

SUMMARY OF SUBMISSIONS ON REVISED EXPOSURE DRAFT

This table is a summary of reply submissions lodged for this award after the 23 October 2015 decision [\[2015\] FWCFCB 7236](#) and in response to the Revised Exposure Draft published on [21 November 2016](#). The summary includes submissions received before 11 October 2016.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
1.	AIG	Sub 23-11-15	2.2–2.3		National employment standards – clause contains drafting error – should be amended.	393	ED amended
	BusSA	Sub 27-11-15				39	
2.	AWU	Sub 23-11-15	7.4(c)(i)		Casual employees – ‘for each ordinary hour worked’ should be changed to ‘for each hour worked’ because casual loading in this award is paid for all hours worked.	8–9	
3.	BusSA	Sub 27-11-15	Currently omitted	12.2(b)	Casual employees – appears significant provisions dealing with overtime work and payment for casual employment have been removed and not replaced by any other relevant provision in the ED. Notes current award clause 12.2(b), which states casual loading is payable on overtime, Saturday, Sunday & public holidays, has been omitted from ED. Should be retained.	38	ED amended – clause 12.2(b) inserted as new 7.4(d). A temporary note to parties has been included in ED to draw attention to minor amendment to wording of clause: amendment provides additional cross-reference.
	AWU	Sub 23-11-15	7.4, 12.2(e), Sch D3			10–11	
	AIG	Reply 7-12-15				247–250	
4.	AIG	Sub 23-11-15	7.4(c)(ii)		Casual employees – clause should be deleted as ‘unnecessary and problematic’.	394	ED amended in accordance with para [69] of [2014] FWCFCB 9412
	BusSA	Sub 27-11-15				40	

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5.	AIG	Sub 23-11-15	8.2, 14	17.10	Piecework/Minimum wages – does not reiterate case for inclusion of current clause (following 2015 FWCFB 7236 at [287]), however notes nothing clarifies interaction between clauses 14 (minimum wages) and 8.1-8.2 (piecework), i.e. clauses 8.1-8.2 provides an alternative remuneration to that in 14. Proposes new clause 14.7 outlining minimum prescribed in clause 14 do not apply to piecework workers. Wording proposed in submission.	396–403	
6.	AIG	Sub 23-11-15	12.2(c)		Ordinary hours and roster cycle – wording not in current award. Proposed variation considered and rejected in [2015] FWCFB 2856 at [153]. Consistent with that decision clause should be deleted.	395	ED amended to delete clause in accordance with [153] of [2015] FWCFB 2856
	BusSA	Sub 27-11-15			Wording of clause is not in current award. Clause should be deleted.	41	
7.	AIG	Sub 23-11-15	20.1		All purpose allowances – consistent with [91] of [2015] FWCFB 4658 ‘annual’ to be inserted before ‘leave’ in definition of all purpose.	404	Amendment made to ED in accordance with [91] of [2015] FWCFB 4658 .
	BusSA	Sub 27-11-15					

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8.	AFEI	Sub 23-11-15	23		<p>Penalty rates and shiftwork arrangements – note structure of clause discussed at [302] of [2015] FWCFB 7236. Agrees with FWC, day work rates not appropriate in clause for shiftworkers. Potential anomaly in cl.27.6, 30.5 & 30.6 of current award, weekend rates for day workers, could be addressed by recognising: 23.3(c) is intended to provide weekend rates of pay for day workers who have ordinary hours of work on weekend with agreement under cl.13.2(d); 23.1(a) is intended to provide weekend rates of pay for day workers who do not have ordinary hours on a weekend. Proposes</p> <ul style="list-style-type: none"> - Move 23.3(c) to 23.1 - Current cl.23.1(a) & (b), moved to 23.2A with headings ‘overtime on Saturdays’ and ‘overtime on Sundays’. - In new 23.2A insert ‘outside of ordinary hours’ after ‘all work performed’. 	16–18	
	AIG	Reply 7-12-15			Notes following [2015] FWCFB 7236 neither CFMEU–FFPD nor FWC proposed new clause structure. Request opportunity to review any restructure.	255	

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	AIG	General sub 31-08-16			Heading contains ‘allowances for shiftworkers’ but clause contains rates not allowances.	45	
9.	AIG	Sub 23-11-15	25.10	33.9 (deleted)	Annual leave – transfer of business current award deleted regarding NES inconsistencies.	405	ED updated according to [2015] FWCFB 3023 and PR568682
10.	AIG	Sub 23-11-15	23.2(b)(v)	12.8 (deleted)	Substituted shifts – clause removed following [300] of [2015] FWCFB 7236 . Contends 23.2(b)(v) different to current clause, ED deals with substituted ‘shifts’, while current award dealt with days. To delete 25.2(b)(v) would be substantial change – clause should be reinstated. Consequential amended would be to reinsert wording to 6.2(i).	406–412	ED published on 2 Nov 2015 was updated to reflect [2015] FWCFB 7236 when [Note: provisions referred to have been retained in ED with strikethrough]
11.	AIG	Sub 23-11-15	23.3		Allowances for shiftworkers – per [2015] FWCFB 7236 penalty rates for shiftworkers were renamed ‘allowances’. ED does not make clear the amount payable.	413–414	
	AWU	Reply 4-12-15			Strongly oppose AIG submission. No need to separately identify additional payment for shift work.	51–53	
	AIG	General Sub 31-08-16			Further submission made, heading ‘allowances for shift workers’ clause contains rates not allowances. Clause inconsistently refers to ‘shift premium’ and ‘shift allowances’.	45	

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12.	AIG	Sub 23-11-15	30.2		Notice of termination by an employee – typographical error, ‘from’ to be added after ‘withhold’.	415	Error – ED amended
	BusSA	Sub 27-11-15				43	
13.	AIG	Sub 23-11-15	Sch D		Summary of hourly rates of pay – table states the rates are ‘% of ordinary hourly rate’ when table is based on minimum hourly rates. Oppose AIG submission. Award contains all purpose rates (20.2, 20.3) and references throughout ED should be ordinary hourly rate not minimum hourly rate in accordance with July 2015 and September 2015 decisions.	416	In accordance with paras [43]-[44] of [2015] FWCFB 4658 all purpose allowances must be added to minimum rate of pay before calculating penalties or loadings. % of ordinary hourly rates refers to penalty/loading % in table. For employees where all purpose rate applies, all purpose allowances need to be added to minimum hourly rate before calculating penalties or overtime – see clause D.1.1 and D.1.2.
	AWU	Reply 4-12-15				54–55	
14.	BusSA	Sub 27-11-15	Sch I		Part-day public holidays – should be updated to reflect recent decision. Agrees schedule should be amended.	44	ED updated in accordance with PR580863
	AIG	Reply 7-12-15				257	

Note: the AMWU made submission on [20 November 2015](#), which supported the October Decision as it relates to specific clauses in this award. Given no further issues were raised the submission has not been referred to in the summary of submissions on Further revised exposure draft table.

List of abbreviations (in alphabetical order)

AFEI	Australian Federation of Employers and Industries
AIG	Australian Industry Group
AMWU	Australian Manufacturing and Workers' Union
AWU	The Australian Workers' Union
BusSA	Business SA
CFMEU – FFPD	Construction, Forestry, Mining and Energy Union Forestry and Furniture Products Division
ED	Exposure draft
FWC	Fair Work Commission