

REVISED SUMMARY OF SUBMISSIONS

This matter was listed for further conference before Justice Ross, President on Wednesday 20 December 2017. A Statement has been issued along with this revised summary of submissions.

This revised summary of submissions has been updated to reflect the outcomes of 20/12/17 conference and the Determination [PR598473](#) issued on 12 December 2017

ITEM	STATUS	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REF	NOTES
PTC-1	Outstanding	FWC	PR598473	Cl. 10	<p>Part-time employment</p> <p>Clause 10 has been replaced in its entirety to reflect item 1 of PR598473.</p> <p>Previous PLED clause 10.7 (Part-time hours of work) has been moved to clause 15.2 to give effect to the terms of the determination.</p> <p>Plain language amendments to this determination have been made by the plain language drafter as reflected in tracked changes.</p>		Clause 10 substituted by PR598473
		ABI	Sub – 08/02/18	10.2	The word ‘who’ can be deleted from the introductory wording as it is no longer required.	Page 1	
		UV	Reply Sub – 19/02/18	10.2	Re ABI’s submission, UV prefers the clarification set out in paragraph 3.3 of Business SA’s submission.	Page 2	
		Business SA	Sub – 08/02/18	10.2	Clause 10.2 does not read clearly. Too much 10.2 has been struck out. Clause should be amended to read ‘a part-time employee is an employee who.’	Paras 3.1 – 3.3	

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		UV	Reply Sub – 19/02/18	10.2	Agree with Business SA submission that clause 10.2 could be clarified as set out in their para 3.3.	Page 1	
		AHA	Sub – 08/02/18	10.2	Submit that the clause should be re-structured to clarify the entitlement to (c) is contingent upon (a) and (b). Suggest wording.	Para 4.a)	
		AHA	Reply Sub – 19/02/18	10.2	Agree with Business SA proposed amendment: <i>“A part-time employee is an employee who:”</i>	Para 6(a) and 7(a)	
		UV	Reply Sub – 19/02/18	10.2	Agree with AHA submission that an employee who meets the criteria for (a) and (b) is entitled to (c). However for the purposes of clarity, clause 10.2(c) may need to be re-drafted in a separate sentence. Suggest wording: <i>“(c) A part-time employee is entitled, on a proportionate basis, to the same pay and conditions as those of full-time employees who do the same kind of work.”</i>	Page 1	7
		Business SA	Sub – 08/02/18	10.3(a)	There appears to be a ‘o’ added after the strikethrough. This can be deleted.	Para 3.4	This will be corrected in the next iteration of the exposure draft.
		AHA	Reply Sub – 19/02/18	10.3(a)	Agree with Business SA’s submission	Para 7(b)	

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		Business SA	Sub – 08/02/18	10.5	Clause 10.5 should not remove reference to the ‘employee’s specific guaranteed hours’. Business SA recognise that guaranteed hours is defined but removal would make the clause less clear. Clause should read: ‘The employer may roster the employee to work the employee’s guaranteed hours and...’	Para 3.5 – 3.6	
		UV	Reply Sub – 19/02/18	10.5	Agree with Business SA submission that clause 10.5 could be clarified as set out in their para 3.6.	Page 1	
		AHA	Reply Sub – 19/02/18	10.5	Agree with Business SA’s submission that the current clause is clear and unambiguous.	Para 7(c)	
		AHA	Sub – 08/02/18	10.6	The opening text of this subclause should read: ‘However, the part-time employee:’ for consistency (rest of clause refers to part-time employee).	Para 4(b)	
		Business SA	Reply Sub – 19/02/18	10.6	Agree with AHA’s submission	Para 1	
		ABI	Sub – 08/02/18	10.8	The word clause is misspelled.	Page 1	This will be corrected in the next iteration of the exposure draft.
		UV	Sub – 08/02/18	10.8 and 10.9	The word clause is misspelled.	Page 1	
		Business SA	Sub – 08/02/18	10.8 and 10.9	The word clause is misspelled.	Para 3.7	

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		AHA	Sub – 08/02/18	10.8 and 10.9	The word clause is misspelled.	Para 4.c)	
		AHA	Reply Sub – 19/02/18	10.8 and 10.9	Agree with ABI, Business SA and UV’s submission	Paras 6(b), 7(d) and 8(a)	
		Business SA	Reply Sub – 19/02/18	10.8 and 10.9	Agree with AHA, ABI and UV submissions	Paras 2 and 4	
		ABI	Sub – 08/02/18	10.8	Submit the expert added words ‘before the variation occurs’ to the requirement that any variation be in writing. Propose deleting it.		
		AHA	Reply Sub – 19/02/18	10.8	Submits that while they agree with the words “ <i>before the variation occurs</i> ” have been added, it does not add any additional obligation on the parties. Submits that the parties to a part-time employment arrangement are required to agree on the guaranteed hours and the employee’s availability (see cl.10.3). Submits that any change to that arrangement, where under cls.10.4, 10.8 or 10.12, would, in practice, occur prior to the change being effective.	Para 6(c)	
		ABI	Sub – 08/02/18	10.10	Seek to have expert review clause. Term ‘employee’s availability is defined at clause 10.3(b) Term is intended to be used in cl.10.10 but the clause currently only	Page 1	

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					refers to availability. ABI submit current clause intends to refer specifically to the defined meaning of the term.		
		Business SA	Reply Sub – 19/02/18	10.10	Agree with ABI’s submissions	Para 5	
		AHA	Reply Sub – 19/02/18	10.10	Agree with ABI’s submission	Para 6(d)	
		UV	Reply Sub – 19/02/18	10.10	Disagrees that the meaning of the term “availability” in c. 10.10 is unclear.	Page 2	
		Business SA	Sub – 08/02/18	10.14	Question the value of clause 10.14 given amendments to clause 11.1 when identifying a casual employee.	Para 3.8	
		UV	Reply Sub – 19/02/18	10.14	Agree with Business SA submission - 10.14 does not appear to be necessary.	Page 1	
		AHA	Reply Sub – 19/02/18	10.14	Disagree with Business SA’s submission. Submit that clause 10.14 should be maintained.	Para 6(e)	
PTC-2	Outstanding	FWC	PR598473	Cl. 11.3	<p>Casual employment</p> <p>Clause 11.3 replaced in accordance with item 2 of PR598473.</p> <p>Plain language amendments to this determination have been made by the plain language drafter as reflected in tracked changes.</p>		Clause 11.3 replaced by 11.3 and 11.4 in accordance with by PR598473

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		Business SA	Sub – 08/02/18	11.1	Business SA supports wording of clause 11.1.	Para 4.1	
		AHA	Reply Sub – 19/02/18	11.1	Agree with Business SA’s submission.	Para 7(f)	
		AHA	Sub – 08/02/18	11.2	The words ‘minimum hourly rate otherwise applicable under clause 18— Minimum rates’ should be deleted and replaced with ‘ordinary hourly rate’.	Para A.4(d)	
		Business SA	Reply Sub – 19/02/18	11.2	Agree with AHA’s submissions	Para 3	
		UV	Reply Sub – 19/02/18	11.2	Agree with AHA submission that cl. 11.2 could be amended as set out in paragraph A.4(d) given that the ordinary hourly rate will include any all purpose allowances due to the employee.	Page 1	
PTC-3	Outstanding	FWC	PR598473	Cl. 15.2	Ordinary hours of work Previous PLED clause 10.7 (Part-time hours of work) has been moved to clause 15.2 to give effect to the terms of the determination. Lead-in words to clause 15.2 have been replaced in accordance with item 6 PR598473 .		Clause 10.7 relocated to clause 15.2. Clause 15.2 amended by PR598473
PTC-4	Outstanding/ Referred	FWC	PR598473	Cl. 28.1	Overtime Clause 28.1 updated to reflect item 7 of		Clause 28.1 amended by PR598473 Reasonable overtime has been referred

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					PR598473 . Reasonable overtime has been referred to the plain language re-drafting Full Bench for further consideration (see [2017] FWCFB 6884).		to the plain language re-drafting Full Bench for further consideration (see [2017] FWCFB 6884).
		UV	Sub – 08/02/18	28.1	Supports inclusion of the terms ‘at overtime rates’ at the end of clause 28.1 in line with item 7 of the determination.	Page 1	
		UV	Sub – 08/02/18	28.1	Re-iterate concerns regarding removing reference to reasonable overtime. Propose wording ‘An employer may require an employee to work reasonable additional hours at overtime rates.’	Page 1	This issue being dealt with separately. (Statement [2017] FWCB 6884)
		Business SA	Reply Sub – 19/02/18	28.1	Submits UV’s concern regarding removal of the term ‘reasonable’ from cl. 28.1 is adequately addressed by the Note before the clause. Submits that the note clearly states an employee may refuse to work unreasonable additional hours and provides a cross-reference to the NEX for further guidance.	Para 6	
		AHA	Reply Sub – 19/02/18	28.1	Submits that the PLED reflects the current clause. Submits that the reference to the NES is adequate and appropriate.	Para 8(b) and (c)	

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PTC-5	Outstanding	FWC	PR598473	Cl. 28.2	<p>Overtime</p> <p>Clause 28.2 updated to reflect items 8, 9 and 10 of PR598473.</p> <p>Plain language amendments to this determination have been made by the plain language drafter as reflected in tracked changes.</p>		Clause 28.2 amended by PR598473
		Business SA	Sub – 08/02/18	28.2(c)	Clause 28.2(c) should refer to clause 11.5, not 11.6.	Para 5	
		UV	Sub – 08/02/18	28.2(c)	Clause 28.2(c) should refer to clause 11.5, not 11.6. 11.5 deals with overtime for casuals.	Page 2	
		Business SA	Reply Sub – 19/02/18	28.2(c)	Agree with UV's submissions	Para 5	
		AHA	Reply Sub – 19/02/18	28.2(c)	Agree with Business SA and UV's submission	Para 7(g) and 8(d)	
PTC-6	Outstanding	FWC	PR598473	Cl. 34.4	<p>Public holidays arrangements for part-time employees</p> <p>Clause 34.4 updated to reflect item 11 of PR598473.</p>		Clause 34.4(d) amended by PR598473

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12	Outstanding	Business SA	Sub-14/06/17	Cl. 10.1 (Now cl.10.2)	Part-time employment Draft cl. 10.1 doesn't fully reflect the wording in the current cl. 12.2 as it doesn't provide the indicia of a part-time employee. Current cl 12.2(c) states a part-time employee receives a pro rata equivalent of pay and conditions available to those of full-time employees who do the same kind of work. This indicium has not been reproduced.	Para 3.1	<p>Clause 10 substituted by PR598473</p> <p>The equivalent clause to clause 10.1 is now clause 10.2</p> <p>Please see Part-time and Casual Table</p> <p>Further submissions received.</p> <p>See transcript 12/09/17 PNs 360-364</p>
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
14	Outstanding	AHA	Sub-13/06/17	Cl. 11.1	Casual employment Draft clause should be removed because it alters the intention of casual employment.	Para 13	<p>Clause 11.1 updated for consistency with paragraph [85] of [2017] FWCFB 3541 – published 5 July 2017</p> <p>Further submissions received.</p> <p>See transcript 12/09/17 PNs 228-231</p>
		AHA	Sub-05/09/17		Submits current award provides a casual employee is an employee who is engaged as such, confirming casual employment is a genuine option which is practical for the hospitality industry. Submits PLED changes this intention by suggesting casual employment is only possible where the employment does not meet definition of a full-time or part-time employee. Submits this intention is not necessary.	Paras 7 – 11	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	

