

SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 26 May 2016.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES	
1.	CFMEU	Sub-14/04/16	5		Facilitative provisions Adjective “affected” should be added before the nouns “employees” or “individual” to make it clear the particular provision is applicable to a specific employee or group of employees.	Para 2 – 3	Parties have agreed to add the word ‘affected’ before the word ‘employees’ in clauses 5.1 and 5.2 – see Attachment A of Report to the Full Bench .	
	AWU	ReplySub-05/05/16				Supports CFMEU submission.		Para 5
	AIG	ReplySub-08/05/16				Does not consider CFMEU amendment necessary but does not oppose.		Para 114
2.	AWU	Sub-19/04/16	6.3		Full time employees To clarify clause 8.1, amend clause 6.3. Suggested amendment matches wording of clause 6.4(e).	Para 4		
	AIG	ReplySub-08/05/16				Proposed clause by AWU not necessary and should not be inserted. There is no evidence that the terms of the award as they presently operate have given rise to any ambiguity.		Para 115
3.	CFMEU	Sub-14/04/16	6.3(e)		Casual employees The term “ordinary rate of pay” should read “minimum rate of pay”.	Para 9		

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
4.	AWU	Sub-19/04/16	6.4		Part time employees Notes that ED is silent on minimum engagement for part time employees. Notes minimum engagement period of 4 hours is being sought by the ACTU in common claims proceedings.	Para 7	Being dealt with by Part-time and Casuals Full Bench in AM2014/196 and AM2014/197
5.	CFMEU	Sub-14/04/16	6.4(c)		Part time employees For consistency in terminology between subclauses, the term “regular pattern of work” be inserted in subclause 6.4(c) in place of “hours of work”.	Para 4 – 7	Parties have agreed to replace the word ‘hours’ with the words ‘regular pattern’ – see Attachment A of Report to the Full Bench .
	AIG	Sub-14/04/16			Change from “regular pattern of hours” to “hours of work” is a substantive change. Current MA wording should be retained. Also word “employ” should be “employee”	Para 301	
	AWU	Sub-19/04/16			Replace “hours of work” with “regular pattern of work”.	Para 3	
	AIG	ReplySub-08/05/16			Agree with variation proposed by AWU and CFMEU.	Para 118	
	AWU	ReplySub-05/05/16			Agrees with CFMEU and AIG submissions.	Para 6, 28	
6.	CFMEU	Sub-14/04/16	6.4(d)		Part time employment At the end of the subclause the term “employ” should read “employees”.	Para 8	Parties have agreed to replace ‘employ’ with ‘employee’ – see Attachment A of Report to the Full Bench .
	AIG	ReplySub-08/05/16			Agree with submission of CFMEU.	Para 119	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
7.	AIG	Sub-14/04/16	6.4(e)		Part time employees The words “as mutually arranged” in MA have been replaced with “as mutually agreed”. This could represent a change to the entitlement. The current wording should be retained.	Para 302	Parties have agreed to replace the word ‘agreed’ with the word ‘arranged’ – see Attachment A of Report to the Full Bench .
	AWU	ReplySub-05/05/16			Agree with AIG submissions.	Para 29	
8.	CFMEU	Sub -02/03/15	6.5(d)	13.5	Types of employment Current award states that the casual loading paid instead of ‘the other attributes of full-time and part-time employment’. CFMEU opposed change of ‘attributes’ to ‘entitlements’ in Mining Award exposure draft, Sub-06/11/14 . Raise the same issue here although note there is no exposure draft as yet.	Para 6	Parties have agree to replace the word ‘entitlements’ with the word ‘attributes’ – see Attachment A of Report to the Full Bench .
