

**Submissions from parties on plain language draft of the Pharmacy Industry Award exposure draft
AM2014/209**

This document provides a summary of submissions from the following parties on the plain language draft of the Pharmacy Industry Award exposure draft:

- [Association of Professional Engineers, Scientists and Managers Australia \(APESMA\), 10 December 2015](#)
- [Pharmacy Guild of Australia \(PGA\), 10 December 2015](#)
- [Shop Distributive and Allied Employees' Association \(SDA\), 10 December 2015](#)
- [Health Services Union \(HSU\), 11 December 2015](#)
- [Business SA, 10 December 2015](#)

EXPOSURE DRAFT – Pharmacy Industry Award 2014 (revised 25 September 2015)	Annotated clauses based on plain language draft (blue=PGA; yellow=SDA (supported by APESMA and HSU); grey=ABI and NSW Business Chamber)	Summary of submissions
<p>Part 1—Application and Operation</p> <p>1. Title</p> <p>1.1 This award is the <i>Pharmacy Industry Award 2010</i>.</p> <p>1.2 amended in accordance with para [11] [2014] FWCFB 9412 and para [8] of [2015] FWCFB 4658</p> <p>1.2 This modern award, as varied, commenced operation on 1 January 2010. A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to the variation.</p> <p>1.3 Schedule D—Definitions sets out definitions that apply in this award.</p> <p>1.4 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.</p> <p>1.5 inserted in accordance with para [16] of [2014] FWCFB 9412</p> <p>1.5 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.</p>	<p>Part 1—Application and Operation</p> <p>1. Title</p> <p>1.1 This is the <i>Pharmacy Industry Award [2016]</i>.</p> <p>1.2 This award comes into operation on [insert date].</p> <p><i>Clauses 1.2, 1.4 and 1.5 of the Exposure Draft Pharmacy Industry Award 2014 (revised 25 September 2015) will be dealt with in Part B of the process</i></p> <p>2. Definitions</p> <p>Schedule G—Definitions defines expressions used in this award.</p>	
<p>2 The National Employment Standards and this award</p>	<p><i>This clause will be dealt with in Part B of the process</i></p>	

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<p>3 Coverage</p> <p>3.1 This industry award covers employers throughout Australia in the community pharmacy industry and their employees in the classifications listed in Schedule A—Classification Definitions to the exclusion of any other modern award.</p> <p>3.2 Community pharmacy means any business conducted by the employer in premises:</p> <p>(a) that are registered under the relevant State or Territory legislation for the regulation of pharmacies; or</p> <p>(b) are located in a State or Territory where no legislation operates to provide for the registration of pharmacies;</p> <p>and</p> <p>(c) that are established either in whole or in part for the compounding or dispensing of prescriptions or vending any medicines or drugs; and</p> <p>(d) where other goods may be sold by retail</p>	<p>4. Coverage</p> <p>4.1 This industry award covers, to the exclusion of any other modern award:</p> <p>(a) employers in the community pharmacy industry throughout Australia; and</p> <p>(b) employees (with a classification defined in Schedule A—Classification Definitions) of employers mentioned in clause 4.1(a).</p> <p>4.2 This award also covers:</p> <p>(a) on-hire employees working in the community pharmacy industry (with a classification defined in Schedule A—Classification Definitions) and the on-hire employers of those employees; and</p> <p>(b) trainees employed by a group training employer and hosted by an employer covered by this award to work in the community pharmacy industry (with a classification defined in Schedule A—Classification Definitions) and the group training employers of those trainees.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Term ‘industry award’ should be retained in coverage clause. (para. 7). Proposed change to plain language clause 4.1 highlighted.</p> <p>Definition of ‘community pharmacy’ in Schedule G should be moved to coverage clause. (paras 8–10) (see also Schedule G in this document)</p> <p>ABI and NSW Business Chamber</p> <p>Term ‘community pharmacy’ should be retained. Proposed change to plain language clause 4.1(a) highlighted. (paras 3.1–3.4)</p>
<p>3.3 This award does not cover employment in:</p> <p>(a) a pharmacy owned by a hospital or other public institution; or</p> <p>(b) a pharmacy operated by government,</p> <p>where their goods or services are not sold by retail to the general public.</p> <p>3.4 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 3.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.</p> <p>3.5 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at 3.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 3.1 are being performed. This subclause operates subject to the exclusions from coverage in this award.</p> <p>3.6 This award does not cover:</p> <p>(a) employees excluded from award coverage by the <i>Fair Work Act 2009</i> (Cth) (the Act);</p> <p>(b) employees who are covered by a modern enterprise award or an enterprise instrument (within the meaning of the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i></p>	<p>4.3 However, this award does not cover:</p> <div style="border: 1px solid black; background-color: #e0e0e0; padding: 5px; margin: 5px 0;"> <p>The word “community” has been included at 4.3(a) because if it were not a community pharmacy there would be no need for the exclusion as it would not be within the coverage set out in clauses 4.1 and 4.2.</p> </div> <p>(a) employees working in a community pharmacy that does not sell medicines or drugs by retail and that is:</p> <p>(i) owned by a hospital or other public institution; or</p> <p>(ii) operated by government; or</p> <p>(b) employees excluded from award coverage by the Act; or</p> <p>NOTE: See section 143(7) of the Act.</p> <p>(c) employees covered by a modern enterprise award or an enterprise instrument; or</p> <p>(d) employees covered by a State reference public sector modern award or a State reference public sector transitional award; or</p> <p>(e) employers of employees mentioned in clauses 4.3(a) to (d).</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Proposed change to plain language clause 4.3(a) highlighted. (paras 11–12)</p> <p>PGA</p> <p>Plain language clause 4.3 should be replaced with:</p> <p>‘4.3 However, this award does not cover employees working in a pharmacy that is:</p> <p>(a) owned by a hospital or other public institution; or</p> <p>(b) operated by government;</p> <p>that does not sell medicines or drugs by retail to the general public.’</p> <p>(para. 12)</p>

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(Cth)), or employers in relation to those employees; or (c) employees who are covered by a State reference public sector modern award or a State reference public sector transitional award (within the meaning of the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cth)), or employers in relation to those employees.		
Note deleted in accordance with para [29] [2014] FWCFB 9412 3.7 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work. NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.	4.4 If an employer is covered by more than one award, an employee of the employer is covered by the award that is most appropriate to the work that they do and the industry in which they work. NOTE: An employee working in the community pharmacy industry who is not covered by this award may be covered by an award with occupational coverage.	
4. Award flexibility	<i>This clause will be dealt with in Part B of the process</i>	
5. Facilitative provisions	<i>This clause will be dealt with in Part B of the process</i>	Business SA The contents of the table in this clause are award-specific and should be part of Part A of the process.
Part 2—Types of Employment and Classifications 6. Employment categories 6.1 Employees under this award will be employed in one of the following categories: (a) full-time; (b) part-time; or (c) casual. 6.2 At the time of engagement, an employer will inform each employee of the terms of their engagement and, in particular, whether they are to be full-time, part-time or casual. 6.3 Full-time employment A full-time employee is engaged to work an average of 38 hours per week.	Part 2 Types of Employment and classifications 7. Types of employment 7.1 Employees covered by this award may must be: (a) full-time employees; or (b) part-time employees; or (c) casual employees. 7.2 An employee who is engaged to work 38 ordinary hours per week (or 76 hours averaged over 2 consecutive weeks) is a full-time employee. 7.3 An employee who is engaged to work for fewer ordinary hours per week than mentioned in clause 7.2 and whose hours of work are reasonably predictable is a part-time employee. 7.4 An employee who is not covered by clause 7.2 or 7.3 may be engaged and paid as a casual employee. 7.5 At the time of engagement On engaging an employee, the employer must inform the employee of the terms on which they are engaged, including whether they are engaged as a full-time, part-time or casual	PGA Proposed changes to plain language clauses 7.1 highlighted . (para. 13) Plain language clause 7.2 should be reworded to provide that ‘hours (which may be averaged over 2 consecutive weeks)’ (para. 14) SDA (supported by APESMA and HSU) Proposed changes to plain language clauses 7.2 and 7.5 highlighted . (paras 13–19)

