Schedule B	Schedule C - Classification Structure and Minimum Rates of Pay	Amend classifications to recognise advances in heavy vehicle development and manufacturing Seek to insert the following note:	<ul style="list-style-type: none"> TWU seeking to secure a variation without the need for the “note” in the terms outlined in the “summary of issue” column of this document. TWU to file the proposed variation by 8 May. Any opposing party to file response by 22 May. TWU to confirm by 8 May if additional classifications for Schedule C outlined in the 25 November 2014 letter are pressed, as well as whether any related “Driver” definition is to go into clause 3. Any opposing party to file response by 22 May.

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					NOTE: The classification description for a driver includes but is not limited to the performance of driving, loading, unloading, delivery, document preparation, fuelling, vehicle checks, and other necessary non-driving duties as required as part of a transport operation.	

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33.	BusSA	Submission, 4 February 2015	3.2	3.1	Coverage Definition should not be repeated in Schedule H and should simply refer to definition in 3.2.	
34.	TWU	Reply submission, 6 March 2015	3.2	3.1	Coverage TWU supports proposed inclusion of transport industry definition in the coverage and definition terms of the Award.	
35.	ABI&NSWBC	Submission, 4 February 2015	3.2(h)	3.1	Coverage – response to question Not opposed to re-drafting of this provision to resolve the issue of fruit juices not being milk derivatives.	
	TWU	Submission, 22 July 2015			Party has provided rewording of clause in submission to allow for the delivery of ‘fruit juices’ to be included in road and transport industry definition.	
	ABI & NSWBC	Reply submission, 3 September 2015			Do not oppose the re-drafting of this clause put forward by the TWU. It overcomes an obvious ambiguity in a simple manner.	
	ARTIO	Comments on exposure draft,			Fruit juice should be included in there as it is generally delivered by the milkman.	

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		4 February 2015				
	TWU	Submission on exposure draft , 4 February 2015			Considers clause should remain in its current format.	
	TWU	Reply submission , 6 March 2015			The existing provision should be retained or alternative wording has been provided in submission.	
36.	ABI&NSWBC	Submission , 4 February 2015	5	–	Facilitative provisions Clause 8.1(b)(i) and 8.1(c)(i) of current award are facilitative provisions. Clause 23.3 has been separated into clauses 9.3 and 9.4 but must be included in both 5.2(a) and 5.3(a) of the Exposure Draft.	
37.	Ai Group	Submission , 11 February 2015	5.2(a)(ii)	–	Facilitative provisions – by individual agreement Reference to clause 8.3 should be amended to 8.4(a) and (b) which deal with the spread of ordinary hours and the ability to alter that by agreement.	
	ABI & NSWBC	Reply submission , 3 September 2015			Agree with the submission of the Ai Group on this issue.	

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	ABI&NSWBC	Reply submission , 5 March 2015			Agree with Ai Group submission that clause 8.3 does not deal with the spread of hours and considers correct reference should be 8.4(b).	
38.	Ai Group	Submission , 15 July 2015	5.2(a)(iv)	–	<p>Facilitative provisions – by individual agreement</p> <p>Clause should be reflected to properly reflect the correct reference:</p> <p><i>Clause 9.5—Hours of work—ordinary hours, spread of ordinary hours</i></p>	
	TWU	Reply submission , 21 August 2015			<p>Ai Group submission dated 15 July 2015 should not be accepted. Clause does not provide for facilitation by individual agreement. Clause 9.5 relates to the ordinary hours of work for rural distribution workers.</p> <p>This is already provided for in the exposure draft in Clause 5.3(a)(iii). Clause 5.2(a)(iv) should be deleted.</p>	
39.	Ai Group	Submission , 11 February 2015	5.2(a)(vi)	–	<p>Facilitative provisions – by individual agreement</p> <p>Sub-clause should be deleted. Clause 13.4(a) is not a facilitative provision.</p>	