	CFMEU	Sub-14/04/16			Maintains opposition no reasonable grounds to justify the change and change may cause confusion.	Pages 1 – 5	
	CEPU	Sub-14/04/16			Supports submission of CFMEU.	Para 2	
	AIG	Sub-14/04/16			The word “entitlements” should be replaced with “attributes”.	Para 303	
	AWU	Sub-19/04/16			Submits that change from “entitlements” to “attributes” is confusing. Submits that the wording of current MA be retained.	Para 5 - 6	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AWU	ReplySub-05/05/16			Supports submissions of CFMEU and AIG and refers to earlier AWU submissions.	Para 4, 30	
	AIG	ReplySub-08/05/16			Supports submissions of AWU and CFMEU.	Para 120	
9.	AWU	Sub-19/04/16	6.5(d)		Notes that ED sets minimum engagement period at 3 hours for casuals. Notes minimum engagement period of 4 hours is being sought by the ACTU in common claims proceedings.	Para 7	Being dealt with by Part-time and Casuals Full Bench in AM2014/196 and AM2014/197
10.	AIG	Sub-14/04/16	6.5(e)		Types of employment – casual employees Phrase “ordinary rate of pay” should be replaced with “minimum rate of pay” given no all-purpose allowances in award.	Para 304	Parties have agreed to replace the words ‘ordinary rate of pay’ with the words ‘minimum hourly rate’ – see Attachment A of Report to the Full Bench .
	AWU	Sub-19/04/16			Replace “ordinary rate of pay” with “minimum rate of pay”.	Para 8	
	CEPU	Sub-14/04/16			Agrees there is no all-purpose payment in this award.	Para 3	
	AWU	ReplySub-05/05/16			Agrees with AIG submissions.	Para 31	
	AIG	ReplySub-08/05/16			Agrees with AWU, CFMEU and CEPU submissions.	Para 121	
11.	AIG	Sub-14/04/16	6.6(a)(i)		Casual entitlement to overtime The words “a shift” need to be replaced with “an ordinary shift” to clarify when overtime applies.	Para 305	
	AWU	ReplySub-05/05/16			Agreed with AIG submissions.	Para 32	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
12.	AIG	Sub-14/04/16	6.6(b)		Casual entitlement to overtime The words “in the employer’s establishment” need to be replaced with “in the relevant section of the employer’s establishment”.	Para 306	
	AWU	ReplySub-05/05/16			Agreed with AIG submissions.	Para 32	
13.	AIG	Sub-14/04/16	7.4		Pay structure conditions Second sentence of 7.4(c) should be deleted.	Para 307	
	AWU	ReplySub-05/05/16			Disagrees with AIG. Reference to 10.7 appears relevant as there may be an applicable payment and protected against underpayment. Unsure of basis of claim that second sentence of clause 7.4(c) should be deleted.	Para 33	
14.	AWU	Sub-19/04/16	8.1		Ordinary hours and rostering – day workers Suggests clause would benefit from clarification in relation to overtime.	Para 4	Proposed wording included for clause 6.3.
15.	AIG	Sub-14/04/16	8.2(d)		Shiftworkers and rosters The words “are to be” should be replaced with “may be”.	Para 308	
	AWU	ReplySub-05/05/16			Agrees with AIG.	Para 34	
16.	CFMEU	Sub-14/04/16	9.6		Rest breaks during overtime <i>In response to FWC query:</i> The subclauses apply to both shift and day workers. Sub clause 9.4 applies to overtime that is continuous (either before or after ordinary hours) while	Para 15 – 16	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
					9.6 applies to work that is not continuous with ordinary hours.		
	AWU	Sub-19/04/16			Submits both clauses apply to day work and shift work with clause 9.4 referring to the continuing into overtime after rostered hours are completed and 9.6 referring to overtime after a break taken at the completion of a rostered shift.	Para 9	
	CEPU	Sub-14/04/16			Clauses are not mutually exclusive. Clause 9.4 applies to overtime being worked which is worked directly after a shift or the ordinary hours that are worked in a day. Clause 9.6 applies in circumstances where a worker works a period of overtime which does not directly follow their shift or the ordinary hours that they have worked in a day. If 9.4 were to only apply to shiftworkers it would mean that day workers would miss out on the entitlement to a meal or meal allowance.	Para 5 – 6	
	AWU	ReplySub-05/05/16			Agree with CFMEU and CEPU submissions.	Para 13, 22	
	AIG	ReplySub-08/05/16			Does not disagree with unions position that clauses 9.4 and 9.6 may apply to day workers and/or shiftworkers in the circumstances prescribed.	Para 122	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
17.	AIG	Sub-14/04/16	9.7(a)		Ten hour break The words “where possible” should be replaced with “wherever reasonably practicable” consistent with cl 25.7(a) of the MA. Change in ED would be a substantive change in the entitlement.	Para 309	Parties have agreed to replace the words ‘where possible’ with the words ‘wherever reasonably practicable’ – see Attachment A of Report to the Full Bench .
