

SUMMARY OF SUBMISSIONS ON REVISED EXPOSURE DRAFT – OUTSTANDING ISSUES

This table has been revised to include submissions received in response to para [125] of Full Bench Decision [\[2017\] FWCFB 3177](#) re outstanding issues and the exposure draft. The summary includes submissions received on or before 13 July 2017.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (Paragraph)	NOTES
1.	QP	Sub 24-11-15	5.2(a)	Facilitative provisions – Should refer to 8.4(b) specifically. Agree with QP.	1	RESOLVED ED amended
	AIG	Reply 7-12-15			199	
2.	AIG	Sub 20-11-15	6.5(c)(iii)	Casual loading – Delete clause. Does not appear in current award – unnecessary.	355	RESOLVED ED amended to remove clause consistent with para [69] of [2014] FWCFB 9412
3.	AIG	Sub 20-11-15	6.5(c)(iv)	Casual loading – Remove clause. Contrary to [2014] FWCFB 9412 at [69]. Did not agree to inclusion of this clause in earlier EDs. Omits other terms that do not apply to casual employees, such as 17.2 and 17.3 (personal/carers leave). Clause is not exhaustive and may mislead users regarding casual entitlements.	352–354	RESOLVED ED amended to remove clause consistent with para [69] of [2014] FWCFB 9412
3A			9.4	Minimum rest periods Clauses 14.11 and 14.12(c) inserted as agreed		RESOLVED By agreement
4.	QP	Sub 24-11-15	10.1	Minimum wages – Remove reference to ‘casual hourly rate’. Agree with QP.	4	RESOLVED ED amended 2 November 2015.
	AIG	Reply 7-12-15			203	
5.	AIG	Sub 20-11-15	11.1(a)	All purpose allowances – Incorrect. Correct definition is in Sch H. Replace clause with Sch H definition. First sentence should be deleted. Disagree with QP – first sentence should be retained. Insert ‘annual’ before the word ‘leave’.	356	RESOLVED ED amended in accordance with [2015] FWCFB 4658
	QP	Sub 24-11-15			2	
	AIG	Reply 7-12-15			200–201	

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6.	AIG	Sub 20-11-15	13.2	Payment for shiftworkers – Reference to ‘penalty rates’ not accurate. Amend heading to ‘Shiftwork’. Remove ‘penalty’ from first sentence.	357	REFERRED Referred to the Plain Language Full Bench (AM2016/15), see [2018] FWC 1544 .
7.	QP	Sub 24-11-15	14.6(c)	Maximum duration of overtime –Replace ‘attached’ with ‘attaches’.	8	RESOLVED Error – ED amended
	AIG	Reply 7-12-15		Agree with QP.	204	
8.	AIG	Sub 20-11-15	18.1 and 18.2	Parental leave – Delete in accordance with [2014] FWCFB 9412 at [35] – [36].	358	RESOLVED ED amended in accordance with [2014] FWCFB 9412
9.	QP	Sub 24-11-15	19.3	Public holidays – Full Bench decided in [2015] FWCFB 1729 that then clause 25.3 to be deleted. Appears wrong clause deleted. Delete 19.3 to correct this.	5(a)	RESOLVED Error – ED amended to reflect paragraph [117] of [2015] FWCFB 1729
	AIG	Sub 20-11-15		Agree with QP.	205	
10.	QP	Sub 24-11-15	19.5	Rostered day off for shiftworker on public holiday – Reinstate clause. See item 11 – wrong clause deleted.	5(b)	RESOLVED Error – ED amended to reflect paragraph [117] of [2015] FWCFB 1729
	AIG	Sub 20-11-15		Agree with QP.	205	
11.	AIG	Sub 20-11-15	22.2	Notice of termination by employee –Insert ‘from’: ‘...the employer may withhold <u>from</u> any money...’	359	RESOLVED ED corrected.
12.	QP	Sub 24-11-15	22.2	Notice of termination by employee – ‘required by the NES’ is incorrect. Replace with ‘required by this award’.	3	RESOLVED ED amended 2 Nov 2015 to reflect [35] [2014] FWCFB 9412 – clause is consistent with other modern awards.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE (Paragraph)	NOTES
13.	AIG	Sub 20-11-15	Sch G	Definitions – ‘Ordinary hourly rate’ –Replace with: ‘ordinary hourly rate means the hourly rate for the employee’s classification specified in clause 10, plus any allowances specified as being included in the employee’s ordinary hourly rate or payable for all purposes.’	360–362	RESOLVED ED amended. Definition applied in accordance with [42] of [2015] FWCFB 4658 .
	QP	Sub 24-11-15		Proposes same as AIG.	7	
14.	QP	Sub 24-11-15	Sch A Sch G	Classification Definitions Definitions – Definition of ‘Maintenance tradesperson’ appears in both Schedules. Delete from Sch A.	6	REMAINS OUTSTANDING
	AIG	Reply 7-12-15		Do not oppose.	206	
	QP	Sub 26-06-17		Definition has not been deleted from Sch A. What has been deleted is the definition of a ‘Maintenance Tradesperson Special Class’ in clause A.6.2. Do not press for reinstatement of clause A.6.2. However definition in clause A.4.2 should be deleted.	Page 1	
14A	QP	Sub 26-06-17	Sch G	Definitions – Definition of ‘maintenance tradesperson special class’ should refer to an engineering tradesperson – special class level II being ‘as defined in the <i>Manufacturing and Associated Industries and Occupations Award [year]</i> ’.	Page 1	REMAINS OUTSTANDING

List of abbreviations (in alphabetical order)

AIG	Australian Industry Group
ED	Exposure Draft of <i>Stevedoring Industry Award 2010</i>
QP	Qube Ports Pty Ltd and others