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		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
15	Outstanding	Business SA	Sub-14/06/17	Cl. 11.1	Casual employment Current provisions in cl. 13.1 should be retained at draft cl. 11.1.	Para 4.1	<p>Clause 11.1 updated for consistency with paragraph [85] of [2017] FWCFB 3541 – published 5 July 2017</p> <p>Further submissions received See transcript 12/09/17 PNs 228-231</p>
		Business SA	Sub-05/09/17		Submits that currently, a casual must be specifically engaged as such, and PLED modifies this. Submits under PLED, an employee will only be casual if they are not full-time or part-time under award. Submits PLED no longer makes clear who a casual employee is, requiring comparison of circumstances against two other clauses.	Para 4.2	
					Disagrees with drafter's 'no advantage' comment. Submits current award provides for three distinct, exhaustive types of employment and an employee cannot be engaged other than in one of those types.	Para 4.3	
					Confirms as outstanding.	Page 1	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		Business SA	Sub – 08/02/18		Business SA supports wording of clause 11.1. Consider item resolved.	Para 4.1	
17	Outstanding	AHA	Sub-13/06/17	Cl. 11.2	Casual Employment Current casual employment cl. 13.1 (instead of cl. 11.1 and 11.2) should be	Para 13	<p>Further submissions received.</p> <p>DC: The Note explains the reason for the loading. It is sufficient that the</p>

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					retained because it provides clarification to the compensation of the 25% casual loading. The Note in draft cl. 11.2 does not provide this clarity.		requirement to pay the loading be in a substantive provision. For further discussion.
		United Voice	Reply sub-22/06/17		Agrees with AHA’s submission – current cl. 13.1 is preferable to draft cl. 11.2	Para 13	
		AHA	Sub-05/09/17		Notes that PLED has not been amended and continues to appear in same form as the ED dated 27 April. Presses submission that current award clause should be retained.	Paras 28 – 31	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
19	Outstanding	AHA	Sub-13/06/17	Cl. 11.4 (now 11.5)	Casual Employment Draft provision should be simplified to be “A casual employee must be paid at the termination of each engagement, or otherwise in accordance with clause.”	Para 13	Outstanding – Drafter’s note resolves the matter from the AHA’s point of view; however, UV is opposed to the note. See transcript 20/12/17 PNs 92-95 and PNs 178-181
		United Voice	Sub-20/11/17		Notes the Drafter’s comment to include a Note. Submit that the addition of a Note referring to a separate clause is unnecessarily complicated given that the current wording of the PLED expresses	Paras 4-6	Further submissions received. See transcript 12/09/17 PNs 226-237 DC: A Note could be inserted after the clause as follows: “NOTE: Under clause 23.1 the employer and an

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					the entitlement clearly. Prefers the current wording of the PLED and continues to press this matter.		individual casual employee may agree to a weekly or fortnightly pay period.”
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Wording at cl. 11.4 in HIGA-PLED published 25/10/17 is acceptable and resolves their concerns.	Para 19	
29	Outstanding	AHA	Sub-13/06/17	Cl. 15.2(i) (now cl. 15.3(i))	Ordinary hours of work – Catering in remote locations Wording found in current cl. 29.3(f) should be retained because the words “other than rostered days off” alter the intent and interpretation of the clause.	Para 22	Outstanding – AHA confirms that the issue is outstanding. See Sub-20/11/17(para 17) See transcript 20/12/17 PNs 202-203 (United Voice withdraws their objection to additional words) Further submissions received. DC: The additional words are intended to clarify that employee who has accrued an entitlement to a rostered day off is entitled to be paid for that day.
		United Voice	Reply sub-22/06/17		Agrees with AHA’s submission that words ‘other than rostered days off’ should be deleted from cl. 15.2(i).	Para 20	
		AHA	Sub-05/09/17		Continues to press earlier submission.	Paras 36 – 37	
		United Voice	Sub-20/11/17		Notes Drafter’s comments that the additional words are intended to clarify that an employee who has accrued an entitlement to a rostered date off is entitled to be paid for that day. Objection to cl 15.2(i) withdrawn.	Paras 11-12	

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		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
30	Outstanding	Business SA	Sub-14/06/17	Cl. 15.2 (now 15.3)	Ordinary hours of work – Catering in remote locations Neither the Exposure Draft nor the Current Award has a definition of ‘remote location’ for the purpose of cl. 15.2(a).	Para 5.2	See [2017] FWCFB 5402 PNs [40]-[45] See transcript 12/09/17 PNs 373-379 DC: Request that Business SA suggests a definition of “remote location”.
		Business SA	Sub-05/09/17		Unable to propose definition at this stage. Undertaking research into history and context of provision. Unprepared to propose a definition without benefit of this research.	Para 5.2	For further discussion.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
30A	New item	AHA	Sub – 08/02/18	15.5	No space between the words ‘finish’ and ‘work’.	Para 8	This will be corrected in the next version of the exposure draft.
33 (part)	Outstanding	AHA	Sub-05/09/17	Cl. 16	Breaks In relation to cl. 16.6, submits PLED drafting alters calculation of payment for an unpaid break not taken. Submits current award provides additional payment to an employee when an unpaid break has not been taken is based on ordinary hourly rate.	Para 14	See transcript 20/12/17 PNs 49-51 Further submissions received. See [2017] FWCFB 5402 PNs [20]-[23] See transcript 12/09/17 PNs 208-213

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					Submits PLED provides payment is at 150% of ordinary hourly rate. Submits this results in a higher payment to the detriment of employers.		
		AHA	Sub-05/09/17		Notes cls. 16.4 and 16.5 have failed to reflect existing provisions. Restates its position that Table 2 and cls. 16.4 and 16.5 should be amended.	Paras 38 – 41	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Continues to press concern with cls. 16.2 and 16.6 and Table 2.	Para 6	
34	Outstanding – additional submission that the request must be in writing.	Business SA	Sub-14/06/17	Cl. 16	Breaks Current provisions should be retained because of the substantive changes in the draft cl. 16.	Para 6	Further submissions received. See [2017] FWCFB 5402 PNs [20]-[23] See transcript 12/09/17 PNs 382-389 DC: On reviewing the draft in the light of Business SA's general comment, it is agreed that the draft gives an entitlement to an unpaid meal break where the shift is up to 6 hours whereas the current award, despite some language difficulties, would seem to only allow the employee to request a 30 minute unpaid meal break which the employer must not unreasonably refuse.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		Business SA	Sub – 08/02/18		Should be dealt with under technical and drafting proceedings and refer to their submissions of 14/06/17.	Para 1	
		UV	Sub – 08/02/18		Should be dealt with under technical and drafting proceedings.	Page 2	
		AHA	Sub – 08/02/18		Should be dealt with under technical and	Para 6.a)	

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					drafting proceedings.		<p>This could be fixed by:</p> <ul style="list-style-type: none"> • Amending cl. 16.1 so that it reads “Clause 16 deals with meal breaks and rest breaks and gives an employee an entitlement to them in specified circumstances.” • Inserting after cl. 16.1 a new cl. 16.2 as follows: “An employee who works a shift of more than 5 hours and up to 6 hours may, no later than the start of the shift, request to take an unpaid meal break during the shift of up to 30 minutes. The employer must not unreasonably refuse the request. The request applies to all such shifts worked by the employee unless otherwise agreed between the employee and the employer. An arrangement under clause 16.2 may be reviewed at any time.” • In Table 2, the first entry should be deleted. • Delete existing cls. 16.4 and 16.5.

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35	Outstanding	ABI & NSWBC	Sub-09/06/17	Cl. 16	Breaks Qualifying words regarding breaks at current cls. 31.1 and 31.2 have been omitted which potentially changes the legal effect of the provision.	Paras 6.1 and 6.2	Further submissions received. See [2017] FWCFB 5402 PNs [20]-[23] See transcript 12/09/17 PNs 336-343 DC: In response to Business SA's comments, it is suggested that "Unpaid meal break of up to 30 minutes" be substituted in column 2 in relation to a shift of more than 5 and up to 6 hours. However, where an employee is being given an entitlement, the words "at least" are not appropriate. For further discussion.
		ABI & NSWBC	Sub-22/09/17		The Drafter's comments are accepted	Page 1	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
35A	New item	AHA	Sub – 08/02/18	18.3	'hours or work' should be amended to 'hours of work'.	Para 9	This will be corrected in the next version of the exposure draft.
46	Outstanding (To be determined by PL Bench)	AHA	Sub-13/06/17	Cl. 23.5	Payment of wages The words "if they so desire" should be retained in the draft.	Para 33	To be determined by Plain Language Full Bench based on submissions at conference and in writing. See transcript 12/02/18 paras 53-58 and Report from first conference. See transcript 12/09/17 PN 248 DC: It is not necessary to include the words "if they so desire" as the clause is drafted in terms of an entitlement
		AHA	Sub-05/09/17		Presses submission.	Para 45	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	

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							and not an obligation as current clause 26.5 is. For further discussion.
48	Outstanding/ Referred (referred to Annualised Salary Full Bench)	ABI & NSWBC	Sub-09/06/17	Cl. 24.2	Annualised Salary Arrangements The words “an agreement must be one that is genuinely made without coercion or duress” should be removed because it changes the legal effect of the clause.	Para 8.1	Issue will be dealt with by the Annualised Salary Full Bench. DC: Issue is opposed.
49	Outstanding/ Referred (referred to Annualised Salary Full Bench)	United Voice	Reply sub-22/06/17	Cl. 24	Annualised Salary Arrangements Disagrees with ABI & NSWBC because the insertion of the draft provision wording would assist the likely reader. The new words simply express what is implied by the words ‘by agreement’ in current cl. 27.1	Paras 23 – 24	Issue will be dealt with by the Annualised Salary Full Bench. DC: Issue is opposed.
56	Outstanding/ Referred (referred to substantive issues Full Bench)	United Voice	Sub-08/06/17	Cl. 26.10(c)	Allowances – Working away from usual place allowance This is an objectionable and unreasonable term that contravenes legislation because it permits employers to deduct a sum from an employee’s pay which was incurred by the employee at the employer’s direction because the working relationship ended within an arbitrary period of time. Modern awards must only include terms permitted by s136 of the Act and may	Paras 12 – 23	Issue referred to substantive issues Full Bench. See transcript 12/02/18 paras 59-70 and Report from first conference. See transcript 20/12/17 PNs 122-130 and 204-209 Further submissions received. DC: Noted.

