

FURTHER REVISED SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 4 November 2016 and updated following the Conference on [4 August 2016](#) [PN606–759]. Updates since last publication on 24 June 2016 are marked in red text.

This summary does not include materials filed in relation to AM2016/5 – regarding award coverage and classifications – see Statement [\[2016\] FWC 1191](#).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
4	AIMPE	Sub 02/03/15	3	4	Coverage – coverage clause may need revision. There are problems with the manner in which the <i>Ports, Harbours and Enclosed Water Vessels Award 2010</i> is being utilised which impact of the <i>Seagoing Award 2010</i>. (Also see submission in relation to <i>Ports, Harbours and Enclosed Water Vessels Award 2010</i> coverage in table on page 6.)	Page 3 – Para 4	No longer pursued by AIMPE – see Sub – 15/07/15 . Confirmed withdrawn – conference 4 August 2016 [PN612] .
	AIG	Sub – 25/06/15			Opposes and consequential change to coverage based on AIMPE’s proposal to vary <i>Ports, Harbours and Enclosed Water Vessels Award 2010</i>.	Page 3	
	MIAL	Sub – 14/04/16			Confirms understanding provisions subject to AM2016/5 and that wording may change.	Page 1	

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2	AIMPE	Sub-02/03/15	3	4	Coverage Definitions of Accommodation vessels and Transhipment vessels should be included in 'Seagoing industry'.	Page 3 – Para 4	No longer pursued by AIMPE – see sub – 15/07/15 . Confirmed withdrawn – conference 4 August 2016 [PN612].
3	MIAL	Sub – 14/04/16	6.2		Effects of Temporary Licences Change to terminology, from Part B to Schedule A, is likely to confuse operators and current reference should be maintained.	Page 1-2	To be referred to conference – Mention 6 June 2016 [PN309]. Not agreed – directions for the filing of further material will be issued – conference 4 August 2016 [PN612–618].
	MUA	Reply sub – 05/05/16			Disagree that confusion will be caused by rearrangement.	Page 1	
	AIG	Reply sub – 05/05/16			Does not oppose retention of Part by as sought by MIAL.	Para 242	
4	MIAL	Sub – 14/04/16	6.2		Effects of Temporary Licences Definition of temporary licence is contained at 6.1. MIAL is concerned clause may be confusing. FW Act applies to foreign vessels that meet definition of temporary licensed ship in the FW Regulations at 1.15B. Clause is confusing if operators are unaware a vessel is only subject to FW Act if it meets definition in FW Regulations.	Page 2	To be referred to conference – Mention 6 June 2016 [PN309-11]. Related to item 17 . MIAL agreed to seek further instructions and in doing so was asked to consider decision [2013] FWCFB 8338. Conference 4 August 2016 [PN618–643, PN740].
		Further sub –			Confirmed position that wording	Paras 1–10	

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		03/10/16			of clause creates potential for confusion and could be remedied by inserting a reference to 1.15B of the <i>Fair Work Regulations 2009</i> in clause 6. Does not consider that decision [2013] FWCFB 8338 has application.		
	AIG	Reply sub – 05/05/16			Supports rewording of clause by MIAL to confirm Schedule A applies to vessels <i>operating</i> under a temporary licence.	Para 241	
5	MUA	Sub – 14/04/16	7.2 and 14.2(e)		Full-time employees <i>Parties are asked to comment on how clause 7.2 interacts with clause 14.2(e).</i> Clauses do not interact and relate to different concepts. Cl. 7.2 deals with ordinary hours of work for a full-time employee and in contrast cl 14.2(e) deals with components of leave arising from industrial settlement in 1973 – see (1973) 150 CAR 204.	Para 1, 7	Parties agree clauses not inconsistent – Mention 6 June 2016 [PN311-13] . Confirmed above – no change required – conference 4 August 2016 [PN644] .
	MIAL	Sub – 14/04/16			Party understands that the calculation of leave entitlements on the basis of a 35 hour working week in clause 14.2(e) is the result of prior industrial negotiation in	Page 2	