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	employee.	
<p>6.4. Part-time employees</p> <p>(a) A part-time employee:</p> <p>(i) is engaged to work less than 38 hours per week; and</p> <p>(ii) has reasonably predictable hours of work;</p> <p>(iii) except as provided elsewhere in this award, receives on a pro-rata basis pay and conditions equivalent to those of full-time employees who do the same kind of work.</p> <p>(b) At the time of engagement, the employer and the part-time employee will agree, in writing, on a regular pattern of work, specifying at least:</p> <p>(i) the hours worked each day;</p> <p>(ii) which days of the week the employee will work;</p> <p>(iii) the actual starting and finishing times of each day;</p> <p>(iv) that any variation will be in writing;</p> <p>(v) that the minimum daily engagement is three hours;</p> <p>(vi) all time worked in excess of agreed hours is paid at the overtime rate; and</p> <p>(vii) the times of taking and the duration of meal breaks.</p>	<p>7.6 Part-time employment</p> <p>(a) Subject to this award, the pay and conditions on which a part-time employee is engaged must, proportionately, be the same as those on which a for a full-time employee who does engaged to do the same kind of work is engaged.</p> <p>(b) At the time of engagement of On engaging a part-time employee, the employer must agree in writing with the employee:</p> <p>(i) the number of ordinary hours to be worked each day; and</p> <p>(ii) the days of the week on which the employee will work; and</p> <p>(iii) the times at which the employee will start and finish work each day; and</p> <p>(iv) when meal breaks may be taken and their duration; and</p> <p>(v) that any variation will be in writing.</p> <p>(c) An agreement under clause 7.6(b)) must also provide that:</p> <p>(i) the minimum period for which the employee may be rostered to work on any shift is 3 consecutive hours;</p> <p>(ii) for each ordinary hour worked, the employee must be paid in accordance with clause 12.1;</p> <p>(iii) for each hour worked in excess of the agreed number of ordinary hours, the employee must be paid at the overtime rate in accordance with clause 16.2;</p> <p>(iv) subject to this clause, the agreement can only be varied, permanently or temporarily, by the parties in writing.</p>	<p>ABI and NSW Business Chamber</p> <p>Proposed change to plain language clause 7.6(a) highlighted. (paras 4.1–4.2)</p> <p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 7.6 should retain exposure draft clause 6.4 (d) on the hourly rate of pay for part-time employees and 6.4(e) on minimum shift requirements. (paras 27–30 and 37–40)</p> <p>Proposed changes to plain language clauses 7.6(b) and 7.6(b)(v) highlighted. (paras 20–26)</p> <p>PGA</p> <p>Proposed change to plain language clause 7.6(b)(i) highlighted. (para. 13)</p> <p>Clause 12.2 of the current modern award dealing with agreement to vary regular pattern of work should be reinstated to plain language clause 7.6 (para. 17)</p> <p>Plain language clause 7.6 is confusing should be replaced with clauses 6.7 to 6.15 of the PGA’s Plain English Draft. (para. 18)</p>
<p>(c) Variation to regular pattern of work</p> <p>(i) Any agreement to vary the regular pattern of work will be made in writing before the variation occurs.</p> <p>(ii) Any agreement to vary the agreed hours may be either a permanent agreed variation to the pattern of work or a temporary agreed variation (e.g. a single shift or roster period). The varied hours will be the ‘agreed hours’ for the purposes of clause 6.4(d).</p> <p>(iii) The agreement and variation will be retained by the employer and a copy given to the employee.</p> <p>(d) For each ordinary hour worked, a part-time employee will be paid the</p>	<p>(d) The employer must keep a copy the original of any agreement or variation and give a copy to the employee.</p> <p>(e) Subject to clause 7.6(f), the roster of a part-time employee, but not the agreed number of hours, may be changed:</p> <p>(i) by the employer giving the employee 7 days, or in an emergency 48 hours, written notice of the change; or</p> <p>(ii) at any time by the employer and employee by mutual agreement.</p> <p>(f) The roster of a part-time employee is not to be changed:</p> <p>(i) from pay period to pay period; or</p>	<p>PGA</p> <p>Proposed change to plain language clause 7.6(d) highlighted. (para. 16)</p>

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<p>minimum hourly rate of pay for the relevant classification in clause 10.1.</p> <p>(e) An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.</p> <p>(f) Rosters</p> <p>(i) A part-time employee’s roster, but not the agreed number of hours, may be altered:</p> <ul style="list-style-type: none"> • by the employer giving the employee seven days’ written notice; or • in the case of an emergency, by the employer giving the employee 48 hours’ written notice; or • at any time by mutual agreement between the employer and the employee. <p>(ii) Rosters will not be changed from week to week, or fortnight to fortnight.</p> <p>(iii) Rosters will not be changed to avoid any award entitlements.</p> <p>(g) An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 6.5—Casual employment.</p>	<p>(ii) so as to avoid any award entitlement.</p> <p>(g) A part-time employee who has worked the agreed number of hours on any day or in any pay period may agree to work additional hours on the terms applicable to hours worked by a casual employee and up to any maximum applicable to those hours under this award.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 7.6(g) should be replaced with exposure draft clause 6.5(i) on additional hours as casual hours. (paras 31–36)</p>
<p>(h) Conversion of existing employees</p>	<p><i>Moved to 7.8</i></p>	
<p>6.5 Casual employment</p> <p>(a) A casual employee is an employee who is engaged and paid as a casual employee.</p> <p>(b) A casual employee does not have an entitlement to reasonably predictable hours of work.</p> <p>(c) Casual loading</p> <p>For each ordinary hour worked, a casual employee must be paid:</p> <ul style="list-style-type: none"> • the minimum hourly rate; and • a loading of 25% of the minimum hourly rate <p>for the classification in which they are employed.</p> <p>(d) Casual employees will be paid at the termination of each engagement, but may agree to be paid weekly or fortnightly.</p> <p>(e) The minimum daily engagement for a casual employee is three hours.</p>	<p>7.7 Casual employment</p> <p>(a) A casual employee does not have an entitlement to reasonably predictable hours of work.</p> <p>(b) The minimum number of hours for which a casual employee may be rostered to work on any day is 3.</p> <p>(c) Unless casual employees agree to be paid weekly or fortnightly, they must be paid at the end of the rostered hours each day.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 7.7 should retain exposure draft clause 6.5(c) on casual loadings (currently dealt with in plain language clause 10). (paras 41–44)</p> <p>Business SA</p> <p>Plain language clause 7.7(c) requires payment to be made at the end of each day. Business SA submits that, because an engagement may be for longer than one day, this is a substantive change to the award.</p>

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<p>(h) Conversion of existing employees</p> <p>(i) No full-time or casual employee will be transferred by an employer to part-time employment without the written consent of the employee.</p> <p>(ii) Where such transfer occurs all leave entitlements accrued will be deemed to be continuous.</p> <p>(iii) A full-time employee who requests part-time work and is given such work may revert to full-time employment on a specified future date by agreement with the employer. This agreement is to be recorded in writing.</p> <p>(i) Additional hours as casual hours</p> <p>A part-time employee who has worked their agreed hours may agree to work additional hours which are not reasonably predictable up to the daily, weekly or fortnightly maximum ordinary hours as a casual employee. These extra hours will be subject to the casual employee provisions of this award.</p>	<p>7.8 Moving between types of employment</p> <p>(a) A full-time or casual employee cannot become a part-time employee without the employee’s written consent.</p> <p>(b) Moving to part-time employment does not affect the continuity of any leave entitlements.</p> <p>(c) A full-time employee:</p> <p>(i) may request to be given part-time work; and</p> <p>(ii) may return to full-time employment at a date agreed with the employer.</p> <p>(d) An agreement mentioned in clause 7.8(c)(ii) must be recorded in writing.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Proposed change to plain language clause 7.8(d) highlighted. (paras 45–50)</p>
<p>7. Classifications</p> <p>7.1 All employees covered by this award must be classified according to the structure set out in Schedule A—Classification Definitions. Employers must advise their employees in writing of their classification and of any changes to their classification.</p> <p>7.2 The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.</p>	<p>8. Classifications</p> <p>8.1 An employer must classify an employee covered by this award in accordance with Schedule A—Classification Definitions.</p> <p>8.2 The classification must be based on the skill level that the employer determines is required to be exercised in order for the employee to carry out the principal functions of the employment.</p> <p>8.3 Employers must notify employees in writing of their classification and of any change to it.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 8.2 should be replaced with:</p> <p>‘The employee must be classified according to the skill level or levels they are required to exercise in order to carry out the principal functions of the employment required by the employer.’</p> <p>(paras 451–54)</p>
<p>Part 3—Hours of Work</p> <p>8. Ordinary hours of work and rostering</p> <p>8.1 This clause does not operate to limit, increase or in any way alter the trading hours of any employer as determined by the relevant State or Territory legislation.</p> <p>8.2 Ordinary hours and roster cycles</p> <p>(a) Ordinary hours may be worked between 7.00 am and midnight, Monday to Sunday.</p> <p>(b) Hours of work on any day will be continuous, except for rest breaks and meal breaks.</p> <p>(c) Hours of work must not exceed 12 hours per day.</p> <p>(d) The ordinary hours of work for a full-time employee will be 38 hours per week.</p>	<p>Part 3—Hours of Work</p> <p>9. Ordinary hours of work</p> <p>9.1 Ordinary hours may be worked on any day between 7.00 am and midnight.</p> <p>9.2 Ordinary hours of work are continuous, except for rest breaks and meal breaks.</p> <p>9.3 The maximum number of ordinary hours that can be worked by an employee on any day is 12.</p> <p>9.4 Nothing in this clause affects the shop trading hours of a community pharmacy under relevant State or Territory legislation.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 9 should be retain exposure draft clauses 8.2(d)–(f) on ordinary hours of work. (paras 55–58)</p> <p>PGA</p> <p>Plain language clause 9.4 may be unnecessary. (para. 19)</p>