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					include terms under Part 2-3, Division 3, Subdivision B. Draft cl. 24.10(c) is not a term that must be included or may be included. The section makes no provision for terms that create liabilities for the employee to the employer. FWC does not have the power to include a term such as draft cl. 24.10(c) in a modern award. Regulation 2.12 of FW Regs lists a number of circumstances in which a deduction is reasonable – recovery of fares paid to the employee is not one of those.		
		ABI & NSWBC	Sub-09/06/17		Reserves position whether cl. 26.10(c) may need to be considered in the context of ss.151 and 326.	Para 9.1	
		AHA	Sub-13/06/17		Reserves its position to discuss this clause at a later stage.	2 nd last paragraph	
		Business SA	Sub-14/06/17		Reserves its position.	Para 10.1	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Reserves its position. Further submits this item is more appropriately dealt with as a part of HIGA award specific matter (AM2014/272) as it concerns a term that may or may not be	Para 26	

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					allowed in a modern award.		
		United Voice	Sub-20/11/17		Continues to press – rely on paras 12-23 of subs - 8 June 2017 (see above).	Para 13	
		UV	Sub – 08/02/18		Should be referred to substantive proceedings	Page 2	
		AHA	Sub – 08/02/18		Should be referred to substantive proceedings	Para 6.b)	
60A (New item)	Outstanding	AHA	Conference-20/12/17	Cl 26.3	<p>Fork-lift driver allowance</p> <p>AHA noted that the allowance is expressed as either a weekly amount for a full-time employee or a daily amount for a part-time or casual employee. Proposes that the all-purpose allowance be expressed on an hourly basis (calculated to be 32 cents per hour)</p>	PNs 66-71	<p>AHA requests that the matter be referred to the substantive matters Full Bench</p> <p>See transcript 12/02/18 paras 107-131 and Report from first conference.</p> <p>AHA to confirm whether it will press this item by 4pm 19/02/18.</p>
		AHA	Sub-19/02/18	Cl. 26.3	<p>AHA confirms that it presses this issues and submits that the matter be transferred to the substantive matters claim.</p> <p>Submits that existing provision is confusing for all employees and does not align with definitions that have been amended or inserted in to the PLED.</p> <p>Confusing and difficult to apply for full-time employee.</p> <p>Exacerbated in relation to part-time employees due to allowance being</p>		

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					expressed as a daily rate up to a maximum. Further exacerbated in relation to casual employees. Provide examples of above.		
62	Outstanding/ Referred (Referred to PL Full Bench)	Business SA	Sub-14/06/17	Cl. 28.1	Overtime Cl. 28.1 – Payment of overtime should include wording that sets out an employer may require a non-casual employee to work reasonable overtime as reflected in the current cl. 33.1(a).	Para 11.1	<p>Clause 28.1 amended in accordance with determination (PR598473)</p> <p>Reasonable overtime has been referred to the plain language re-drafting Full Bench for further consideration (see [2017] FWCFB 6884).</p> <p>See Part-time and Casual Table</p> <p>See transcript 20/12/17 PNs 212-223</p> <p>Further submissions received.</p> <p>Provisionally resolved see [2017] FWCFB 5402 PNs [24]-[29]</p> <p>See transcript 12/09/17 PNs 397-403</p> <p>DC: Could be addressed by inserting a new cl. 28.1 as follows “An employer may require a full-time or part-time employee to work additional hours.” The NOTE could then be located under cl. 28.1.</p>
ABI & NSWBC		Sub-22/09/17	Agree with the Drafter’s proposed wording and the movement of the Note.		Page 1		
Business SA		Sub-22/09/17	Has not identified any issue with the Drafter’s suggested wording not the new location of the Note.		Para 4.1-4.2		
United Voice		Sub-20/11/17	Note new wording “ <i>An employer may require a full-time or part-time employee to work additional hours</i> ”. Current cl 33.1 contains qualifier that overtime hours must be “reasonable”. Note in PLED 28.1 provides that employee may refuse to work additional hours if they are unreasonable. However, clause no longer contains an obligation on		Paras 15-21		

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					<p>the employer to ensure that overtime hours are reasonable. Currently an employer can only require an employee to work <i>reasonable</i> overtime. An employee may refuse to work overtime where it is unreasonable.</p> <p>Under PLED 28.1 employer’s right has expanded as they are no longer required to give consideration to reasonableness. PLED 28.1 shifts responsibility solely onto employee to raise issue of whether or not additional hours are reasonable.</p> <p>Proposes following wording: <i>An employer may require a full-time or part-time employee to work <u>reasonable</u> additional hours.</i></p>		
65	Outstanding	AHA	Sub-13/06/17	Cl. 28.4	<p>Overtime</p> <p>The term “ordinary base rate of pay” should be replaced with “ordinary hourly rate” for consistency.</p>	Para 48	<p>See transcript 20/12/17 PNs 62-71</p> <p>Further submissions received.</p> <p>Clause updated.</p> <p>DC: Accepted. In cl. 28.2 “hourly rate” is substituted for “base rate of pay” where it twice occurs.</p>
		AHA	Sub-20/11/17		<p>Submits that variation sought at this item was linked to their position regarding Item 7 as it related to submission in HIGA award-specific matter (AM2014/272). Submits that Item 65 was linked to their submission that the “Ordinary Hourly Rate” definition as it currently exists in the HIGA would be retained and had relevance for the purpose of overtime</p>	Paras 10-11	

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					calculations. Submits alternative solution to item 65 – use the words “ <i>relevant minimum hourly rate</i> ” instead of “ordinary hourly rate” where it appears in PLED cl. 28.4		
69	Outstanding To be determined by PL Full Bench	AHA	Sub-13/06/17	Cl. 30.5	Annual Leave – Special leave arrangements for certain catering employees References to “unpaid leave” should be replaced with the original term of <i>leave without pay</i> .	Para 52	To be determined by Plain Language Full Bench based on submissions at conference and in writing. See transcript 12/02/18 paras 157-169 and Report from first conference. DC: Cl. 30.5 refers throughout to “leave without pay” and defines the term “unpaid leave period” as the period for which leave without pay is to be taken. For further discussion.
		AHA	Sub-05/09/17		Presses earlier submission.	Para 53	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
71	Outstanding/ Referred (Referred to substantive issues Full Bench)	AHA	Sub-13/06/17	Cl. 36.3 and Cl. 36.4	Deductions for provision of employee accommodation and meals Draft clauses should reflect that the value of the deduction is applied per meal provided to the employee, not per week.	Para 53	Issue referred to substantive issues Full Bench. See transcript 12/02/18 paras 170-208 and Report from first conference. See transcript 20/12/17 PNs 134-136 Further submissions received. DC: The PLED reflects the current award.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.		
		AHA	Sub-20/11/17		Notes the Drafter’s comments that the PLED reflects the current award wording.	Paras 29 – 30	

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					Submits the PL drafting of the HIGA presents an appropriate opportunity to clarify the intention of the meal deduction amount as a deduction per meal – as such a clarification is consistent with PL guidelines. Raised also as part of AM2014/272 and intends to pursue the item at this stage if not accepted as part of the PL stage.		
		UV	Sub – 08/02/18		Should be addressed in substantive proceedings	Page 2	See Report from first conference. Matter referred to substantive issues Full Bench.
		AHA	Sub – 08/02/18		Should be addressed in technical and drafting proceedings	Para 6.c)	See Report from first conference. Matter referred to substantive issues Full Bench.
110 (New Item)	Outstanding				Amended wording reflecting outcome of plain language proceedings New wording proposed for clauses 18.1 and 18.3 as a result of changes made to the Clerks PLED published on 1 December 2017. New wording proposed for Note directly below Schedule B clause title (Clerks Transcript - 15/9/17 - PN 825)		
		AHA	Sub – 08/02/18		Have reviewed amendments and consider this item resolved	Para 7	

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4 (part)	Resolved	AHA	Sub-06/09/17	CI 2	Definitions- appropriate level of training Submits PLED definition excludes a casino gaming employee from ‘appropriate level of training’ definition, but current award does not. Submits exclusion is significant and absence of clear definition of appropriate level of training will impact classifications and wage levels.	Para 6	Schedule A.3.1. updated See transcript 20/12/17 PNs 43-47 and 91 Further submissions received. Proposal to redraft definition of “appropriate level of training” for casino gaming and insert into A.3.1. See [2017] FWCFB 5402 paras [15]-[19] See transcript 12/09/17 PNs 185-191
		United Voice	Reply sub-22/06/17		Reserves its position on the “appropriate level of training” matter.	Para 9	
		Business SA	Sub-22/09/17		Agrees with AHA submission. Submit that definition should not exclude casino gaming employees, particularly when no other definitions more directly define the appropriate level of training for casino gaming employees.	Para 3	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		United Voice	Sub-20/11/17		Exclusion appears to be a drafting error. No objection to the course of action proposed.	Para 2	
		AHA	Sub-20/11/17		Submits that concern has been addressed in the HIGA-PLED published 25/10/17	Para 18 & 35(a)	

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5	Resolved.	ABI & NSWBC	Sub-09/06/17	Cl. 2	Definitions – catering by a restaurant business “Catering by a restaurant business” definition has been removed despite the term still being utilised in the coverage provisions. The definition should be reinstated.	Para 2.1	Clause 4.4(d)(vi) updated. DC: Suggest that, rather than at cl. 2 insert a definition of “catering by a restaurant business”, at cl. 4.4(d)(vi) substitute the words “catering services provided by a restaurant as an incidental business;”
		Business SA	Sub-14/06/17	Cl. 2	The deleted wording “catering by a restaurant business” in cl. 2 should be retained because it is still referred to in cl. 4 Coverage.	Para 1.3	For further discussion.
6	Resolved.	ABI & NSWBC	Sub-09/06/17	Cl. 2	Definitions – Resort “Resort” definition should reinstate the words “and includes an offshore island resort”.	Para 2.2	Clause 2 updated. Resort definition updated. Given the history of decision not to make a separate offshore island resort, words re-inserted for consistency.
		Business SA	Sub-14/06/17	Cl. 2	Definitions – Resort Current wording that resorts “includes an offshore island resort” should be retained.	Paras 1.1–1.3	See [2009] AIRCFB 450 paragraphs 135 – 142 and [2009] AIRCFB 826 paragraphs 167 – 168.
8 (part)	Resolved.	Business SA	Sub-14/06/17	Cl. 7	Facilitative provisions for flexible working practices Table 1 should refer to cl. 23.2 the facilitative provision relating to payment of wages.	Paras 2.1 and 9.1	Table 1 updated. DC: Agreed. Also substitute “the majority” for “a majority”. Text of cl. 23.2 amended to reflect wording in table.
	Resolved.	Business	Sub-14/06/17		Table 1 should refer to the facilitative provision in cl. 29.4(c) which allows an	Para 2.3	Table 1 updated.

