

SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 30 May 2016

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	Go8	Sub-02/03/15	General	General	Minor drafting error and other issues Will be subject of discussions between parties.	Para 3	
	NTEU	Sub-02/03/15			Seek this and other minor drafting changes. Party provided further submission regarding variation, Sub-11/03/16	p. 6	
	CPSU	Sub-11/03/16			Support the submission of NTEU.	p. 2	
2.	NTEU	Sub-02/10/15			Definitions Insert definition of ‘Research institute’	p. 6	Party provides definition in Sub – 02/10/15
3.	NTEU	Sub-14/04/16	1		Title and Commencement Award title should reflect year made, not 2015.	p. 7	
4.	NTEU	Sub - 02/03/15	3	4	Coverage of research institutes Seek to vary award to cover general, technical and research staff in medical, health and science research institutes . Provided further submission on variation, Sub-11/03/16 and Sub-02/10/15 .	p. 6	Being dealt with by Full Bench AM2015/6 – see Directions
	CPSU	Sub-11/03/16			Support the submission of NTEU.	p. 2	

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	NTEU	Sub – 14/04/16			Queries necessity of repeating definitions in cl.3 and Sch.I. If retained, suggests definition of ‘University unions and Student unions’ should also be in cl.3 as a new cl.3.3 for consistency. If successful in application to amend cl.3.1 to include Medical Research Institutes, a copy of proposed definition for Medical Research Institutes from definitions clause should form a new cl.3.4.	p. 7	
	AFEI	Repliesub– 06/05/16			NTEU’s proposal to extend coverage is a substantive change.	Para 38	
5.—	AFEI	Sub – 05/03/15	3	4	Coverage Seeks to clarify interaction between this award and other industry awards for university and student union organisations that are engaged in multiple industries.	p. 2	Being dealt with by Full Bench AM2015/6 – see Directions No longer pressed, see Corr-24/02/16
6.	AHEIA	Sub-02/03/15	4	7	Award flexibility 'Full breadth' of award flexibility provisions should be included.	Attach 2	To be dealt with in award flexibility common issue - AM2014/300–Award flexibility
7.	AHEIA	Sub-02/03/15	6		Types of employment Definition and consequential - replace with “Continuing employment”. Party provided further submission regarding this variation, Sub-18/03/16	Attach 2	

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	NTEU	Sub-14/04/16			Current drafting gives rise to confusion with respect to distinguishing between full and part time, and ongoing, fixed-term and casual employment. Suggests context ‘full time’ more properly understood to mean ‘ongoing’ or ‘continuing’ employment. Any amendment to remedy issue should not undermine integrity of schema designed by Full Bench in the <i>Higher Education Contract of Employment Award</i> .	pp.7–8	
	Go8	Replsub-05/05/16			Existing typology does not recognise full time or part time employment can be both ongoing or fixed term. Could be remedied by identifying that fixed-term employment may be full time or part time. Basic typology of full time, part time and casual does not derogate from limitations on and incidents of fixed term employment. NTEU suggestion of equating full time with ongoing or continuing employment creates different tension given part time employment may also be continuing.	Paras 5–11	Suggested wording provided in submission.
	NTEU	Sub-30/05/16			Notes cl.6.1 should include reference to fixed-term or continuing as per transcript dated 10/05/16: PN 33, PN 41–47, PN 190.	p. 2	Proposed wording in submission.

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8.	AHEIA	Sub - 02/03/15	6.6	10.3	<p>Fixed-term employment categories Add new paragraph (f) to provide for where an area is under review. Party provided further submission regarding this variation, Sub-18/03/16</p>	Attach 2	Being dealt with by Full Bench AM2015/6 – see Directions
9.	NTEU	Sub – 14/04/16	6.6(b) 7		<p>Restrictions on the use of fixed term employment, Incidents of fixed-term contract of employment <i>Parties are asked to comment on whether reference to the Higher Education Contract of Employment Award [AP784204] from 1998 is the best way to express the limited application of clauses 6.6(b) and 7 or whether it would be better to insert a coverage clause/definition in relation to the limited application of the clauses.</i></p> <p>If limitation to operation of these provisions is retained, it should name affected employers rather than attempt to do so through a definition. Proposes either retaining current reference to the <i>Higher Education Contract of Employment Award</i> (and Bond University, should BUASA’s application be successful), or include a list of institutions in a new schedule and amending clause to read: ‘only applies to those employers listed in Schedule X and their successors’.</p>	p. 8	In correspondence dated 18/05/16, provides list of institutions with updated names of employers which were bound by the HECE Award and their successors