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	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group submission is correct and should be adopted.	
40.	Ai Group	Submission, 15 July 2015	5.2(a)(vii)	–	Facilitative provisions – by individual agreement Clause should be amended to refer to clause 15.7(a) rather than the current reference to clause 15.7.	
41.	Ai Group	Submission, 11 February 2015	5.3(a)(ii)	–	Facilitative provisions – by majority agreement Reference to clause 8.3 should be amended to clauses 8.4(a) and (b).	
	ABI&NSWBC	Reply submission, 5 March 2015			Group submission that clause 8.3 does not deal with the spread of hours and considers correct reference should be 8.4(b).	
42.	Ai Group	Submission, 11 February 2015	5.3(a)(iv)	–	Facilitative provision – by majority agreement Sub-clause should be deleted. Clause 9.7(a) is not a facilitative provision.	
	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group submission is correct and should be adopted.	

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43.	TWU	Submission, 22 July 2015	6.4(a)(ii)	12.4(g)	Part-time employment – response to question Suggest inclusion of sub-clause to identify ordinary hours of work for oil distribution workers as 35 hours per week. There also should be a change to the clause describing a full-time employee at clause 6.3 express full-time employment as 38 ordinary hours per week, except for oil distribution workers, whose ordinary hours will be 35 hours per week or 70 hours per two week period.	
	TWU	Submission on exposure draft, 4 February 2015			Party has submitted proposed additional sub-clauses – see submission.	
	AWU	Submission on exposure draft, 4 February 2015			Clause is not appropriate for oil distribution employees whose ordinary hours are 35 per week.	
	BusSA	Reply submission, 5 March 2015			Does not support submission of TWU to insert new wording for part-time. Supports the changes to cross referencing by the Ai Group.	
	Ai Group	Submission, 11 February 2015			Clause deviates from current clause 12.4(g) as it is not confined to the “the terms of this award”. Words of current clause should be retained.	

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	ABI&NSWBC	Reply submission, 5 March 2015			Does not consider it necessary for a new sub-clause for oil distribution workers as suggested by TWU but does not strongly oppose proposal.	
	TWU	Reply submission, 6 March 2015			Supports the retention of the existing provisions of clause 12.4	
44.	Ai Group	Submission, 11 February 2015	6.4(e)	12.4(f)	Part-time employment – minimum hourly rate Award does not currently provide higher hourly rates for oil distribution workers. Party concerned new approach in exposure draft results in an increase in rates of pay for such employees.	
	ABI&NSWBC	Reply submission, 5 March 2015			Share the same concerns of the Ai Group that the Award does not appear to give oil distribution workers higher hourly rates of pay.	
45.	Ai Group	Submission, 11 February 2015	6.4(f)	12.4(b)(i)	Part-time employment – payment for hours agreed upon Cross reference in this clause should be to 6.4(b)(i)-(iii).	

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46.	Ai Group	Submission , 11 February 2015	6.4(h)	12.4(h)	Part-time employment – overtime rates Cross reference in this clause should be to 6.4(b)(i)-(iii).	
47.	Ai Group	Submission , 11 February 2015	6.5(c)	12.4(d)	Types of employment—casual employment—casual loading Clause should be amended by deleting the words “in which they are employed” and replacing them with “for their classification”.	
	BusSA	Reply submission , 5 March 2015			Supports wording which deletes words “in which they are employed” and replaces “for their classification”.	
	ABI & NSWBC	Reply submission , 3 September 2015			Support the submissions of the Ai Group to amend this clause.	
48.	TWU	Submission on exposure draft , 4 February 2015	6.5(d)	12.5(c)	Casual employment – response to question TWU submits the following provisions do not apply to casual employees: Clause 18 – Annual leave Clause 19 – Personal/carer’s leave and compassionate leave Clause 20 – Parental Leave and Related	

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					Entitlements Clause 22 – Community Service Leave Clause 23 – Termination of Employment Clause 24 – Redundancy	
	Ai Group	Reply submission , 4 March 2015			Pursuant to Commission’s decision of 23 December 2014, this clause should be deleted.	
49.	Ai Group	Submission , 15 July 2015	6.5(e)	12.5(c)	Casual employment – minimum engagement New provision intended to reflect the last sentence of paragraph 12.5(c) but 12.5(c) only deals with payments applicable to casual employees while working ordinary hours. New provision should be deleted or if the current structure is retained, it should reflect current entitlement.	
	TWU	Reply submission , 21 August 2015			Ai Group submission dated 15 July 2015 should not be accepted. Appear to be suggesting that the 4 hour minimum only applies when employee working within ordinary span of hours. 4 hours applies regardless of when they work those hours.	