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		SA			employer and an individual employee to change the remuneration method for work on public holidays.	(and 12.1)	DC: Agreed.
	Resolved.	Business SA	Sub-14/06/17		Table 1 should refer to the facilitative provision in cl. 34.2 which allows an employer and a majority of employees at a workplace to agree to substitute another day for a public holiday.	Para 2.6 (and 14.1)	Table 1 updated. DC: Agreed. Also substitute “the majority” for “a majority”. Text of clause amended to reflect the words in table.
9	Resolved.	AHA	Sub-13/06/17	Cl. 7	Facilitative Provisions of Flexible Working Practices Not all clauses that contain facilitative provisions have been included in Table 1. Example: clauses 29.4(c) and 32.1 (34.2).	Para 12	Table 1 updated. DC: See amendment to Table 1 as above.
10	Resolved.	ABI & NSWBC	Sub-09/06/17	Cl. 9	Full-time employees Proposes a redraft of subclauses 15.1(c)(vi) and (vii), which apply subclauses 15.1(d) and 15.1(e) to subclauses 15.1(b)(v) and (vi) in accordance with the plain language principles but in a clearer manner.	Para 5.1	Clause 15 updated. DC: Suggest amending draft cl. 15.1 by: <ul style="list-style-type: none"> deleting paragraph (c)(vi) and (vii); and substituting the following for the lead-in words in paragraph (d) “In addition to the conditions set out in paragraph (c), an arrangement that adopts the option of working 152 hours per 4 week cycle with at least 8 days off as set out in paragraph (b)(v) must satisfy the following conditions”; and

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							<ul style="list-style-type: none"> substituting the following for the lead-in words in paragraph (e) “In addition to the conditions set out in paragraph (c), an arrangement that adopts the option of working 160 hours per 4 week cycle with at least 8 days off plus one rostered day off as set out in paragraph (b)(vi) must satisfy the following conditions”;
11	Resolved.	ABI & NSWBC	Sub-09/06/17	Cl. 9	Full-time employment The wording “in accordance with an agreed hours of work arrangement” should be removed due to the commonality of an award referring to an average number of hours to be worked without specifying an averaging period.	Paras 3.1 – 3.4	Clause 9 updated. See transcript 12/09/17 PNs 327-331 DC: Under cl. 15.1 the employer and a full-time employee must agree on a work arrangement. No objection to omitting the words “in accordance with an agreed hours of work arrangement” and amending the Note so that it reads “Clause 15.1 sets out work arrangement options for working the required average of 38 ordinary hours per week.”
	Resolved on the basis of the amendment to the NOTE	United Voice	Reply sub-22/06/17	Cl. 9	Opposes the removal of ‘in accordance with an agreed hours of work arrangement’ The ED wording better explains full-time employment characteristics. The draft provision may be improved by referring to cl. 15.1(b)	Para 12	This issue is opposed.
13	Resolved.	ABI & NSWBC	Sub-09/06/17	Cl. 10.10	Part-time employment Clause is better located as a new clause 10.8 because it relates to written agreements or variations to a part-time employees pattern of work.	Para 4.1	Clause 10 updated. Subclause moved. DC: Accepted.

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20	Resolved.	AHA	Sub-13/06/17	Cl 12.3	Apprentices The current apprentices' clause should be retained instead of cl 12.3.	Para 14	Clause 12 updated to remove “full-time” reference – resolved at conference. See transcript 20/12/17 PNs 182-189 Further submissions received. DC: Request that both AHA and United Voice explain why current cl. 14.4 is preferable to the draft cl. 12.3. For further discussion.
		United Voice	Reply sub-22/06/17		Agrees with AHA that the current cl. 14.4 is preferable to draft cl. 12.3.	Para 15	
		United Voice	Sub-05/09/17		Redrafted clause narrows focus of apprenticeships to full time work. Submits apprenticeships are not always full-time, some are part time. Submits both clauses have similar effect but reference to full time in redrafted 12.3 assumes part time apprenticeships do not exist. Submits issue can be fixed by deleting reference to full time employment.	Page 1	
		AHA	Sub-05/09/17		Submits cl. 12.3 does not specifically consider that an apprentice may be part-time, in which case the part-time provisions of the award would apply. Notes that PLED cl 12.3 limits apprentices to full-time employment.	Para 12	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		United Voice	Sub-20/11/17		Submits that apprenticeships do not always operate on a full-time basis. Cl 12.3 specifically references full-time	Paras 7-8	

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					employment. Reference in cl 12.3 to full-time employment assumes part-time apprenticeships do not exist. Continue to press matter and refer to submissions 05/09/17 (see above).		
23	Resolved.	AHA	Sub-13/06/17	Cl.15.1(c) (vi) and (vii)	Ordinary hours of work Proposes to include a small note or wording in brackets as to which averaging arrangement applies in order to meet the plain language intention.	Para 17	Clause 15 updated as per item 10. DC: Suggest amending cl. 15.1 to indicate more clearly the conditions applicable to the options mentioned in cl. 15.1(b)(v) and (vi).
		United Voice	Reply sub-22/06/17	Cl.15.1(c) (vi)-(vii)	Opposes AHA's proposal.	Para 17	For further discussion.
24	Resolved.	ABI & NSWBC	Sub-09/06/17	Cl.15.1(c) (vi) and (vii)	Ordinary hours of work. Full-time employees Draft cls. 15.1(c)(vi) and (vii) are cumbersome and unwieldy. Request that the provisions be drafted in accordance with the PL principles but in a clearer manner.	Para 5.1	Clause 15 updated as per item 10. DC: Suggest amending cl. 15.1 by: <ul style="list-style-type: none"> deleting paragraph (c)(vi) and (vii); and substituting the following for the lead-in words in paragraph (d) "In addition to the conditions set out in paragraph (c), an arrangement that adopts the option of working 152 hours per 4 week cycle with at least 8 days off as set out in paragraph (b)(v) must satisfy the following conditions"; and substituting the following for the lead-in words in paragraph (e) "In

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							addition to the conditions set out in paragraph (c), an arrangement that adopts the option of working 160 hours per 4 week cycle with at least 8 days off plus one rostered day off as set out in paragraph (b)(vi) must satisfy the following conditions”
25	Resolved.	Business SA	Sub-14/06/17	Cl. 15.1(c)	Ordinary hours of work—Full-time employees Draft cls. 15.1(c)(vi) and (vii) should retain the wording of the current award or the draft clause should be redrafted to be clearer.	Para 5.1	Clause 15 updated as per item 10. DC: See notes above
26	Resolved.	AHA	Sub-13/06/17	Cl. 15.1(d)	Ordinary hours of work—Full-time employees The clause should specifically reference the applicable averaging arrangement i.e., 152 hours per four week cycle in order to meet the plain language intention.	Para 18	Clause 15 updated as per item 10. DC: See notes above
		United Voice	Reply sub-22/06/17		Agrees with AHA’s suggested amendments to draft cl. 15.1(d)	Para 18	
27	Resolved.	AHA	Sub-13/06/17	Cl. 15.1(e)	Ordinary hours of work—Full-time employees The clause should specifically reference the applicable averaging arrangement i.e., 160 hours per four week cycle in order to meet the plain language intention.	Para 19	Clause 15 updated as per item 10. DC: See notes above

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		United Voice	Reply sub-22/06/17		Agrees with AHA’s suggested amendments to draft cl. 15.1(e)	Para 18	
		AHA	Sub-13/06/17	Cl. 15.1(e)(ii)	Wording found in current clause 29.2(e)(ii) should be retained to avoid potentially altering the intention and interpretation of the provision.	Para 20	DC: Request that AHA explain how the intent and interpretation of current cl. 29.1(c)(ii) would be altered. Withdrawn. See Submission-05/09/17
28	Resolved	AHA	Sub-13/06/17	Cl.15.2	Ordinary hours of work – Catering in remote locations Wording found in current cl. 29.3(a) should be retained. By omitting the word “catering” before the text “employers providing catering...” in the draft alters the intent, interpretation, application of the clause.	Para 21	Clause 2 updated. Resolved at conference – Award to be updated to include a definition of “catering employer” See transcript 20/12/17 PNs 190-202 Further submissions received. DC: The current award does not define “catering employers”.
		United Voice	Reply sub-22/06/17		Agrees with AHA’s submission that draft cl. 15.2(a) expands the application of the provision and that the current award wording should be retained.	Para 19	If the meaning of the term is as suggested by the AHA, a definition of “catering employer” should be included as follows: “catering employer’ means an employer whose primary business is to provide catering services”. This is also relevant to cl. 26.11.
		AHA	Sub-05/09/17		Restates its earlier concern.	Paras 34 – 35	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	For further discussion.
		United Voice	Sub-20/11/17		Notes Drafter’s comments that definition of “catering employee” could be included	Paras 9-10	

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					to clarify the operation of the clause. Does not oppose inclusion of a definition of “catering employer”.		
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
32	Resolved Outstanding Resolved	Business SA	Sub-14/06/17	Cl. 15.4(e) (now 15.5(e))	Rosters (Full-time and part-time employees) Draft cl. 15.4(e) and the current cl. 30.1(b) differ because the draft provision doesn’t specify the 10-hour break between the end of ordinary hours on one day and the commencement of ordinary hours on the following day.	Para 5.3	Resolved at conference - clause 15 updated See transcript 20/12/17 PNs 151-161 Further submissions received. See transcript 12/09/17 PNs 377-381 Clause updated.
		AHA	Sub-20/11/17	Cl 15.4(b) (now 15.5(b))	Notes that the word “work” has been replaced with “ordinary hours” at the end of draft cl. 15.4(b). Express concern with this amendment. Submits that the original (pre-amended) wording be retained. Submits that it is common practice in the hospitality industry to roster both ordinary and additional hours where those additional hours are known to be required, for example, due to an upcoming event such as a Melbourne Cup function, or due to a period of annual leave cover.	Para 36(b)	DC: Accepted. In cl. 15.4(e) “ordinary hours” is substituted for “work” (where occurring). However, while this reflects the original, it leaves unclear what the position is if overtime is worked immediately after finishing ordinary hours on one day or immediately before working ordinary hours on the next day. Is the effective minimum break reduced by the amount of overtime worked? Issue regarding minimum break does not arise in this award.
37	Resolved.	Business SA	Sub-14/06/17	Cl. 18.3	Minimum rates – Table 4 Draft Table 4 should have an additional	Para 7.2 and 7.3	Table 4 updated. Hourly rates included in Table 4 as

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					column containing the minimum hourly rate for Casino gaming employees. Also, Draft Table 4 should have all the relevant information populated for a particular classification in a particular classification level in a single row for clarity.		column 3 and lead-in words amended accordingly.
38A	Resolved.	AHA	Sub-05/09/17	Cl. 18.4	Junior rates Drafting error in Note 3. The words ‘Junior rates’ should appear before the new text.	Para 25	Cross reference error fixed.
39	Resolved	AHA	Sub-13/06/17	Cl. 19.1(a) & 19.2(a) & 19.5(a)(i)	Apprentice rates – Tables 7 and 8 Reference to weekly rates only does not adequately take into account the employment of part time apprentices.	Para 26	Additional column will be included in Tables 7 and 8 setting out the relevant hourly rates for cooking and waiting apprentices. Clauses 19.1(a) and 19.2(a) lead in words will be amended accordingly. See transcript 12/02/18 paras 12-24 and Report from first conference. DC: Cl. 19 reflects the terms of the current cl. 20.4 in referring to weekly rates only. For further discussion.
		AHA	Sub-05/09/17		Restates earlier submission – submits that 19.1, 19.2 and 19.5 should include a formula for calculating part-time apprentice hourly rates or should clarify that the rates contained in the clause are the rates payable to a full-time apprentice.	Paras 42 – 43	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
40	Resolved.	AHA	Sub-13/06/17	Cl. 19	Apprentice rates	Para 27	Resolved at conference - clause 19

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					Clause should specify that it does not cover adult apprentices as provided in cl. 19.5.		updated. See transcript 20/12/17 PNs 98-100
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	Further submissions received.
		AHA	Sub-20/11/17		Drafter’s suggestion to include the words “(other than an adult apprentice)” after “apprentice” in cls. 19.1(a) and 19.2(a) and where first occurring in cls. 19.3 and 19.4. is acceptable in order to resolve concerns	Para 21	DC: The issue raised could be dealt with by including the expression “(other than an adult apprentice)” after “apprentice” in cls. 19.1(a) and 19.2(a) and where first occurring in cls. 19.3 and 19.4.
41	Resolved	AHA	Sub-13/06/17	Cl. 19.1(b)	Apprentice rates – Cooking apprenticeship The words “as a qualified tradesperson” should be included after the word “apprenticeship” for consistency with cl. 19.2(b).	Para 28	In clause 19.2(b) delete “as a qualified tradesperson”. See transcript 12/02/18 paras 25-42 and Report from first conference.
		AHA	Sub-05/09/17		Presses submission.	Para 44	DC: The wording reflects current cl. 20.4(a)(i)
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	For further discussion.
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
42	Resolved.	Business SA	Sub-14/06/17	Cl. 19.3(a)	Apprenticeships There is a minor referencing inconsistency in draft cl. 19.3 – Proficiency payments – cooking trades.	Para 8.1	Clause 19 updated DC: Agreed. The reference to “4 th ” should be the same in each case. Change 19.3(a) to read “4 th ”

