

## SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 20 May 2016.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	RK & Ors	<a href="#">Sub-02/03/15</a>			<b>Amalgamation of Clerks Award and Legal Services Award</b> Preliminary view is that they do not support amalgamation of these two awards.	Page 1	See also Statement <a href="#">[2015] FWC 7253</a> at para 13
2.	CCSA	<a href="#">Sub-02/03/15</a>	3	4.6	<b>Coverage</b> Propose variation to include <i>Children's Services Award 2010</i> in the list of industry awards excluded from coverage of the <i>Clerks Award</i> , in order to remove ambiguity.	Page 2	
3.	ABI	<a href="#">Sub – 15/04/16</a>	5.2	–	<b>Facilitative provisions</b> Incorrect reference in table – facilitative provision for ‘time off instead of overtime’ is 13.6(a) NOT 13.5(c).	[5.2], p.8	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Agrees with ABI.	[60], p.16	
	AIG	<a href="#">Sub – 14/04/16</a>			Reference to cl. 13.5I should be Cl. 13.6	[187], p.43	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[5.1], p.16	

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4.	AIG	<a href="#">Sub – 14/04/16</a>	5.2	–	<b>Facilitative provisions</b> Reference in cl. 5.2 to ‘majority of employees’ with respect to cl. 18.2 is erroneous and should be substituted with ‘the employees’.	[188]–[190], p.43	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.2], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[5.1], p.6	
5.	AIG	<a href="#">Sub – 14/04/16</a>	6.2(a)(ii)	11.1	<b>Part time employment</b> Definition of part time employment altered in ED from what is in current MA. Argues substantive change. Seeks cl be varied.	[191]–[193], p.44	Proposes wording
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.3], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[5.2], p.6	
6.	AIG	<a href="#">Sub – 14/04/16</a>	6.2(a)(iii)	11.2	<b>Part time employment</b> The words ‘who do the same kind of work’ should be deleted. Argues unnecessary.	[194], p.44	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.3], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[5.2], p.6	

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7.	ABI	<a href="#">Sub – 15/04/16</a>	6.3(d)	11.5	<b>Casual employment</b> <i>In response to FWC query:</i> Not opposed to clause being amended to specifically state that the minimum payment applies ‘for each engagement’.	[5.3], p.8	
	AIG	<a href="#">Reply sub – 05/05/16</a>	6.3(d)		Agrees with ABI.	[61], p.16	
	BusSA	<a href="#">Sub – 15/04/16</a>	6.3(d)		Believes it is appropriate to insert the wording ‘for each engagement’ into this clause in order to provide clarity.	[3.2.1], p.13	
	ABI	<a href="#">Reply sub – 06/05/16</a>	6.3(d)		Agrees with BusSA.	[5.3], p.6	
8.	FWO	<a href="#">Sub-02/03/15</a>	8.1 and 14.1	25.1 and 28.1	<b>Shiftworker</b> FWO has received enquiries about when an employee should be considered a shiftworker (term not defined). E.g. employee finishing after 7pm could be considered a day worker (working outside spread of ordinary hours) or an afternoon shiftworker.	Item 7, p.3	
9.	AIG	<a href="#">Sub – 14/04/16</a>	8.1(a)(i)	25.1(a)	<b>Weekly hours of work</b> CI does not meet requirements of s.147 of the Act. Proposes ED be amended	[195], p.44	Proposes wording
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	

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10.	AIG	<a href="#">Sub – 14/04/16</a>	8.1(a)(ii)	25.1(a)	<b>Weekly hours of work</b> CI does not meet requirements of s.147 of the Act. Proposes ED be amended	[196], p. 45	Proposes wording
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	
11.	AIG	<a href="#">Sub – 14/04/16</a>	8.1(a)(ii)	25.1(a)	<b>Weekly hours of work</b> The words ‘per week’ should be inserted after ‘38’	[197], p.45	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.4], p.7	
12.	AIG	<a href="#">Sub – 14/04/16</a>	8.1I	25.1(b)	<b>Weekly hours of work</b> Submits the words of the current provision be reinstated. Concerned that replacing the words “in association with” with “an employee works with” alters the circumstances in which the provision operates and deviates substantially from current clause	[198]–[202], p.45–46	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.5], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	