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<p>(e) A full-time employee’s ordinary weekly hours may be averaged over a period of two consecutive weeks.</p> <p>(f) The ordinary hours of work for a part-time or casual employee will be in accordance with clause 6—Types of employment.</p>		
<p>8.3 Rostering—Permanent employees</p> <p>(a) The following roster requirements will apply to permanent employees:</p> <p>(i) Ordinary hours will be rostered to provide employees with two consecutive days off each week or three consecutive days off in a two week period.</p> <p>(ii) Ordinary hours and any reasonable additional hours may not be rostered over more than six consecutive days.</p> <p>(iii) Except as provided for in clause 8.3(a)(iv), ordinary hours may not be rostered over more than five days in a week.</p> <p>(iv) Ordinary hours may be rostered on six days in one week where ordinary hours are rostered on no more than four days in the following week.</p> <p>(v) An employee may be rostered to work on a maximum of three Sundays in any four week cycle and must have three consecutive days off every four weeks, including a Saturday and Sunday.</p> <p>(b) Alternative rostering arrangements</p> <p>(i) The rostering requirements in clause 8.3(a) will not apply where an employee makes a written request and the employer agrees to other arrangements.</p> <p>(ii) The agreement must be recorded in the time and wages record.</p> <p>(iii) It cannot be a condition of employment that an employee make a request for alternative rostering arrangements.</p> <p>(iv) An employee may terminate the agreement by giving four weeks’ notice to the employer. The notice does not need to be given where the agreement terminates on an agreed date or at the end of an agreed period. This provision does not apply to part-time employees’ agreed pattern of work under clause 6.4(b).</p> <p>(v) The rostering provision of clause 8.3(a)(v) does not apply to a part-time employee whose agreed hours under clause 6.4(b)(ii) provide that the employee will:</p> <ul style="list-style-type: none"> • work on either or both Saturday and Sunday each week; and • have at least two consecutive days off work each week. 	<p>10. Rostering arrangements - Full-time and Part-time Employees</p> <p>10.1 The following rostering arrangements apply to permanent full-time and part time employees:</p> <p>(a) employees must be rostered to work ordinary hours in such a way that they have:</p> <p>(i) 2 consecutive days off each week; or</p> <p>(ii) 3 consecutive days off in a 2 week period;</p> <p>(b) subject to clause 10.1(c), employees must not be rostered to work ordinary hours on more than 5 days in a week;</p> <p>(c) employees may be rostered to work ordinary hours on 6 days one week if they are rostered to work ordinary hours on no more than 4 days the following week;</p> <p>(d) employees must not be rostered to work (whether ordinary hours or overtime) on more than 6 consecutive days;</p> <p>(e) employees may be rostered to work (whether ordinary hours or overtime) on up to 3 Sundays in a 4 week cycle must be if they are rostered to have 3 consecutive days off every 4 weeks, including a Saturday and Sunday.</p> <p>10.2 Clause 10.1(e) does not apply to a part-time employee who has agreed under clause 7.6 to work Saturday or Sunday (or both) each week and have at least 2 consecutive days off.</p> <p>10.3 Clause 10.1 does not apply to the extent that where the employer and employee agree to different arrangements at the written request of the employee.</p> <p>10.4 Different arrangements agreed under clause 10.3 must be recorded in the time and wages record.</p> <p>10.5 The employee may end an agreement under clause 10.3 at any time by giving the employer 4 weeks written notice.</p> <p>10.6 An agreement under clause 10.3 may specify that it terminates on a particular date provide for it to end automatically on a day, or at the end of a period, specified in it.</p> <p>10.7 An employee cannot be required, by as a condition of employment, to make a request an arrangement under clause 10.3.</p> <p>10.8 Nothing in clause 10.5 applies to an agreement under clause 7.6(b).</p>	<p>PGA</p> <p>Proposed change to plain language clause 10.0 highlighted. (paras 20–21) Clause should be replaced with PGA’s Plain English Draft clause 8. (para. 22)</p> <p>SDA (supported by APESMA and HSU)</p> <p>Proposed change to plain language clause 10.1(e) highlighted. (paras 59–61) Proposed change to plain language clause 10.3 highlighted. (para. 62)</p> <p>ABI and NSW Business Chamber</p> <p>Proposed change to plain language clauses 10.3–10.8 highlighted. (paras 5.1–5.4)</p>