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					pre-reform awards. It is not inconsistent with 7.2 which contains the standard full time working week.		
	MIAL	Reply sub – 05/05/16			Other parties have indicated there are no operative difficulties with clauses and MIAL has no additional comments.	Para 1	
	AIG	Reply sub – 05/05/16			Agrees with MIAL and MUA that clauses are not inconsistent.	Para 243	
6	FWO	Corro 02/03/15	8.3	18.2	Hours of work – Interaction with A.3.1 (current clause 27) and the NES is unclear.	Para 34	Parties agreed clauses not inconsistent – Mention on 6 June 2016 [PN314] .
	MUA	Sub – 09/04/15			Clause should be read with clauses 8.2 and 14.1(a) (current clauses 18.4 and 20.1(a)). No breach of the NES in relation to maximum ordinary hours.	Pages 1-2	Parties agree there is no inconsistency and no amendment is required – see MUA sub – 20/07/15 .
	MIAL	Sub – 17/06/15			Agrees with MUA that provision is not inconsistent with the NES.	Para 1	
	AIG	Sub – 25/06/15			Does not consider that there are sufficient grounds or ambiguity to vary clause. If FWC comes to different view, parties requests to be heard on proposed re-wording.	Pages 1-2	Confirmed above – conference 4 August 2016 [PN644].
7	AIG	Sub – 14/04/16	8.5		Minimum hours of rest Reference to s.6(1) of <i>Navigation Act 2012</i> should be replaced with s.14 which now defines seafarer.	Para 417	Agreed to update legislative scheme – Mention 6 June 2016 [PN316] .

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	MIAL	Reply sub – 05/05/16			Agrees with AIG group.	Pages 3-4	Confirmed above – ED amended – conference 4 August 2016 [PN644].
8	MUA	Sub – 14/04/16	9		Breaks <i>Parties are asked to clarify whether breaks under clause 9 are paid.</i> Breaks are paid in the sense that all employees are paid an aggregate annual wage.	Para 2	Agreed, no changes necessary – Mention 6 June 2016 [PN318-19]. Confirmed above – conference 4 August 2016 [PN644].
	MIAL	Sub – 14/04/16			Unnecessary to specify whether breaks are paid as clause 10.3 specifies that annual salaries have been fixed on an aggregate basis.	Page 2	
	MIAL	Reply sub – 05/05/16			No amendment to clause is required.	Para 2	
	AIG	Reply sub – 05/05/16			Agree with MUA and MIAL. Clause does not require clarification.	Para 244	
9	MUA	Sub – 14/04/16	9.3		Breaks <i>Parties are asked to clarify how clause 9.3 interacts with clause 8.5(b).</i> ED has altered wording of clause 8.5(b) from being the same as clause 12(3) of Marine Order 28 to “A seafarer must not work in excess of 14 hours without a rest period.” Change should be	Para 3	To be referred to conference – Mention 6 June 2016 [PN322-24]. ED amended to incorporate MUA proposed redraft of clause 8.5. No change to clause 9.3 required.

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					reversed so that language between the legislative provision and the award is the same. Once this is done the award clauses 8.5(b) and 9.3 merely reflect the requirements of Marine Order 28.		Parties will have further opportunity to press for change – conference 4 August 2016 [PN644-684].
		Further sub – 28/09/16			Proposed redraft of clause 8.5 provided.	Page 1–2	
	MIAL	Reply sub – 05/05/16			Legislative provisions and award should be consistent. Alternative approach is to directly reference legislative provisions under clause to ensure they are always identical.	Para 3	
10	AIMPE	Sub-02/03/15	10	13	Classifications – Two passenger vessel schedules of classifications should be inserted.	Page 3 – Para 1	No longer pursued by AIMPE – see Sub – 15/07/15 .
	AIG	Sub – 25/06/15			Opposed by AIG-	Page 3	Confirmed above – conference 4 August 2016 [PN685].
11	AIMPE	Sub-02/03/15	10	13	Classifications - A classification of ‘electrician’ should be added to the ‘second mate/second engineer’ grading. For passenger vessels, a grading of ‘chief electrician’ or ‘first electrician’ should be added.	Page 3 - Para 2	Has been referred to another Full Bench – see Mention 6 June 2016 [PN334, 341-44] .
	AIG	Sub – 25/06/15			Opposed by AIG	Page 3	AIMPE continuing to pursue matter – see Sub – 15/07/15 .
	CSL	Sub – 24/09/15			Opposes insertion of new classification at the Second	Paras 3-6	

