

SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of submissions on technical and drafting issues. The summary has been revised to include feedback on the revised [Exposure Draft](#) published on the 19 July 2017.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	AFEI	Sub-18/01/17	4.2	Coverage Definition duplicated. Delete from cl 4.2.	Para 37	RESOLVED Agreed, delete definition of pest control industry from cl 4.2, see Draft Report dated 19 April 2017. ED updated.
	AWU	ReplySub-22/02/17		Agree with AFEI.	Para 4	
2	AWU	Sub-20/01/17	17.3(c)(iv)	Meal allowance—country work <i>In response to question raised by Commission</i> \$8.45 payable for meals associated with any travel provided employee is performing ‘country work’. If the travel is between country work locations, the \$8.45 is paid in addition to the \$90.44 in sub (i).	Para 3	OUTSTANDING At a conference, 29 March 2017, AFEI noted there may be an issue between travelling to the country and then between actual country locations. The AWU undertook to provide draft wording for discussion, which it provided in its submission dated 30/3/17. Parties remain in disagreement as to the circumstances under which the allowance is payable and when it is payable. Parties are to provide further
	AWU	Sub-30/03/17		Proposes clause be redrafted to: ‘An employee travelling to or between country work locations will be paid a meal allowance of \$8.45 for each meal. This allowance is payable in addition to the allowance in clause 17.3(c)(ii) but will not be payable if the employee is otherwise entitled to a meal allowance pursuant to clause 17.3(a).	Para 2	

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						submissions by 12 May for the Commission to determine the issue. See Transcript-26/04/17 at [PN262-269].
	AWU	Sub-16/05/17		Clause has its origins in previous awards. Position is that allowance is payable for all meals whilst employee travelling to or between country work locations regardless of whether employee is receiving allowance at clause 17.3(c)(ii). Provides draft amended clause.	Paras 11-27	
2A	AWU	Sub-16/05/17	17.3(c)(ii)	Meal allowance—country work The description of ‘all meals’ found in the <i>Pest Control Industry (Victoria) Award 2003</i> and the <i>Pest Control Award (SA)</i> continues to apply to the same phrase in ED. AFEI cannot rely on its submission that ‘all meals’ covers every meal in one day without evidence to the contrary.	Paras 3-10	
3	AFEI	Sub-18/01/17	17.4(c)	Safety clothing and equipment Retain current award cl.15.8(c) wording.	Para 38	RESOLVED
	AWU	ReplySub-22/02/17		Agrees with AFEI’s reasoning. Suggests draft wording for clause.	Paras 5-6	Agreed, wording proposed by AWU to be adopted, see Draft report dated 19 April 2017. ED updated.
4	AWU	Sub-20/01/17	21	Shiftwork <i>In response to question raised by the FWO</i> Depends on the ongoing engagement of employee on afternoon or night shift.	Paras 4-5	OUTSTANDING In Correspondence-02/03/15 , FWO raised it may be unclear

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				Requires further terms defining shiftwork.		<p>under what circumstances an employee should be considered a shiftworker, as the term is undefined.</p> <p>AMOD to provide guidance as to scope of clause. Item may be substantive matter, see Draft report dated 19 April 2017.</p> <p>Parties to consider guidance document prepared by AMOD and any further submissions to be sent to the Commission by 12 May 2017, see Transcript-26/04/17 at [PN286].</p> <p>If the parties cannot agree on the interpretation, the matter will have to be determined by the Full Bench, see Report to the Full Bench dated 27 July 2017</p>
	AFEI	ReplySub-22/02/17		Penalties apply to shift work, distinct from day work extending beyond day work span of hours.	Para 51	
	AWU	Sub-16/05/17		The AWU confirms that it continues to pursue claim. The addition of the definition of a shiftworker at 21.1(a) of ED will largely resolve the issue	Para 28-30	
5	AFEI	Sub-18/01/17	22.3	Annual leave—Payment and loading <i>In response to question raised by Commission</i> The loading is 17.5% of the minimum rate + industry and first aid allowance. Submits these allowances are not all-purpose.	Para 39	OUTSTANDING Parties clarified positions in response to the Commission's question, see Draft report dated 19 April 2017. AWU to provide further
	AWU	Sub-20/01/17		There is no industry allowance. Submits 'industry' at 22.3(b) should be 'leading	Paras 6.1-6.2	

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				hand'. Loading is calculated at 17.5% of the minimum rate + leading hand allowance + first aid allowance. If employee is a shiftworker receives higher of 17.5% and shiftwork %.		submissions on its position by 12 May 2017, see Transcript-26/04/17 at [PN306].
	AWU	ReplySub-22/02/17		Notes AFEI and AWU appear to agree on calculation under 22.3(b).	Para 7	If the parties cannot agree on the interpretation, the matter will have to be determined by the Full Bench, see Report to the Full Bench dated 27 July 2017
	AFEI	ReplySub-22/02/17		Agrees with AWU - no industry allowance. Does not support AWU's submission that leading hand allowance is all-purpose. Opposed to AWU's proposed method of calculating annual leave loading.	Para 52	
	AWU	Sub-30/03/17		Confirmed position on calculation.	Para 3	
	AWU	Sub-16/05/17		Does not propose leading hand allowance is an all-purpose allowance. Continues to pursue claim that where applicable, leading hand allowance is payable to an employee on annual leave. Presses claim to amend 'industry' at 22.3(b) to 'leading hand'.	Paras 28-50	
6	AWU	Sub-20/01/17	Sch D.3	NTW—Coverage <i>In response to question raised by Commission</i> Not aware of any other training program to be covered.	Para 7	RESOLVED Does not appear either party is proposing to amend the award, see Draft report dated 19 April 2017 and Report to the Full Bench dated 27 July 2017

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7	AWU	Sub-20/01/17	Sch D.7	Allocation of Traineeships to Wage Levels <i>In response to question raised by Commission</i> Complete and up-to-date.	Para 8	RESOLVED Agreed, there is nothing to be added to the clause, see Draft report dated 19 April 2017 and Report to the Full Bench dated 27 July 2017

List of abbreviations (in alphabetical order)

AFEI Australian Federation of Employers and Industries
 AWU The Australian Workers' Union