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50.	ABI&NSWBC	Submission , 4 February 2015	6.6	12.6	Conversion of casual employment Amendments to this clause are unnecessary and will likely create confusion and impose administrative burden on employers. Clause 12.6 of current award operates effectively.	
	AWU	Submission on exposure draft , 4 February 2015			Provision subject to common claim by the ACTU.	
	Ai Group	Submission , 11 February 2015			Party intends to make submissions before Casual Employment Full Bench in relation to this clause.	
	Ai Group	Reply submission , 4 March 2015			Agrees with ABI submissions that the amendments to current clause 12.6 are unnecessary. Retention of current provision is not opposed.	
51.	Ai Group	Submission , 11 February 2015	8.1(a)	22.1(a)	Ordinary hours of work and roster cycles – employees other than oil distribution workers Insertion of the words “for a full-time employee” in clause 8.1 potentially breaches s.147 as the Exposure Draft does not include a term	

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					specifying or providing for the determination of, the ordinary hours of work for a part-time or casual employees. Relevant words should be deleted. Clause should be amended by inserting words “up to 38 hours per week”.	
	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group submission is correct and should be adopted. Agree with Ai Groups’ wording of “up to 38 hours per week”.	
	TWU	Reply submission, 6 March 2015			Does not agree with Ai Group submissions and submits that the requirements of s147 are met by clauses 6.4 and 6.5.	
52.	Ai Group	Submission, 11 February 2015	8.4(c) and 8.4(d)	22.4	Ordinary hours of work and roster cycles – employees other than oil distribution workers – spread of hours Clause corresponds with the clause 22.4 of current award and redrafting of clause is problematic as it deviates from the current award. Party has raised number of concerns and provides alternative wording in submission.	
	TWU	Reply submission, 6 March 2015			Does not agree with AiG proposal but would support the retention of the existing provision.	

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53.	Ai Group	Submission, 11 February 2015	8.5(a)	22.5(a)	Ordinary hours of work and roster cycles – employees other than oil distribution workers – method of working ordinary hours – providing for rostered days off (RDOs) Newly inserted reference to “ordinary hourly rate” should be replaced by a reference to the “applicable minimum hourly rate”.	
	AWU	Reply submission, 4 March 2015			Does not agree with Ai Group submission to replace reference to “ordinary hourly rate of pay” with “applicable minimum hourly rate of pay”.	
	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group’s submission is correct and should be adopted.	
	TWU	Reply submission, 6 March 2015			TWU rejects the Ai Group submission as “applicable minimum hourly rate” would not encompass all purpose allowances that may apply.	
54.	Ai Group	Submission, 11 February 2015	8.5(b)	22.5(b)	Ordinary hours of work and roster cycles – employees other than oil distribution workers – method of working ordinary hours – providing for other than a rostered day off	

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					Reference to except for meal breaks should be amended to also include reference to breaks taken for the purpose of complying with fatigue management rules/regulations.	
	AWU	Reply submission, 4 March 2015			Does not agree with Ai Group submission with amending reference to “except for meal breaks” to include breaks taken for the purpose of complying with fatigue management rules/regulations.	
	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group’s submission is correct and should be adopted.	
	TWU	Reply submission, 6 March 2015			Opposes the suggestion by Ai Group as it represents a substantive change.	
55.	Ai Group	Submission, 11 February 2015	8.5(b)(ii)	22.5(b)(ii)	Ordinary hours of work and roster cycles – employees other than oil distribution workers – method of working ordinary hours – providing for other than a rostered day off Current clause refers to “all days of the week”. The word “such” should be reinstated in the interests of avoiding confusion.	