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<p>9. Breaks</p> <p>9.1 An employee working four or more hours on any day will be entitled to a 10 minute paid rest break.</p> <p>9.2 An employee working more than five hours on any day will be entitled to an unpaid meal break of at least 30 minutes but no more than one hour, plus a 10 minute paid rest break.</p> <p>9.3 An employee working 7.6 or more hours on any day will be entitled to an unpaid meal break of at least 30 minutes but no longer than one hour, plus two 10 minute paid rest breaks, provided that:</p> <p>(a) the meal breaks are to be taken after at least 2.5 hours and not later than five hours work; and</p> <p>(b) the rest breaks are not to be taken in the first hour of work or in the first hour after the meal break.</p> <table border="1" data-bbox="281 892 1012 1297"> <thead> <tr> <th>Ordinary hours per day</th> <th>Break</th> </tr> </thead> <tbody> <tr> <td>4 hours and up to and including 5 hours</td> <td>One 10 minute paid rest break</td> </tr> <tr> <td>More than 5 and less than 7.6 hours</td> <td>One 10 minute paid rest break One 30 to 60 minute unpaid meal break</td> </tr> <tr> <td>7.6 hours or more</td> <td>Two 10-minute paid rest breaks One 30 to 60 minute unpaid meal break</td> </tr> </tbody> </table>	Ordinary hours per day	Break	4 hours and up to and including 5 hours	One 10 minute paid rest break	More than 5 and less than 7.6 hours	One 10 minute paid rest break One 30 to 60 minute unpaid meal break	7.6 hours or more	Two 10-minute paid rest breaks One 30 to 60 minute unpaid meal break	<p>11. Breaks</p> <p>11.1 An employee who works on any day the number of ordinary hours on any one day specified in an item of column 1 of Table 1 is entitled to a break or breaks as specified in column 2 of that Table opposite that item.</p> <p>Table 1—Entitlements to meal and rest break(s)</p> <table border="1" data-bbox="1181 615 1947 961"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> </tr> </thead> <tbody> <tr> <td>4 or more but not more than 5</td> <td>One 10 minute paid rest break</td> </tr> <tr> <td>More than 5 but less than 7.6</td> <td>One 10 minute paid rest break One 30 to 60 minute unpaid meal break</td> </tr> <tr> <td>7.6 or more</td> <td>Two 10 minute paid rest breaks One 30 to 60 minute unpaid meal break</td> </tr> </tbody> </table> <p>11.2 A meal break cannot be taken in the first 2.5 hours, or after 5 hours, of work.</p> <p>11.3 A rest break cannot be taken:</p> <p>(a) in the first hour of work; or</p> <p>(b) in the first hour of work after a meal break.</p>	Column 1	Column 2	4 or more but not more than 5	One 10 minute paid rest break	More than 5 but less than 7.6	One 10 minute paid rest break One 30 to 60 minute unpaid meal break	7.6 or more	Two 10 minute paid rest breaks One 30 to 60 minute unpaid meal break	<p>ABI and NSW Business Chamber</p> <p>Proposed change to plain language clause 11.1 highlighted. (para. 6.1)</p> <p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 11.1 should be replaced with:</p> <p>‘The following table prescribes the entitlement to a break or breaks (Column 2) for employees, depending on the number of ordinary hours worked on any day (column 1)’.</p> <p>(para. 63)</p> <p>Plain language clause 11.2 should be replaced with exposure draft 9.3(a) or the following:</p> <p>‘A meal break must be taken within the first 5 hours of work, but not before the first 2.5 hours’</p> <p>(para. 65)</p>								
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<p>Part 4—Wage and Allowances</p> <p>10. Minimum wages</p> <p>10.1 Adult employees</p> <p>(a) An employer must pay adult employees the following minimum wages for ordinary hours worked by the employee:</p> <table border="1" data-bbox="281 1564 1032 1942"> <thead> <tr> <th>Employee classification</th> <th>Minimum weekly rate \$</th> <th>Minimum hourly rate \$</th> <th>Casual hourly rate \$</th> </tr> </thead> <tbody> <tr> <td>Pharmacy Assistants</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Level 1</td> <td>721.50</td> <td>18.99</td> <td>23.74</td> </tr> <tr> <td>Level 2</td> <td>738.70</td> <td>19.44</td> <td>24.30</td> </tr> <tr> <td>Level 3</td> <td>764.90</td> <td>20.13</td> <td>25.16</td> </tr> <tr> <td>Level 4</td> <td>796.30</td> <td>20.96</td> <td>26.20</td> </tr> </tbody> </table>	Employee classification	Minimum weekly rate \$	Minimum hourly rate \$	Casual hourly rate \$	Pharmacy Assistants				Level 1	721.50	18.99	23.74	Level 2	738.70	19.44	24.30	Level 3	764.90	20.13	25.16	Level 4	796.30	20.96	26.20	<p>Part 4—Wages and Allowances</p> <p>12. Wages</p> <p>12.1 An employer must pay an employee in accordance with Table 2 for ordinary hours worked by the employee:</p> <p>(a) for an adult full-time employee with a classification specified in column 1, wages at the minimum weekly rate specified opposite that classification in column 2; and</p> <p>(b) for an adult part-time employee with a classification specified in column 1, wages at the minimum hourly rate specified opposite that classification in column 3; and</p> <p>(c) for an adult casual employee with a classification specified in column 1, wages at the minimum casual hourly rate specified opposite that classification in column 4; and</p> <p>(d) for an employee who is under 21 years of age and classified as</p>	<p>PGA</p> <p>Plain language clause 12.1 fails to take account of students who do not commence in term 1. (para 23)</p> <p>ABI and NSW Business Chamber</p> <p>Plain language clause 12.1(d) should be moved to after Table 2 (change</p>
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<table border="1"> <tr> <td colspan="4">Pharmacy Students</td> </tr> <tr> <td>1st year of course</td> <td>721.50</td> <td>18.99</td> <td>23.74</td> </tr> <tr> <td>2nd year of course</td> <td>738.70</td> <td>19.44</td> <td>24.30</td> </tr> <tr> <td>3rd year of course</td> <td>764.90</td> <td>20.13</td> <td>25.16</td> </tr> <tr> <td>4th year of course</td> <td>796.30</td> <td>20.96</td> <td>26.20</td> </tr> <tr> <td colspan="4">Pharmacy Interns</td> </tr> <tr> <td>First half of training</td> <td>806.80</td> <td>21.23</td> <td>26.54</td> </tr> <tr> <td>Second half of training</td> <td>834.40</td> <td>21.96</td> <td>27.45</td> </tr> <tr> <td>Pharmacist</td> <td>943.90</td> <td>24.84</td> <td>31.05</td> </tr> <tr> <td>Experienced Pharmacist</td> <td>1,033.80</td> <td>27.21</td> <td>34.01</td> </tr> <tr> <td>Pharmacist in Charge</td> <td>1,058.00</td> <td>27.84</td> <td>34.80</td> </tr> <tr> <td>Pharmacist Manager</td> <td>1,179.10</td> <td>31.03</td> <td>38.79</td> </tr> </table>	Pharmacy Students				1st year of course	721.50	18.99	23.74	2nd year of course	738.70	19.44	24.30	3rd year of course	764.90	20.13	25.16	4th year of course	796.30	20.96	26.20	Pharmacy Interns				First half of training	806.80	21.23	26.54	Second half of training	834.40	21.96	27.45	Pharmacist	943.90	24.84	31.05	Experienced Pharmacist	1,033.80	27.21	34.01	Pharmacist in Charge	1,058.00	27.84	34.80	Pharmacist Manager	1,179.10	31.03	38.79	<p>a pharmacy assistant, at the following percentage of the minimum rate that would otherwise be applicable under Table 2:</p> <ul style="list-style-type: none"> (i) 45% for an under 16 year old; (ii) 50% for a 16 year old; (iii) 60% for a 17 year old; (iv) 70% for an 18 year old; (v) 80% for a 19 year old; (vi) 90% for a 20 year old. <p>Table 2—Minimum wages for adult employees</p> <table border="1"> <thead> <tr> <th>Column 1 Employee classification</th> <th>Column 2 Minimum weekly rate</th> <th>Column 3 Minimum hourly rate</th> <th>Column 4 Minimum casual hourly rate (inclusive of 25% casual loading)</th> </tr> </thead> <tbody> <tr> <td>pharmacy assistant</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Level 1</td> <td>\$721.50</td> <td>\$18.99</td> <td>\$23.74</td> </tr> <tr> <td>Level 2</td> <td>\$738.70</td> <td>\$19.44</td> <td>\$24.30</td> </tr> <tr> <td>Level 3</td> <td>\$764.90</td> <td>\$20.13</td> <td>\$25.16</td> </tr> <tr> <td>Level 4</td> <td>\$796.30</td> <td>\$20.96</td> <td>\$26.20</td> </tr> <tr> <td>pharmacy student</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1st year of course</td> <td>\$721.50</td> <td>\$18.99</td> <td>\$23.74</td> </tr> <tr> <td>2nd year of course</td> <td>\$738.70</td> <td>\$19.44</td> <td>\$24.30</td> </tr> <tr> <td>3rd year of course</td> <td>\$764.90</td> <td>\$20.13</td> <td>\$25.16</td> </tr> <tr> <td>4th year of course</td> <td>\$796.30</td> <td>\$20.96</td> <td>\$26.20</td> </tr> <tr> <td>pharmacy intern</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1st half of training</td> <td>\$806.80</td> <td>\$21.23</td> <td>\$26.54</td> </tr> <tr> <td>2nd half of training</td> <td>\$834.40</td> <td>\$21.96</td> <td>\$27.45</td> </tr> <tr> <td>pharmacist</td> <td>\$943.90</td> <td>\$24.84</td> <td>\$31.05</td> </tr> <tr> <td>experienced pharmacist</td> <td>\$1,033.80</td> <td>\$27.21</td> <td>\$34.01</td> </tr> <tr> <td>pharmacist in charge</td> <td>\$1,058.00</td> <td>\$27.84</td> <td>\$34.80</td> </tr> </tbody> </table>	Column 1 Employee classification	Column 2 Minimum weekly rate	Column 3 Minimum hourly rate	Column 4 Minimum casual hourly rate (inclusive of 25% casual loading)	pharmacy assistant				Level 1	\$721.50	\$18.99	\$23.74	Level 2	\$738.70	\$19.44	\$24.30	Level 3	\$764.90	\$20.13	\$25.16	Level 4	\$796.30	\$20.96	\$26.20	pharmacy student				1 st year of course	\$721.50	\$18.99	\$23.74	2 nd year of course	\$738.70	\$19.44	\$24.30	3 rd year of course	\$764.90	\$20.13	\$25.16	4 th year of course	\$796.30	\$20.96	\$26.20	pharmacy intern				1 st half of training	\$806.80	\$21.23	\$26.54	2 nd half of training	\$834.40	\$21.96	\$27.45	pharmacist	\$943.90	\$24.84	\$31.05	experienced pharmacist	\$1,033.80	\$27.21	\$34.01	pharmacist in charge	\$1,058.00	\$27.84	\$34.80	<p>highlighted) (para. 7.1)</p>
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pharmacist manager	\$1,179.10	\$31.03	\$38.79			
<p data-bbox="201 991 1050 1360">(c) Each year of a pharmacy student’s course commences on the first day of the relevant academic term. A pharmacy student’s progression through the pay rate is line with the student’s progression through the course. If the pharmacy student completes subjects faster than the usual course progression for that year of study, the student will progress to the next pay rate even if they have not been on the previous pay rate for a year. A pharmacy student will not move to the next pay rate if they have not completed and passed all of the subjects required in the usual course progression for that year of study, even if they remain on the same pay rate for more than one year. Students undertaking a Master of Pharmacy will commence at the 3rd year pay rate.</p>	<p data-bbox="1071 991 1941 1054">12.2 A pharmacy student is only treated as being in a particular year of a course from day 1 of term 1 of that year of the course.</p> <p data-bbox="1071 1079 1941 1142">12.3 Subject to clause 12.2, a pharmacy student beginning a Master of Pharmacy course is treated as being in the 3rd year of a course.</p>	<p data-bbox="1967 1020 2445 1054">SDA (supported by APESMA and HSU)</p> <p data-bbox="1967 1079 2843 1142">Plain language clause 12.3 should provide that a pharmacy student beginning Master of Pharmacy course should receive the Graduate Intern rate. (para. 66)</p> <p data-bbox="1967 1159 2119 1192">Business SA</p> <p data-bbox="1967 1205 2843 1339">Plain language clauses 12.2 and 12.3 seem to have removed the ability of the employer to move a student up a pay level if they accelerate their course completion, or to leave them at that rate for more than 1 year if that section of the course is not completed within the year.</p>				