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	Go8	Sub-14/04/16			Current clause is adequate as it is known to parties in the industry. However, has no objection to a listing of the employers that were bound by the <i>Higher Education Contract of Employment Award</i> at the time of its making (by definition or other appropriate coverage reference)	Para 14	
	AHEIA	Sub-15/04/16			Does not have concluded view as to whether reference to <i>Higher Education Contract of Employment Award</i> is the best way to express its limited application. Amenable to insertion of coverage clause/definition as suggested.	p. 2	
10.	NTEU	Sub-14/04/16	6.7		Probation <i>Parties are invited to make submissions on the issue that it may no longer be necessary to include provisions relating to probationary periods in modern awards, given changes in the legislative scheme. Suggests incorporating the wording ‘a continuing or fixed-term employee’ for the sake of clarity. Submits probationary period is appropriate and necessary given established standards in industry and its relevance beyond unfair dismissal jurisdiction.</i>	pp.8-9	

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	Go8	Sub-14/04/16			Provisions should be retained, including to reflect existing practice. Not opposed to consolidation into one clause of the wording that was largely repetitive and appeared in cls.11.2-11.3 of current MA.	Para 15	
	AHEIA	Sub-15/04/16			Appropriate to retain industry-specific provisions – long standing feature of industry and a separate concept from minimum employment period under FW Act.	p. 3	
	AFEI	Reply sub-06/05/16			Disagrees with NTEU’s submissions – no need for awards to stipulate provisions concerning probation periods.	Para 39	
11.	NTEU	Sub-14/04/16	6.8		Casual employment Suggest minor amendments to correct grammatical errors. Example provided in submissions.	p. 9	Provisions may be affected by AM2014/197
	AHEIA	Sub-15/04/16			Strongly opposed to any amendment, and seeks to maintain current minimum engagement provisions and industry-specific conversion clause.	p. 3	Party has filed submissions and evidence in AM2014/197
	NTEU	Sub-30/05/16			Suggest minor amendment to cl.6.8(a) to correct typographical error, as per transcript dated 10/05/16, PN 190–191.	p. 2	Amendment outline in submission.

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12.	AHEIA	Sub-15/04/16	7		Incidents of fixed-term employment Does not have concluded view as to whether reference to the <i>Higher Education Contract of Employment Award</i> is the best way to express its limited application. Amenable to insertion of coverage clause/definition as suggested.	p. 3	
13.	AHEIA	Sub – 02/03/15	7.4	11.4	Fixed-term expiry severance pay Propose severance pay provisions upon expiration of fixed term employment be deleted. AHEIA provided further submission regarding this variation, Sub-18Mar16 Go8 provided further submission regarding this variation, Sub-15Mar16	Attach 2	Being dealt with by Full Bench AM2015/6 – see Directions
	Go8	Sub – 02/03/15				Para 1	
14.	NTEU	Sub – 14/04/16	8		Classifications Seeks inclusion of broader description of the classification of positions.	p. 9	
	Go8	Sub – 14/04/16				Not opposed to inclusion of clause that references classification definitions in Sch.A. Commission should adopt wording contained in two main general staff pre-reform awards which provides greater guidance and reflects previously established existing award regulation.	Paras 16–20

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	NTEU	Replysub- 05/05/16			Seeks same wording as set out by Go8 except with respect to final sentence, which NTEU objects to on basis they are not ‘allowable’ in a MA nor are they incidental or essential to operation of which may or must be in a MA. Expects this to be a subject of submissions in substantive proceedings.	pp. 2–3	Has made substantive application to ensure the classification structure/ rates of pay are linked to the Classification Definitions, see Part F of submissions - 11 March 2016.
	AFEI	Corr-18/05/16			Does not oppose amendment proposed by the Go8.	Para 1	
	NTEU	Sub- 30/05/16			Suggest minor amendment to correct typographical error.	p. 2	Amendment outline in submission.
15.	NTEU	Sub-14/04/16	Part 3		Hours of work Seeks inclusion of additional words at commencement of Ordinary hours of work clause. Penalty rates for public holiday work should be included in clause 15 to provide a single, comprehensive table of days on which different penalty rates apply.	p. 9	Refer to NTEU outline of subs –
16.	NTEU	Sub-14/04/16	9.2(b)(iii)		Ordinary hours and roster cycles – shiftworkers <i>Parties are asked whether the allowance in cl.9.2(b)(iii) should be expressed as 150% of the minimum hourly rate.</i> Neither the wording in current MA or ED adequate. If clause operates in relation to Sunday work it would have effect of reducing penalty paid for work on that day.	pp. 9–10	Proposed wording: “entitled to a shift penalty of 150% of the minimum hourly rate” without any subsequent reference to “instead of any other shift penalty that may apply”.