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					Mate/Second Engineer grading. New classification should be benchmarked against comparable classifications in <i>Electrical, Electronic and Communications Contracting Award 2010</i> .		Confirmed issue referred to FB in AM2016/15 – conference 4 August 2016 [PN685].
12	AIMPE	Sub-02/03/15	10	13	Classifications – Consideration should be given to including classifications for fitters and boilermakers.	Page 3 – Para 3	AIMPE not pursuing fitters and boilers. Is pursuing new schedule, has been referred to Full Bench – see Mention 6 June 2016 [PN336-345]. Confirmed withdrawn by AIMPE – conference 4 August 2016 [PN686-688].
	AIG	Sub-25/06/15			Opposed by AIG.	Page 3	
	AIMPE	Sub-15/07/15			Will continue to pursue submission of 2/3/15. Further, seeks inclusion of another schedule of classifications for Transhipment Vessels and Small Ships. New Dry Cargo Vessel schedule would include classifications of Fitters and Boilermakers.	Page 1, Para 2(e)	
	CSL	Sub-24/09/15			Not opposed to AIMPE submission but request opportunity to make further submissions to proposed wage relativities and wage rates.	Paras 7-9	
13	MIAL	Sub – 14/04/16	10.2		Classifications Generic reference to appropriate regulation may be appropriate. Marine Orders Part 3 no longer regulates training and qualification	Page 3	Agreed – Mention 6 June 2016 [PN309-11]. Confirmed above – ED amended – conference 4

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					standards under <i>Navigation Act 2012</i> .		August 2016 [PN691].
	MUA	Reply sub – 05/05/16			Reference to Marine Orders Part 3 should be updated to Marine Orders 70-73.	Page 1	
	AIG	Reply sub – 05/05/16			Does not oppose MIAL’s proposed amendment as current reference is no longer relevant.	Para 245	
14	MUA	Sub – 14/04/16	10.3		Classifications and minimum wage rates <i>Parties are asked whether the formula for calculating the aggregate overtime component should be included in the award to provide greater transparency when wages are adjusted.</i> Does not consider formula should be included in award.	Para 4	Parties agree calculations should be retained, no need for additional formula – Mention 6 June 2016 [PN353-56]. Confirmed agreed – no change required – conference 4 August 2016 [PN691].
	MIAL	Reply sub – 05/05/16			Clause 10.3 should be retained.	Para 4	
	AIG	Reply sub – 05/05/16			Does not oppose MUA’s view that no formula is needed.	Para 246	
15	MUA	Sub – 14/04/16	12.9(b)		Industrial clothing – Trappings <i>Parties are asked to define “trappings”.</i> Propose trappings be defined to mean articles of clothing of equipment or dress.	Para 5	To be referred to conference – Mention 6 June 2016 [PN359-60]. ED amended – definition inserted based on parties’