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56.	TWU	Submission, 22 July 2015	9.5-9.6	23.4	Ordinary hours of work and roster cycles – oil distribution workers Clauses 9.5 and 9.6 should be amalgamated into 9.5 with clause 9.7 renumbered as clause 9.6. Clause 7.3 should be deleted as the overtime provisions contained in clause 17 apply to oil distribution workers along with other employees, with the exception of those employees as set out in 9.5	
	TWU	Submission on exposure draft, 4 February 2015			Opposes these proposed clauses as they create a conflict between clauses 9.3 and 9.4. Party has proposed alternative wording – see submission.	
	BusSA	Reply submission, 5 March 2015			Supports Ai Group’s proposal that the wording in current clause 23.4 be reinstated into clause 9.5 and 9.6 to avoid additional costs to employers.	
	ABI & NSWBC	Reply submission, 3 September 2015			Do not oppose amalgamation of clauses provided such redrafting is consistent with existing clause 23.4.	
57.	Ai Group	Submission, 11 February 2015	9.6	23.4	Ordinary hours of work and roster cycles – oil distribution	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					The deletion of the word “such” gives rise to an ambiguity as the reference to work rostered three days in accordance with clause 9.5 is lost.	
	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group’s submission is correct and should be adopted. Current award wording should be maintained. Opposes submission by TWU.	
58.	Ai Group	Submission, 11 February 2015	9.7(b)(ii)	23.5(b)(ii)	Ordinary hours of work and roster cycles – oil distribution workers – providing for other than a rostered day off Current clause refers to “all days of the week”. The word “such” should be reinstated in the interests of avoiding confusion.	
59.	Ai Group	Submission, 11 February 2015	11.1(c)	26.1(c)	Breaks – regular meal break Clause should be amended by reinstating the current reference to the “minimum hourly rate”.	
	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group submission is correct and should be adopted. Rates in clause 15.2 clearly do not include any all purpose allowances. Clause should refer to “minimum hourly rate”	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
60.	Ai Group	Submission , 11 February 2015	11.2(b)	26.2(a)	Breaks – meal breaks after ordinary hours and before overtime hours Reference should be amended to “the applicable minimum hourly rate”.	
61.	Ai Group	Submission , 11 February 2015	12.1	15.2	Minimum wages – minimum wage rates – employees other oil distribution workers Table should include a note confirming that the casual rates include the relevant casual loading.	
62.	Ai Group	Submission , 11 February 2015	12.2	15.2	Minimum wages – minimum wage rates – oil distribution workers Award does not currently provide a highly hourly rate for oil distribution workers. A note confirming the inclusion of the casual loading should also be inserted in the table.	
	TWU	Reply submission , 6 March 2015			As AiG proposes further consideration of this provision, the TWU reserves its rights in this regard.	
63.	Ai Group	Submission , 11 February 2015	12.3(a)	15.3(a)	Minimum wages – junior employees Exposure draft should be amended to clarify that the applicable junior rates will continue to be calculated by reference to the relevant award prescribed rate. Second column of table should	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					also be substituted with “% of the applicable adult minimum hourly rate”.	
64.	TWU	Submission, 22 July 2015	12.7(d)	20.3	Payment of wages The word “immediately” is a more appropriate replacement of the word “forthwith” than the words “as soon as possible”.	
	TWU	Submission on exposure draft, 4 February 2015			Opposes proposed change in clause as it implies a reduced obligation upon the employer to finalise payments to employees following termination. Proposes alternative wording in submission.	
	Ai Group	Reply submission, 4 March 2015			Does not oppose TWU amendment to clause on the basis that it would reflect the terms of the current clause 20.3	
	BusSA	Reply submission, 5 March 2015			Opposed to wording proposed wording by the TWU as it will lead to significant changes in employer obligations.	
	ABI&NSWBC	Reply submission, 5 March 2015			Disagree with the TWU submission that the revised wording of this clause has in any way reduced the obligation.	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	ABI & NSWBC	Reply submission , 3 September 2015			Do not agree the proposed change of words “as soon as possible” to “immediately”.	
65.	Ai Group	Submission , 11 February 2015	12.7(e)	20.4	Minimum wages – payment of wages Words at “its discretion” contained in the corresponding current award clause should be reinstated make it clear that the decision to pay an employee means electronic funds transfer (EFT).	
66.	BusSA	Submission , 4 February 2015	13	16	Allowances Recommend percentages remain for clarity and transparency, particularly for future variations.	
	Ai Group	Submission , 11 February 2015			Current clause has not been included in exposure draft on the basis that it is “redundant”. Party submits that the clause is not redundant. Clause should be retained.	
	Ai Group	Reply submission , 4 March 2015			Agree with BusSA’s submission that the formula by which the allowances contained in clause 13 should be retained; party has not identified any difficulty arising from the retention of the relevant percentages.	