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13.	AIG	<a href="#">Sub – 14/04/16</a>	8.1I	25.1(b)	<b>Weekly hours of work</b> Clause has been redrafted to provide that ‘the ordinary hours that may be worked’ by relevant employees are as prescribed by the majority of employees in the workplace. Submits this is a change from current wording of MA. Proposes amendment	[203]–[205], p.46–47	Proposed wording included
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	
14.	AIG	<a href="#">Sub – 14/04/16</a>	8.1I	25.1(b)	<b>Weekly hours of work</b> Submits word “span” should be substituted with “spread” as per current clause 25.1(b) in MA.	[206]–[209], p.47	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	
15.	AIG	<a href="#">Sub – 14/04/16</a>	8.1 I	25.1(b)	<b>Weekly hours of work</b> Submits the word ‘by’ should be inserted into clause 8.1I – “...ordinary hours outside the span prescribed by clause 8.1(b)”	[210], p.47	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	
16.	AIG	<a href="#">Sub – 14/04/16</a>	8.2	25.2	<b>Altering span of hours</b> Submits reference to “span” of hours in heading of clause should be substituted with “spread” of hours.	[211], p.47	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	

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17.	FWO	<a href="#">Sub-02/03/15</a>	8.2(b)	25.2	<b>Spread of hours</b> FWO has received enquiries as to what ‘ <i>spread of hours may be altered by up to one hour at either end of the spread</i> ’ means. E.g. whether 7am-7pm may be changed to 7am – 8pm (increase at one end of spread), 6am-8pm (increase both ends of spread) or 6am-6pm (shifting spread).	Item 8, Page 3	
18.	ABI	<a href="#">Sub – 15/04/16</a>	8.2(b)	25.2	<b>Altering span of hours</b> <i>In response to FWC query:</i> The use of the words ‘at either end’ demonstrates that the clause is intended to allow for the span of hours to be increased at both ends.	[5.4], p.8	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Agrees with ABI and note that no interested party has sought a variation to clause.	[63], p.16	
19.	AIG	<a href="#">Sub – 14/04/16</a>	8.2(b)	25.2	<b>Altering span of hours</b> Submits reference to “span” of hours be substituted with reference to “spread”.	[212], p.48	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	
20.	AIG	<a href="#">Sub–14/04/16</a>	8.2(b)	25.2	<b>Altering span of hours</b> Drafting error – submits replace the first time the word ‘by’ is used, it should be replaced with ‘be’.	[213], p.48	

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	ABI	<a href="#">Repliesub–06/05/16</a>			Not opposed to AIG’s proposed amendments.	[5.4], p.6	
	Business SA	<a href="#">Sub – 15/04/16</a>			The word ‘by’ should be replaced with ‘be’.	[3.1.1], p.13	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Agrees with amendments proposed by BusSA.	[62], p.16	
21.	AIG	<a href="#">Sub – 14/04/16</a>	8.5(a)	25.4I	<b>Banking system</b> 8.5(a) refers to clause 8.4. Submits cross reference is erroneous. Submits consistent with current MA, reference should be to clause 8 generally.	[214]–[215], p.48	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agree with AIG.	[5.5], p.6	
22.	FWO	<a href="#">Sub-02/03/15</a>	9.1 and 14.4(f)	26.1 & 28.4(f)	<b>Shiftworkers – meal breaks and related penalties</b> FWO has received enquiries as to whether 20 minute paid crib break applies instead of, or in addition to, 30 minute unpaid meal break and if both apply, how they should be applied. Also, whether penalty of double time applies if shiftworker works through crib break.	Item 9, p.3	
23.	ABI	<a href="#">Sub – 15/04/16</a>	9.1(a)	26.1	<b>Unpaid meal break</b> <i>In response to FWC query:</i> Clause does not apply shiftworkers. Cl 28.4(f) of the current MA creates a separate entitlement for shiftworkers concerning meal breaks.	[5.5], p.8	