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	MIAL	Sub – 14/04/16			Clause appears to have been replicated from <i>Maritime Industry Seagoing Award 1999</i> and clause has little utility in the contemporary seagoing industry.	Page 3	submissions. Parties will have further opportunity to comment – conference 4 August 2016 [PN691–739].
	MIAL	Reply sub – 05/05/16			Not aware of term being used in industry.	Para 5	
	AIG	Reply sub – 05/05/16			Do not support MUA. Adoption of MUA’s proposed definition creates overlap with uniform and protective clothing allowances in clause 12.9(a) and (c).	Para 247	
16	MUA	Sub – 14/04/16	14.2		Calculation of leave entitlement <i>Parties are asked to comment on whether the “other things” referred to in clause 14.2 should be specified.</i> Does not consider the formula for calculating aggregate overtime component should be included. Reference to “other things” reflects industrial nature of settlement that occurred in 1973 (see (1973) 150 CAR 204).	Para 6	Agreed, no change required – Mention 6 June 2016 [PN361-62].
	MIAL	Reply sub – 05/05/16			Clause does not require amendment and should be retained as it demonstrates different arrangements that apply in industry.	Para 6	

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	AIG	Reply sub – 05/05/16			Does not seek clarification of clause.	Para 248	
17	MIAL	Sub – 14/04/16	Schedule A		Vessels Granted a Temporary Licence Wording in preamble should be changed to reflect that a vessel operates under a temporary licence rather than being granted one. Licence is granted to the applicant (owner, charter, master, agent, and shipper) rather than the vessel.	Page 2	Relates to item 3 – referred to conference Mention 6 June 2016 [PN362-364]. See above item 4 .
18	FWO	Corro-02/03/15	A.3.1	27	Vessels Granted a Temporary Licence Hours of work - Interaction with clause 8.3 (current clause 18.2) and the NES unclear.	Para 34	To be referred to conference – Mention 6 June 2016 [PN366-67] Referred to FB that dealt with NES inconsistencies to be dealt with as discrete issue – likely to be determined on the papers. Conference 4 August 2016 [PN742-750].
	MUA	Sub – 09/04/15			Matters raised by FWO cannot be resolved by including clause in the same terms as clause 18.4 for employees covered by Part A of award. Amend clause A.3.1(a) to read: “All hours worked in excess of eight hours per day, <u>or 38 hours per week...</u> ”	Page 2	
	MIAL	Sub – 17/06/15			Unique circumstances of Part B are such that current clause 27 is not inconsistent with the NES and therefore amendment not required.	Paras 2-5	
	AIG	Sub – 25/06/15			Does not consider clause to be automatically inconsistent with the	Pages 2-3	

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					NES. It is not necessary to vary clause to meet modern awards objective on the basis of its interaction with the NES. If FWC amends clause, party has provided proposed wording.		
	MUA	Sub – 20/07/15			Press submission of 9 April 2015 and propose issue be determined on the papers.	Paras 2-9	
	CSL	Sub – 24/09/15			Opposes MUA and submits amendment is unnecessary and creates a new entitlement to overtime.	Para 10	
	MUA	Sub – 14/04/16			Press submission of 9 April 2015 – no provision in Part B of award that enables ordinary hours of work to be averaged over a period. Amend clause per earlier submission.	Para 8	
	MIAL	Sub – 14/04/16			Press submission of 17 June 2015 that Part B should be retained as Part B.	Page 3	
	MIAL	Reply sub – 05/05/16			Does not agree with MUA's proposal and supports AIG submission of 25 June 2015.	Para 7	
	AIG	Reply sub – 05/05/16			Party strongly opposes MUA. Clause is not inconsistent with the NES, specifically s.62 and no variation is required.	Paras 249 - 263	