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Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	TWU	Reply submission, 6 March 2015			The resultant difference from increasing a percentage rate compared to a monetary rate is negligible and TWU supports the substitution of the percentages with monetary amounts.	
67.	ABI&NSWBC	Submission, 4 February 2015	13.2(a)(i)	–	Wage related allowances – all purpose allowances – industry allowance – response to question All purpose allowance paid to Grade 7 and Grade 10 employees is not an industry allowance and should not be described as one. Clause 13.2(a)(i) should be revised to read “Grade 7/Grade 10 allowance (see Schedule B— Classification Structure and Minimum Rates of Pay”. Leading Hand allowance is not expressed as an all purpose allowance and should be removed from clause.	
	AWU	Submission on exposure draft, 4 February 2015			Industry allowances which are all purpose allowances should be moved from Schedule B and placed under clause 13.2(a)(i) as it relates to all purpose allowances.	
	TWU	Submission on exposure draft,			TWU supports the proposal to move industry allowances presently contained in Schedule B to	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
		4 February 2015			clause 13.2.	
	Ai Group	Submission , 11 February 2015			Does not oppose the allowances being moved to the clause dealing with the allowances.	
	Ai Group	Reply submission , 4 March 2015			Do not oppose the submission of the TWU and AWU that the allowances presently contained in Schedule B be moved to clause 13.	
	BusSA	Reply submission , 5 March 2015			Opposes the proposal that allowance be moved to clause 13.2 from Schedule B as employers would incur additional costs as allowance is currently only applicable to certain drivers.	
	TWU	Reply submission , 6 March 2015			Supports the retention of the existing Award provision.	
68.	Ai Group	Submission , 11 February 2015	13.2(a)(ii)	–	Wage related allowances – all purpose Having regard to current clause 16.2(a) of award and clause 13.2(b) of Exposure Draft, it is not apparent from text that the allowance is an all-purpose allowance. Clause should be deleted.	
	Ai Group	Reply submission , 4 March 2015			Agree with ABI submission – clause should be deleted.	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	ABI&NSWBC	Reply submission, 5 March 2015			Disagree with the TWU submission.	
	TWU	Reply submission, 6 March 2015			Supports the retention of the existing Award provision.	
69.	Ai Group	Submission, 11 February 2015	13.4(a)	16.2(f)	Expense related allowances – travelling Clause should be amended to make clear that the allowance is payable in circumstances where an employee is engaged “on work on which the employee is unable to return home at night”.	
	TWU	Reply submission, 6 March 2015			Supports the retention of the existing Award provision.	
70.	AWU	Submission on exposure draft, 4 February 2015	13.4(b)	16.4(a)	Expense related allowances—work diary The removal of the word “an employee” to a “weekly employee” results in only weekly employees receiving the work diary allowance. Clause should be changed back to “an employee”.	
	Ai Group	Submission, 11 February 2015			Exposure draft omits “weekly” as currently found at clause 16.4(a) and should be reinstated.	

