

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	AWU & Ors	Joint-response- 10/04/15	1.4	Schedule E replacing Schedule D and Schedule C		RESOLVED by agreement. ED amended
2	AIG	Sub-23/09/16	1.5	Title and commencement Submits that consistent with decision [2015] FWCFB 4658 and [2015] FWCFB 6656 , clause 1.5 should be deleted.	Para 18	RESOLVED Determined in [2015 FWCFB 6656] at [74] ED amended.
3	HSU	Sub-23/09/17	6.4	Types of employment – part-time employees Submits clause omits sub-clause which provides that ‘ <i>the provisions of clause 31 – Public holidays will apply to part time employees</i> ’ (sub-clause 10.4(e) of the MA). Submits that sub-clause should be retained in the ED.	Para 2	REMAINS OUSTANDING
4	AWU & Ors	Joint-response- 10/04/15	6.4(e)	Types of employment – part-time employees Clause 10.4(c) of current award omitted.	p.1	RESOLVED by agreement. ED amended, inserted as 6.4(e)
5	HSU	Sub-23/09/17	6.5(a)	Types of employment – casual employees Submits that sub-clause has omitted the phrase “ <i>but will not include a part-time or full time employee</i> ” (as provided at sub-clause 10.5(a) of the MA). Submits that omission represents a significant and substantive change to the clause and words should be returned to subclause 6.5(a) of ED.	Para 3	REMAINS OUSTANDING
6	AWU & Ors	Joint-response- 10/04/15	7	Classifications and training plans Amend clause title to delete words ‘training plans’.	p.1	RESOLVED by agreement. ED amended

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
7	AWU & Ors	Joint-response-10/04/15	8.4(a)	Rosters Delete the word 'will' and replace with 'may'. Confirmed at hearing 25 March 2015.	p.1	RESOLVED by agreement. See also, Trans-25Mar15 at PN698-PN709 ED amended.
8	UV	Sub-30/06/17	9.2	Breaks – paid crib time Submits that cl provides that only 'ambulance service operational employees' are entitled to paid crib time. Submit that the clause should read as 'operational employees' are entitled to paid crib time. Proposes term 'operational employees' be a defined term (see item 13 below).	Para 4	REMAINS OUTSTANDING
9	AIG	Sub-23/09/16	10	Wages and Allowances – Minimum wages Submits that preamble to clause specifies that an employer must pay "employees the following minimum wages for ordinary hours worked by the employee" and the tables that follow then set out the minimum weekly rates and minimum hourly rates for each classification. Submits that as the preamble is not confined to full-time employees, this could be interpreted as requiring the payment of the minimum weekly rates to all adult employees. Submits issue can be rectified by including the words "(full-time employees)" below the heading "Minimum weekly rate" in the second column of the tables in clauses 10.2, 10.3, 10.4 and 10.5	Paras 19 – 20	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 .
10	HSU	Sub-23/09/17	10.2-10.4	Wages and Allowances – Minimum wages Submits that EA sets out minimum wages in three separate tables (where the MA only has one). Suggests an introductory statement to explain layout.	Para 4	REMAINS OUTSTANDING

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
11	AIG	Sub-23/09/16	11.2(a)	Allowances – wage related allowances – all purpose allowance Submits that consistent 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 “ <i>annual</i> ” before the word “ <i>leave</i> ”.	Para 21	RESOLVED Determined in [2015] FWCFB 4658 at [91]. ED amended
12	UV	Sub-30/06/17	13.2	Penalties and Overtime – Penalty rates Clause provides that penalty rates are not payable for overtime hours worked by employees covered by the Award. Submits this is a proposed cut to penalty rates. Submits that casual employees in the sector have always received both overtime and casual loading. Submits that ED should make clear that casual employees are entitled to overtime.	Paras 7 – 12	REFERRED Referred the Full Bench in AM2017/51 to consider the issue of overtime for casual employees across a number of awards.
13	HSU	Sub-23/09/17	14.5	Overtime – on call Submits that sub-clause (g) which provides for the on call allowance should be moved to the front of the clause (see clause 25 of the MA).	Para 5	REMAINS OUTSTANDING
14	HSU	Sub-23/09/17	15.2	Annual leave – Quantum of annual leave Submits that note at commencement of clause 15.2 to the Decision [2015] FWCFB 3023 at para [53] is incorrect. Submits reference should be to para [13] of that decision.	Para 6	RESOLVED ED amended (note removed in 13 June 2017 publication).
15	AIG	Sub-23/09/16	15.7(a)	Annual leave – payment for annual leave Submits that clause has inconsistent terminology. Submits reference to “ <i>shift penalties</i> ” should be deleted. Submits that a shift “ <i>allowance</i> ” is payable as set out in the allowances clause. (NB: AIG submission refers to subclause 15.5(a), however this clause has been renumbered in the 13 June 2017 ED as clause 15.7(a)).		REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWCFB 5536 at [581], see also [2018] FWC 1544 .

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES
16	HSU	Sub-23/09/17	15.7(a)	Annual leave – payment for annual leave Submits term “ <i>ordinary hourly rate</i> ” has been inserted incorrectly into subclause 15.7(a). Submits that the clause provides that the rate of pay should include not only all purpose allowances, but all payments an employee would have received had they not been on leave. Submits that the term “ <i>ordinary hourly rate</i> ” should be removed and replaced with the term “ <i>ordinary pay</i> ” or another appropriate term. (NB: HSU submission refers to subclause 15.5(a), however this clause has been renumbered in the 13 June 2017 ED as clause 15.7(a))	Para 10	REMAINS OUTSTANDING
17	AWU & Ors	Joint-response-10/04/15	Sch A.1.3	Classification Definitions Amend cross reference, change from cl. 11.2(a) to 11.2(b)		RESOLVED by agreement. ED amended
18	UV	Sub-30/06/17	Sch A	Classification Definitions Propose to insert a definition for operational employees (related to item 8 above).	Para 6	see item 8 (above)
19	AV	Sub-07/10/16	Sch A	Classification Definitions Proposes the inclusion of the classification of “ <i>Ambulance Community Officer</i> ”. Seeks current classifications be renumbered accordingly. Proposes that rate of pay for new classification should sit under the minimum rate of pay for Trainee Clinic Transport Officer at approximately the level of a Second Year Administrative Officer Band 1.	Page 1	REMAINS OUSTANDING

List of abbreviations (in alphabetical order)

AV	Ambulance Victoria
AIG	Australian Industry Group
AWU & Ors	The Australian Workers Union, Health Services Union, United Voice and the Australian Industry Group
ED	Exposure Draft
FWO	Fair Work Ombudsman
HSU	Health Services Union of Australia
MA	Modern Award
UV	United Voice