

SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 20 April 2016. The notes refer to the conference held on 21 April 2016 ([Transcript](#)) and the [Report to the Full Bench dated 22 April 2016](#).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	AIG	Sub-14/04/2016	6.3(a)(i)		Part time employees Proposes clause be amended to refer to <u>ordinary</u> hours, to make clear that part-time employee is one who works less than full-time ordinary hours	442	Agreed - see Transcript – 21 April 2016 (PN640)
2.	AIG	Sub-14/04/2016	6.3(a)(iv)		Part time employees The words “who do the same kind of work” do not serve any purpose and should be deleted.	443	Clause to remain as drafted - AIG may make further submission – see Transcript – 21 April 2016 (PN640)
3.	ABI	Sub-15/04/2016	Cl 6.3(b) and 15.1		Part time employees - overtime Should be amended to read that overtime is payable where “an employee is required to work in excess of...” to avoid instances where payment is alleged to be owed by an employee for unauthorised overtime.	13.1	ABI to deal with this further in reply submissions - see Transcript – 21 April 2016 (PN731)
4.	AIG	Sub-14/04/2016	6.3(b)(i)	11.2(b)	Part time employees - overtime Propose amendment to Cl 6.3(b) to refer to time worked in excess of hours <u>fixed in accordance with the patterns of hours applicable to</u>	444 – 447	Agreed - see Transcript – 21 April 2016 (PN640 - 653)

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					the employee. Concerned current ED wording suggests ordinary working hours must be performed within rigid constraints that do not exist in current MA.		
5.	AIG	Sub-14/04/2016	6.3(b)(ii)	11.2(b)	Part time employees - overtime Propose to retain wording in current MA. Cl 6.3(b)(i) ED removes word “however” and makes ambiguous whether overtime rule is subject to exclusion in Cl 6.3(b)(ii)	448 – 452	Clause to remain as drafted - AIG may make further submission – see Transcript – 21 April 2016 (PN653-662)
6.	AIG	Sub-14/04/2016	6.3(b)(ii)		Part time employees - overtime Proposes clause amended to refer to ordinary hours to make clear that part-time employee is one who works less than full-time ordinary hours	453	Agreed - see Transcript – 21 April 2016 (PN673-683)

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7.	AIG	Sub-14/04/2016	6.4(b)(ii)		Casual loading Propose cl 6.4(b)(ii) be amended by replacing “ordinary hourly rate” with “minimum hourly rate” so that the loading is calculated on the minimum wage prescribed by the award absent the inclusion of any all purpose allowances.	454 – 455	General submission – not dealt with at conference 21 April 2016 – see Transcript – 21 April 2016 (PN684)
8.	AIG	Sub-14/04/2016	6.4(b)(iii)		Casual loading Clause 6.4(b)(iii) should appear as a separate paragraph under clause 6.4(b)(ii) rather than a numbered paragraph – drafting error	456	Agreed – see Transcript – 21 April 2016 (PN663-673)
9.	AIG	Sub-14/04/2016	8.1		Hours of work Propose cl 8.1 ED be amended to add “up to” to read “The ordinary hours of work are to be an average of up to 38 per week”.	Section 2.4 and 457	AIG to provide further details in reply submissions re Section 147 issue - see Report – 22 April 2016
10.	AIG	Sub-14/04/2016	8.7(d)		Hours of work - provisions applicable only to afternoon or night shifts Reference to cl 14.1 should be amended to refer to cl 14.2 – drafting error	458	Agreed - see Transcript – 21 April 2016 (PN686)

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11.	ABI	Sub-15/04/2016	8.8		Hours of work – daylight saving Should be amended to refer to payment for each hour worked in respect of shifts worked when daylight saving time starts or stops instead of “adjusted time”	13.2	The proposal of ABI will be further considered by the parties and response provided by 28 April 2016. The matter will be discussed at 29 April conference. see Report – 22 April 2016
12.	AIG	Sub-14/04/2016	9.2	22.1	Breaks Cl 9.2 ED amended by replacing the words “between 30 and 60 minutes” with “not less than 30 minutes and not more than 60 minutes” to avoid requirement that a break is between 31 to 59 minutes in length.	459 – 460	Agreed to change back to current MA wording - see Transcript – 21 April 2016 (PN686)
13.	AIG	Sub-14/04/2016	9.3	22.3	Breaks “or more than six hours” is replaced with “or such period” to cover employees that have reached agreement to work between five and six hours with a break	461 – 463	Agreed - see Transcript – 21 April 2016 (PN686)
14.	AIG	Sub-14/04/2016	9.4	22.2(a)(ii)	Flexibility in relation to meal breaks Propose terms in cl 22.2(a)(ii) current MA be inserted into ED	464 – 465	Agree – ED amended to MA clause Transcript – 21 April 2016 (PN687)

