[2018] FWC 702

The attached document replaces the document previously issued with the above code on 2 February 2018.

1. By deleting the dates at paragraphs [42], [43] and [84].

2. By deleting ‘Thursday 25 February 2017’ in paragraph [86] and inserting ‘Thursday 22 February 2018’.

3. By replacing the print code with the number “PR600044”.

Associate to Justice Ross

Dated 6 February 2018

STATEMENT

Fair Work Act 2009
s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Plain language re-drafting – General Retail Industry Award 2010

(AM2016/15, AM2014/270)

JUSTICE ROSS, PRESIDENT MELBOURNE, 2 FEBRUARY 2018

4 yearly review of modern awards – plain language re-drafting – General Retail Industry Award 2010

[1] This Statement deals with the plain language redrafting of the *General Retail Industry Award 2010* (the current award).

[2] A Statement issued on 27 October 2017 (the October Statement) summarised the outcome of a conference held on 26 October 2017. A revised plain language exposure draft incorporating changes arising from the resolved items was published on 1 November 2017.

[3] As noted in the October Statement, the parties were to confirm their position in respect of Items 24, 26, 30, 34, 44, 45, 49, 62, 63 and 67 of the summary of submissions[1] of 18 October 2017 and make any further submissions by Wednesday 8 November 2017.

[4] Further submissions have been received from:

- Australian Business Industrial and New South Wales Business Chamber (ABI);
- Business SA; and
- Shop, Distributive and Allied Employees' Association (SDA).

[5] A revised summary of submissions was published on 13 December 2017 incorporating the parties' submissions.

[6] The October Statement also indicated that the Commission would undertake research into the history of current award clause 12.8; and indicated that the expert would provide comments on items 40, 44 and 45.

[7] This Statement sets out the parties' positions in relation to outstanding issues; the history of current award clause 12.8 and the expert's comments in relation to items 40, 44, and 45.

Items 24 and 26

[8] Items 24 and 26 relate to clause 10.6 of the revised plain language exposure draft and were dealt with together at the conference on 26 October 2017. At item 26 the plain language expert recommended that the proposed clause 10.6 be deleted and replaced with the following:

> 'The employer and the employee may agree in writing to vary the regular pattern of work agreed under clause 10.5 with effect from a future date or time.'

[9] During the conference the SDA undertook to review the drafting comments at item 26 and confirm their position in writing.

[10] The SDA does not support the wording proposed at revised clause 10.6 and submits that it is a substantive change. The SDA submits that current award clauses 12.2 and 12.3 clearly state that any agreement or variation to it 'will' be in writing. The change from 'will' to 'may' in revised clause 10.6 is said to be a substantive change.[2] The SDA also submits that the Commission's Plain Language Guidelines directs the use of the word 'must' to impose an obligation, which should be preferred over the word 'may'.[3]

[11] The SDA contends that the proposed clause 10.7 should reference clause 10.6 as follows '…and any variation under clause 10.6, and give another copy to the employee' as per current award clauses 12.2 and 12.4.[4]

[12] SDA also relies on its previous submissions in relation to the use of the term 'ordinary' throughout the revised plain language exposure draft. SDA submits that shiftworkers under the current award do not work ordinary hours per se and may still be part-time employees.[5]

[13] Interested parties are invited to comment on the SDA's position in relation to clauses 10.6 and 10.7.

Item 30

[14] Item 30 relates to 'Changes to roster' provisions for part-time employees. The SDA reserved its position during the conference pending their review of the revised plain language exposure draft published on 1 November 2017.