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	AFEI	<a href="#">Sub – 15/04/16</a>			Cl 9.1(a) does not apply to shiftworkers as there is a separate entitlement under cl. 14.4I	[33], p.4	
	AIG	<a href="#">Sub – 14/04/16</a>			Submits that where cl 14.4I applies, an employee is not entitled to the meal break as provided in cl. 14.4(a)	[216], p.48	
	Business SA	<a href="#">Sub – 15/04/16</a>			Cl. 9.1(a) is ‘conditional upon’ the provisions of cl. 14 which provides alternative conditions for shift workers meal breaks. Cl. 9.1(a) does not apply to shift workers.	[3.2.2], p.13	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AFEI, BusSA and AIG.	[5.6], p.6	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Agrees with BusSA, AFEI, and ABI.	[64], p.17	
24.	AIG	<a href="#">Sub – 14/04/16</a>	9.2I	26.2	<b>Paid rest break</b> Submits the work ‘taken’ in clause 9.2I is unnecessary and should be deleted.	[217], p. 49	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.6], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[5.7], p.6	
25.	AIG	<a href="#">Sub – 14/04/16</a>	10.1	16	<b>Adult employees</b> Proposes that drafting of cl. 10.1 be amended to reflect intent that minimum weekly rate only applies to full time employees.	[218]–[221], pg 49	



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	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.7], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG but submit amendment is not necessary as there is no ambiguity.	[5.8], p.6	
26.	AIG	<a href="#">Sub – 14/04/16</a>	10.3I	23.3	<b>Day off coinciding with payday</b> Submits reference to ‘rostered hours’ is confusing and erroneous. Proposes substituting current wording of MA	[222]–[223], p. 49-50	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[5.9], p.6	
27.	ASU	<a href="#">Sub-02/03/15</a>	10.4	17	<b>Annualised salaries</b> Propose deleting current clause and inserting a new clause.	[16], p.5	Referred to a separately constituted Full Bench Proposed wording is provided.
28.	AIG	<a href="#">Sub – 14/04/16</a>	10.5	19.7	<b>Higher duties</b> In the current MA “higher duties allowance” is located within “allowances” clause. In ED, “higher duties allowance” sits outside “allowances” cl and this affects the annualised salary provision. Submits cl 10.5 should be relocated to a subclause under cl 11 of the ED.	[224]–[226], p.50	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG but suggests the words “clause 10.5 – Higher Duties” be added as a dot point to 10.4(a)(i).	[3.8], p.7-8	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[5.9], p.6	

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29.	AIG	<a href="#">Sub – 14/04/16</a>	11.3(a)	19.1	<b>Transport of employees – shiftworkers</b> Current MA provides entitlement to ‘an employee working shiftwork’. Cl 11.3(a) of ED does not make it clear cl only applies where employee is working shiftwork. Proposes amendment.	[227]–[229], p.50-51	Provides proposed wording.
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.9], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Does not oppose AIG.	[5.10], p.6	
30.	AIG	<a href="#">Sub – 14/04/16</a>	11.3(a)	19.1	<b>Transport of employees – shiftworkers</b> Current MA provides for reimbursement relating to employee travelling from work to their home. Submits ED extends entitlement. Submits cl should be amended	[230]–[232], p.51	Provides proposed wording.
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[3.10], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Does not oppose AIG.	[5.10], p.7	
31.	FWO	<a href="#">Sub-02/03/15</a>	12	24.5(b)	<b>Superannuation</b> FWO receives enquiries as to how to apply maximum 52 week limit. i.e. whether it should be applied 52 weeks per workers compensation claim OR 52 consecutive weeks OR 52 weeks over course of employees entire employment.	Item 6, Page 2	