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43	Resolved	AHA	Sub-13/06/17	Cl. 19.3 and 19.4	Apprenticeship rates – Proficiency payments—cooking trade & waiting trade The significant rewording of cl. 19.3 and 19.4 alters the intention and interpretation of the clause.	Para 29	In clause 19.3(a), (b) and (c) delete "has successfully completed their schooling for a year", and insert "has attained the standard of proficiency" to reflect the intention of the current award. See transcript 12/02/18 paras 43-52 and Report from first conference. DC: Request that the AHA explain the basis for its concern. For further discussion.
		AHA	Sub-05/09/17		Submits current award provides for proficiency payments where an apprentice has achieved necessary standard, but PLED does not adequately reflect this. Notes PLED clauses do not reference achievement of proficiency other than in the title. Submits PLED wording provides higher payment results from ‘completed their schooling for a year’. Submits omission of the application of the proficiency payments sub clause alters eligibility for payment.	Paras 19 – 20	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
45	Resolved.	AHA	Sub-13/06/17	Cl. 23.1	Payment of Wages Reference to a monthly pay period only for certain employees removes the ability to pay an employee on an annualised salary on a monthly basis. The wording	Para 32	Clause 23 updated. DC: Accepted. Cl. 23.1 is amended to include after “to whom” the expression “clause 24—Annualised salary arrangements or”.

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					changes the ability to pay monthly to a wider group of employees.		
47	Resolved	AHA	Sub-13/06/17	Cl.24.1 and 24.5	<p>Annualised salary arrangements</p> <p>The inclusion of “other than casual employees” clarifies the existing interpretation of the annualised salary arrangements.</p> <p>Wording in current cl. 27.1(b)(ii) provides reference to penalty rates and overtime and should be retained.</p> <p>Reference to penalty rate and overtime In draft cl. 24.5 should include reference to the corresponding clause numbers.</p>	Paras 34 – 35	<p>Resolved at conference - clause 24 updated.</p> <p>See transcript 20/12/17 PNs 100-105</p> <p>Further submissions received.</p> <p>Issue will be dealt with by the Annualised Salary Full Bench.</p> <p>DC: Accepted. In cl. 24.5 the expression “the requirements of this award under clause 28—Overtime and clause 29—Penalty rates” is substituted for “this award in relation to penalty rates and overtime”.</p>
		AHA	Sub-20/11/17		<p>Referral to full bench noted.</p> <p>Restates that, for the purposes of clarity and ease of reading, cl. 24.5 should specifically state the relevant clauses for penalty rates (cl. 29) and overtime (cl. 28).</p>	Para 22	
50	Resolved.	AHA	Sub-13/06/17	Cl 25.1	<p>Salaries absorption (Managerial Staff (Hotels))</p> <p>Clause incorrectly references the starting point which the annual salary under this clause is calculated.</p>	Para 36	<p>Clause 25.1 updated.</p> <p>DC: Accepted. The issue is dealt with by substituting “annual salary in cl. 18.2” for “weekly rate that would otherwise be applicable under Table 3—Minimum rates (see clause 18.1) over the year”.</p>

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51	Resolved.	AHA	Sub-13/06/17	Cl. 25.2(g)	Salaries absorption (Managerial Staff (Hotels)) The word “loading” should be inserted after the word “leave” in cl. 25.2(g) to provide clarification.	Para 37	Resolved at conference - clause 30.3 heading updated Cross reference in Clause 25.2(g) will automatically be updated See transcript 20/12/17 PNs 111-118 Further submissions received. DC: The suggestion is inconsistent with the move away from the term “loading”. For further discussion.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Drafter’s comments are noted and also queried. Submits that inclusion of the word “loading” will aid the reader in understanding the reference which, at cl. 30.3 is termed as a loading. Associations have raised this as part of the HIGA award stage review (AM2014/272) and intend to pursue if not dealt with at this stage. Submits that it is appropriate to address the clarification sought in this process given PL drafting intention of modern awards.	Paras 23 – 24	
52	Resolved	AHA	Sub-13/06/17	Cl. 26.4	Allowances There is a referencing error as reference to cl. 26.3 should be to cl. 26.4.	Para 38	Clause 26.4 updated. DC: Agreed. cl. 26.4(a) should refer to cl. 26.4.
53	Resolved	AHA	Sub-13/06/17	Cl. 26.6(a)	Special Clothing allowance The wording “any article of” potentially	Paras 39 – 40	Resolved at conference - clause 26.6 updated

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					broadens the definition of special clothing. The wording “easily obtainable”, “dinner suit or evening dress” and “formal clothing” alters the intent and interpretation of the provision.		See transcript 20/12/17 PNs 118-121 Further submissions received. DC: It is not clear how the inclusion of the words “any article of” broadens the definition. However, on reviewing the clause, for consistency with cl. 26.6(e), it is suggested that in cl. 26.6(a) the word “item” should be substituted for “article”. It is further suggested that in cl. 26.6(a), “black and white attire (other than a dinner suit or evening dress)” should be substituted for “easily obtainable black and white clothing”.
		AHA	Sub-05/09/17		Restates its concerns expressed in earlier submission.	Paras 46 – 48	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17 Corro-06/12/17		Wording in the HIGA-PLED as published on 25 October 2017 is acceptable to resolve the concern with the item. Corro-06/12/17 confirming that it is the drafter’s comments that are acceptable.	Para 25	
54	Resolved	AHA	Sub-13/06/17	Cl. 26.6	Allowances – special clothing Wording of current cls. 21.1(b)(ii), (v) and (vi) should be retained.	Para 41	Clause 26.6 updated. DC: With the above change to cl. 26.6(a), the PLED would be to the same effect as the existing wording.
		AHA	Sub-13/06/17	Cl. 26.6	Terms removed in current cls. 21.1(b)(iii) and (iv) will cause confusion because reference to laundering only applies to catering or motel employees.	Para 42	DC: The issue raised could be addressed by substituting for paragraph (c) new paragraphs as follows:
		AHA	Sub-13/06/17	Cl. 26.6	Current clause should be retained including a separate clause dealing with catering and model employees because	Para 43	(c) If the employee (other than an employee mentioned in paragraph (d) or (e)) is responsible for laundering

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					the draft provision alters the intent and effect of some provisions.		any special clothing that is required to be worn by them, the employer must:
		AHA	Sub-05/09/17		Restates its concerns expressed in earlier submission.	Paras 46 – 48	<ul style="list-style-type: none"> (i) pay the employee a weekly laundry allowance of an amount agreed between the employer and the employee; or (ii) in the absence of an agreement mentioned in subparagraph (i), reimburse the employee for the cost of laundering any item of special clothing. For this purpose the employer may require the employee to show evidence of that cost. (d) If a catering employer requires an employee (including an airport catering employee) to be responsible for laundering any special clothing that is required to be worn by them, the employer must pay the employee a laundry allowance of \$6.00 per week for a full-time employee and \$2.05 for each uniform for a part-time or casual employee. (e) If a motel employee is responsible for laundering any special clothing that is required to be worn by them, the employer must pay the employee a laundry allowance of \$2.40 for each uniform up to \$7.45 per week.

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55	Resolved	AHA	Sub-13/06/17	Cl. 26.7(b)	Allowances – motor vehicle The words “travelled in performing duties” should be replaced with “of authorised travel.”	Para 44	Clause 26.7 updated. DC: Accepted. Insert “authorised to be” before “travelled”.
58	Resolved	AHA	Sub-13/06/17	Cl. 26.11 and Cl. 26.13(a)	Airport Catering Travel allowance and Airport Catering Supervisory allowance Terminology in current cls. 21.1(i) and 21.2(c) should be retained because the draft provisions do not properly reflect the existing employer and employee description to which these allowances apply to.	Para 45	Clause 26.11 updated. DC: Could be addressed by in cl. 26.11 substituting “An airport catering employer must pay an employee” for “The employer of an airport catering employee must pay the employee” and in cl. 26.13(a) substituting “employee of an airport catering employer” for “airport catering employee”.
		AHA	Sub-05/09/17		Restates its concerns expressed in earlier submission.	Para 49	For further discussion.
59	Resolved	United Voice	Sub-08/06/17	Cl. 26.13 Table 9	Allowances – Airport catering supervisory allowance These allowances are all purposes allowances as it is “to be treated as part of the wage rate for all award payment calculations.”	Paras 26 – 27	At clause 26.13(b) insert “all purpose” before “allowance” and delete para (c). Also amend 26.2(b) to include a reference to airport catering allowance See transcript 12/02/18 paras 70-97 and Report from first conference.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	See transcript 20/12/17 PNs 210-211
		United Voice	Sub-20/11/17		Continues to press – rely on paras 26-28 of subs - 8 June 2017 (see above).	Para 14	Further submission received. DC: Noted.

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60	Resolved	United Voice	Sub-08/06/17	Cl. 26.13	Allowances – Airport catering supervisory allowance Current wording should be retained because application of the draft allowance is restricted to “airport catering employees”. This clause should also be included in the list of all purpose allowances.	Para 28	At clause 26.13(b) insert “all purpose” before “allowance” and delete para (c). Also amend 26.2(b) to include a reference to airport catering allowance See transcript 12/02/18 paras 97-103 and Report from first conference.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	See transcript 20/12/17 PNs 210-211 Further submissions received.
		United Voice	Sub-20/11/17		Continues to press – rely on paras 26-28 of subs - 8 June 2017 (see above).	Para 14	DC: Noted.
63	Resolved Outstanding	AHA	Sub-13/06/17	Cl. 28.1	Overtime Intent of current award to exclude casuals is not clear.	Para 47	Resolved in accordance with determination (PR598473) See Part-time and Casual Table
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	See transcript 20/12/17 PNs 132-133 Further submissions received.
		AHA	Sub-20/11/17		Refers to the decision of 5 July 2017 [2017] FWCFB 3541 and notes the decision and impending casual overtime wording may result with some amendment being necessary in the PLED.	Para 28	DC: The issue raised could be addressed by inserting in cl. 28.1 a new paragraph (a) as follows: “Clause 28.1 does not apply to a casual employee.”
64	Resolved	Business SA	Sub-14/06/17	Cl. 28.2	Overtime—Payment of overtime Current cl. 33.3(c) must be included in the	Para 11.2	Clause 28 updated. DC: The issue could be addressed by

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					plain language version of this award because it is not present in the draft cl. 28.2 or in general cl. 28.		inserting a new subclause after cl. 28.2 as follows” In computing overtime payments, overtime worked on any day stands alone from overtime worked on any other day.” For further discussion.
66	Resolved Withdrawn	AHA	Sub-13/06/17	Cl. 28.2	Overtime Clause does not specify that “overtime worked on any day stands alone” as per current award.	Para 49	Resolved at conference - see transcript 20/12/17 PNs 52-57 Clause 28 updated. Further submission received. See transcript 12/09/17 PN 262 DC: See the solution at Issue 64.
		AHA	Sub-05/09/17		Restates its concerns expressed in earlier submission.	Para 50	
		AHA	Sub-20/11/17		Did not formally withdraw submission re PLED cl. 28.2 at conference; however, drafter’s proposed new wording in respect of item 64 (Business SA) – now PLED cl. 28.3 – resolves concerns.	Para 7	
67A	Resolved	AHA	Sub-05/09/17	Cl. 30.2(a)	Annual Leave – Shiftworkers New definition of shiftworker has altered the interpretation of the definition of shiftworker as it appears in current award. Submits more employees will be viewed as a shiftworker for the purposes of extra annual leave entitlement.	Para 26	In clause 30.2(a) add the words “7 day” before the word “shiftworker”. See transcript 12/02/18 paras 132-152 and Report from first conference.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	