[15] The SDA has advised that it does not support the wording proposed at revised clause 10.10(a) to (c) of the revised plain language exposure draft and submits it is a substantive change from current award clauses 12.8(a) to (c).[6]

[16] The SDA submits that revised clause 10.10(a) does not consider variations made under proposed clause 10.6 and should be amended to ensure that the revised plain language exposure draft reflects the corresponding provisions of the current award.[7]

[17] The SDA submits that the revised clause 10.6(b) is a substantive change and that current award clause 12.8(b) is plain and unambiguous in its meaning and effect and only

contemplates 'roster' changes by mutual agreement and not 'changes to agreed hours'. It is submitted that the proposed change increases the likelihood of disputes in relation to changes to part-time contracts (hours of work) including in relation to the calculation of redundancy entitlements.[8]

[18] The SDA submits the revised 10.10(c) is a substantive change and current award clause 12.8(c) should be retained in its entirety. The SDA also submits that the proposed note referencing revised clause 15.9(g) is not helpful as it is also the subject of substantive change from current award clause 28.14 and presses for retention of current award clause 28.14.

[19] ABI reserves their position in relation to item 30 subject to the Commission's research into current award clause 12.8.[9]

[20] The history of the current award clause 12.8 is set out at paragraphs [21] to [25] below.

[21] In the 2008 Award modernisation proceedings the SDA submitted a Parties' Draft Award which included the following clause:

> **'14.3.8 Rosters**
>
> **14.3.8.1** A part-time employee's roster, but not the agreed number of hours, may be altered by the giving of notice in writing of fourteen days or in the case of an emergency 414 hours, by the employer to the employee.
>
> **14.3.8.2** Rosters shall not be changed from week to week, or fortnight to fortnight, nor shall they be changed to avoid any award entitlements.
>
> **14.3.8.3** No part-time employee may be employed on more than five days per week other than at the request in writing of the employee concerned.'

[22] It appears that the SDA's draft clause was similar to the equivalent clauses in pre-reform awards such as the *Shop, Distributive and Allied Employees' Association – Victorian Shops Interim Award 2000* and the *Retail and Wholesale Industry – Shop Employees – Australian Capital Territory – Award 2000.*

[23] The following clause was incorporated into the 18 September 2008 exposure draft.

> '**12.8 Rosters**
>
> **'(a)** A part-time employee's roster, but not the agreed number of hours, may be altered by the giving of notice in writing of seven days or in the case of an emergency, 48 hours, by the employer to the employee.
>
> **(b)** Rosters will not be changed from week to week, or fortnight to fortnight, nor will they be changed to avoid any award entitlements.'

[24] The following clause formed part of the modern award made by the Full Bench of the Australian Industrial Relations Commission (AIRC) on 19 December 2008.[10]

> '**12.8 Rosters**
>
> (a) A part-time employee's roster, but not the agreed number of hours, may be altered by the giving of notice in writing of seven days or in the case of an emergency, 48 hours, by the employer to the employee.
>
> (b) The rostered hours of part-time employees may be altered at any time by mutual agreement between the employer and the employee.
>
> (c) Rosters will not be changed except as provided in clause 12.8(a) from week to week, or fortnight to fortnight, nor will they be changed to avoid any award entitlements.'

[25] The AIRC Full Bench indicated that it made revisions to the exposure draft having regard to the terms, incidence and application of instruments in the various retail sectors to align provisions to existing instruments for the relevant part of the industry.[11]

[26] Interested parties are invited to comment on proposed clause 10.10 in regard to the SDA's submission and the history of the current clause 12.8.

Items 33 and 34

[27] Item 34 relates to clauses 11.3 and 11.4 of the revised plain language exposure draft. The SDA did not make any further submissions in relation to proposed clauses 11.3 and 11.4. This aspect of item 34 appears to be resolved.

[28] The SDA provided a submission on the wording of proposed clause 11.1 and submits that it is a substantive change from clause 13.2 of the current award. It appears that there is a numbering error in the SDA submission and the submission related to clause 11.2.

[29] Clause 11.2 of the revised plain language exposure draft is as follows:

> **'11.2** An employer must pay a casual employee for each ordinary hour worked a loading of **25%** on top of the minimum hourly rate otherwise applicable under clause 18—Minimum rates.
>
> NOTE 1: The casual loading is payable instead of entitlements from which casuals are excluded by the terms of this award and the NES. See Part 2-2 of the Act.
>
> NOTE 2: Penalty rates applicable to casuals are set out in **Table 11—Penalty rates**.'