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Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	Ai Group	Reply submission, 4 March 2015			Accept AWU’s submission that clause deviates from current clause 16.4(a) by inserting “weekly”. Amendment proposed by AWU is not opposed.	
	TWU	Reply submission, 6 March 2015			Rejects the submission of Ai Group as current award does not include the word “weekly”. Proposed change should be rejected.	
71.	AWU	Submission on exposure draft, 4 February 2015	13.4(c)(i)	16.4(b)	Expense related allowances – articles of clothing Last sentence should read as follows “the provisions of this clause do not apply where the employer provides the special clothing”.	
	Ai Group	Reply submission, 4 March 2015			Does not oppose variation proposed by the AWU.	
72.	ABI&NSWBC	Submission, 4 February 2015	13.4(d)(ii)	16.4(c)	Expense related allowances—housing – response to question No need for the Award to specify the frequency of payment of the allowance.	
	AWU	Submission on exposure draft,			Clause should state the housing payment is to be made weekly, hence the \$2.85 allowance less	

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Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
		4 February 2015			than the amount of rent charged should occur on a weekly basis.	
	Ai Group	Submission , 11 February 2015			Effect of clause is that where an employer provides accommodation for an employee and his/her family requires the employee to live there and charges the employee rent, the employer must pay an allowance that equates to the amount of rent charges, less \$2.85.	
	Ai Group	Reply submission , 4 March 2015			Does not accept ARTIO's interpretation of this current clause. Opposed to AWU's submission that the payment should occur on a weekly basis. Proposal should not be adopted.	
	BusSA	Reply submission , 5 March 2015			Supports Ai Group's view that the frequency of housing allowance should not be prescribed as it is determined by the frequency that the employer requires the employee to pay rent.	
73.	Ai Group	Submission , 11 February 2015	15.1(d)	–	Shiftwork – definitions – non continuous afternoon or night Definition is new and deviates from the current terms of clause 24.10. Party has submitted alternative wording in submission.	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	ABI&NSWBC	Reply submission, 5 March 2015			Ai Group submission is correct and should be adopted. Current wording of the award should be retained.	
	TWU	Reply submission, 21 August 2015			Submission of Ai Group on 15 July 2015 should not be accepted. Wording in the exposure draft does not deviate from the current award.	
74.	Ai Group	Submission, 11 February 2015	15.10	24.10	Shiftwork – rate for non-continuous afternoon or night shift Rate payable is to a shiftworker who works on any afternoon or night shift. Current clause deviates from this and should be amended. Alternative wording in submission.	
75.	ABI&NSWBC	Submission, 4 February 2015	16.2	28.2	Penalty rates – work on public holidays Casual employee’s casual loading should be reduced from 25% to 10% as per clause 6.5(f). Party has provided alternative structure in submission.	
	ARTIO	Comments on exposure draft, 4 February 2015			Clause increases amounts for work performed on public holidays by double counting the payment for public holidays.	

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TABLE 2:

Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	TWU	Reply submission, 6 March 2015			Suggests a further discussion at a conference for this issue. Also accepts that the rates for casuals listed are incorrect.	
	ABI & NSWBC	Reply submission, 3 September 2015			Rely on previous submissions dated 4 February 2015 and support the additional concerns raised by the Ai Group.	
76.	Ai Group	Submission, 15 July 2015	16.2(a)	28.2(c)	Penalty rates – work on public holidays Percentages applicable to permanent employees are incorrect.	
	ABI&NSWBC	Submission, 4 February 2015			Phrase “all time worked by an employee on a public holiday” should be amended to “all time worked within ordinary hours” as “all time worked” could be problematic.	
	Ai Group	Submission, 11 February 2015			Clause should be reworded clarify that penalties are payable based on the minimum rates contained in the award. Rolling the casual loading rate contained in table (a) fails to reflect the fact that 25% casual loading is not applicable when overtime hours are worked.	