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		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
68 (part)	Resolved	AHA	Sub-05/09/17	Cl. 30.5(a)	<p>Annual Leave – Special leave arrangements for certain catering employees</p> <p>Notes clause has been updated to include the word “functions” after “catering” but submits the words ‘at or’ should be inserted after the words ‘clause 30.5 applies to an employee who is employed’.</p>	Para 52	<p>In clause 30.5(a) insert the words “at or” before the words “in connection with”.</p> <p>See transcript 12/02/18 paras 152-157 and Report from first conference.</p> <p>See transcript 20/12/17 PNs 72-73</p>
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	See transcript 12/09/17 PNs 266-269
		AHA	Sub-20/11/17		Submits that the omission of the words “at or” from the PLED result in a different interpretation of the clause.	Para 12	Further submissions received.
68 (part)	Resolved.	AHA	Sub-13/06/17	Cl. 30.5(a)	<p>Annual Leave – Special leave arrangements for certain catering employees</p> <p>The word “functions” is relevant for correctly determining the application of that provision. Current cl. 34.4 includes the word “functions”. It should be retained and inserted after the word “catering”.</p>	Para 51	<p>Clause 30.5 updated</p> <p>DC: Accepted.</p>
70	Resolved	Business SA	Sub-14/06/17	Cl. 30.5(a)	<p>Annual Leave</p> <p>Draft cl. 30.5(a) – special leave without pay arrangements for certain catering</p>	Para 13.1	<p>Clause 30.5 updated.</p> <p>See transcript 12/09/17 PNs 412-445</p> <p>DC: The issue could be addressed by</p>

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					employees should be amended to reflect the current equivalent entitlements in the current cl. 34.4.		substituting “primary or” for “primary schools,” in cl. 30.5(a). For further discussion.
73	Resolved	AHA	Sub-13/06/17	Schedule A	Classification Structure and Definitions Wage levels in brackets should be included to meet the intention of the plain language re-drafting.	Para 55.	Amend Schedule A to put applicable wage level in brackets after each classification level. See transcript 12/02/18 paras 209-221 and Report from first conference. See transcript 20/12/17 PNs 136-141 Further submissions received. DC: The purpose of Schedule A is to define the classification terms which are used in Table 3 and where wage levels are assigned. It seems unnecessary to include wage levels as part of the defined term. It is suggested that consideration be given to inserting a further Note to A.1 stating that cl. 18 sets out minimum rates for each classification. For further discussion.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Intends to pursue this matter in order to aid the reader to understand that the grade level of a position does not necessarily equal the wage level for that position. Notes the Drafter’s comments regarding the inclusion of a “Note to A.1”. Submits the Note should include additional wording that highlights to readers that the grade of a position does not translate to the wage level of the position. Submits such clarification is consistent with the intention of the PL guidelines.	Paras 31-32	
75	Resolved.	AHA	Sub-13/06/17	Schedule A A.2.1	Classification Structure and Definitions Original wording of the Food and beverage attendant grade 3 definition should be retained because it alters the	Para 57	Schedule A.2.1 updated. DC: The issue raised could be dealt with by deleting A.2.1(c), 2 nd last dot point and inserting 2 new dot points as

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					intent and interpretation of the duty.		follows:
		AHA	Sub-05/09/17		Restates concern expressed in earlier submission and submits original wording be retained.	Para 44	<ul style="list-style-type: none"> • training food and beverage attendants of a lower classification; • supervising food and beverage attendants of a lower classification. For further discussion.
76	Resolved	AHA	Sub-13/06/17	Schedule A A.2.2	Classification Structure and Definitions The words “of a lower classification” at the end of the Kitchen attendant grade 2 definition should be removed because it alters the intent and interpretation of the supervisory element.	Para 58	Schedule A.2.2 updated. DC: Accepted.
77	Resolved	AHA	Sub-13/06/17	Schedule A A.2.2	Classification Structure and Definitions The words “or who has the appropriate level of training” should not be included in the draft Cook grade 3 (tradesperson), Cook grade 4 (tradesperson) and Cook grade 5 (tradesperson) definitions.	Para 59	Amend Schedule A to remove the words “or who has the appropriate level of training” at A.2.2 (f), (g) and (h). See transcript 12/02/18 paras 221-230 and Report from first conference.
		AHA	Sub-05/09/17		Presses earlier submission.	Para 55	DC: The expression “or who has the appropriate level of training” could be omitted from A.2.2 (f), (g) and (h) and in paragraph (h) the words “has completed additional appropriate training and ” could be inserted after “and who”. For further discussion.
		ABI & NSWBC	Sub 21/11/17		Confirms as outstanding	Page 1	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	

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		AHA	Sub – 08/02/18		Should be addressed in technical and drafting proceedings	Para 6.d)	
81	Resolved.	AHA	Sub-13/06/17	Schedule A A.2.8	Classification Structure and Definitions Current provision in the Handyperson definition should be retained because the replacement words “for the employer’s workplace” may alter the intent and interpretation of this definition.	Para 64	Schedule A.2.8 updated. DC: Agreed. Substitute “in and about the employer’s premises” for “for the employer’s workplace”.
82	Resolved.	AHA	Sub-13/06/17	Schedule A A.3.2 New Note	Classification Structure and Definitions Draft Casino table gaming employee grade 4 definition should be amended to reflect the Higher Duties clause instead of cl. 23—Payment of Wages.	Para 65	Schedule A.3.2 NOTE updated. DC: Agreed. The cross-reference should be to cl. 22—Higher duties.
83	Resolved	AHA	Sub-13/06/17	Schedule A A.3.4(a)	Classification Structure and Definitions The word “similar” should be replaced with “similar.”	Para 66	Schedule A.3.4 updated. DC: Agreed. The word should be “similar”.
86	Resolved	AHA	Sub-13/06/17	Schedule B B.2	Summary of Hourly Rates of Pay The term “general” in “general employees” reference should not be included.	Para 69	Delete the term “general” in “general employees” and add note “Schedule B.2 does not apply to Managerial staff (Hotels) employees or casino gaming employees”.
		AHA	Sub-05/09/17		Presses earlier submission.	Para 58	See transcript 12/02/18 paras 233-238 and Report from first conference.
		ABI & NSWBC	Sub-21/11/17		Confirmed as outstanding.	Page 1	

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		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	DC: It is suggested that a Note be inserted at the beginning of Schedule B stating that references to general employees are to employees other than Managerial staff (Hotels) employees and casino gaming employees. For further discussion.
88	Resolved	AHA	Sub-13/06/17	Schedule B	Summary of Hourly Rates of Pay Overtime rates (except for those for casual employees) tables should include a reference that cl. 28.3—Time off instead of payment for overtime may apply.	Para 71	Cross reference error fixed. Further submissions received. (Note: HIGA-PLED published 25/10/17 cross references correct cl. (28.5)) Schedule updated.
		AHA	Sub-20/11/17			Para 13	DC: Note added to B.2.2, B.3.3, B.4.3, B.6.2, B.7.3, B.8.4, B.8.6, B.9.3 and B.9.5 as follows: “Clause 28.3—Time off instead of payment for overtime allows employees and employers to agree in writing to the employee taking time off instead of being paid for overtime.”
88A	Resolved.	AHA	Sub-05/09/17	Schedule B.4	Summary of Hourly Rates of Pay Drafting error in Note 3. ‘Junior rates’ should appear below the new text.	Para 27	Cross reference error fixed. See transcript 20/12/17 PNs 74-77
89	Resolved	AHA	Sub-13/06/17	Schedule B B.5	Summary of Hourly Rates of Pay B.5 provision should include a note that B.5.1 and B.5.2 do not apply to employees paid under cl. 25. In addition,	Paras 72 – 73	Schedule B.5 updated. Rates have been updated to reflect the AWR 2017.

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					the rates of B.5 are incorrect.		DC: Note added to B.5.1 and B.5 2 as follows: “Overtime and penalty rates are not payable to an employee to whom clause25 applies.”
90 (part)	C.4 resolved	AHA	Sub-13/06/17	Schedule C C.3 & C.4	Summary of Monetary Allowances Sched C.4 should clarify the provision is not applicable to an employee paid under draft cl. 25.	Paras 74 – 75	Schedule C.4 updated. Schedule C.3 outstanding. See transcript 20/12/17 PNs 79-89 Further submissions received.
		AHA	Sub-20/11/17			Paras 14-16	Schedules C.3 and C.4 updated. DC: In C.4 a note has been added as follows: “Deductions are not applicable to an employee to whom clause 25 applies.”
90 (part)	C.3 resolved	AHA	Sub-13/06/17	Schedule C C.3 & C.4	Summary of Monetary Allowances Sched C.3 should include a note that this provision does not apply to an employee paid under draft cl. 24 and draft cl. 25. Sched C.4 should clarify the provision is not applicable to an employee paid under draft cl. 25.	Paras 74 – 75	Objection withdrawn – C.3 updated to include Note. See transcript 12/02/18 paras 239-255 and Report from first conference. See transcript 20/12/17 PNs 79-89 Further submissions received.
		AHA	Sub-20/11/17			Paras 14-16	Submits that the proposed wording “...and may not be payable to an employee to whom clause 24 applies” is not correct. PLED cl. 24.5 clearly states that an Schedules C.3 and C.4 updated. DC: In C.3 a note has been added as follows: “Penalty rates are not payable to an

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					<p>annualised salary satisfies “<i>this award in relation to penalty rates and overtime</i>”. This means that penalty rates at C.3 are not payable where an employee is paid in accordance with PLED cl. 24.5.</p> <p>Submits the wording in PLED C.3 be amended to reflect this, suggests:</p> <p><i>“Note: Penalty rates are not payable to an employee to whom clause 25—Salaries absorption (Managerial Staff (Hotels)) applies, and an employee to whom clause 24—Annualised salary arrangements applies.”</i></p>		<p>employee to whom cl. 25 applies and may not be payable to an employee to whom cl. 24 applies.”</p> <p>In C.4 a note has been added as follows:</p> <p>“Deductions are not applicable to an employee to whom cl. 25 applies.”</p>
		United Voice	Sub-11/12/17		<p>Objects to AHA’s new wording for the Note in Schedule C.3. PLED cl. 24.5 states “<i>Unless the employer and the employee otherwise agree...</i>” Wording is similar to current cl. 27.1(b)(ii).</p> <p>PLED wording in Note at C.3 “<i>...and may not be payable to an employee to whom clause 24 applies</i>” accurately reflects that there is scope for an employee and employer to arrange an annualised salary that does not satisfy penalty rates.</p> <p>Submits that AHA’s proposed wording is in conflict with provisions in PLED 24.5 and current 27.1(b)(ii). PLED proposed wording should be retained.</p>	Page 1	
91	Resolved	AHA	Sub-13/06/17	Schedule	School-based Apprentices	Para 76	Clauses 2 and 12 updated.