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32.	ABI	<a href="#">Sub – 15/04/16</a>	13.1		<b>Definition of overtime</b> Drafting error – definition of overtime inconsistent with definition of ordinary hours in cl 8.1 of ED. 13.1(a) needs to state that overtime is worked when employee works in excess of 10 hours. Proposes clause be redrafted.	[5.6], p.8-9		
	BusSa	<a href="#">Reply sub – 06/05/16</a>				Agrees with ABI.		[3.11], [3.17], p.7
	AIG	<a href="#">Reply sub – 05/05/16</a>				Does not oppose ABI but suggest words “exclusive of meal breaks” be inserted as “10 hours”.		[65], p.17
33.	AIG	<a href="#">Sub – 14/04/16</a>	13.3(a)	27.2	<b>Payment for working Saturdays and Sundays</b> Submits the word “span” should be replaced with “spread”.	[233], p.51		
	BusSa	<a href="#">Reply sub – 06/05/16</a>				Agrees with AIG		[3.12], p.7
	ABI	<a href="#">Reply sub – 06/05/16</a>				Does not oppose AIG.		[5.11], p.6
34.	AIG	<a href="#">Sub – 14/04/16</a>	13.4(a)	27.3(a)	<b>Length of rest period</b> Submits cl deviates substantially from current MA. Submits cl should be amended	[234]–[236], pg. 52	Provides proposed wording	
	BusSa	<a href="#">Reply sub – 06/05/16</a>				Agrees with AIG.		[3.13], p.7
	ABI	<a href="#">Reply sub – 06/05/16</a>				Agrees with AIG and BusSA.		[5.12], p.6

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35.	AFEI	<a href="#">Sub – 15/04/16</a>	13.4(b)(i)	27.3(b)	<b>Rest period after working overtime</b> <i>In response to FWC query:</i> Agrees that the words ‘the end of the employee’s ordinary hours’ should instead be ‘end of overtime’.	[34], p.6	
	Business SA	<a href="#">Sub – 15/04/16</a>			Submits change unnecessary.	[3.2.3], p.14	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Does not oppose amendment proposed by FWC.	[66], p.17	
36.	AIG	<a href="#">Sub – 14/04/16</a>	13.4(b)(i)	27.3(b)	<b>When the employee does not get a 10 hour rest</b> The word ‘time’ should be deleted from the first bullet point.	[237], p.52	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[3.14], p.7	
37.	AIG	<a href="#">Sub – 14/04/16</a>	13.4(b)(ii)	27.3I	<b>When the employee does not get a 10 hour rest</b> The word ‘during’ should be deleted from the first bullet point	[238], p.52	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[3.14], p.7	
38.	AIG	<a href="#">Sub – 14/04/16</a>	13.4(d)	27.3(f)	<b>When the employee does not get a 10 hour rest</b> The cross reference to cl 13.1 should be amended to read cl. 13.2	[239], p.52	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[3.14], p.7	

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39.	ABI	<a href="#">Sub – 15/04/16</a>	14.1	28.1	<b>Shiftwork – Definitions</b> <i>In response to FWC query:</i> Considers there to be merit in including a definition of shiftworker in Sch G.	[5.8], p.9	
	AIG	<a href="#">Reply sub – 05/05/16</a>			ABI have not provided specific wording – party requests that when one is proposed, it is provided with an opportunity to respond.	[72], p.18	
	AFEI	<a href="#">Sub – 15/04/16</a>			Definition not necessary.	[35], p. 6	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Agrees with AFEI.	[67], p.17	
	Business SA	<a href="#">Sub – 15/04/16</a>			Submits a definition would be helpful – recommends definition from <i>Mining Industry Award 2010</i> .	[3.2.4], p.14	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agree with BusSA.	[5.13], p.6	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Strongly opposes BusSA’s definition.	[70], p.18	
40.	Business SA	<a href="#">Sub – 15/04/16</a>	14.2	28.2	<b>Altering span of hours</b> <i>In response to FWC query:</i> Submits that the hours can be varied by an hour at both ends. The phrase “at either end” is not restricted.	[3.2.5], pg. 15	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with BusSA.	[5.14], p.7	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Agrees with BusSA and notes no party has sought a variation to this provision.	[73], p.73	