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					to allow flexibility in relation to the length of the meal break		
15.	AIG	Sub-14/04/2016	10.1		Minimum wage rates Propose insert the words “full-time employees” in the second column of 10.1 so it only applies to full-time employees.	466 – 469	Minimum hourly rate in table is best way to resolve this issue. ED currently has minimum hourly rate in table: see Transcript – 21 April 2016 (PN687)
16.	FWC query	Exposure Draft dated	Cl 10.3(b)(i)		Payment of wages Parties are asked to make submissions about how monthly pay is calculated		No change – see Transcript – 21 April 2016 (PN613 – 614)
17.	ABI	Sub-15/04/2016	10.4(m)(ii)		Minimum wage rates - apprentices For adults in their second, third and fourth year of apprenticeship - alternatives bearing to the NMW or bearing to the rate of another classification of employee should be omitted and replaced with percentages or pay rates expressed as dollar figures	13.3	Agreed – amended to reflect current award – see Transcript – 21 April 2016 (PN732) Note reference to NMW has been removed, as AMOD identified error where this clause of ED had not been updated to reflect the 2015 Annual Wage Review Determination for the <i>Telecommunication Award 2010</i> (PR566712)

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18.	AIG	Sub-14/04/2016	10.4(p)(i)		Minimum wage rates - apprentices A full stop should be inserted after “such training”.	470	Agreed - see Transcript – 21 April 2016 (PN687)
19.	ABI	Sub-15/04/2016	10.7(b)		Minimum wage rates – National Training Wage cl 10.7(b) is no longer required and can be removed	13.4	Agreed – see Transcript – 21 April 2016 (PN615)
20.	ABI	Sub-15/04/2016	11		Annual Salary arrangements for higher classifications Award makes clear that for classifications in 11.1, the provisions in 11.2 do not apply. 11.3 makes clear what obligations apply to those employees. Award terms certain.	13.5-13.6	Clear from wording that the classifications in 11.1 can only be engaged on an annual salary – see Transcript – 21 April 2016 (PN625-639)
21.	ABI	Sub-15/04/2016	11.1		Annual Salary arrangements for higher classifications Casual employee could potentially be engaged in the classifications in cl 11.1 but cl 11.3 suggests cl 11 is not designed to apply to casual employees.	13.6	ED to be amended to make clear that classifications in 11.1 cannot be casuals – parties can make submission regarding that change in reply submissions - – see Transcript – 21 April 2016 (PN625-639)
22.	FWO	Sub - 02/03/15	11.3(b) & 21.1(a)		Types of employment and overtime Seeks clarification as to whether	38	Parties to address the issue of how casuals working overtime should

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					the calculation of the overtime rate for casual employees includes or excludes the casual loading.		be paid in reply submissions – see Report – 22 April 2016
23.	AIG	Sub-14/04/2016	12.3(a)		All purpose allowance Argues definition is not consistent with decision of Commission. Proposes to insert the word “annual” before “leave”.	471	Agreed – see Transcript – 21 April 2016 (PN688)
24.	AIG	Sub-14/04/2016	12.4(g)(ii)	17.1e(iv)	Relocation expenses Argues redrafting is a substantive change to the current clause (no longer allows employer to arrange, pay for and provide suitable accom). Seeks current text be retained.	472 – 474	Agreed – change as proposed by AIG - see Transcript – 21 April 2016 (PN688)
	ABI FWC <i>Questions – responses by ABI and NSW Business Chamber</i>	Sub-15/04/2016			The current wording on the MA should remain unless a difference is contemplated.	13.7	
25.	AIG	Sub-14/04/2016	14.1(a)	20.7(c)(i)	Definitions Clause 14.1(a) should be amended by inserting the words	475 – 478	Agreed - see Transcript – 21 April 2016 (PN688)