[30] Clause 13.1 of the current award is as follows:

> **'13.2** A casual employee will be paid both the hourly rate payable to a full-time employee and an additional 25% of the ordinary hourly rate for a full-time employee.'

[31] In respect of clause 11.2 of the revised plain language exposure draft, the SDA submits that the 'hourly rate payable for a full-time employee' as stated in the current award is not the same as the 'minimum hourly rate' used in the revised plain language exposure draft. The SDA submits that the wording of current award clause 13.2 should be retained to ensure there is no substantive change to how the casual base rate of pay is determined.[12] The SDA also presses for a note that sets out 'Overtime applicable to casuals are set out in Table 10—Overtime rates'.[13]

[32] Interested parties are invited to comment on the SDA's submission regarding proposed clause 11.2.

Item 40

[33] Item 40 relates to consistency of language within clause 15 of the revised plain language exposure draft, provisions for ordinary hours of work and how it interacts with shiftwork. In the October Statement parties were advised that the expert's views would be sought about how to resolve the issue regarding the current award clause 27.2(c), which states that hours of work on any day will be continuous, except for rest pauses and meal breaks.

[34] The expert provided the following solution to item 40, which would be to insert a new subclause into proposed clause 28—What is shiftwork:

> 'Clause 30.2(c) of the current award says that all time between the actual commencing time and the actual ceasing time on any shift will count and will be paid for as time worked.
>
> Clause 30.5 then provides that, despite clause 31.1(a) (breaks during work periods), all rest pauses and meal breaks taken by shiftworkers are paid breaks and form part of the hours of work. This is covered by clause 30 of the PLED.
>
> Given that background, the statement in clause 27.2(c) that hours of work will be continuous, except for rest pauses and meal breaks doesn't sit particularly well with clause 31.1(a) which provides that the breaks form part of the hours of work.
>
> However, if the parties wish to make a statement that all hours of work by a shiftworker are continuous, so as to make it clear that there are no split shifts, I would prefer to do that in Part 6 and leave clause 15.3 to deal with ordinary hours of work.
>
> We could insert a new subclause before clause 28.4 as follows: "28.4 All hours of work on a shift are continuous.' Given that breaks are deemed to form part of the hours of work there would seem to be no need to specially refer to them in that subclause.
>
> The existing clause 28.4 would then be numbered 28.5.'

[35] Interested parties are invited to consider the expert's proposed solution to item 40 by inserting a new clause 28.4.

Item 43

[36] Item 43 relates to clause 15.3 of the revised plain language exposure draft, and to current award clause 27.2(c). Item 43 concerns the SDA's opposition to the change from '**(c)** Hours of work on any day will be continuous, except for rest pauses and meal breaks' to 'Ordinary hours of work are continuous, except for rest breaks and meal breaks as specified in clause 16—Breaks'.

[37] On review of the revised plain language exposure draft, the SDA does not support the wording of proposed clause 15.3 on the basis that they say it is a substantive change. Clause 27.2(c) of the current award states 'ordinary hours of work on any day will be continuous'. The SDA submits that the omission of words 'on any day' changes the meaning as it may be read as contemplating the possibility of a split shift being worked on any day in which the current award clearly does not.[14]

[38] Interested parties are invited to comment on the SDA's submission regarding proposed clause 15.3.

Item 44

[39] Item 44 relates to clauses 15.7(e) and (f) of the revised plain language exposure draft which reflect current award clause 28.5. The SDA submitted that these clauses only apply to full-time employees. At the conference of 26 October 2017 parties considered moving these clauses to 15.6 of the revised draft and the SDA sought the opportunity to review the draft once it was published. The clauses are now at 15.6(i) and (j) of the revised plain language exposure draft of 1 November 2017. The SDA did not raise any issue with the relocation to clauses 15.6(i) and (j) of the revised plain language exposure draft. Item 44 is now resolved.

