

SUMMARY OF SUBMISSIONS ON REVISED EXPOSURE DRAFT – OUTSTANDING ISSUES

This table is a summary of submissions lodged for this award after the publication of the [9 September 2016](#) Exposure Draft, including those submissions received after the 9 June 2017 decision [\[2017\] FWCFB 3177](#) and in response to the Further Revised Exposure Draft published on [13 June 2017](#).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
1	AIG	Sub-23/09/17	1.5	Title and commencement Submits that consistent with decision [2015] FWCFB 4658 and [2015] FWCFB 6656 , clause 1.5 should be deleted.	8	RESOLVED Determined in [2015 FWCFB 6656 at [74] ED amended
	AIG	Sub-11/07/17		Presses submission made 23/09/16	9 – 10	
2	AIG & AWU	JointReport-25/04/15	5.2	Facilitative provisions Parties agreed to change.	9	RESOLVED By agreement, ED amended
3	AIG & AWU	JointReport-25/04/15	6.4(b)(iv)	Part-time employment Delete the word ‘on’	10	RESOLVED By agreement, ED amended
4	AIG & AWU	JointReport-25/04/15	6.4(f)	Part-time employment Clause should be substituted (as provided in report).	11	RESOLVED By agreement, ED amended
5	AIG & AWU	JointReport-25/04/15	7.4(b)(vi)	Flexible working Clause should be amended to insert ‘and ancillary activities’.	13	RESOLVED By agreement, ED amended
6	AIG & AWU	JointReport-25/04/15	8.2	Maximum 12 ordinary hour day Substitute with wording from clause 19.3 of the current award.	14	RESOLVED By agreement, ED amended
7	AIG & AWU	JointReport-25/04/15	8.5(c)	Change of roster Amend clause reference from 8.5(a) to 8.5(b).	16	RESOLVED By agreement, ED amended

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
8	AIG	Sub-23/09/17	10.1	Minimum wages - Adult employees Preamble in clause 10.1 not confined to full-time employees. Appears to require payment of minimum weekly rate to all adult employees including part-time and casual employees. Issue can be rectified by including the words “(full-time employees)” below heading of second column of table. Notes issues related to subclauses 6.5(j) and 6.6(c).	9-11	REFERRED Referred to the Plain Language Full Bench (AM2016/15), see [2018] FWC 1544 .
	AIG	Sub-11/07/17		Presses submission made 23/09/16	11-12	
9	AIG & AWU	JointReport-25/04/15	10.2	Junior employees Insert words ‘for their classification’	19	RESOLVED By agreement, ED amended
10	AIG	Sub-23/09/17	11.1(a)	Allowances – wage related allowances – all purpose allowances Inconsistent with decision [2014] FWCFB 9412 at [44] – [53] and [2015] FWCFB 4658 at [91], subclause 11.2(a) should be amended by inserting the word “annual” before the word “leave”.	12	RESOLVED Determined in [2015] FWCFB 4658 at [91]. ED amended
	AWU	Sub-23/09/16		Clause should read “...while they are on annual leave” based on Full Bench Decision [2015] FWCFB 4658 at [91]	4	
	AIG	Sub-11/07/17		Presses submission made 23/09/16	13-15	
11	AIG & AWU	JointReport-25/04/15	11.3	Leading hand allowances Substitute text with ‘A leading hand must be paid a weekly allowance as follows:’ (see also schedule G, where parties agreed to amend definition of leading hand.	21	RESOLVED By agreement, ED amended
12	AIG & AWU	JointReport-25/04/15	13.1	Penalties - shiftwork penalties Delete words ‘per hour’ and insert ‘for each ordinary hour worked’	22	RESOLVED By agreement, ED amended

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
13	AIG	Sub-23/09/17	13.1	Penalties – shiftwork penalties Clause contains inconsistent terminology. cl.13.1 words “shiftwork penalties” should be replaced with “shiftwork allowances”. At cl.13.1(a) the words “shiftwork loading” should be replaced with “shiftwork allowance”. At cl13.1(b) the words “shiftwork loading should be replaced with “shiftwork allowance”.	17	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 .
14	AIG	Sub-11/07/17	13.2	Penalties - Weekend work penalties Submits that ‘penalties’ could be interpreted as requiring payment in addition to minimum rates. Submits that amounts should be described as “rates” payable instead of “penalties” payable.	16-18	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 .
15	AIG	Sub-11/07/17	13.3	Penalties - Public holiday penalties Submits that ‘penalties’ could be interpreted as requiring payment in addition to minimum rates. Submits that amounts should be described as “rates” payable instead of “penalties” payable.	19	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 .
16	AIG	Sub-23/09/17	13.4	Penalties – Extra rates not cumulative Submits that clause contains inconsistent terminology. Submits the words “extra rates” in the heading and first sentence should be replaced with “extra rates and shift allowances”	17	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 .
17	AIG	Sub-23/09/17	14.3	Overtime – method of calculation of overtime rate Submits that clause contains inconsistent terminology. Submits the words “shift penalties” should be replaced with “shiftwork allowances”.	17	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 .

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18	AIG & AWU	JointReport- 25/04/15	14.4	Rest period after overtime Insert word 'such' in clause (b) and (c)	29-30	RESOLVED By agreement, ED amended
19	AIG	Sub-23/09/17	14.4(c)	Rest period after overtime Submits that consistent with Commission decision ([2014] FWCFB 9412 at [44] – [53] and [2015] FWCFB 4658 at [47]) that penalties and loadings contained in awards are to be applied to the minimum rate prescribed by an award (to the exclusion of over-award payments) clause should be amended by inserting 'ordinary hourly rate' after '200%'. Presses submission made 23/09/16	13	REMAINS OUTSTANDING
	AIG	Sub-11/07/17		20-21		
20	AIG	Sub-23/09/17	15.1(b)(iii)	Annual leave Submit that the clause should be deleted as it is inconsistent with s. 87 of the Act regarding NES. Presses submission made 23/09/16	14-16	REMAINS OUTSTANDING
	AIG	Sub-11/07/17		22		
21	AIG	Sub-11/07/17	15.9	Payment on termination of employment Submit that the clause be deleted, as it creates an express obligation that annual leave loading be paid upon termination. This is not prescribed by the award. Submits this is a substantive change.	24-30	REFERRED Referred to Annual leave common issue Full Bench (AM2014/47).
22	AIG & AWU	JointReport- 25/04/15	Schedule C	Summary of monetary allowances Incorrect cross references in clause C.1 and C.4, insert word to in clause C.3.	36	RESOLVED By agreement, ED amended
23	AIG & AWU	JointReport- 25/04/15	Schedule G	Classification definitions Insert word 'weekly' in definition of standard rate.	37	RESOLVED By agreement, ED amended

List of abbreviations (in alphabetical order)

AIG	Australian Industry Group
AWU	The Australian Workers' Union
ED	Exposure Draft