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					“subject to clause 8.6(b)” at the start of the clause.		
26.	AIG	Sub-14/04/2016	14.2(a) and 14.2(b)		Shiftwork penalties Shiftwork afternoon penalty should be replaced with ‘15%’ as current drafting could be interpreted as employer required to pay a penalty of 115% in addition to the employee minimum rate of pay	479 – 480	Amend clause to delete “a penalty of”. Ai Group may make further submissions. see Transcript – 21 April 2016 (PN688 - 707)
27.	AIG	Sub-14/04/2016	15.5(a)	21.4(a)	Length of rest period Argues change from “reasonably practicable” in current MA to “where possible” in ED is a substantive change. Words in current MA should be retained	481	Agreed - see Transcript – 21 April 2016 (PN708)
28.	AIG	Sub-14/04/2016	15.5(b)	21.4(b)	Where the employee does not get a 10 hour rest ED does not include exemption for part-time employees (as is currently in MA). Argues this is a substantive change. Submits exemption should be retained.	482	Ai Group and other parties to consider further. Discuss further at the 29 April conference. see Report – 22 April 2016
29.	AIG	Sub-14/04/2016	15.7(d)	21.7(d)	Call back Reference to clause 15.4 should be replaced with reference to clause 15.5. This would be consistent with MA.	483	Agreed - see Transcript – 21 April 2016 (PN719)
30.	AIG	Sub-14/04/2016	15.8(d)	21.7(c)	Remote service/support –	484	Agreed - see Transcript –

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					technical stream Reference to clause 15.4 should be replaced with reference to clause 15.5. This would be consistent with MA.		21 April 2016 (PN719)
31.	AIG	Sub-12/11/2015	23		Annual leave Seeks to vary clause to remove inappropriately entitling employees to either payment of both the relevant shift loading and an additional annual leave loading or, alternatively, potentially requiring the payment of shift loadings twice when an employee receives annual leave entitlements.	5-12	Parties to address annual leave loading variation submission in reply submissions – Report – 22 April 2016
32.	AIG	Sub-14/04/2016	Sch B		Summary of hourly rates of pay Clause B.1.2 states that rates are based on minimum hourly rate but table indicates the rates there are a percentage of the ordinary hourly rate. This reference is confusing. References should be amended.	485 – 486	Transcript noted the confusion for table B.1.2 This clause is a consistent modern award clause and has not been changed at this stage. See Transcript – 21 April 2016 (PN721)
33.	AIG	Sub-14/04/2016	Sch B		Summary of hourly rates of pay – shiftworkers Reference to ‘shiftworkers’ in the headings above each of the tables	487 – 491	Agree – ED to be amended - CPSU reserves right to respond in reply submissions

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					is confusing as no distinction between day worker and shiftworker in this award.		see Transcript – 21 April 2016 (PN721-724)
34.	CPSU	Sub - 02/02/15	Schedule B		Classifications structure and definitions Seeks the inclusion of a new classification for ‘Customer Contact Trainer’ as they appear to be excluded from coverage from the Award.	Para 4-7	Parties are encouraged to discuss the CPSU trainer proposal - Report – 22 April 2016
35.	AIG	Sub-14/04/2016	Sch B.2.4		Full time and part time employees – shiftworkers – overtime rates Reference to ‘shiftworkers’ in the headings above each of the tables is confusing as no distinction between day worker and shiftworker in this award.	492	Agree - ED to be amended – CPSU reserves right to respond in reply submissions see Transcript – 21 April 2016 (PN721-724)
36.	AIG	Sub-14/04/2016	Sch B.3.2		Casual employees – shiftworkers – ordinary and penalty rates Reference to ‘shiftworkers’ in the headings above each of the tables is confusing as no distinction between day worker and shiftworker in this award.	493	Agree – ED to be amended – CPSU reserves right to respond in reply submissions see Transcript – 21 April 2016 (PN721-724)

List of abbreviations (in alphabetical order)

ABI	Australian Business Industrial and NSW Business Chamber
AIG	The Australian Industry Group
CPSU	CPSU, the Community and Public Sector Union
ED	Exposure Draft
FWO	Fair Work Ombudsman
MA	Modern Award