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<p>10.3 Payment of wages</p> <p>(a) Wages will be paid either weekly or fortnightly, according to the actual hours worked for each week or fortnight.</p> <p>(b) All wages will be paid on a regular pay day within four days of the end of the pay period. The employer must notify the employee in writing as to which day is the pay day. Where for any reason the employer wishes to change the pay day, then the employer shall provide at least four weeks' written notice to the employee of such change.</p> <p>10.3(b) re pay slips deleted in accordance with para [35] [2014] FWCFB 9412</p>	<p>12.4 The employer may determine the pay period of an employee, which must be either weekly or fortnightly.</p> <p>12.5 Wages must be paid for a pay period according to the number of hours worked by the employee in the period, as provided in clause 7.2 // subject to the averaging provision in clause x.</p> <p>12.6 Wages must be paid on a regular pay day no later than 4 days after the end of the pay period.</p> <p>12.7 Employers must notify employees in writing about which day is the regular pay day.</p> <p>12.8 The regular pay day of an employee may only be changed by the employer giving the employee 4 weeks written notice.</p> <p>12.9 For employees eligible for a supported wage, see Schedule D—Supported Wage System.</p> <p>12.10 For employees undertaking a traineeship, see Schedule E—National Training Wage.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Proposed change to plain language clause 12.5 highlighted. (para. 68)</p> <p>PGA</p> <p>Proposed change to plain language clause 12.5 highlighted to follow current clause. (paras 24)</p>														
<p>10.2 Junior employee</p> <p>Junior employees will be paid the following percentage of the appropriate wage rate for pharmacy assistant classifications in clause 10—Minimum weekly wages:</p> <table border="1" data-bbox="201 1171 1026 1507"> <thead> <tr> <th>Age</th> <th>% of weekly wage</th> </tr> </thead> <tbody> <tr> <td>Under 16 years of age</td> <td>45</td> </tr> <tr> <td>16 years of age</td> <td>50</td> </tr> <tr> <td>17 years of age</td> <td>60</td> </tr> <tr> <td>18 years of age</td> <td>70</td> </tr> <tr> <td>19 years of age</td> <td>80</td> </tr> <tr> <td>20 years of age</td> <td>90</td> </tr> </tbody> </table>	Age	% of weekly wage	Under 16 years of age	45	16 years of age	50	17 years of age	60	18 years of age	70	19 years of age	80	20 years of age	90	<p><i>Note: This clause has been moved to clause 12.1(d) and appears here for comparative purposes only.</i></p> <p>(d) for an employee who is under 21 years of age and classified as a pharmacy assistant, at the following percentage of the minimum rate that would otherwise be applicable under Table 2:</p> <p>(i) 45% for an under 16 year old;</p> <p>(ii) 50% for a 16 year old;</p> <p>(iii) 60% for a 17 year old;</p> <p>(iv) 70% for an 18 year old;</p> <p>(v) 80% for a 19 year old;</p> <p>(vi) 90% for a 20 year old.</p>	
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20 years of age	90															
<p>10.3 Payment of wages</p>	<p><i>Note: Clause 10.3 of the Exposure Draft (revised 25 September 2015) has been moved to clause 12.4.</i></p>															
<p>10.4 Annualised salary (Pharmacists only)</p> <p>(a) An annualised salary for pharmacist employees may be developed. The annual salary may be in satisfaction of any or all of the following provisions of the award:</p> <p>(i) overtime;</p>	<p>13 Annual salary for pharmacists</p> <p>(a) A pharmacist may agree in writing with their employer to be paid an annual salary that satisfies this award in relation to all or any of the following matters:</p> <p>(i) overtime rates;</p>															

EXPOSURE DRAFT – Pharmacy Industry Award 2014 (revised 25 September 2015)	Annotated clauses based on plain language draft (blue=PGA; yellow=SDA (supported by APESMA and HSU); grey=ABI and NSW Business Chamber)	Summary of submissions
<p>(ii) penalty rates;</p> <p>(iii) payments for public holidays taken;</p> <p>(iv) annual leave taken;</p> <p>(v) annual leave loading;</p> <p>(vi) meal allowance; and</p> <p>(vii) meal break on call entitlements.</p> <p>(b) The annual salary paid over a year must be no less than the amount the employee would have received under this award for the work performed over the year (or if the employment ceases before the completion of a year over such lesser period as has been worked).</p> <p>(c) When payment in accordance with this clause is adopted, the employer will keep a daily record of hours worked by the employee which will show the date and start and finish times of the employee for the day. The record will be countersigned weekly by the employee and will be kept at the place of employment for a period of at least six years.</p> <p>(d) The employee may be represented in discussions relating to the making of an agreement under clause 10.4 by either their union or nominated representative, and any agreement reached under this clause must be recorded in writing, and a copy retained by the employer.</p>	<p>(ii) penalty rates;</p> <p>(iii) payments for public holidays;</p> <p>(iv) payments for annual leave;</p> <p>(v) annual leave loading;</p> <p>(vi) meal allowances;</p> <p>(vii) on premise meal allowances.</p> <p>(b) A pharmacist may be represented by a union or other representative nominated by them in any discussion about the making of an agreement under clause 13(a).</p> <p>(c) An annual salary must not result in a pharmacist being paid less for a period than would have been the case if an annual salary had not been agreed.</p> <p>(d) The employer must keep the original of any agreement under clause 13(a) and give a copy to the pharmacist.</p> <p>(e) The employer must keep a record of hours worked each day by a pharmacist who has entered into an agreement under clause 13(a) showing the times at which the pharmacist started and finished work on that day.</p> <p>(f) A record mentioned in clause 13(e) must be:</p> <p>(i) countersigned weekly by the pharmacist; and</p> <p>(ii) kept at the place of employment for at least 6 years.</p>	<p>PGA</p> <p>Proposed change to plain language clause 13(d) highlighted. (para. 24)</p> <p>ABI and NSW Business Chamber</p> <p>Proposed change to plain language clause 13(e) highlighted. (para. 8.1)</p>
<p>10.5 Supported wage system</p> <p>10.6 National training wage</p>	<p><i>These clauses will be dealt with in Part B of the process</i></p>	