Item 45

[40] Item 45 relates to the proposed change of the title of clause 15.7 from 'Rosters (full-time and part-time employees)', to 'Rosters' in the revised plain language exposure draft. Parties sought the opportunity to review the revised plain language exposure draft. No submissions were received in relation to the proposed change to the clause title of clause 15.7. This aspect of item 45 is resolved.

[41] An issue also arose in relation to the comparable provisions of proposed clause 15.6(g)(v). The plain language expert has advised that proposed clause 15.6(g)(v) is based on the lead-in words to current award clause 28.1, which provide that the roster may be worked in any of the forms set out in paragraphs (a) to (d) or 'by agreement over a longer period'. The expert also noted that the exception in proposed clause 15.7(a) only applies to full-time employees, as proposed clause 15.6 only applies to full-time employees.

[42] Interested parties are invited to comment on the expert's drafting comments regarding proposed clause 15.6(g)(v)**.**

[43] The parties had also raised some concern in relation to the interaction of proposed clauses 15.6(g)(v) and 15.7(a). The parties are invited to give this issue further consideration and advise the Commission if any further issues arise in relation to the revised draft.

Item 49

[44] The SDA sought the opportunity to reconsider issues raised in respect of item 49 after the revised plain language exposure draft was published.

[45] The SDA has raised several concerns with the revised plain language exposure draft clause 15.7. Proposed clauses 15.7(e) to (h) reflect current award clause 28.11. The SDA does not support the removal of the subheading 'consecutive days off' as it submits these paragraphs contain important considerations for employers and employees in respect of rostering such as when consecutive days are not rostered in accordance with this clause.[15] The SDA also submits that proposed clauses 15.7(f) to (h) are unnecessarily complex and difficult to interpret compared with current award clauses 28.11(b), 28.13(b) and (c). The SDA submits that a reader should not have to jump back and forth between clauses to understand their meaning[16] that current award clauses 28.11(b), 28.13(b) and (c) are unambiguous and clear, and that the current clauses should be retained.

[46] Interested parties are invited to comment on the SDA's submission regarding proposed clauses 15.7(e) to (h).

[47] The SDA also noted a numbering issue, as revised clause 15.7(e) should be (d).[17] This error will be corrected in the next version of the exposure draft, and paragraphs renumbered accordingly.

[48] The SDA does not support the change from the word 'worked' to 'scheduled' in the revised clause 15.7(j). The equivalent clause in the current award is clause 28.12. The SDA submits the word 'worked' is used consistently in the current award.

[49] Also, the phrase 'reasonable additional hours' in the current award has been deleted and replaced with 'overtime'. The SDA submits that 'reasonable additional hours' is intended to refer to part-time additional hours and not overtime and that this is a substantive change which creates additional concerns regarding overtime and that overtime can be worked on a 7th day.[18] The SDA submits the phrase 'reasonable additional hours' should be re-inserted.

[50] Interested parties are invited to comment on the SDA's submission regarding proposed clause 15.7(j).

[51] ABI notes some cross-referencing issues in the revised plain language exposure draft and would appreciate an opportunity to further review the clause in a revised plain language exposure draft.[19] ABI does not identify specific cross-referencing issues in their submission.

Item 51

[52] The SDA reserved its position in relation to a number of issues relating to hours of work until it had the opportunity to review the revised plain language exposure draft.[20] The

SDA provided the following submissions in relation to hours of work in the revised plain language exposure draft. These submissions have been recorded at item 51 of the revised summary of submissions.

