

Summary of parties' respective positions in relation to items 30 and 62 of the revised summary of submissions

Note: This document has been prepared by the Commission research area and does not represent the view of the Commission on any issue.

1. ABI/NSWBC

- (i) [Submission](#), 6 May 2016 at para 19.2

No substantial submissions – suggest that due to differences in opinions expressed by the parties, further discussions are appropriate.

2. Australian Workers' Union

- (i) [Submission](#), 17 April 2016 at para 14

AWU submits the two sub-clauses overlap and conflict, and propose the clause read as follows:

‘An employee required to work overtime for more than one and a half hours after working ordinary hours:

- will be paid \$12.65 for the first and any subsequent meals; or
- will be provided with a suitable meal free of cost for the first and any subsequent meals.

This clause does not apply to piggery attendants who are entitled to a meal allowance in accordance with clause 32.8.’

- (ii) [Submission](#), 5 May 2016 at paras 25–26

AWU disagrees with the NFF submission that the meal allowance provision has no relevance in the industry and relies upon its submission of 17 April 2016. AWU notes that the ordinary hours of work for a farm and livestock hand are fixed by agreement, albeit they can be averaged over a four week period and for this reason there would be occasions where an employee works beyond their usual finishing time and therefore would be entitled to a meal allowance.

3. Business SA

- (i) [Submission](#), 15 April 2016 at para 11.2.5

BSA submits that an employee is to be paid the allowance for the first, and any subsequent meals, where the employee is required to work more than 1.5 hours of overtime after finishing ordinary hours. Alternatively, BSA submits that the employee

is entitled to be paid the allowance for the first, and any subsequent meals, where they are required to work overtime for more than two hours and were not notified the previous day that they would be required to work overtime.

BSA submits that the clauses operate in substantially the same way, save for the notice requirement. BSA submits that if the employee is given notice of the requirement to work overtime, clause 10.2(d)(i) applies.

4. National Farmers' Federation

- (i) [Submission](#), 14 April 2016 at paras 47–49

The National Farmers' Federation (NFF) submits that because ordinary hours are averaged over a four week period, the obligation to pay overtime meal allowances under clause 10.2(d)(i) only arises once every four weeks, regardless of whether the employee was notified the previous day that overtime would be worked.

NFF submits that clause 10.2(d)(ii) is only relevant in the limited circumstances where there is an ordinary finishing time and that this is not the case for the vast majority of farming operations.

NFF submits that the meal allowance requirements in the award should be reviewed for relevance to the pastoral industry. NFF submits they are not arrangements of long standing, and that they duplicate other provisions in the award dealing with the provision of board and lodging, mess and cook.

- (ii) [Submission](#), 5 May 2016 at paragraph 18

No substantial submissions – refer to submission of 14 April 2016.

- (iii) [Submission](#), 16 June 2016

No substantial submissions – note disagreement between parties.

The following page provides a comparison of the overtime meal allowance provision as it appears in the *Pastoral Award 2010* with similar provisions that existed in a variety of pre-reform awards. The current provision appears to have been created primarily through a combination of the provisions appearing in the *Pig Breeding and Raising (AWU) Award 1999* and *Hop Industry Award 2001*.

<i>Pastoral Award 2010 –</i> [MA000035]	<i>Pig Breeding and Raising (AWU) Award 1999 –</i> AP793680CRV	<i>Hop Industry Award 2000 –</i> AP811240	<i>Pastoral Industry Award 1998 (Schedule B – Poultry Farm Employees in Victoria) –</i> AP792378CRV	<i>Poultry Farm Employees (A.C.T.) Award 1999 –</i> AP792331
Clause 17.2(c)	Clause 10.4.3	Clause 26	Clause 4.4	Clause 16.4.1
(i) If an employee is required to work overtime after working ordinary hours (except where the period of overtime is fewer than one and a half hours), the employee will be paid \$12.93 for the first and any subsequent meals. Alternatively, the employer may supply the employee with a meal.	(a) If an employee is required to work overtime after working ordinary hours on Monday to Friday (except where the period of overtime is less than one hour and a half) the employee shall be paid \$10.35 for the first and any subsequent meals. Alternatively the employer may supply the employee with a meal.			
(ii) An employee required to work overtime for more than two hours after the employee's ordinary ceasing time without having been notified before leaving work on the previous day that the employee will be required to work overtime, will be provided free of cost with a suitable meal, and if the work extends into a second meal break, another meal, provided that in the event of the meal not being supplied the employee is entitled to a payment of \$12.93 for each meal not supplied.	(b) Where overtime is unplanned and not notified the day or days beforehand, a payment will be made of \$10.35 after two hours of overtime if work will continue beyond the meal break. Alternatively the employer may supply the employee with a meal	An employee required to work overtime for more than two hours after the employee's ordinary ceasing time without having been notified before leaving his or her work on the previous day that he or she will be required to work overtime, shall be reimbursed the cost of a meal by the employer, and if the work extends into a second meal break, the employee shall be entitled to \$9.35 for each meal not supplied.	An employee required to work overtime for more than one and a half hours, without being notified on the previous day, will be reimbursed for the cost of a meal or paid \$9.75. If required to work in excess of four hours overtime, the employee will be reimbursed the cost of a further meal or paid the sum of \$9.75.	An employee required to work overtime for more than one and a half hours, without being notified on the previous day, will be reimbursed for the cost of a meal or paid \$9.70. If required to work in excess of four hours overtime, the employee will be reimbursed the cost of a further meal or paid the sum of \$9.70.