EXPOSURE DRAFT – Pharmacy Industry Award 2014 (revised 25 September 2015)	Annotated clauses based on plain language draft (blue=PGA; yellow=SDA (supported by APESMA and HSU); grey=ABI and NSW Business Chamber)	Summary of submissions
<p>11. Allowances</p> <p>11.1 Employers must pay to an employee the allowances the employee is entitled to under this clause. See Schedule C for a summary of monetary allowances and method of adjustment.</p> <p>11.2 Expense related allowances</p> <p>(a) Meal allowance</p> <p>(i) An employee who has worked six hours or more during ordinary time and who is then consecutively required to work overtime, or beyond the employee’s ordinary time of ending work, for more than one and a half hours, will be:</p> <ul style="list-style-type: none"> • supplied with an adequate meal by the employer; or • paid a meal allowance of \$17.46. <p>(ii) Where overtime referred to in clause 11.2(a)(i) exceeds four hours a further meal allowance of \$15.64 will be paid.</p> <p>(iii) Clauses 11.2(a)(i) and (ii) will not apply when the employer has advised the employee of the requirement to work overtime on the previous day.</p> <p>(iv) No meal allowance will be payable where any employee could reasonably return home for a meal within the period allowed.</p> <p>(v) No meal allowance will be payable where the additional hours are agreed hours as per clause 6.4(c).</p>	<p>14. Allowances</p> <p>14.1 Meal allowances</p> <p>(a) This clause applies to an employee who:</p> <p>(i) has worked 6 or more ordinary hours on any day; and</p> <p>(ii) is required to work on that day overtime, or beyond the time at which the employee ordinarily finishes work for the day, for more than 1.5 hours; and</p> <p>(iii) was not advised of the requirement mentioned in clause 14.1(a)(ii) on or before the previous day; and</p> <p>(iv) cannot reasonably return home for a meal within the period of the meal break.</p> <p>(b) The employer must:</p> <p>(i) pay the employee a meal allowance of \$17.46; or</p> <p>(ii) supply the employee with an adequate meal.</p> <p>(c) If the number of hours worked under a requirement mentioned in clause 14(a)(ii) exceeds 4, the employer must pay the employee a further meal allowance of \$15.64.</p> <p>(d) This clause does not apply if the hours worked under a requirement mentioned in clause 14.1(a)(ii) were agreed under clause 7.6.</p>	<p>ABI and NSW Business Chamber</p> <p>Plain language clause 14.1(d) should include the words: ‘about the employee’s agreed pattern of work’ (para. 9.1)</p>
<p>(b) On-premise meal allowance (Pharmacists only)</p> <p>A pharmacist who is required to take their meal break on the premises for the purpose of attending to urgent matters requiring the input of a qualified pharmacist will be paid at 150% of the minimum hourly rate for the period of the meal break, regardless of other penalties that apply on that day.</p>	<p>14.2 On-premise meal allowance</p> <p>(a) This clause applies to a pharmacist who is required to take a meal break on the premises so as to be available to attend to urgent matters requiring the involvement of a pharmacist.</p> <p>(b) The employer must pay the pharmacist at the enhanced hourly rate for the period of the meal break, regardless of any other payments, penalty rates or allowances to which the pharmacist is entitled.</p> <p>(c) In clause 14.2(b), the enhanced hourly rate means 150% of the minimum hourly rate applicable, according to the classification of the pharmacist, under column 3 of Table 2.</p>	
<p>(c) Special clothing</p> <p>(i) Where the employer requires an employee to wear any protective or special clothing such as a uniform or other clothing the employer will reimburse the employee for the cost of purchasing the special clothing and the cost of replacement items, when replacement is due to normal wear and tear. This provision will not apply where the special clothing is supplied</p>	<p>14.3 Clothing allowance</p> <p>(a) This clause applies to an employee who is required to wear special clothing, such as a uniform or protective clothing, that is not supplied or paid for by the employer.</p> <p>(b) The employer must reimburse the employee for the cost of purchasing the clothing, including purchasing replacement</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 14.3 should retain either existing modern award language or exposure draft language to ensure legal meaning is retained. (paras 73–75)</p> <p>PGA</p>

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<p>and/or paid for by the employer.</p> <p>(ii) Where an employee is required to launder any special clothing, the employer who provided that clothing will arrange for its cleaning or will pay:</p> <ul style="list-style-type: none"> • \$6.25 per week to a full-time employee; or • \$1.25 per shift to a part-time or casual employee. 	<p>clothing due to normal wear and tear.</p> <p>(c) The employer must, if the clothing needs to be laundered:</p> <p>(i) undertake the laundering at no cost to the employee; or</p> <p>(ii) pay the employee an allowance of:</p> <ul style="list-style-type: none"> • \$6.25 each week for a full-time employee; or • \$1.25 each shift for a part-time or casual employee. 	<p>Plain language clause 14.3(a)–(b) should be replaced with:</p> <p>‘(a) Where an employee is required to wear special clothing, such as a uniform or protective clothing, that is not supplied or paid for by the employer, the employer must reimburse the employee for the cost of purchasing the clothing, including purchasing replacement clothing due to normal wear and tear.’</p> <p>(paras 26–27)</p>
<p>(d) Transfer of employee expenses</p> <p>Where an employer transfers an employee from one township to another, the employer will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the employee and the employee’s family.</p> <p>(e) Transport allowance</p> <p>Where an employer requests an employee to use their own motor vehicle in the performance of their duties the employee will be paid an allowance of \$0.78 cents per kilometre.</p>	<p>14.4 Moving expenses</p> <p>(a) This clause applies if an employer transfers an employee from one township to another.</p> <p>(b) The employer is responsible for, and must pay, the total cost of moving the employee and the employee’s family, including fares and other transport charges.</p> <p>14.5 Motor vehicle allowance</p> <p>If an employer requests an employee to use their own motor vehicle in performing their duties, the employer must pay the employee an allowance of \$0.78 for each kilometre travelled.</p>	<p>ABI and NSW Business Chamber</p> <p>There are unresolved issues with plain language clause 14.4. (para. 10.1)</p>
<p>(f) Transport of employees reimbursement</p> <p>(i) An employee will be reimbursed the cost of a taxi fare between the place of employment and the employee’s usual place of residence where:</p> <ul style="list-style-type: none"> • the employee commences and/or finishes work before 7.00 am or after 10.00 pm; and • the employee’s regular means of transport is not available; and • the employee is unable to arrange their own alternative transport. <p>(ii) Clause 11.2(f)(i) will not apply if the employer provides or arranges proper transportation to and or from the employee’s usual place of residence at no cost to the employee.</p>	<p>14.6 Taxi fare reimbursement</p> <p>(a) This clause applies if:</p> <p>(i) an employee starts work before 7.00 am or finishes work after 10.00 pm; and</p> <p>(ii) the employee’s regular means of transport is not available; and</p> <p>(iii) the employee is unable to arrange their own alternative means of transport; and</p> <p>(iv) a proper means of transport to or from the employee’s usual place of residence is not provided to, or arranged for, the employee by the employer at no cost to the employee.</p> <p>(b) The employer must reimburse the employee the cost they incurred in taking a taxi between the place of employment and the employee’s usual place of residence.</p>	
<p>12. Superannuation</p>	<p><i>This clause will be dealt with in Part B of the process</i></p>	
<p>Part 5—Penalties and Overtime</p> <p>13. Overtime</p>	<p>Part 5—Overtime and Penalty Rates</p>	