	AWU	ReplySub-05/05/16			AWU does not see that the entitlement has changed greatly.	Para 35	
18.	CFMEU	Sub-14/04/16	9.7(d)		Ten hour break <i>In response to FWC query:</i> Agrees subclause is properly expressed.	Para 17	
	AWU	Sub-19/04/16			Does not oppose the expression of this clause.	Para 10	
	CEPU	Sub-14/04/16			Clause is correct.	Para 7	
	AWU	ReplySub-05/05/16			Agree with CFMEU and CEPU submissions.	Para 14, 23	
	AIG	ReplySub-08/05/16			Has not identified any difficulty arising from the drafting of this provision. Position consistent with AWU, CFMEU and CEPU.	Para 123	
19.	CFMEU	Sub-14/04/16	10.1		Minimum wages Include “Operations Grade 8” in pay level 8.	Para 10	Parties have agreed to insert reference to ‘Operations Grade 8’ immediately under the words ‘Professional/
	AIG	Sub-14/04/16			“Operations Grade 8” needs to be added to pay level 8 consistent with current MA.	Para 310	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AWU	ReplySub-05/05/16			Agrees with CFMEU and AIG submissions.	Para 7	Manager/ Specialist Grade 8' – see Attachment A of Report to the Full Bench .
	AIG	ReplySub-08/05/16			Agree with CFMEU proposal.	Para 124	
20.	CFMEU	Sub-14/04/16	10.2(b)(vi)		Apprentices and trainees ED refers to “Sch D – National Training Wage” – understands National Training Wage is not relevant to apprentices. Also notes clause does not apply to school based apprentices. Unclear as to the reason for this.	Para 11 – 12	Parties have agreed to delete the words ‘Schedule D— National Training Wage and’ and the words ‘other than an apprentice undertaking a school-based apprenticeship’ – see Attachment A of Report to the Full Bench .
	AWU	ReplySub-05/05/16			Agrees with CFMEU re National Training Wage. AWU submits all trainees and apprentices should be compensated the same (re school based apprentices).	Para 9 – 10	
	AIG	ReplySub-08/05/16			Does not oppose CFMEU proposal that Schedule D be removed. The exclusion of school based apprentices properly reflect the Full Bench intention in [2013] FWCFB 5411	Para 125 – 126	
21.	AWU	Sub-19/04/16	10.7		Higher duties Submits the word “work” be used rather than “duties” to reflect that not all duties must be performed, rather work of that higher position, on that occasion.	Para 11	Proposed wording included.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
					Same amendment made to Asphalt Industry modern award during review of group 1A and 1B awards.		
	AIG	ReplySub-08/05/16			AWU submission is a substantive change. Amendment is opposed.	Para 128 – 129	
22.	CFMEU	Sub-14/04/16	10.7(b)		Minimum wages – higher duties Reference to accident pay in clause should be deleted.	Para 13	Parties have agreed to delete the words ‘or a period attracting accident pay’ and ‘or accident pay’ – see Attachment A of Report to the Full Bench .
	AIG	Sub-14/04/16			The words “or a period attracting accident pay” should be deleted.	Para 311	
	AWU	ReplySub-05/05/16			Supports CFMEU and AIG submissions.	Para 11, 37	
	AIG	ReplySub-08/05/16			Agree with CFMEU and AWU that references to accident pay should be deleted.	Para 130	
23.	CEPU	Sub -02/03/15	11	18	Allowances Seeks the inclusion of an ‘electrician’s licence’ allowance.	Page 1	Being dealt with in AM2015/9
24.	CFMEU	Sub-14/04/16	11.2(a)		Wage related allowances <i>In response to FWC query</i> Sub clause 11.2(a)(i) and (ii) apply to employees on availability rosters. The reference to “1 in 5 or more” and “1 in 4 or less” is to a week (not days) on the availability roster during the periods mentioned.	Para 18 – 21	Parties have agreed to replace the word ‘days’ with ‘weeks’ in clauses 11.2(a)(i) and 11.2(a)(ii) – see Attachment A of Report to the Full Bench .
