

SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 31 May 2016.

The summary does not include materials filed in relation to [AM2015/6](#) and does not include submissions made by the Independent Education Union of Australia on 2 March 2015 – the issues raised in that submission are being dealt with by either the Full Bench in [AM2015/6](#) or the Part-time and Casuals Full Bench in [AM2014/196](#) and [AM2014/197](#)

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	NTEU	Sub-14/04/16	1		Title and commencement As revised award will not be made until 2016 (or 2017) the year of the award title should be amended to reflect this.	Page 14	Agreed in conference before Johns C
2	NETU	Sub-14/04/16	3 and Schedule I		Coverage ED copies definition of “Post-secondary educational services industry” from the definitions clause to become a new subclause 3.2. Asks whether the definition needs to be repeated in Schedule I.	Page 14	Definition will be removed from Schedule I – agreed in conference before Johns C – ED amended 27 May 2016
	BusSA	ReplySub-06/05/16			Agrees with NTEU submission	Para 5.1	
3.	AHEIA	Sub-02/03/15	4	7	Award flexibility Full breadth of award flexibility provisions to be included.	p.4	Being dealt with by Award Flexibility Full Bench in AM2014/300

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4.	UV	Sub-31/03/16	5		Facilitative provisions Reference to clause 15.7 should be corrected to 15.8	Para 1	ED amended to include 8.1(d)(ii), 8.1(d)(iii) and 15.4 on 27 May 2016 .
	NTEU	Sub-14/04/16			The following clauses should be added to the table – 8.1(d)(ii), 8.1(d)(iii), 15.4	Page 14	
	BusSA	Sub-15/04/16			Submits clauses 8.1(d)(iii) and 15.4(a) should be added to the table	Para 5.1.1	
	BusSA	ReplySub-06/05/16			Agrees with NTEU submission	Para 5.2	
	Group of 8	ReplySub-18/05/16			Does not oppose NTEU submission.	Page 3	
	AHEIA	ReplySub-18/05/16			Agrees with submissions of NTEU	Page 1	
5.	NTEU	Sub-14/04/16	6.4		Part time employment Notes that this award is not part of the common claim on part time employment (AM2014/196)	Page 14	
	AHEIA	Sub-15/04/16			Understands clause not subject to proposed changes under AM2014/196	Page 4	
6.	NTEU	Sub-14/04/16	6.5		Casual employment Notes that award not part of common claim in casual employment (AM2014/197)	Page 14	
	AHEIA	Sub-15/04/16			Casual employment Understands clause not subject to proposed changes under AM2014/197	Page 4	

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7.	BusSA	Sub-02/03/15	8.1	21.1	Afternoon shift penalty Cl 21.1(a) provides general staff day worker can work until 8 pm up to 8 days within a 28 day cycle without attracting overtime provisions. Ambiguity with shiftwork clause where employees who work until 8 pm entitled to a shift penalty.	p.6	Being dealt with by Full Bench AM2015/6 – see Directions
8.	BusSA	Sub-15/04/16	9.3		Breaks Proposes clause be moved to under the “All employees” provisions at cl. 9.4 (becoming the new 9.4).	Para 5.1.2	
9.	NTEU	Sub-14/04/16	9.4(a) and (b)		Breaks <i>In response to FWC query:</i> Submits 10 minute rest breaks are paid breaks	Page 15	ED amended to include the work “paid” in clause 9.4(a) and 9.4(b) – 27 May 2016
	BusSA	Sub-15/04/16			Breaks <i>In response to FWC query:</i> Sought clarification from members on matter. Respondents indicated breaks in clause 9.4(a) and (b) should be unpaid.	Para 5.2.1	
	BusSA	ReplySub-06/05/16			Disagrees with NTEU submission. Clause does not change from current award and does not need to be varied.	Para 5.3 and 5.10	

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10.	NTEU	Sub-14/04/16	9.4(c)		Breaks <i>In response to FWC query:</i> Breaks apply to any overtime worked, as distinct from rostered shift work on weekends.	Page 15	
	BusSA	Sub-15/04/16			Breaks <i>In response to FWC query</i> Reading clause would leave to conclusion paid break during overtime would apply to all overtime worked. Meal allowance not applicable to Sunday overtime until worked 5 hours. Seeking further clarification from members.	Para 5.2.2	
	AHEIA	Sub-15/04/16			Breaks <i>In response to FWC query</i> Clause only applies to overtime Monday to Friday and to overtime immediately following ordinary hours.	Page 4	
	BusSA	ReplySub-06/05/16			In response to NTEU, 9.4 states that it applies to all employees. No change necessary.	Para 5.3, 5.10	
11.	NTEU	Sub-02/03/15	10.1	14.2	PHD point for casual employees Higher casual rates apply if employee has doctoral qualification OR full subject coordination duties. This reflects levels A2 and A6 in full-time scale.	p.6	Being dealt with by Full Bench AM2015/6 – see Directions