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				D	The words “or contract of training” should be reinserted after “training agreement” in Sched D.2 and Sched D.6 to recognise the varied states and territories descriptions of training arrangements.		Further submissions received. See [2017] FWCFB 5402 PNs [30]-[31] See transcript 12/09/17 PN 284-289
		AHA	Sub-05/09/17		Presses earlier submission.	Para 61	DC: This suggestion is appropriate if there are jurisdictions that still refer to a “contract of training” and not a “training agreement”.
		AHA	Sub-02/10/17		AHA contacted relevant State and Territory education and training authorities terminology differs between jurisdictions. Proposes that instead of including numerous terms to describe an apprentice training agreement, a new definition be inserted into cl. 2—Definitions to define “Training Agreement”. Proposed definition: <i>“Training Agreement means the apprenticeship training arrangement, however termed, relevant to the State and Territory apprenticeship legislation entered into by an apprentice and an Employer.”</i>	Paras 2-7	For further discussion.
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Confirms their proposal – notes that proposed definition has been provisionally inserted into PLED. The remaining terminology changes to cls	Para 35(e)	

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					12.6, 12.7 and 12.8 need to be made.		
95	Resolved	AHA	Sub-13/06/17	General	General variations sought in its submission of 13 October 2016 should be considered prior to the finalisation of the plain language exposure draft because of the potential impact on clauses being re-written.	Para 81	A HIGA substantive issue full bench has been constituted – AM2017/59. The matter is set down for mention on 12/2/18.
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	A revised Summary of Proposed Variations was published on 3/11/17.
96 (New Item)	Resolved	AHA	Sub-20/11/17	6	Individual flexibility arrangements Incorrect reference – cl. 6.8 currently refers to cl. 6.9. currently refers to RIA 2010. Correct reference is to cl. 6.7(b).	Para 36(a)	Cross reference error fixed in the standard clause across all awards. Submission received.
97 (New Item)	Resolved	AHA	Sub-20/11/17	13	Proposed amendments to clause 13— Junior employees Delete “If permitted under the law applying in the relevant place” and insert “Where the law permits”.	Para 35(c)	Clause 13 updated. See [2017] FWCFB 5402 PN [34]
98 (New Item)	Resolved	AHA	Sub-20/11/17	16	Proposed amendments to clause 16— Breaks Delete “seek” and insert “make all reasonable efforts”.	Para 35(c)	Clause 16 updated. See [2017] FWCFB 5402 PN [35]
99 (New Item)	Resolved	AHA	Sub-20/11/17	21.2	National training wage Incorrect reference – currently refers to RIA 2010. Correct reference is to HIGA 2010 [2017].	Para 36(c)	Cross reference error fixed. Submission received.

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100 (New Item)	Resolved	AHA	Sub-20/11/17	29.2	Proposed amendments to clause 29— Penalty rates Delete Note 1 at cl. 29.2(b).	Para 35(c)	Clause 29 updated. See [2017] FWCFB 5402 PN [36]
101 (New Item)	Resolved	AHA	Sub-20/11/17	29.2 Table 11	Penalty rates Sunday rates for full-time and part-time employees require adjustment to the current penalty rates in HIGA 2010. Public holiday rates for full-time and part-time and casual employees require adjustment to the current penalty rates in HIGA 2010.	Para 36(d)	Table 11 updated to reflect the penalty rates in HIGA 2010 – resolved at conference. See transcript 20/12/17 PNs 164-167 Submission received.
102 (New Item)	Resolved	AHA	Sub-20/11/17	29.3	Proposed amendments to clause 29.3— Penalty rates not cumulative Amend cl. 29.3 in line with proposed variation at item 26 of Restaurant Summary of Submissions See [2017] FWCFB 5402 - [37]	Para 35(c)	Clause 29 updated See transcript 20/12/17 PNs 14-20 Submissions received. See [2017] FWCFB 5402 PN [37]
		ABI & NSWBC	Sub-21/11/17		Re proposal at [37] of [2017] FWCFB 5402 – current drafting may make the operative component of the clause unclear.	Page 1	
103 (New Item)	Resolved	AHA	Sub-20/11/17	29.3	Proposed amendments to clause 29— Penalty rates Amend cl. 29.3 in line with proposed variation at [2017] FWCFB 5402 - [38]	Para 35(c)	Clause 29.3 updated. See [2017] FWCFB 5402 PN [38]

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104 (New Item)	Resolved	AHA	Sub-20/11/17	30.4	Proposed amendments to clause 30— Annual leave In cl. 30.4—Temporary close-down, insert “paid annual” before “leave during that period.”	Para 35(c)	Clause 30.4 updated. See [2017] FWCFB 5402 PN [39]
105 (New Item)	Resolved	AHA	Sub-20/11/17	34.2	Proposed amendments to clause 34— Public holidays Amend new cl. 34.2—Substitution of public holidays by agreement as per variation at [2017] FWCFB 5402 - [39]	Para 35(c)	Clause 34.2 updated. See [2017] FWCFB 5402 PN [40]
106 (New Item)	Resolved	AHA	Sub-20/11/17	20	Proposed insertion of clause 20— National training wage Insert new cl. 20—National training wage and delete Schedule F—National training wage	Para 35(d)	Clause 21 updated. See [2017] FWCFB 5402 PN [47]
107 (New Item)	Resolved	AHA	Sub-20/11/17	34.4	Proposed amendments to clause 34— Public holidays Insert new cl. 34.4—Public holiday arrangements for part-time employees.	Para 35(d)	Clause 34 updated. See [2017] FWCFB 5402 PN [48]
108 (New Item)	Resolved	AHA	Sub-20/11/17	34.5	Proposed amendments to clause 34— Public holidays Insert new cl. 34.5—Part-day public holidays.	Para 35(d)	Clause 34 updated. See [2017] FWCFB 5402 PN [49]
109 (New Item)	Resolved	AHA	Sub-20/11/17	Schedules F, G, H	Reorder schedules to be in the order that the relevant clauses appear in the body of	Para 35(d)	Schedules re-ordered.

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Item				and I	the award.		See [2017] FWCFB 5402 PN [50]

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1	Withdrawn	AHA	Sub-13/06/17	Cl 1.3 – 1.4	Title and commencement Cls. 1.3 and 1.4 are unnecessary and should be removed.	Para 6	
		United Voice	Reply sub-22/06/17		Removal of cls. 1.3 and 1.4 should be referred to a separately constituted Full Bench.	Paras 4 – 7	
2	Withdrawn	AHA	Sub-13/06/17	Current Cl. 2.2	Commencement and transitional Current cl. 2.2 should not be omitted because there is impact on the intention of the overaward payments treatment. Draft cls. 1.3 and 1.4 should also be removed.	Para 5	
		United Voice	Reply sub-22/06/17		Opposes AHA’s submission regarding current cl. 2.2 because the clause was ‘intended to be transitional in character’ and not intended to operate beyond the transitional period as per the Full Bench’s September Decision .	Paras 4 – 7	
3	Withdrawn	AHA	Sub-13/06/17	Cl. 2	Definitions – adult employee New definition of an “adult employee” is unnecessary because the adult apprentice definition has been included.	Para 7	DC: Definition is necessary. Term is used in draft. Adult has natural meaning different to use in award.
		United Voice	Reply sub-22/06/17		Agrees with AHA’s submission	Para 8	

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4 (part)	Withdrawn	AHA	Sub-13/06/17	Cl. 2	Definitions – appropriate level of training The wording of “appropriate level of training” definition in draft alters the intention and interpretation of the clause. The current “appropriate level of training” definition should be retained (with the exception being to retain the ED’s new dispute resolution reference in Note 1).	Paras 8-10	Further submissions received. See transcript 12/09/17 PNs 177-191 DC: Request that AHA specifies how intention of current clause has been changed.
	Withdrawn	AHA	Sub-13/06/17		Agrees with the change in Note 1 which identifies that disputes be addressed in accordance to the cl. 36 of the ED rather than being referred to the Commission in the first instance.	Para 9	
		AHA	Sub-20/11/17		Withdrawn items relate to (1) a change of wording at in para (a) – from “designated” to “appropriate” and from “utilise” to “make use of” and (2) Note 1 of the PLED.	Para 5	
7	Withdrawn	AHA	Sub-13/06/17	Current Cl 3	Definitions – current definition ordinary hourly rate Current “ordinary hourly rate” definition should be retained.	Para 11	See transcript 20/12/17 PNs 58-61 and 176-178 Further submissions received. See [2017] FWCFB 5402

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		United Voice	Reply sub-22/06/17		Opposes AHA's submission. Exposure draft definition of ordinary hourly rate is consistent with Full Bench July 2015 Decision and September 2015 Decision .	Paras 10-11	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		United Voice	Sub-20/11/17		Continues to press. Rely on para 10 of submission in reply 22/06/17 (see above)	Para 3	
		AHA	Sub-20/11/17		Withdrawn. Item will not be pressed.	Para 9 and 34	
8 (part)	Determined	Business SA	Sub-14/06/17	Cl 7	Facilitative provisions for flexible working practices Table 1 reference to cl. 28.5 is incorrect and should refer to cl. 28.5(a) the facilitative provision relating to time off instead of payment for overtime.	Para 2.2	Determined – reference not updated. [2017] FWCFB 5402 paras [10]-[11]. Entire subclauses are intended to be facilitative.
	Determined	Business SA	Sub-14/06/17		Table 1 reference to cl. 30.9 is inaccurate and should refer to cl. 30.9(a) relating to annual leave in advance.	Para 2.4	Determined – reference not updated. [2017] FWCFB 5402 paras [10]-[11]. Entire subclause intended to be facilitative. [2015] FWCFB 3406 at PN [411].
	Determined	Business SA	Sub-14/06/17		Table 1 reference to cl. 30.10 is inaccurate and should refer to cl. 30.10(c) the facilitative provision relating to cashing	Para 2.5	Determined – reference not updated. [2017] FWCFB 5402 paras [10]-[11].