	AWU	Sub-19/04/16			Understands these subclauses as referring to “weeks”.	Para 12 - 13	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	CEPU	Sub-14/04/16			Supports CFMEU submissions. Notes provision if not particularly clear.	Para 8	
	AWU	ReplySub-05/05/16			Agree with CFMEU and CEPU submissions.	Para 15, 24	
	AIG	ReplySub-08/05/16			The word “days” should be replaced with “weeks”.	Para 131	
25.	CFMEU	Sub-14/04/16	13		Overtime <i>In response to FWC query</i> Overtime is payable for hours in excess of or outside ordinary hours and each day stands alone.	Para 22 – 23	Parties have agreed to add a subsection (e) ‘For the purposes of calculating overtime each day stands alone’ – see Attachment A of Report to the Full Bench .
	AWU	Sub-19/04/16			Overtime payable on hours worked outside the ordinary hours for non-continuous shift workers on Monday to Friday and on Saturdays after 2 hours. For continuous shift workers, overtime is payable Monday to Saturday. Sundays and Public Holidays stand alone.	Para 14	
	CEPU	Sub-14/04/16			Submits table at 13.1 is clear – any work done beyond ordinary hours on any day that is Monday to Friday will entitle them to payment of 150% for the first two hours and 200% thereafter. Each day that such overtime is worked is counted separately – it stands alone. Any day worker who works a day other than Mon-Fri the work they do on that day will attract the higher rate and attract a minimum payment of 3 hours.	Para 9 - 13	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AWU	ReplySub-05/05/16			Agree with CFMEU that overtime is payable outside of ordinary hours and that each day stands alone. Agree with CEPU submissions.	Para 16, 25	
	AIG	ReplySub-08/05/16			AIG agrees that when calculating overtime rates, each day stands alone. Submits that a provision to this effect should be inserted in clause 13.1. AIG concurs with CFMEU description as to the circumstances in which overtime rates are payable.	Para 132 – 133	
26.	CFMEU	Sub-14/04/16	14.3		Annual leave – additional monetary entitlements <i>In response to FWC query</i> There is inconsistency between 10.7(b) and 14.3, 14.3 should be amended so as to ensure an employee who carries out higher duties receives the higher wage rate consistent with 10.7(b). The provision in 14.3 that the employee must resume the higher duties on completion of leave should be deleted.	Para 24 – 29	Parties have agreed to delete all the words from ‘subject’ to ‘leave’ (inclusive) – see Attachment A of Report to the Full Bench .
	AWU	Sub-19/04/16			Clause 10.7 is the substantive clause setting out the entitlements relating to an employee performing higher duties and conflicting clauses should be resolved in favour of that clause. Suggests amendment to 14.3.	Para 15 – 16	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	CEPU	Sub-14/04/16			Not necessarily a contradiction between clauses 10.7 and 14.3. For an allowance to continue to apply to an employee who was entitled to a higher duties rate for a period of their annual leave they must resume those higher duties on their return to work. For it to apply to any future annual leave entitlement they may accrue.	Para 14-16	
	AWU	ReplySub-05/05/16			Agrees with submissions of CFMEU. Disagrees with CEPU submissions, submits inconsistency arises when an employee returning to their role after annual leave does not go back to higher duties.	Para 17, 26	
	AIG	ReplySub-08/05/16			Does not oppose amendment proposed by AWU and CFMEU.		
27.	AIG	Sub-14/04/16	14.4		Illness during a period of annual leave The term “personal leave” should be replaced with “personal/carer’s leave”.	Para 312	Parties have agreed to replace the word ‘personal’ with the words ‘personal/carer’s’ – see Attachment A of Report to the Full Bench .