[53] The SDA does not support the revised proposed clause 15.9(c) and submit that for consistency with current award clause 28.14(d) and revised proposed clause 15.9(a), the clause should refer to 'completed work roster'.[21]

[54] The SDA submits that proposed clause 15.9(e) should only refer to 'permanent roster changes' for consistency with current award clause 28.14(c).[22] The SDA opposes current award clause 28.14(d) being replaced with a note under proposed clause 15.9(e) and submits that this removes the obligation on parties to have discussions aimed at resolving roster disputes in accordance with the dispute resolution provision.[23]

[55] The SDA submits that proposed clause 15.9(f) is a substantive change from current award clause 28.14(g) which does not and should not reference the revised proposed clause 15.9(g). The SDA also submitted that clause 15.11 is referenced in proposed clause 15.9(f) but does not exist in the revised plain language exposure draft.[24]

[56] The SDA submits that the changes to revised proposed clause 15.9(g) remove the rate to be paid where rosters are changed with the intent described at current award clause 28.14(f), and that the current award clause 28.14(f) should be retained.[25]

[57] Interested parties are invited to comment on the SDA's submission regarding proposed clauses 15.9(c), (e) and (f).

Item 56

[58] Item 56 concerns Table 2 (now Table 3) in clause 16—Breaks of the revised plain language exposure draft. The equivalent clause in the current award is clause 31.1(a).

[59] Revised proposed Table 3 set out as Attachment A to the summary of submissions document dated 18 October 2017 is to replace the current proposed Table 3, with the addition of the words 'a paid rest' before 'break' in NOTE 1.[26] This wording will be inserted into NOTE 1 in the next version of the exposure draft.

[60] In response to the question raised by the Commission the SDA submits that proposed clause 16.6(b) should read 'than an employee would be paid at the rate they would be entitled to' which must be inclusive of all relevant penalties, overtime and loadings.[27]

[61] Interested parties are invited to comment on the SDA's submission regarding proposed clause 16.6(b).

Item 57 – minimum rates (inclusion of notes)[28]

[62] Item 57 remains contested and will be determined by the Full Bench on the papers. The SDA relies on its previous submissions regarding notes in the revised plain language exposure draft clause 18.1.[29]

[63] The SDA submissions of 4 August 2017 are as follows:

> '128. The Minimum weekly wages table in GRIA clause 18 has been varied and moved to exposure draft clause 17.
>
> 129. The SDA suggests that the following amendments ensure the table provides a complete, precise and accurate summary of the minimum rates that may apply:
>
> i. Insert the phrase 'at least' in clause 18.1 so the clause will read:
>
> An employer must pay an adult employee (other than an apprentice) 'at least' the minimum hourly rate specified in column 3 (or for a full-time employee the minimum weekly rate specified in column 2) in accordance with the employee classification specified in column 1 of Table 3—Minimum rates.
>
> ii. NOTE 1: Adult employee is defined in clause 2—Definitions. As per submissions at paragraph 10 and 11, The SDA does not support the use of the definition as provided at exposure draft clause 2.
>
> 130. Insert additional notes:
>
> 'NOTE 4 cl x Overtime sets out rates of pay for overtime when overtime applies.'

[64] Item 57 will be determined on the papers on submissions before the Commission.

Item 62

[65] An information note was circulated during the conference and attached to the Statement of 27 October 2017 regarding the meaning of township. Interested parties were directed to file additional submissions by 2 November 2017.

[66] The SDA submits that the township provision should be read broadly to encompass a permanent or temporary change of location that requires the employee to move house.[30]

[67] ABI submits that it is still in the process of consulting with interested member organisations regarding the commonly accepted meaning of the term 'township' and the operation of this provision.[31] ABI will endeavour to provide a further response to the Commission as soon as possible.

[68] Business SA submits it had consulted with its members regarding the meaning of 'township'. None of the members reported having utilised current award clause 20.5 for an award covered employee.[32]

[69] Business SA reports that a number of its members have employees who already commute a consideration distance and for whom a relocation allowance based on movement to a different suburb would be impracticable. Business SA members suggested a physical distance in kilometres may work, while Business SA noted a difficulty with this approach and

time associated with different distances depending on location (metropolitan or regional areas).[33]

[70] Business SA reports that its consultations suggest that this clause is rarely, if ever, used in the context of an employee covered by the retail award. Business SA submits that while clarification would be preferable, they have been unable to determine an appropriate basis upon which to define 'township'.