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	NTEU	Sub-14/04/16			Academic Teachers – full time and part time minimum wages Seeks to include second note to table, together with an asterisk at rate for Level A Step 6 to reflect “PHD Point” which is minimum rate payable for academic teachers who holds doctorate or performs full subject coordination duties.	Page 15	
	BusSA	ReplySub-06/05/16			NTEU proposed changes unnecessary as classification levels already clear.	Para 5.4 and 5.11	
12.	NTEU	Sub-14/04/16	10.1(b)		Academic Teachers casual rates Seeks amendment to wording for several casual rates, where reference to full subject coordination duties not properly reflected in words distinguishing pay rates	Page 15	
	NTEU	ReplySub-30/05/16			Academic Teachers casual rates – marking Second iteration of “marking as a supervising examiner” should be deleted.	Page 3	
13.	NTEU	Sub-14/04/16	10.1(c)		Teachers and tutor/instructors <i>In response to FWC query re rounding rules for annual and weekly rates:</i> No submissions to make.	Page 15	

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	BusSA	Sub-15/04/16			Rounding weekly rate would have flow on effect and would not be supported by BusSA	Para 5.2.3	
	ABI & NSW BC	Sub-15/04/16			Does not oppose continuation of rounding rules	Para 14.1	
	AHEIA	Sub-15/04/16			Does not have concluded view on rounding rules.	Page 4	
14.	BusSA	Sub-15/04/16	10.1(c)		Teachers and tutor/instructors Note 2 should read “as provided in clause 10.2 the daily rate is paid where the engagement is for 5 hours or more” and note 3 should read “as provided in clause 10.2 the hourly rate is paid where the engagement is less than 5 hours”.	Para 5.1.3	
15.	NTEU	Sub-14/04/16	10.1(a), (c), (d)		Minimum wages <i>In response to FWC query</i> Helpful that award state latest AWR which has been applied to it.	Page 15	
	BusSA	Sub-15/04/16			Seeking clarification from members.	Para 5.2.4	
	AHEIA	Sub-15/04/16			No objection to the award making reference to annual wage reviews.	Page 4	

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16.	BusSA	Sub-15/04/16	11.2(c)		Expense related allowances – meal allowance general staff Clause automatically provides employees who work overtime on Sunday with two payments within first 5 hours, an unintentional outcome. Proposes second meal allowance at 11.2(c)(ii) be paid after 9 hours for overtime worked on Sunday.	Para 5.1.4	
17.	NTEU	Sub-14/04/16	11.2(d)(iii) and (e)		Expense related allowances – Living away from home Rate of pay for time spent travelling between usual place of employment and temporary location should be at rate ordinarily payable for work at that time.	Page 15	
	BusSA	Sub-15/04/16			Use of the term ‘ordinary rate of pay’ should be replaced with “minimum rate”. Award does not contain any allowances or loadings payable for all purposes. Minimum hourly rate should be defined in Definitions schedule. Employees minimum hourly rate should be used here and it would not be appropriate to include penalties.	Para 5.2.5	

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	AHEIA	Sub-15/04/16			Understand that “ordinary rate” would mean rate payable to staff member if they had worked on relevant day.	Page 4	
	BusSA	ReplySub-06/05/16			Disagrees with NTEU submissions – refers to 15 April submissions.	Para 5.5 and 5.12	
	AFEI	ReplySub-06/05/16			Disagrees with NTEU and AHEIA – payment of travel occurs at ordinary time rate. NTEU proposed variation would involve a substantive change.	Para 26	
18.	ABI & NSWBC	Sub-03/03/15	13	23	Penalty rates Intend to pursue variation to expressly confirm penalty rates only apply to ‘general staff member’.	p.1	Being dealt with by Full Bench AM2015/6 – see Directions
19.	UV	Sub-31/03/16	14		Penalty rates Formatting of penalty clause will create uncertainty about penalty rate applicable to casual employees on weekend and public holidays – proposed table in submission.	Para 2	
20.	NTEU	Sub-14/04/16	14.1(c)		Public Holiday work <i>In response to FWC query</i> Where employee required to work on day that is a substituted day for a public holiday, that work should be treated as if it were work on public holiday and 4 hour minimum payment should apply.	Page 16	

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	BusSA	Sub-15/04/16			Minimum payment of four hours only applies to the day selected by the employee to attract the penalty	Para 5.2.6	
	AHEIA	Sub-15/04/16			Seems logical that the minimum payment of four hours would apply to a substituted public holiday.	Page 4	
	BusSA	ReplySub-06/05/16			Agrees with NTEU submissions	Para 5.6	
	ABI & NSW BC	ReplySub-06/05/16			Supports submission of Business SA	Para 14.1	
21.	BusSA	Sub-02/03/15	15.1	24.1	Minimum period for overtime Clause states minimum payment is 30 mins per week. Party's view is that this is too onerous.	p.6	Being dealt with by Full Bench AM2015/6 – see Directions
22.	BusSA	Sub-15/04/16	15.3		Saturday, Sunday and Public Holiday work Supportive of new provision	Para 5.1.5	
23.	NTEU	Sub-14/04/16	15.5(d)		Payment in lieu of overtime on termination <i>In response to FWC query:</i> Overtime paid out on termination would be 100% of relevant hourly rate (which might include, e.g higher duties allowance, but would not include any penalty loadings)	Page 16	ED amended at clause 15.5(d) inserting the words “(plus any applicable allowance)” – 27 May 2016
	BusSA	Sub-15/04/16			Consulted members for clarification – respondents stated payment would be at minimum hourly rate.	Para 5.2.7	