	AWU	ReplySub-05/05/16			Agree with AIG submissions.	Para 38	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
28.	CFMEU	Sub-14/04/16	14.7		Payment on termination of employment The reference to “ordinary rate of pay” should read “minimum rate of pay”.	Para 14	Parties have agreed to add the word ‘annual’ after the word ‘accrued’ and replace ‘ordinary rate of pay’ with ‘minimum hourly rate’ – see Attachment A of Report to the Full Bench .
	AIG	Sub-14/04/16			Term “ordinary rate of pay” should be replaced with “minimum rate of pay”.	Para 313	
	AWU	Sub-19/04/16			Replace “ordinary rate of pay” with “minimum rate of pay”.	Para 8	
	CEPU	Sub-14/04/16			The term “ordinary” is superfluous or should be replaced with ‘minimum’.	Para 3	
	AWU	ReplySub-05/05/16			On reflection, AWU prefer the term “ordinary rate of pay” as it incorporates payment of continuous allowances under cl 14.3 and 10.7.	Para 12	
	AIG	ReplySub-08/05/16			Agrees with CFMEU and AWU that “ordinary” should be replaced with “minimum”.	Para 135	
29.	CFMEU	Sub-14/04/16	14.7		Payment on termination of employment <i>In response to FWC query</i> Payment of annual leave upon termination being dealt with by separate Full Bench.	Para 30 – 32	May be being dealt with by Full Bench in AM2014/47
	AWU	Sub-19/04/16			Employee is only entitled to be paid for leave entitlements that have accrued but not yet been taken. May be inconsistent with NES.	Para 17 – 18	Parties have agreed to add the word ‘annual’ after the word ‘accrued’ and replace ‘ordinary rate of pay’ with ‘minimum hourly

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AIG	ReplySub-08/05/16			AWU submission re NES seeks to agitate a contentious issue which is also the subject of an ACTU claim. Variation opposed by AIG. Submits <i>Electrical Power Industry Award 2010</i> is subject to the ACTU claim. Should AWU press claim, it should be referred to the Full Bench dealing with the ACTU's claim.	Para 137 – 138	rate' – see Attachment A of Report to the Full Bench .
	AWU	ReplySub-05/05/16			Agree with CFMEU submissions.	Para 18	AWU submits that this award is not scheduled to ACTU claim. AWU seeks variation on the same basis. Proposed wording included.
	AIG	ReplySub-08/05/16			Word “annual” should be inserted before “accrued” to make this clear.	Para 136	
30.	CFMEU	Sub-14/04/16	15.2		Personal/Carer's leave <i>In response to FWC query:</i> 12 days should apply to personal/carers' leave.	Para 33 – 34	Parties have agreed to replace the word 'personal' with the word 'personal/carers' – see Attachment A of Report to the Full Bench .
	AIG	Sub-14/04/16			Term “personal leave” should be replaced with “personal/carers' leave”.	Para 314	
	AWU	Sub-19/04/16			Understands reference to “personal leave” at this clause refers to “personal/carers' leave”.	Para 19	
	CEPU	Sub-14/04/16			Supplemental entitlement would apply to both personal and carers' leave.	Para 17 – 18	
	AWU	ReplySub-05/05/16			Agrees with CFMEU, AIG and CEPU.	Para 19, 40	
	AIG	ReplySub-08/05/16			Do not oppose unions submissions that clause refers to personal/carers' leave.	Para 139	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
31.	AWU	Sub-19/04/16	Sch G.1(b), (c) and (d)		Replace “ordinary rate of pay” with “minimum rate of pay”.	Para 8	
	AIG	ReplySub-08/05/16			Does not necessarily oppose the AWU’s submissions but notes that these provisions contain standard wording that appears in all modern awards.	Para 140	
32.	CEPU	Sub-14/04/16	Sch D.7		Allocation of Traineeships to Wage Levels <i>In response to FWC query</i> CEPU asks that they be permitted to comment at a later stage as they are still awaiting feedback.	Para 19	

List of abbreviations (in alphabetical order)

ACTU	Australian Council of Trade Unions
AIG	The Australian Industry Group
AWU	The Australian Workers’ Union
CEPU	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
CFMEU	Construction, Forestry, Mining and Energy Union – Mining and Energy Division
ED	Exposure Draft of <i>Electrical Power Industry Award</i>