[71] Business SA submits that the issue could be progressed by amending clause 23.6(a) of the revised plain language exposure draft to clarify that the clause operates only where an employee is directed by their employer to relocate from one residence to another.[34]

[72] Business SA submits that the approach of replacing 'township' with a direction by the employer would be consistent with similar clauses in other awards. Business SA submits this will ensure that where an employee is directed to carry out an action incurring cost, such as moving house, they are reimbursed while also ensuring the term 'transfer' for the purpose of proposed clause 23.6 does not extend to transfers initiated/requested by the employee. Business SA proposes the following wording at proposed clause 26.3(a):

> 'Clause 23.6 applies if an employer directs and employee to transfer from one residence to another.'[35]

[73] The SDA also made a submission in relation to proposed clause 23.11 (recall allowance). The SDA submits that the appropriate rate of pay for the purposes of proposed clause 23.11 should be the appropriate overtime rate.[36]

[74] Interested parties are invited to comment on the Business SA's submission regarding clause 23.6.

Item 63

[75] An information note was circulated during the conference and attached to the Statement of 27 October 2017 regarding reasonable overtime.

[76] The SDA relies on its previous submissions in relation to current award clause 29.1. The SDA submits that the clause should not have been removed and presses reinstatement of current award clause 29.1 into the revised plain language exposure draft until the matter has been conclusively determined.[37]

[77] ABI noted it would comment on release of a further statement by the Commission.

[78] In a Statement[38] issued on 22 December 2017 the Full Bench expressed a provisional view regarding reasonable overtime and the NES and invited interested parties to comment. Item 63 will be dealt with in accordance with the directions issued in the Statement of 22 December 2017.

Item 65

[79] Item 65 relates to overtime. The SDA does not support the clauses 25.1(a)(i) and (ii) of the revised plain language exposure draft as they are a substantive change from current award clause 29.2(a). The SDA submits that proposed clause 25.1 only refers to full-time whereas current award clause 29.2(a) applies to 'employees' which includes full-time, part-time and casual employees.[39]

[80] The SDA submits that under the proposed clause part-time and casual employees lose their entitlements to overtime. For these reasons the SDA submits that current award clause 29.2(a) should be re-instated in the place of proposed clauses 25.1(a)(i), (ii) and (iii), subject to any determinations arising from AM2014/196 and AM2014/197.[40]

[81] Interested parties are invited to comment on the SDA's submission regarding proposed clause 25.1.

Item 67

[82] Item 67 relates to penalty rates. In the Statement of 27 October 2017 ABI was instructed to provide a re-draft of proposed clause 28.1 for other parties to comment. No re-draft of clause 26.1 has been received from ABI. [41]

[83] The SDA submits, in relation to the note under the proposed clause 26—Penalty rates, their position remains that the words 'that are not required to be paid at the overtime rate mentioned in clause 25.2 – Overtime rate' be deleted.[42]

[84] Interested parties are invited to make further submissions in relation to clause 26**.**

Item 69 – shiftwork application[43]

[85] Item 69 remains outstanding. The Full Bench will determine this issue on the papers.

Next steps

[86] Interested parties are invited to make further submissions about parties' submissions and drafting comments set out in this Statement at paragraphs [13], [26], [32], [35], [38], [42], [43], [46], [50], [57], [61], [74], [81] and [84] by **4.00 pm, Thursday 22 February 2018**.

[87] On receipt of parties' submissions a further revised submission summary will be published setting out issues that remain outstanding.

[88] A further conference will be held at **9:30am on 5 March 2018 in Melbourne**. An agenda for the conference is at Attachment A to this Statement.

[89] If any party requests a video link to another location a request should be made in writing to chambers.ross.j@fwc.gov.au.

PRESIDENT

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<PR600044>

[1] Summary of submissions, 18 October 2017.

[2] SDA submission, 10 November 2017, paragraph 4; SDA submission re: item 26, 21 November 2017.

[3] SDA submission re: item 26, 21 November 2017.