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Summary of submissions received - exposure drafts (technical/drafting only).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	AWU	Reply submission, 4 March 2015			Does not agree with the ARTIO as clause 28.2(a) of the current Award provides that payment for public holidays are in addition to any amount payable in respect of the weekly wage. Oppose AIG’s position that penalties are payable on the minimum rates contained in the Award.	
	Ai Group	Reply submission, 4 March 2015			Does not accept all of the comments in ARTIO’s submission but contends that there is a problem with the approach adopted in clause 16.2(a).	
77.	Ai Group	Submission, 15 July 2015	16.2(b)	28.2(e)	Penalty rates – work on public holidays Inclusion of the words “all work” is problematic. If the structure of the clause is to be retained, these words should be replaced with “such time”. The rates should be amended to reflect the correct rate applicable for casual employees. Clause should be amended to reflect the requirement that a separate casual loading must be paid in relation to worked performed during ordinary hours.	
	Ai Group	Submission, 11 February 2015			Rates for casuals are incorrect. Rates of pay for all time worked by a casual employee as per clause 28.2(f) of the current award.	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	ABI&NSWBC	Reply submission, 5 March 2015			Clauses 28.2(f) and (g) of the existing Award clearly set out the entitlements for casual employees when working on public holidays “for all time” and those rates should be adopted.	
	TWU	Reply submission, 21 August 2015			Submission of Ai Group on 15 July 2015 should not be accepted. 25% casual loading applies for all hours worked on a public holiday regardless of whether they are worked outside the span of hours.	
78.	ABI&NSWBC	Reply submission, 5 March 2015	16.2(c)	28.2(a)	Penalty rates – work on public holidays Do not oppose the change being proposed by ARTIO the change phrase to ‘Saturday or Sunday rate’.	
79.	Ai Group	Submission, 11 February 2015	16.2(d)	28.2(a)	Penalty rates – work on public holidays Clause should be amended to make clear that it forms part of subclause (c). The words “during such absence” should be reinstated”	
80.	NUW	Submission on exposure draft, 27 January 2015	17.3	–	Overtime for oil distribution workers Proposes that clause 17.3 be deleted as the proposed clauses 17.1 and 17.2 when read together with the proposed clause 9 deal with	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					overtime for oil distribution workers.	
	TWU	Submission on exposure draft , 4 February 2015			Opposes wording in proposed clause 17.3 as it conflicts with the terms of proposed clause 9. Proposes clause 17.3 be deleted and remaining clauses 17.4 to 17.9 be renumbered to 17.3 to 17.8.	
	Ai Group	Reply submission , 4 March 2015			Agree with TWU submission but formed this view for different reasons to those advanced by the TWU. Clause 9 permits more than 35 ordinary hours to be worked in a week. Such hours may be arranged through the working of a 70 hour fortnight. NUW has only addressed the elements of clause 9 that relate to restrictions on ordinary hours of work and arrangements contemplated by clause 9.5.	
	ABI&NSWBC	Reply submission , 5 March 2015			Disagree with submission of the TWU and NUW and submit there is no inconsistency between this clause and proposed clause 9.6	
	ABI & NSWBC	Reply submission , 3 September 2015			Do not oppose that this clause be deleted.	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
81.	TWU	Submission, 22 July 2015	17.5	27.3	Rest period after overtime May not necessarily be a loss of entitlement for a shift worker as ordinary hours are set out in the shift work provisions, party submits wording proposed in our submissions are clear than in exposure draft.	
	ABI&NSWBC	Reply submission, 5 March 2015			Agree that the wording of clause 17.5(c)(ii) is ambiguous	
	ABI & NSWBC	Reply submission, 3 September 2015			Do not oppose the proposed redrafting of this provision as put forward by the TWU.	
82.	TWU	Submission on exposure draft, 4 February 2015	17.5(c)(ii)	27.3	Rest period after overtime Opposes wording in proposed clause as it will result in the loss of this entitlement for employees working shift work. Proposes alternative wording in submission.	