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41.	FWO	<a href="#">Sub-02/03/15</a>	14.4 and 14.7	28.4 & 28.7	<b>Special rates</b> FWO has received enquiries about the meaning of 'special rates'. No definition in award. Unclear under what circumstances 28.7 applies and which of the listed entitlements in 28.4 constitute a special rate.	Item 10, p.4	
42.	ABI	<a href="#">Sub – 15/04/16</a>	14.5(b), (c)	28.5	<b>Overtime</b> ED contains error. Assumes cl is as stated in comparison document. Reference to cl. 13.5I to be corrected to 13.6(a).	[5.7], p.9	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Agrees with ABI that there is a drafting error.	[74], p.18	
	AIG	<a href="#">Sub – 14/04/16</a>			<b>Overtime</b> Submits drafting error – text in sub cl I be relocated to the end of sub cl. (b) – sub clause (c) be deleted.	[240], pg. 53	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[3.15], p.7	
	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[5.15], p.7	
43.	AIG	<a href="#">Sub – 14/04/16</a>	14.7	28.7	<b>Special rates not cumulative</b> Does not accept that special rates are confined to overtime. Submits clause 14.7 should be substituted with the current clause 28.7	[241]–[242], pg. 53	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG.	[3.16], p.7	

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	ABI	<a href="#">Reply sub – 06/05/16</a>			Agrees with AIG	[5.16], p.6	
44.	ASU	<a href="#">Sub-02/03/15</a>	15.2	29.2	<b>Definition of shiftworkers</b> Propose deleting current clause and inserting new clause.	[12], p.4	
45.	FWO	<a href="#">Sub-02/03/15</a>	15.3	29.3	<b>Annual leave loading</b> FWO has received enquiries about applicable loading payable on annual leave. In determining which rate to apply, may not be clear whether the two entitlements are to be compared on daily basis with each day of annual leave assessed separately, or as a whole over entire period of leave.	Item 11, p.4	
46.	ASU	<a href="#">Sub-02/03/15</a>	15.3(b)	29.3(b)	<b>Annual leave loading – termination</b> Proposes new clause in relation to annual leave loading on termination. Award currently silent.	[15], p.4	Being dealt with by Annual leave Full Bench in <a href="#">AM2014/47</a>
47.	ASU	<a href="#">Sub-02/03/15</a>	16.2	30.2	<b>Personal/Carer’s Leave and Compassionate Leave</b> Proposes inserting new clause in relation to ‘evidence supporting claim’.	[13], p.4	

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48.	ABI	<a href="#">Sub – 15/04/16</a>	Sch. G	3	<b>Minimum hourly rate</b> Proposes insertion of definition of ‘minimum hourly rate’ into Sch G. Notes clauses 6.3(b)(i) and 13 refer to minimum hourly rate but term is not defined in ED.	[5.1], pg.8	
	BusSa	<a href="#">Reply sub – 06/05/16</a>			Agrees with ABI proposal.	[3.1], p.7	
	AIG	<a href="#">Reply sub – 05/05/16</a>			Does not oppose inclusion of definition proposed by ABI but does not consider it necessary.	[75], p.18	

**List of abbreviations (in alphabetical order)**

ABI	Australian Business Industrial and the NSW Business Chamber Ltd
AFEI	Australian Federation of Employers and Industry
AIG	Australian Industry Group
ASU	Australian Municipal, Administrative, Clerical and Services Union
BusSA	Business SA
CCSA	Community Connections Solutions Australia
FWO	Fair Work Ombudsman
RK & Ors	Russell Kennedy, Norton Rose Fullbright, Arnold Bloch Leibler, Hall & Wilcox, Clayton Utz, Thomson Geer, Corrs Chambers Westgarth, Maddocks, DLA Piper, Allen & Overy, Piper Alderman, Dibbs Barker, Ashurst, Herbert Smith Freehills, Minter Ellison, Allens, Gilbert & Tobin, Landers & Rogers, King & Wood Mallesons, Davies Collison Cave, and Gadens