[4] SDA submission, 10 November 2017, paragraph 5.

[5] SDA submission, 10 November 2017, paragraph 6; SDA submission 4 August 2017, paragraphs 43, 62.

[6] SDA submission, 10 November 2017, paragraph 8.

[7] SDA submission, 10 November 2017, paragraph 8.

[8] SDA submission, 10 November 2017, paragraph 9.

[9] ABI submission, 15 November 2017.

[10] [2008] AIRCFB 1000.

[11] [2008] AIRCFB 1000.

[12] SDA submission, 10 November 2017, paragraphs 11–12.

[13] SDA submission, 10 November 2017, paragraph 12.

[14] SDA submission, 10 November 2017, paragraph 13.

[15] SDA submission, 10 November 2017, paragraph 14.

[16] SDA submission, 10 November 2017, paragraph 14.

[17] SDA submission, 10 November 2017, paragraph 14.

[18] SDA submission, 10 November 2017, paragraph 15.

[19] ABI submission, 15 November 2017.

[20] Transcript of 26 October 2017, PNs 240. 243, 157, 159, 165, 278.

[21] SDA submission, 10 November 2017, paragraph 17.

[22] SDA submission, 10 November 2017, paragraph 18.

[23] SDA submission, 10 November 2017, paragraph 19.

[24] SDA submission, 10 November 2017, paragraph 20.

[25] SDA submission, 10 November 2017, paragraph 21.

[26] Transcript at [279] – [295].

[27] SDA submission, 10 November 2017, paragraph 22.

[28] Transcript at [310] – [318].

[29] SDA submission, 10 November 2017, paragraph 23.

[30] SDA submission, 10 November 2017, paragraph 24.

[31] ABI submission, 15 November 2017.

[32] Business SA submission, 2 November 2017, paragraphs 2 – 4.

[33] Business SA submission, 2 November 2017, paragraph 5.

[34] Business SA submission, 2 November 2017, paragraph 7.

[35] Business SA submission, 2 November 2017, paragraph 7.

[36] SDA submission, 10 November 2017, paragraph 25.

[37] SDA submission, 10 November 2017, paragraph 26.

[38] [2017] FWCFB 6884.

[39] SDA submission, 10 November 2017, paragraph 27.

[40] SDA submission, 10 November 2017, paragraph 28.

[41] ABI submission, 15 November 2017.

[42] SDA submission, 10 November 2017, paragraph 29.

[43] Transcript at [366] – [368].

Attachment A— Agenda for conference – 9.30 am, Monday 5 March 2018

Plain Language Exposure Draft — *General Retail Industry Award 2010*

1. Partially resolved items – to be confirmed

    - Item 44 – Drafting of clause 15.6 PLED; and
    - Item 45 – Drafting of clause 15.7(a) PLED.

2. Outstanding items for further discussion at conference

    a) Part-time employment (items 24, 26 and 30)
        - Clause 10.5 – Inclusion of 'that any variation will be in writing';
        - Clauses 10.6 and 10.7 – Variation of regular pattern of work; and
        - Clauses 10.10 – 10.12 – Changes to rosters.

    b) Casual employment (item 34)
        - Clauses 11.3 and 11.4 – Drafting of minimum engagement period clause.

    c) Ordinary hours of work (item 40)
        - Clause 15 – Drafting of clause 15 PLED.

    d) Rosters – Full-time and part-time employees (item 49)
        - Clauses 15.7(g) and 15.7(k) – Drafting of consecutive days off entitlements.

    e) Moving expenses (item 62)
        - Clause 23.6 – Definition of the term 'township'.

    f) Overtime (items 63 and 65)
        - Clause 25 – Drafting of 'reasonable overtime' clause 29.1 of current award; and
        - Clauses 25.1 and 25.2 – Drafting of overtime entitlements.

    g) Penalty rates (item 67)
        - Clause 26.1 – Drafting of clause.

    h) Summary of Hourly Rates of Pay (item 72)
        - Schedule B – Use of the term 'ordinary hours'.