83.	TWU	Submission on exposure draft, 4 February 2015	17.7(a)	27.4	Call back Submits that payment referred to in subclause (a) is payable at overtime rates. Supported by the terms of the clause which states “an employee recalled to work overtime...”	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	AWU	Submission on exposure draft , 4 February 2015			Hours worked after being recalled to the workplace constitutes overtime, thus payment for those hours worked must be paid at overtime rates.	
	Ai Group	Submission , 11 February 2015			The time referred to in the clause is time worked as overtime it suggests it will be paid at overtime rates.	
	Ai Group	Reply submission , 4 March 2015			Agrees with the submissions of the TWU, AWU and ARTIO.	
	BusSA	Reply submission , 5 March 2015			Supports the submissions of the TWU and AiG that call back is to be paid at overtime rates.	
84.	Ai Group	Reply submission , 4 March 2015	18.2	29.2(b)	Annual leave – additional leave for certain shiftworkers ARTIO has called for a more precise definition of what constitutes a seven day shift workers but has not identified any specific proposed variation.	
85.	Ai Group	Submission , 11 February 2015	18.2(a)	–	Annual leave – Additional leave for certain shiftworkers Reference to clause 15.1 should be amended to	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
					read s.87(1)(b) of the Act	
86.	ARTIO	Comments on exposure draft, 4 February 2015	21.1	32.1	Public holidays Clause refers to the NES and party is of the understanding of the NES and the situation has existed for many years.	
87.	Ai Group	Submission, 11 February 2015	Schedule C	–	Summary of hourly rates of pay Rates for oil distribution workers are higher and the current award does not prescribe such rates.	
	TWU	Reply submission, 6 March 2015			Submits this issue should be discussed further between the parties and to potentially hold a conference/	
	ABI & NSWBC	Reply submission, 3 September 2015			Support the submissions of the Ai Group on this clause.	
88.	Ai Group	Submission, 15 July 2015	Schedule C – C.1.2	–	Summary of hourly rates of pay Reference to the ordinary hourly rate in each of the tables is erroneous and confusing. Schedule should be amended to refer to the “% of the minimum hourly rate” throughout.	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
	Ai Group	Submission , 11 February 2015			Rates of pay have been calculated based on the minimum hourly rate. Reference to the ordinary hourly rate in each of the tables is accordingly erroneous and confusing. Schedule should be amended to refer to the % of the minimum hourly rate.	
	AWU	Reply submission , 4 March 2015			Opposes the proposed replacement of definition by the ARTIO and Ai Group. The term ordinary hourly rate should be adopted throughout the Award.	
89.	Ai Group	Submission , 15 July 2015	Schedule C – C.2.2 and C.2.4	–	Summary of hourly rates of pay The afternoon shift rates are incorrect and require recalculation.	
90.	Ai Group	Submission , 15 July 2015	Schedule C – C.3.1, C.3.3 and C.3.5	–	Summary of hourly rates of pay Footnote should be reworded so that it corresponds with footnote 2.	
91.	Ai Group	Submission , 11 February 2015	Schedule C – C.2.2, C.2.4, C.2.6, C.4.2, C.4.4	–	Summary of hourly rates of pay The amendment proposed for “non continuous afternoon or night shift” should also be made to the footnote contained the Schedule C.	

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ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	NOTES
			and C.4.6			
92.	Ai Group	Submission , 15 July 2015	Schedule D – D.1	–	Summary of monetary allowances – Wage Related Allowances Description in the first column of the allowances payable under Schedule B should be amended to identify which classification they are relevant to, where the allowance is applicable based on the vehicle being driven.	
	ABI & NSWBC	Reply submission , 3 September 2015			Support the submissions of the Ai Group on this clause.	
93.	Ai Group	Submission , 11 February 2015	Schedule H	3.1	Definitions – non continuous afternoon or night Definition should be amended for the same reasons as outlined for clause 15.1(d).	
	Ai Group	Reply submission , 4 March 2015			Do not oppose BusSA submission that the definition of “road transport and distribution industry” should not be repeated but have not identified any problems arising from the inclusion of the definition in both clause 3 and Schedule H.	