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	AHEIA	Sub-15/04/16			Does not have concluded views on proposed drafting changes.	p. 3	
	AFEI	Replysub-06/05/16			Disagrees with NTEU, award needs to remain clear that allowance is paid instead of any other shift penalty that may apply.	Para 40	
	Go8	Corr-18/05/16			Propose addition of word 'rate' for clarity, otherwise does not oppose changes proposed by NTEU.	Para 2	Proposed wording provided in submission.
	AHEIA	Corr-18/05/16			Agrees with wording proposed by NTEU, noting that pursuant to cl.16.5 penalties are not cumulative.	p. 1	
	AFEI	Corr-18/05/16			Opposes NTEU's submissions. Current wording clear that an allowances is payable instead of any other shift penalty that may apply. NTEU's proposed wording unnecessary and results in less clarity. Phrase 'instead of any other shift penalty that may apply' be retained.	Para 2	
17.	NTEU	Sub-02/03/15	11	15	Rates of pay – linking to classification descriptors. Currently no words stating that classifications (sched B) are the determinant for classifying general staff. Seek to correct anomaly omitted in error from final General Staff Award in 2010. Party provided further submission regarding this, Sub-11Mar16 .	pp. 4-5	Being dealt with by Full Bench AM2015/6 – see Directions
	CPSU	Sub-11/03/16			Support submission of NTEU.	p. 2	

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18.	Go8	Sub 11/03/16	11.4		Higher duties Severance pay provision can be deleted from clause. Existing provision inconsistent with NES and modern awards objective.	p. 2	
19.	Go8	Corr-18/05/16	15.3		Rates not cumulative Propose amendment to refer to penalties arising under cl.9.2(b)(iii) in light of proposed changes to that clause.	Para 2	Proposed wording provided in submission.
20.	NTEU	Sub-02/03/15	16	23	Working hours and overtime Seek variation that imposes an obligation on employers to take active steps to ensure staff are only working additional hours if they are appropriately compensated through overtime payments, time off in lieu or similar. Party provided further submission regarding this variation, Sub-11Mar16	p. 4	Being dealt with by Full Bench AM2015/6 – see Directions
	CPSU	Sub-11/03/16			Support submission of NTEU.	p. 2	
	NTEU	Sub-14/04/16			Has applied to amend overtime clause in recognition that current reference to “all authorised work”, without any active obligation on employer to ensure that unauthorised work is so far as possible eliminated, can disadvantage workers.	p. 10	Refer to NTEU Outline of Submissions

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21.	NTEU	Sub-14/04/16	16.4		Time off instead of paid overtime The word “overtime” is missing from the first line. Clause should read: “An employee will be paid overtime or provided with time off instead of paid overtime for all authorised work...”	p. 10	
	Go8	Sub-14/04/16			Clause is missing the words ‘overtime payment’.	Para 21	Example provided within submissions.
	AHEIA	Sub-15/04/16			Issue being dealt with by Education Full Bench, not under AM2014/300. Strongly opposed to any amendment to current industry-specific clause.	p. 3	
22.	NTEU	Sub-14/04/16	16.5		Rates not cumulative Proposes amendment to refer to penalties arising under 9.2(b)(iii).	pp. 10–11	
	Go8	Corr-18/05/16			Does not oppose proposed amendment.	Para 2	
	NTEU	Sub-30/05/16			Should cross refer to cl.9.2(b)(ii), as per transcript dated 10/05/16, PN 240-241.	p. 2	

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23.	AHEIA	Sub-02/03/15	17.5	30.3	Annual Leave Loading <i>Parties asked whether ‘Australian Statistician’s average’ should be changed to ‘Australian Bureau of Statistics’ average full time’. Also ABS no longer publishes figures for August quarter and only publishes figures biannually in November and May. Parties are asked whether they wish to update award to reflect this.</i> Replace “August quarter” with “May quarter.	Attach 2	
	Go8	Sub-02/03/15			Agrees with AHEIA. Go8 provided further submission regarding this variation, Sub-15/03/16	Para 3	
	NTEU	Sub-14/04/16			Supports updating clause to say “...the Australian Bureau of Statistics’ average weekly total earnings of all males (Australia) reported most recently preceding the date of accrual.”	p.11	
	AHEIA	Sub-15/04/16			Understands that change it proposed in March 2015 has been agreed by parties. Notes issues relating to excess annual leave are being dealt with by the Higher Education Full Bench. Relies on its earlier submissions which strongly oppose any change to current industry-specific excess annual leave provisions.	p.3	