EXPOSURE DRAFT – Pharmacy Industry Award 2014 (revised 25 September 2015)	Annotated clauses based on plain language draft (blue=PGA; yellow=SDA (supported by APESMA and HSU); grey=ABI and NSW Business Chamber)	Summary of submissions				
<p>13.1 Reasonable overtime</p> <p>(a) Subject to clause 13.1(b) an employee other than a casual employee may be required to work reasonable overtime at the applicable overtime rate.</p> <p>(b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:</p> <p>(i) any risk to employee health and safety;</p> <p>(ii) the employee’s personal circumstances including any family responsibilities;</p> <p>(iii) the needs of the workplace or enterprise;</p> <p>(iv) the notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; and</p> <p>(v) any other relevant matter.</p>						
<p>13.2 Definition of overtime</p> <p>(a) For a full-time employee, overtime is paid for additional hours worked at the direction of the employer in excess of the ordinary number of hours prescribed in clauses 8.2(a) to 8.2(e).</p> <p>(b) For a part-time employee, overtime is payable in accordance with clause 6.4(b)(vi).</p>	<p>16. Overtime</p> <p>16.1 An employer must pay a full-time employee at the overtime rate for any hours worked at the direction of the employer:</p> <p>(a) in excess of those mentioned in clauses 7.2 and 9.3; or</p> <p>(b) between midnight and 7.00 am.</p> <p>16.2 An employer must pay a part-time employee at the overtime rate for any hours worked in excess of the number of ordinary hours that the employee has agreed to work under clause 7.6(b).</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Overtime for casual employees will be considered by a separate Full Bench in casual employment common issue proceedings in matter AM2014/197.</p> </div> <p>NOTE: Under the National Employment Standards (section 62) an employee (whether full-time, part-time or casual) may refuse to work additional hours if they are unreasonable. Section 62 sets out factors to be taken into account in determining whether the additional hours are reasonable or unreasonable.</p>	<p>PGA</p> <p>Proposed change to plain language clause 16.1 highlighted. (para. 28)</p> <p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 16 (NES entitlement on reasonable overtime) should retain exposure draft clause 13.1 (paras 79–84)</p> <p>Plain language clause 16.1 should reference plain language clause 9.2 and exposure draft clauses 8.2(a)–(e). (para. 86)</p> <p>Plain language clause 16.2 should state that part-time employees are entitled to overtime for hours worked in a broader range of circumstances. (para. 91)</p> <p>Plain language clause 16 should include an entitlement for casuals to receive overtime (para. 93)</p> <p>Business SA</p> <p>Plain language clause 16 is not clear, specifically 16.2 must also be subject to 7.6 (g).</p>				
<p>13.3 Payment for overtime</p> <p>(a) The employer will pay to an employee the following rates for overtime worked during the specified period:</p> <table border="1" data-bbox="281 1801 1032 1906"> <thead> <tr> <th data-bbox="281 1801 655 1906">For overtime worked on</th> <th data-bbox="655 1801 1032 1906">Overtime rate % of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"></td> <td></td> </tr> </tbody> </table>	For overtime worked on	Overtime rate % of minimum hourly rate			<p>16.3 The overtime rate is the relevant percentage specified in column 2 of Table 3 (depending on when the overtime was worked as specified in column 1 of that Table) of the minimum hourly rate applicable, according to the classification of the employee, under column 3 of Table 2.</p> <p>Table 3—Overtime rates</p>	<p>ABI and NSW Business Chamber</p> <p>Plain language clause 16.3 should be the subject of further consideration. (para. 11.1)</p> <p>Business SA</p> <p>At 16.3 mention of table 2 must stipulate the table’s name and clause number.</p>
For overtime worked on	Overtime rate % of minimum hourly rate					

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<table border="1" data-bbox="278 296 1029 541"> <tr> <td>Monday to Saturday—first 2 hours</td> <td>150</td> </tr> <tr> <td>Monday to Saturday—after 2 hours</td> <td>200</td> </tr> <tr> <td>Sunday—all day</td> <td>200</td> </tr> <tr> <td>Public holiday—all day</td> <td>250</td> </tr> </table> <p>(b) The penalty rates in clause 14.1 are not cumulative on overtime rates.</p> <p>(c) Casual loading is not payable on overtime worked by a casual employee.</p>	Monday to Saturday—first 2 hours	150	Monday to Saturday—after 2 hours	200	Sunday—all day	200	Public holiday—all day	250	<table border="1" data-bbox="1181 296 1941 569"> <thead> <tr> <th>Column 1 For overtime worked on</th> <th>Column 2 Overtime rate</th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday—first 2 hours</td> <td>150%</td> </tr> <tr> <td>Monday to Saturday—after 2 hours</td> <td>200%</td> </tr> <tr> <td>Sunday—all day</td> <td>200%</td> </tr> <tr> <td>Public holiday—all day</td> <td>250%</td> </tr> </tbody> </table> <p>NOTE: Casual loading is not paid on overtime worked by a casual employee. Accordingly, the overtime rate for a casual employee is based on the minimum hourly rate in column 3 of Table 2, not column 4 which includes the 25% casual loading.</p>	Column 1 For overtime worked on	Column 2 Overtime rate	Monday to Saturday—first 2 hours	150%	Monday to Saturday—after 2 hours	200%	Sunday—all day	200%	Public holiday—all day	250%	
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<p>13.4 Time off instead of payment</p> <p>(a) An employee may elect, with the consent of the employer, to take time off instead of receiving payment for overtime.</p> <p>(b) Time off instead of payment will be taken at a mutually convenient time and within four weeks' of the overtime being worked.</p> <p>(c) Despite clause 13.4(b), where agreed between the employer and employee, time off instead of payment may be accumulated and taken as part of annual leave.</p> <p>(d) For each hour of overtime worked, an employee who elects to take time off instead of payment will be entitled to a period of time off equal to the time worked multiplied by the applicable overtime rate for the period in which the overtime was worked (e.g. where the overtime rate is 150%, one hour of overtime equals one and a half hours of time off, or where the rate is 200%, two hours).</p>	<p>16.4 With the consent of the employer, an employee may choose to take time off instead of being paid for overtime.</p> <p>16.5 The period of time off to which an employee is entitled for each hour of overtime worked is the relevant percentage of that hour specified in column 2 of Table 3 (depending on when the hour was worked as specified in column 1 of that Table).</p> <p>EXAMPLE: An employee who worked 2 hours of overtime on a Tuesday that was not a public holiday is entitled to time off of 3 hours (2 x 150 / 100).</p> <p>16.6 Where an employee chooses to take time off must be taken:</p> <p>(a) within the period of 4 weeks after the overtime is worked; and</p> <p>(b) at a time within that period agreed by the employer and employee.</p> <p>16.7 Despite clause 16.6, the employer and employee may agree that time off may be accumulated and included in a period during which an employee takes paid annual leave.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Proposed change to plain language clause 16.6 highlighted. (para. 95)</p> <p>ABI and NSW Business Chamber</p> <p>Plain language clause 16.7 should be amended as it is not clear on whether the time off should be taken instead of, or in addition to, a period of paid annual leave. (para. 11.2)</p>																		
<p>14. Penalties</p> <p>14.1 Penalty rates</p> <p>The employer will pay to an employee the following rates for all ordinary hours worked during the specified periods:</p> <table border="1" data-bbox="204 1677 1012 1944"> <thead> <tr> <th>Hours worked</th> <th>Penalty rate</th> <th>Casual penalty rate (inclusive of casual loading)</th> </tr> <tr> <th colspan="3">% of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Monday to Friday</td> <td></td> <td></td> </tr> <tr> <td>Before 8.00 am</td> <td>150</td> <td>175</td> </tr> </tbody> </table>	Hours worked	Penalty rate	Casual penalty rate (inclusive of casual loading)	% of minimum hourly rate			Monday to Friday			Before 8.00 am	150	175	<p>17. Penalty rates</p> <p>17.1 An employer must pay an employee in accordance with Table 4 for ordinary hours worked by the employee during a period specified in column 1 of that Table:</p> <p>(a) for an employee other than a casual employee, at the percentage specified in column 2 of Table 4 of the minimum hourly rate applicable, according to the classification of the employee, under column 3 of Table 2; or</p> <p>(b) for a casual employee, at the percentage specified in column 3 of Table 4 of the minimum hourly rate applicable, according to the classification of the employee, under column 3 of Table 2.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Plain language clause 17.1, table 4 should be replaced with the table in exposure draft clause 14.1 (para. 96)</p> <p>ABI and NSW Business Chamber</p> <p>Plain language clause 17.1 should be the subject of further consideration. (para. 12.1)</p>						
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17. Parental leave and related entitlements	<i>This clause will be dealt with in Part B of the process</i>	
18. Public holidays	<i>This clause will be dealt with in Part B of the process</i>	
19. Community service leave	<i>This clause will be dealt with in Part B of the process</i>	
20. Termination of employment	<i>This clause will be dealt with in Part B of the process</i>	
21. Redundancy	<i>This clause will be dealt with in Part B of the process</i>	
Part7—Consultation and Dispute Resolution	<i>This clause will be dealt with in Part B of the process</i>	
23. Dispute resolution	<i>This clause will be dealt with in Part B of the process</i>	
<p>Schedule A—Classification Definitions</p> <p>A.1 Pharmacy Assistant Level 1 is an employee who has commenced employment in a community pharmacy for the first time, or holds no qualifications in community pharmacy.</p> <p>A.2 Pharmacy Assistant Level 2 is an employee who has acquired the competencies listed for a holder of Certificate II in Community Pharmacy, as determined from time to time by the National Quality Council or any successor thereto.</p> <p>A.3 Pharmacy Assistant Level 3 is an employee who has acquired the competencies listed for a holder of Certificate III in Community Pharmacy, as determined from time to time by the National Quality Council or any successor thereto and who is required by the employer to work at this level.</p> <p>(a) A Pharmacy Assistant who is a holder of Certificate III in Community Pharmacy may be required to supervise Pharmacy Assistants at Competency levels 1 and 2.</p> <p>(b) A Dispensary Assistant will be paid as Pharmacy Assistant Competency Level 3.</p> <p>(c) A Pharmacy Assistant, who for the majority of their duties is assisting with extemporaneous preparations working in a compounding lab or compounding section of a community pharmacy, will be paid as Pharmacy Assistant Competency Level 3.</p>	<p>Schedule A—Classification Definitions</p> <p>A.1 pharmacy assistant level 1 is an employee working as a pharmacy assistant in a community pharmacy who is not covered by any other classification in this Schedule.</p> <p>A.2 pharmacy assistant level 2 is an employee who has acquired the competencies required to be the holder of a Certificate II in Community Pharmacy, as determined by the National Quality Council or a successor body.</p> <p>A.3 pharmacy assistant level 3 is an employee who has acquired the competencies required to be the holder of a Certificate III in Community Pharmacy, as determined by the National Quality Council or a successor body, and who is required by the employer to work at this level.</p> <p>A pharmacy assistant level 3 may be required by the employer to:</p> <p>(a) to supervise pharmacy assistants levels 1 or 2; or</p> <p>(b) to assist a pharmacist in the dispensing section of a community pharmacy; or</p> <p>(c) to work in a compounding lab or compounding section of a community pharmacy assisting with extemporaneous preparations as the major part of their duties.</p>	