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19	FWO	Corro-02/03/15	A.4.1	30	Leave—employees on a vessel granted a temporary licence Unclear whether leave payable under clause is in addition to NES entitlement or in substitution of it.	Para 35	Agreed – leave provided is not in addition to NES entitlement, but rather incorporates the NES entitlement – Mention 6 June 2016 [PN371].
	MUA	Sub—09/04/15			Leave is only in substitution of annual leave and community service leave provisions of NES. Employees covered by Part B should be additionally entitled to personal/carer's leave in accordance with the NES.	Page 3	Proposed wording provided. No longer pressed by MUA – See sub – 20/07/15 .
	MIAL	Sub—17/06/15			Clause is inclusive of accrued entitlements under NES. Leave entitlements are in lieu of those described under NES.	Paras 6-13	Confirmed withdrawn – conference 4 August 2016 [PN750-751].
	MUA	Sub—20/07/15			Support interpretation provided by MIAL.	Para 10	
	MUA	Sub—14/04/16			Press submissions on 20 July 2015 and continue to support submission of MIAL.	Para 9	
	MIAL	Sub—14/04/16			Press submission of 17 June 2015 that clause incorporates NES entitlement to annual leave.	Page 3	
	MIAL	Reply sub—05/05/16			See submission of 17 June 2015.	Para 8	

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	AIG	Reply sub – 05/05/16			Refers to its submission of 25 June 2015 and submits its position is consistent with MUA and MIAL.	Para 264	
20	MUA	Sub – 14/04/16	Schedule B		Summary of Hourly Rates of Pay <i>Parties are asked to comment whether it is appropriate to include Schedules of Hourly Rates in this award.</i> Not appropriate as no employees are paid by the hour.	Para 10	To be referred to conference – Mention on 6 June 2016 [PN381-82]. <i>Parties agreed no schedule of hourly rates to be included – ED amended, FWC query removed – conference 4 August 2016 [PN752-757].</i>
	MIAL	Sub – 14/04/16			Not aware of vessels covered by Part A being paid hourly rates. There would be utility for part B to have this schedule in order to calculate overtime payments.	Page 3	
	MUA	Reply sub – 05/05/16			Unaware of any operator currently experiencing difficulties with aggregate wage.	Page 2	
	MIAL	Reply sub – 05/05/16			Party will be in better position to assess schedule once FB proceedings re coverage provisions have been concluded.	Para 9	
	AIG	Reply sub – 05/05/16			Does not oppose submissions of MIAL or MUA as employees are generally remunerated by way of an annual salary.	Para 265	
21	MUA	Sub – 14/04/16	D.3.3		National Training Wage <i>Parties are asked to identify “any training program which applies to</i>	Para 11	Resolved – no amendment necessary – Mention on 6 June 2016

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					<i>the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997” that they consider should not be covered by this Schedule.</i> Party is not aware of a training program that should not be covered by this Schedule.		[PN382]. Confirmed above – conference 4 August 2016 [PN758].
22	MUA	Sub – 14/04/16	Schedule F		Definitions <i>The term “repatriation” does not appear to be used in this award. Parties are asked to comment on whether it should be removed. Term was from clause 11.1.3 of the Maritime Industry Seagoing Award 1999 and was removed when modern award was made. Term no longer has any operation and can be deleted.</i>	Para 12	Agreed – term to be deleted – Mention 6 June 2016 [PN385]. Confirmed above – ED amended, FWC query removed – conference 4 August 2016 [PN758].
	MIAL	Sub – 14/04/16			“Repatriation” is a commonly understood term but if it is not used in the award then it should not be included.	Page 3	
	AIG	Reply sub – 05/05/16			Does not oppose the removal of the word “repatriation”.	Para 266	

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23	AIG	Sub – 14/04/16	Schedule F		Definitions Reference to s.6(1) of <i>Navigation Act 2012</i> should be replaced with s.14 which now defines seafarer.	Para 418	Agreed reference to be updated – Mention 6 June 2016 [PN389]. Confirmed above – ED amended conference 4 August 2016 [PN758].

List of abbreviations (in alphabetical order)

AIG	The Australian Industry Group
AIMPE	The Australian Institute of Marine and Power Engineers
CSL	CSL Australia Pty Ltd
ED	Exposure draft
FB	Full Bench
FWO	Fair Work Ombudsman
MIAL	Maritime Industry Australia Ltd
MUA	The Maritime Union of Australia