

SUMMARY OF SUBMISSIONS ON REVISED EXPOSURE DRAFT – OUTSTANDING ISSUES

This table is a summary of reply submissions lodged for this award 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 Submit that the clause be deleted.	73	RESOLVED - Determined in [2015] FWCFB 6656 at [74] ED amended
		Sub-11/07/17			150-151	
2	AIG	Sub-06/03/15	3.1	Coverage Clause 3.1 deviates from the current clause 4.1 by adding the words “to the exclusion of any other modern award” at the end of the provision. Those words should be deleted. The insertion of the relevant words may, in some circumstances, be at odds with clause 4.7. Any such amendment to the coverage of this award would be a substantive change and should not be adopted.	200-202	RESOLVED By agreement
	AIG and AWU	JointReport-25/04/15				
3	AIG	Sub-06/03/15	5.2	Facilitative provisions Third column of table in cl.5.2, regarding cl. 6.5(f), states that agreement may be reached between an employer and an individual employee or the majority of employees. Current clause 10.4(c) and clause 6.5(f) of ED do not allow for agreement between an employer and majority of employees. Clause 5.2 should be amended accordingly.	204	RESOLVED By agreement
	AIG and AWU	JointReport-25/04/15				

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4	AIG	Sub-11/07/17	6.6(a)(i)	Casual conversion – eligible casual employee – bullet point 2 The clause does not confine conversion to one employer. Propose to amend it to: ‘who is employed by a particular employer for a sequence of periods under this award over 12 months; and...’	155-157	REMAINS OUTSTANDING
5	AIG	Sub-11/07/17		Casual conversion – eligible casual employee –bullet point 3 The clause would be satisfied if employment continued beyond 12 months as a casual employee. Amend to: ‘whose employment is to continue beyond the conversion process.’	158-160	REMAINS OUTSTANDING
6	AIG	Sub-11/07/17	6.6(b)(i)	Notice and election of casual conversion The scope of information required to be provided by an employer is narrower than under the current award. Submit that reference to 6.6(b)(ii) be amended to 6.6.	161-164	REMAINS OUTSTANDING
7	AIG	Sub-11/07/17	6.6(c)(iii)	Full-time or part-time conversion Merge into the final sentence of 6.6(c)(ii).	165-167	REMAINS OUTSTANDING
8	AIG	Sub-11/07/17	6.6(c)(iv)	Full-time or part-time conversion Submit that the second reference of 6.6(v)(iii) be replaced with 6.6(d)(i) (i.e. the employer’s right to refuse an election to convert).	168	REMAINS OUTSTANDING
9	AWU	Sub-23/09/17	6.7	Seasonal employees Does not specify seasonal employee's entitled to other entitlements prescribed for full-time and part-time employees	9	REMAINS OUTSTANDING

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10	AIG	Sub-06/03/15	8.3(a)	<p>Ordinary hours of work and rostering – Rostered days off The words “that is one hour accrues for every additional hour worked”, as found in clause 8.3(a)(i) should be deleted. That text does not appear in the corresponding clause 22.1(a) of the current award. Reasons provided.</p> <p>Inserting “For example,” before “one hour accrues for every additional hour worked”</p>	207	<p>RESOLVED By agreement</p>
	AIG and AWU	JointReport-25/04/15			10	
11	AIG	Sub-06/03/15	9.4(b)	<p>Breaks – Minimum break after ceasing work for the day Clause 23.4(b) of the current award requires the payment of overtime rates where an employee has not had a 10 hour break and is required to work. Clause 9.4(b) refers instead to an employee “resuming” work, which would apply in circumstances where an employee returns to work in the absence of there being a direction from their employer to do so. The clause thus deviates substantively from the current provision and potentially expands the application of the clause. 209. Clause 9.4(b) should be substituted with the text of the current clause 23.4(b)</p> <p>Parties agreement to delete “If an employee resumes work” and replace it with “If an employee is required to perform”</p>	208	<p>RESOLVED By agreement</p>
	AIG and AWU	JointReport-25/04/15			11	
12	AIG	Sub-23/09/17	11.2(a)	<p>All purpose allowances Insert ‘annual’ before ‘leave’.</p>	74	<p>RESOLVED determined in [2015] FWC FB 4658 at [91] Ed amended</p>
		Sub-11/07/17			169	
13	ABI	Sub-07/07/17	11.2(f)	<p>Special contingency payment Suggest removing the clause, as it relates to a district allowance.</p>	13	<p>REMAINS OUTSTANDING Currently being dealt with AM2014/190 – Transitional provisions</p>

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14	AIG	Sub-23/09/17	13.1 and 15.2	Inconsistent terminology – shiftworkers Propose amendment to address issue of use of term loading versus penalty	75	REFERRED Referred to the Plain Language Full Bench (AM2016/15) see decision [2017] FWC FB 5536 at [581], see also [2018] FWC 1544 .
15	AIG	Sub-06/03/15	14.2(a)	Overtime Clause 24.1 of the current award, requires the payment of overtime rates for work performed in excess of or outside the ordinary working hours “on any one day”. This implies that overtime performed on each day stands alone. Clause 14 should be amended to reinsert the relevant words. ‘For the purpose of determining overtime rate, each day stands alone.’ Inserted after ‘See Schedule A for a summary of hourly rates of pay including overtime’.	215	RESOLVED By agreement
	AIG and AWU	JointReport-25/04/15		Parties agree that the words “For the purpose of determining overtime rate, each day stands alone.” should be inserted into Clause 14.2(a) below the table.	15	
16	AIG	Sub-06/03/15	18.2	Public holidays If the amendments we have earlier proposed regarding cl 14.2(b) are not adopted, the reference to cl 14.2 in clause 18.2, should be substituted with a reference to cls 13 and 14.	219	RESOLVED By agreement
	AIG and AWU	JointReport-25/04/15		The Parties agree that the reference to cl14.2 in clause 18.2 should be substituted with a reference to cls 13 and 14	16	
17	AIG	Sub-06/03/15	20.2	Termination of employment – Notice of termination by an employee Appears to be a typographical error in clause 20.2 should be amended as follows: “the employer may withhold from any money due ...”		RESOLVED Typographical error
	AIG and AWU	JointReport-25/04/15		Agree ty typographical error should be corrected		

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18	ABI	Sub-07/07/17	Sch. B	Special contingency payment Remove reference to 'special contingency payment'.	13	REMAINS OUTSTANDING relates to item 9 Currently being dealt with AM2014/190 – Transitional provisions

List of abbreviations (in alphabetical order)

ABI	Australian Business Industrial and NSW Business Chamber
AIG	Australian Industry Group
AMWU	Australian Manufacturing Workers' Union
CFMEU	Construction, Forestry, Mining and Energy Union