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					out of annual leave.		Entire subclause intended to be facilitative. [2015] FWCFB 3406 at PN [266].
	Withdrawn	Business SA	Sub-27/10/17		Do not press item 8, based on Full Bench’s decision in the <i>Restaurant Industry Award 2017-PLED [2017] FWCFB 5397</i>	Paras 1-6	See transcript 20/12/17 PN 14
16	Withdrawn	United Voice	Sub-08/06/17	Cl. 11	<p>Casual employment</p> <p>The modified casual employee entitlement doesn’t reflect award-defined features of a casual worker’s employment because of the catch-all phrasing used in draft. Reference to engagement and payment as a casual would be removed – variation would regularise behaviour that would currently contravene an award.</p> <p>Currently a casual employee must be engaged as such and paid a casual loading. Under this formulation, employment status is determined by reference to employee’s contract of employment and the award. New clause largely leaves employment status to discretion of employer.</p> <p>Requirement that casual employee not full-time or part-time implied and evidence by casual loading being described as ‘compensation for’ benefits of full-time and part-time employment.</p>	Paras 3 – 10	<p>DC: If an employer is not engaging a person as a full-time or part-time employee, the employer must engage them as a casual employee. The casual payment requirement then applies as set out in cl. 11.2.</p> <p>It is not open to an employer to engage an employee as a casual if, having regard to the features of their employment; they are covered by cl. 9 or 10.</p> <p>For further discussion.</p>

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					<p>Employment must have award-defined features to be a casual employee. Referred to <i>Nardy House v John Perry</i> [2016] FWC 73 (appealed [2016] FWCFB 943, reasons [2016] FWCFB 1621)</p> <p>ED reduces casual employment to a catch-all type of employment for employees whose employer has not specifically offered them employment under cls. 9 or 10.</p>		
		AHA	Reply sub-22/06/17	Cl. 11	<p>AHA seeks to discuss the draft casual employment clause as mentioned in para 9 of the United Voice's submission dated 8 June 2017.</p> <p>AHA's preference is that current cl. 13.1 be retained</p>	Para 4	
		United Voice	Reply sub-22/06/17	Cl. 11.1	<p>Agrees with AHA's submission – current cl. 13.1 is preferable to draft cl. 11.1</p>	Para 13	
18	Withdrawn	Business SA	Sub-14/06/17	Cl. 11.2	<p>Casual employment</p> <p>The use of a note in cl. 11.2 is inappropriate. The note explains what the cause loading is paid in lieu of. This explanation previously appeared in cl. 13.1 of the current award.</p> <p>Content of note should be stated in a specific clause (eg. Cl. 11.3 with subsequent renumbering).</p>	Para 4.2	<p>DC: The Note explains the reason for the loading. It is sufficient that the requirement to pay the loading be in a substantive provision.</p> <p>For further discussion.</p>

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21	Withdrawn	AHA	Sub-13/06/17	Cl. 12.7	Apprentices – Training The word “must” should be removed because it creates a different intention to the existing wording in current cl. 14.10. The current wording or words of a similar intent should be used.	Para 15	See transcript 12/09/17 PN 196 DC: The issue could be addressed by substituting “apprentice is entitled to be released” for “employer must release an apprentice”. For further discussion.
		AHA	Sub-05/09/17	Cl. 12.7	Presses submission that current award wording should be retained.	Para 32	
22	Withdrawn	AHA	Sub-13/06/17	Cl 12.8(b)	Apprentices – Block release training Omitting the word “excess” found in current cls. 14.5 and 14.6 alters the intent and interpretation of the clause.	Para 16	See transcript 20/12/17 PNs 96-97 Further submissions received. DC: The word “excess” is not necessary given that the clause is redrafted on the assumption that in the current cl. 14.6 the expression “which exceed those incurred in travelling to and from work” only governs “reasonable expenses incurred while travelling, including meals”. See cl. 12.8(d)(iii) of the PLED.
		AHA	Sub-05/09/17		Presses this submission.	Para 33	
		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	
		AHA	Sub-20/11/17		Withdraws this item.	Para 20	
31	Withdrawn	AHA	Sub-13/06/17	Cl. 15.3	Ordinary hours of work—make-up time Draft clause removes the express requirement to consult with employees. The rationale is unclear.	Para 23	DC: The requirement to consult about major workplace change is covered by cl. 38. For further discussion.
		United	Reply sub-	Cl. 15.3	Ordinary hours of work—make-up	Para 21	

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		Voice	22/06/17		time Agrees with AHA submission regarding the obligation to consult with employees.		
32A	Withdrawn	AHA	Sub-05/09/17	15.4(b), (e)	Ordinary hours of work—Rosters (full-time and part-time employees) Submits ‘their’ should be inserted before the words ‘ordinary hours’ wherever they appear.	Para 24	
33 (part)	Withdrawn	AHA	Sub-13/06/17	Cl. 16	Breaks The current breaks clause should be retained because the term “rest break” is inconsistent with the plain language intention; it imposes a breaks entitlement that does not currently exist; fails to reflect the existing provisions that provide employee with options about break arrangements; and changes the intention and interpretation of the additional payment for the break not given. Withdrawn its submission in relation to the insertion of the word ‘rest’.	Para 24	Further submissions received. DC: The draft uses the term “paid rest break” not “rest break”. It is unclear how the insertion of the word “rest” is inconsistent with plain language drafting and likely to cause confusion. Cl. 16 is to be redrafted to reflect that the existing award only allows an employee on a shift of up to 6 hours to request an unpaid meal break. Request that AHA explain how cl. 16.6 has altered the intent and interpretation of the additional payment for the break not given. For further discussion.
		United Voice	Reply sub-22/06/17		Refer to their submissions of 8 June 2017 - Sub-08/06/17 Agrees with AHA that where possible the current award wording should be retained.	Para 22	
		AHA	Sub-20/11/17		Confirms withdrawn item relates to the	Para 6	

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					use of the word “rest” in PLED cl. 16.		
36	Withdrawn	Business SA	Sub-14/06/17	Cl. 18.1	Minimum rates Draft Table 3 should have all the relevant information populated for a particular classification in a particular classification level in a single row for clarity.	Para 7.1	DC: The Table would look busy if every entry contained the dollar amounts. The dollar amounts are set out in relation to Levels. Table not updated.
38	Withdrawn	AHA	Sub-13/06/17	Cl. 18.4(a) and (b)	Minimum rates The relevant minimum rate should be clarified to be the relevant rate the junior employee position classification.	Para 25	DC: The lead-in words state “...the minimum rate that would otherwise be applicable under Table 3”. This must be the rate relevant to the classification of the employee. No further clarification is required.
44	Withdrawn	AHA	Sub-13/06/17	Cl. 19.5(d)	Adult apprentices Clause should refer back to cl. 19.5(c) to clarify its application.	Para 30	DC: It is not necessary for cl. 19.5(d) to refer back to cl. 19.5(c). For further discussion.
57	Withdrawn	United Voice	Sub-08/06/17	Cl.-26.11	Award airport catering employees travel allowance Current wording should be retained because application of the draft allowance is restricted to “airport catering employees”.	Paras 24 – 25	DC: Noted. Cl. 26.11 could be amended to substitute “all employees engaged by airport catering employers” for “airport catering employees”.
61	Withdrawn	AHA	Sub-13/06/17	Cl. 26.14	Allowances – split shift The AHA notes that the ED has replaced the existing phrase “Broken Periods of Work” with the phrase “ <i>Split Shift Allowance</i> ”. While there is no specific	Para 46	See transcript 20/12/17 PNs 130-131 Further submissions received. DC: Given that cl. 26.14 provides for the payment of an allowance, the term

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					objection to this change, the AHA does query whether it is necessary, as it may lead to reader confusion.		“split shift allowance” is appropriate.
		AHA	Sub-20/11/17		Item withdrawn.	Para 27	
67	Withdrawn	AHA	Sub-13/06/17	Cl. 30	Annual leave – note Note unnecessary.	Para 50	DC: The Note provides the reader with useful information.
		AHA	Sub-05/09/17		Restates its concerns expressed in earlier submission.	Para 51	For further discussion.
72	Withdrawn	AHA	Sub-13/06/17	Schedule A	Classification Structure and Definitions The term “grade” should be replaced by the term “classification” in all relevant references.	Para 54	DC: It is appropriate to retain the term “grade” in the title of each classification.
74	Withdrawn	AHA	Sub-13/06/17	Schedule A	Classification Structure and Definitions The word “and” should be retained in the draft of classification definitions.	Para 56	DC: The use of “and” is not appropriate with the lead-in words “any of the following”.
78	Withdrawn	AHA	Sub-13/06/17	Schedule A A.2.3	Classification Structure and Definitions Current Front office grades 1, 2, 3 and Supervisor definitions should be retained	Para 60	Withdrawn, see Submission-05/09/17 DC: Request that AHA specifies the material difference between the current and draft definitions.
79	Withdrawn	AHA	Sub-13/06/17	Schedule A A.2.5 & A.2.6	Classification Structure and Definitions The words “and/or” should be retained in A.2.5(b) Timekeeper/security officer grade 2; A.2.6(a) Leisure attendant grade 1, A.2.6(b) Leisure attendant grade 2,	Para 62	DC: The expression “and/or” is not acceptable in a plain language document.

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					A.2.6(c) Leisure attendant grade 3 and A.2.7(b) Storeperson grade 2 definitions.		
80	Withdrawn	AHA	Sub-13/06/17	Schedule A A.2.7	Classification Structure and Definitions Existing Storeperson grade 3 definition should be retained because it alters the intent of the classification.	Para 63	Withdrawn, see Submission-05/09/17 DC: The only material difference is the omission before “may exercise skills” of the words “exercises discretion within the scope of this classification and who”. If these words are regarded as important they could be included in A.2.7(c). In the second last item of A.2.7(c) “maintains” should be substituted for “maintaining” and in the last item “supervises” and “records” should be substituted for “supervising” and “recording” respectively.
84	Withdrawn	AHA	Sub-13/06/17	Schedule B B.1.1	Summary of Hourly Rates of Pay The existing “Ordinary Hourly Rate” definition should be retained.	Para 67	See transcript 12/02/18 para 232 and Report from first conference.
		AHA	Sub-05/09/17		Presses earlier submission.	Para 57	DC: The definition in Schedule B reflects that in cl. 2.
		ABI & NSWBC	Sub-21/11/17		Confirmed as outstanding.	Page 1	For further discussion.
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
85	Withdrawn	AHA	Sub-13/06/17	Schedule B	Summary of Hourly Rates of Pay Schedule B.1.1 Note 1 and its unidentified all-purpose allowances reference could be	Para 68	See transcript 12/02/18 para 232 and Report from first conference.

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				B.1.1	confusing.		<p>DC: If the definition of “ordinary hourly rate” is to be amended to exclude all-purpose allowances then the Note should be amended to omit “forms part of the employee’s ordinary hourly rate and”.</p> <p>Otherwise the Note is helpful and should be retained.</p> <p>For further discussion.</p>
		ABI & NSWBC	Sub-21/11/17		Confirmed as outstanding.	Page 1	
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	
87	Withdrawn	AHA	Sub-13/06/17	Schedule B	<p>Summary of Hourly Rates of Pay</p> <p>The ordinary, Saturday, Sunday and Public Holiday rates table should, where relevant, include additional note that allowances may apply including a reference to applicable clause & Schedule.</p>	Para 70	<p>DC: The suggestion seems unnecessary in a Schedule that is intended only to summarise hourly rates of pay.</p> <p>For further discussion.</p>
		AHA	Sub-05/09/17		Presses earlier submission.	Para 59	
92	Withdrawn	AHA	Sub-13/06/17	Schedule D	<p>School-based apprentices</p> <p>Reference to “proportionate” entitlements in Sched D.10 should be replaced with “pro-rata” for consistency.</p>	Para 77	<p>DC: The word “proportionate” is more appropriate.</p>
93	Withdrawn	AHA	Sub-13/06/17	Schedule D	<p>Schedule D—School-based Apprentices</p> <p>Wording in current Schedule G.12 should be wholly retained in the draft Sched D.</p>	Para 78	<p>See transcript 12/02/18 paras 256-7 and Report from first conference.</p> <p>DC: It is to be noted that the term</p>
		AHA	Sub-05/09/17		Presses earlier submission.	Para 62	

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		ABI & NSWBC	Sub-21/11/17		Confirms as outstanding.	Page 1	defined by current Schedule G.12 is not used in current Schedule G.
		AHA	Sub-20/11/17		Confirms as outstanding.	Para 17	For further discussion.
94	Withdrawn	AHA	Sub-13/06/17	General	The term “will” has been replaced in the draft with the term “must” in a number of clauses. These replacements may alter the original intention and interpretation of those clauses.	Para 80	DC: The word “will” is not appropriate to impose an obligation.