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	ABI & NSW BC	Sub-15/04/16			Cl 15.5(a) states method of calculating time off instead of overtime is on basis of "one hour for each hour worked". Upon termination employee would receive amount of hours they accrued paid at minimum rate of pay, not overtime rate.	Para 14.2	
	AHEIA	Sub-15/04/16			15.5(a) provides that time in lieu of overtime for teaching staff who are not working annualised hours is given on basis of one hour for each hour worked. Accordingly rate payable at 15.5(d) is minimum hourly rate.	Page 4	
	BusSA	ReplySub-06/05/16			NTEU interpretation incorrect. Where one hour of time off is accrued for one hour worked, absence of any further direction shows minimum hourly rate should be used. Agrees with AHEIA.	Para 5.7, 5.8, 5.13.	
	ABI & NSW BC	ReplySub-06/05/16			Supports BuSA and AHEIA submissions. Award does not contain all purpose rates, overtime paid out on termination would be paid at relevant minimum rate.	Page 4	
	AFEI	ReplySub-06/05/16			Supports submissions of ABI & NSW BC	Para 27	

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24.	BusSA	Sub-15/04/16	16.3		Payment of annual leave Note to this subclause unnecessary	Para 5.1.6	
25.	NTEU	Sub-14/04/16	20.2		Public Holidays Clause 20.2 appears to be inconsistent with NES. Replacing words “the majority of employees in an enterprise” with words “an employee”. Consequential amendment would be required for cl.5.2	Page 16	
	AHEIA	Sub-15/04/16			Agrees with NTEU submissions in relation to compliance with NES	Page 4	
	BusSA	ReplySub-06/05/16			Agrees with submissions of NTEU – wishes to maintain NES compliance	Para 5.9, 5.14	
	ABI & NSW BC	ReplySub-06/05/16			Agrees with submissions of NTEU and AHEIA	Para 14.3	
	NTEU	ReplySub-30/05/16			Question about consistency of provision with NES remains.	Page 3	

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26.	FWO	Corr-02/03/15	Sch B and Sch I	3.1 and Sched C	Teaching qualifications FWO has had enquiries about appropriate classification for employee not holding teaching qualification who is teaching a an accredited course or units of an accredited course (does not appear to fall within either category: “teacher” or “tutor/instructor”)	p.5	Being dealt with by Full Bench AM2015/6 – see Directions
27.	NTEU	Sub-14/04/16	Schedule H		2015 Part-Day Public Holidays In absence of any practical issue relating to those two dates in 2015, this Schedule appears to have no work to do. Notes schedule is interim and subject to further review.	Page 16	To be determined by Full Bench Public Holidays Common Issues in AM2014/301
	AHEIA	Sub-15/04/16			No submissions in matter AM2014/301. Notes schedule is interim, subject to further review.	Page 4	
28.	NTEU	Sub-14/04/16	Schedule I		Definitions Definition for “post-secondary educational services industry” incomplete – requires cl. (a) to (i) from cl 3.2 to be added.	Page 16	

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29.	NTEU	Sub-14/04/16	Schedule I		Definitions <i>In response to FWC query:</i> Person without the qualification would not be able to be employed in such work without employer institution jeopardising registration – submits no change needed.	Page 17	
	BusSA	Sub-15/04/16			Teachers must have qualifications either in field or at least Training Assessment Certificate IV. BusSA members considered tutors/ instructors as person who does not hold TAE IV qualification or is supporting a specialist TAE IV where that tutor can only provide complementary level of contribution. Employees without adequate teaching qualifications should be employed as tutor/instructor.	Para 5.2.8	
	ABI & NSW BC	Sub-15/04/16			As minimum to be considered a teacher for relevant course employee would need to meet definition of category D teacher in cl. B.3.1(d). If they do not meet that definition, they would be considered a tutor/ instructor	Para 14.3 – 14.5	
30.	AHEIA	Sub-02/03/15	–	16	Accident pay Delete as sunset date has expired.	p.4	Transitional provision - clause removed - obsolete - see AM2014/190

List of abbreviations (in alphabetical order)

AHEIA	Australian Higher Education Industrial Association
ABI & NSWBC	Australian Business Industrial and New South Wales Business Chamber
BusSA	Business SA
FWO	Fair Work Ombudsman
NTEU	National Tertiary Education Industry Union
UV	United Voice