<u>EXPOSURE DRAFT – Pharmacy Industry Award 2014 (revised 25 September 2015)</u>	Annotated clauses based on plain language draft (blue=PGA; yellow=SDA (supported by APESMA and HSU); grey=ABI and NSW Business Chamber)	Summary of submissions
<p>A.4 Pharmacy Assistant Level 4 is an employee who has acquired the competencies listed for a holder of Certificate IV in Community Pharmacy and who is required by the employer to work at this level. A Pharmacy Assistant Competency level 4 may be required to supervise Pharmacy Assistants at Competency levels 1, 2 and 3.</p>	<p>A.4 pharmacy assistant level 4 is an employee who has acquired the competencies required to be the holder of a Certificate IV in Community Pharmacy, as determined by the National Quality Council or a successor body, and who is required by the employer to work at this level.</p> <p>A pharmacy assistant level 4 may be required by the employer to supervise pharmacy assistants levels 1, 2 or 3.</p>	
<p>A.5 Pharmacy Student means a person who is undertaking an approved program of study, under the Australian Health Practitioner Regulation National Law, leading to registration as a pharmacist and who enters into a contract of employment with a proprietor of a pharmacy to work in that pharmacy.</p> <p>A.6 Pharmacy Intern means a person who has satisfied the examination requirements for an accredited course of study leading to registration as a pharmacist and is engaging in the period of pre-registration training required under the Australian Health Practitioner Regulation National Law.</p> <p>A.5 Pharmacist is a person who is registered as a pharmacist pursuant to the relevant State or Territory law.</p> <p>A.6 Experienced Pharmacist is a Pharmacist who has gained at least four years full-time experience or the part-time equivalent as a Community Pharmacist.</p> <p>A.7 Pharmacist in Charge is a pharmacist who assumes responsibility for the day to day supervision and functioning of a community pharmacy practice.</p> <p>A.8 Pharmacist Manager is a pharmacist who is responsible to the proprietor for all aspects of the business.</p>	<p>A.5 pharmacy student is an employee who is undertaking training as part of an approved program of study, as defined by section 5 of the Health Practitioner Regulation National Law.</p> <p>A.6 pharmacy intern is an employee who has satisfied the examination requirements of an accredited program of study, as defined by section 5 of the Health Practitioner Regulation National Law, and who is undertaking clinical training;</p> <p>A.7 pharmacist is an employee registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student).</p> <p>A.8 experienced pharmacist is an employee who is a pharmacist with at least 4 years full-time experience (or the part-time equivalent) in a community pharmacy.</p> <p>A.9 pharmacist in charge is an employee who is a pharmacist who assumes responsibility for the day to day supervision and functioning of the community pharmacy.</p> <p>A.10 pharmacist manager is an employee who is a pharmacist who is responsible to the owner of the community pharmacy for all aspects of the business.</p>	
<p>Schedule B—Summary of Hourly Rates of Pay</p>	<p><i>This clause will be dealt with in Part B of the process</i></p>	
<p>Schedule C—Summary of Monetary Allowances</p>	<p><i>This clause will be dealt with in Part B of the process</i></p>	
<p>Schedule D—Supported Wage System</p>	<p><i>This clause will be dealt with in Part B of the process</i></p>	
<p>Schedule E—National Training Wage</p>	<p><i>This clause will be dealt with in Part B of the process</i></p>	
<p>Schedule F—2014 Part-day public holidays</p>	<p><i>This clause will be dealt with in Part B of the process</i></p>	

EXPOSURE DRAFT – Pharmacy Industry Award 2014 (revised 25 September 2015)	Annotated clauses based on plain language draft (blue=PGA; yellow=SDA (supported by APESMA and HSU); grey=ABI and NSW Business Chamber)	Summary of submissions
<p>Schedule G—Definitions</p> <p>In this award, unless the contrary intention appears:</p> <p>Act means the <i>Fair Work Act 2009</i> (Cth)</p> <p>community pharmacy means any business conducted by the employer in premises:</p> <ul style="list-style-type: none"> • that are registered under the relevant State or Territory legislation for the regulation of pharmacies; or • are located in a State or Territory where no legislation operates to provide for the registration of pharmacies; <p>and</p> <ul style="list-style-type: none"> • that are established either in whole or in part for the compounding or dispensing of prescriptions or vending any medicines or drugs; and • where other goods may be sold by retail. 	<p>Schedule G—Definitions</p> <p>Act means the <i>Fair Work Act 2009</i> (Cth)</p> <p>community pharmacy means a business conducted on premises:</p> <p>(a) that are established wholly or partly for compounding or dispensing prescriptions or selling medicines or drugs; and</p> <p>(b) from which other goods may be sold by retail; and</p> <p>(c) that, if required to be registered under legislation for the regulation of pharmacies in force in the place in which they are situated, are so registered.</p>	<p>SDA (supported by APESMA and HSU)</p> <p>Plain language definition of community pharmacy should be moved to clause 4 (coverage) and not Schedule G (paras 8–10)</p>
<p>defined benefit member has the meaning given by the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth)</p> <p>default fund employee means an employee who has no chosen fund within the meaning of the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth)</p>		
<p>employee means national system employee within the meaning of the Act</p> <p>employer means national system employer within the meaning of the Act</p> <p>exempt public sector superannuation scheme has the meaning given by the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth)</p> <p>MySuper product has the meaning given by the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth)</p> <p>NES means the National Employment Standards as contained in sections 59 to 131 of the <i>Fair Work Act 2009</i> (Cth)</p> <p>on-hire means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client</p> <p>Definition of ‘small business employer’ deleted as a result of para [35] [2014] FWCFB 9412</p> <p>standard rate means the minimum weekly wage for a Pharmacy Assistant Level 3 in clause 10</p>	<p>employee means a national system employee as defined by section 13 of the Act.</p> <p>employer means a national system employer as defined by section 14 of the Act.</p> <p>enterprise instrument has the meaning given by subitem 2(1) of Schedule 6 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cth).</p> <p>on-hire employee means an employee of an on-hire employer who is on-hired to an employer covered by this award.</p> <p>on-hire employer means a person who carries on a business of employing individuals for the purpose of on-hiring them to an end-user employer.</p> <p>National Employment Standards, see Part 2-2 of the Act.</p> <p>State reference public sector modern award has the meaning given by subitem 3(2) of Schedule 6A to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cth).</p> <p>State reference public sector transitional award has the meaning given by subitem 2(1) of Schedule 6A to the <i>Fair Work (Transitional</i></p>	

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	<p><i>Provisions and Consequential Amendments) Act 2009 (Cth).</i></p> <p>Table 1 means the Table in clause 11.1.</p> <p>Table 2 means the Table in clause 12.1.</p> <p>Table 3 means the Table in clause 16.3.</p> <p>Table 4 means the Table in clause 17.1.</p>	