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	NTEU	Replysub-05/05/16			Agrees to change proposed by AHEIA. Notes alternative wording earlier proposed by NTEU would 'future proof' award but they do not press matter.	p. 3	
24.	NTEU	Sub-14/04/16	17.6(c)		Close down <i>Parties are asked to comment on whether clause 17.6(c) should be clarified by inserting the words 'with the same employer' after the words 'any employee employed' (see wording in clause 19.2(a))</i> Cross ref to 17.4 should be to 17.6(c). No objection to addition of words "with the same employer", provided that the effect of the protections would continue in the case of transfer of business.	p.11	
	Go8	Sub-14/04/16			Accepts clarification proposed.	Paras 22–23	
	AHEIA	Sub-15/04/16			Not opposed to clarification proposed.	p. 3	
25.	NTEU	Sub-02/03/15		18 new provision	ICT allowances Apply for allowances to be paid with respect to the costs of establishing, maintaining and using such ICT facilities when a worker is required to do so in order to satisfactorily perform their duties.	p. 6	Being dealt with by Full Bench AM2015/6 – see Directions Party provided further submission regarding this variation, Sub-11Mar16
	CPSU	Sub-11/03/16			Support the submission of NTEU.	p. 2	

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26.	NTEU	Sub-14/04/16	20		<p>Public holidays <i>Is this provision inconsistent with the NES ([2014] FWCFB 9412 at [107])? Parties should also make submissions about whether the words ‘subject to the provisions of this clause’ in clause 20.1 should be deleted.</i> Discusses long established practice of operating on public holidays and substituting a day off at a later time – whether inconsistent with NES s.114. Submit combination of words “subject to the provisions of this clause” and words in cl. 20.2 appear to be inconsistent with NES. Suggest deleting words and amending first line of cl. 20.2(a) to read “An employer and an employee may agree to substitute...”. cl 20.3 is inconsistent with NES s.116.</p>	p. 11	
	Go8	Sub-14/04/16			Should be retained. Clause provides for substitution of public holidays as permitted by the NES and reflects long standing industry practice. Notes Universities often provide more than a single substituted day for public holidays, which is more generous than the NES.	Para 24	
	AHEIA	Sub-15/04/16			Opposed to removing industry-specific wording that reflects practice in sector of substituting public holidays – particularly over Christmas close-down period.	p. 3	

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	Go8	Replsub- 05/05/16			Considers existing clause can remain as supplements NES, however, notes similar provisions in other MAs and that matter may be dealt with in AM2014/301 .	Paras 12–13	
27.	NTEU	Sub-30/05/16			Notes question about consistency of this provision with NES remains, as per transcript dated 10/05/16, PN141–145.	p. 3	
28.	NTEU	Sub-02/03/15	Sched A	Sched B	Classification Definitions Seek to up-date descriptions to reflect work in Universities in 2014. Do not seek to vary work value or relativities between job levels. Provided further submission regarding this variation, Sub-11Mar16	p. 4	
	CPSU	Sub-11/03/16			Support the submission of NTEU.	p. 2	
	NTEU	Sub-14/04/16			Notes application proposes minor amendments to schedule.	p. 12	
29.	NTEU	Sub-14/04/16	Sched C		Allowances Proposes addition of an Information and Communication Technology Allowance.	p. 12	

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30.	AHEIA	Sub-15/04/16	Sched E.3		<p>National Training Wage <i>Parties are asked to identify 'any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997' that they consider should not be covered by this Schedule.</i> Has not identified any training program that it considers should not be covered by the Schedule.</p>	p. 3	
31.	AHEIA	Sub-15/04/16	Sched E.7		<p>National Training Wage <i>Parties are asked to review packages listed to ensure lists are complete and up-to-date.</i> Not currently in a position to review packages listed as requested.</p>	p. 3	
32.	AMWU	Sub-02/03/15	11.8 / Sched F	15.2 / Sched G	<p>Apprentices Intends to propose changes to apprenticeship rates</p>	Para 2	Being dealt with by Full Bench AM2015/6 – see Directions
33.	NTEU	Sub-14/04/16	Sched H		<p>2015 Part-day Public holidays No practical issues relating to two dates in 2015. Schedule appears to have no more work to do and declares itself to be interim and subject to further review.</p>	p. 12	Being dealt with by Public holidays Full Bench in AM2014/301
	AHEIA	Sub-15/04/16			Notes schedule is an interim provision and is subject to further review.	p. 3	

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34.	AHEIA	Sub-02/03/15	N/A	18.3	Accident pay Propose to delete, sunset date passed.	Attach 2	Transitional provision, clause removed (obsolete) see AM2014/190

List of abbreviations (in alphabetical order)

Act	<i>Fair Work Act 2009</i> (Cth)
AFEI	Australian Federation of Employers and Industries
AHEIA	Australian Higher Education Industrial Association
AMWU	Australian Manufacturing Workers Union
ED	Exposure draft
Go8	University of Melbourne, Monash University, University of Sydney, University of New South Wales, Australian National University, Adelaide University, and University of Western Australia.
MA	Modern award
NTEU	National Tertiary Education Industry Union