

SUMMARY OF SUBMISSIONS

Revised as at 17 March 2015 to incorporate submissions received since 23 February 2015 - includes notes arising from conference before Commissioner Bissett on 10 December 2014

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES
General issues							
1	PGA	Sub-28Jan15			New draft award Engaging services of Plain English Drafting Association to provide plain English draft of award. Will be ready by end of March.	Page 1	
	APESMA	Reply-sub-17Feb15			Strongly opposes PGA proposal. Will result in serious issues and delay process of finalising new award.	Paras 4-12	
	SDA	Reply-sub-18Feb15			Opposes PGA proposal. Greatly concerned about appropriateness.	Paras 6-20	
	PGA	Reply-sub-4Mar15			First set of recommendations will be circulated shortly. Review by Plain English Foundation is not inconsistent with the Exposure Draft review process.	Page 4-5	
2	APESMA	Sub-28Jan15			Submission only addresses matters affecting employee pharmacists. Supports SDA submission in relation to interests of employees, other than pharmacists, covered by award.	Para 3	
3	APESMA	Sub-28Jan15			Generally notes 23 December 2014 Full Bench decision [[2014] FWCFB 9412] and requests changes referred to in	Para 45	See Full Bench decision [2014] FWCFB 9412 23

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					Decision also be incorporated into exposure draft (ED).		December 2014 para [29]
	HSU	Sub-28Jan15			Supports submissions made by APESMA and SDA.	Para 38	
4	APESMA	Sub-28Jan15			NES summaries – Supports inclusion of explanations/ NES summaries; recommends wording be developed and agreed with relevant industry parties prior to inclusion in award.	Paras 6; 40–41; 44	Issue may have been dealt with by [2014] FWCFB 9412
	SDA	Sub-28Jan15			Supports approach set out in Full Bench decision, but urges cautious and consultative approach to drafting annotated versions of each modern award; summaries must not be seen as substitute for referencing NES.	Paras 31–32	
	HSU	Sub-28Jan15			Welcomes inclusion of NES summaries and examples in annotated versions of awards; willing to work with parties to determine appropriate examples.	Paras 7; 10–11	
	PGA	Sub-28Jan15			Supports inclusion of summaries; more generally wherever there is reference to legislation, PGA supports inclusion of a notation that provides a general understanding of the relevant provision.	Page 1	

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5	PGA	Sub-28Jan15			Illustrative examples – Marked-up ED attached to submission indicates where several illustrative examples are proposed to be inserted, to illustrate operation of certain clauses.	Page 2 and attachment A	Issue may have been dealt with by [2014] FWCFB 9412
	APESMA	Reply-sub-17Feb15			Opposes PGA proposal. Does not support use of examples in legal award, would support use of examples in annotated version.	Paras 13-15	
	SDA	Reply-sub-18Feb15			Opposed to use of illustrative examples as set out through PGA submission. Recommends cautious approach.	Paras 21-23	
	PGA	Reply-sub-4Mar15			Submits that employers and employees in the community pharmacy sector would benefit from examples. Will circulate proposed examples for comments.	Page 5	
6	APESMA	Sub-28Jan15			Payslips provision – Strongly supports inclusion of payslips provision; recommends wording be developed and agreed with relevant industry parties prior to inclusion in award.	Paras 40–41; 44	Issue may have been dealt with by [2014] FWCFB 9412
	SDA	Sub-28Jan15			Strongly supports inclusion in annotated version	Paras 41–44	
	HSU	Sub-28Jan15			Welcomes additional payslip provision; reference to legislation and regulations particularly welcome.	Para 9	

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	PGA	Reply-sub-4Mar15			Submits that this issue has been dealt with by Commission	Page 3	
	PGA	Reply-sub-4Mar15			Support SDA submissions	Page 4	
7	APESMA	Sub-28Jan15	Pay rates		Expression of pay rates – Supports inclusion of pay rates expressed as hourly and weekly amounts, and for there to be tables showing pay rates inclusive of casual loadings, penalty rates and overtime	Para 7	
	HSU	Sub-28Jan15			Notes Commission’s preference for using term “minimum hourly rate” instead of “ordinary hourly rate” where award does not provide for allowances and loadings to be paid for all purposes; submits when awards do not include all-purpose allowances or loadings, ED should use same language throughout; notes some EDs mix the terms.	Para 12	
	PGA	Sub-28Jan15			PGA would like to discuss formatting of pay rate information in conference.	Page 3	
	Business SA	Reply-sub-4Mar15			Submits that there is apparent confusion about the use of term ‘minimum hourly rates’ and ‘ordinary hourly rates’, refer to FWCFB 9412, submits that a general review would be useful to ensure consistency	Page 4	

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8	HSU	Sub-28Jan15	1.2		Supersession – Wording sits comfortably with HSU; though not considered necessary, HSU do not oppose PHIEA proposal (submitted in relation to other awards) that clause should reference award review process.	Para 6	Determined in Full Bench Decision [2014] FWCFB 9412 at paras [9]-[10]
9	APESMA	Sub-28Jan15		2.4	Take-home pay provisions – Believes not appropriate to remove current take home pay provisions.	Paras 8–9	
	PGA	Reply-sub-4Mar15			Oppose APESMA submission as submission is obsolete and unnecessary	Page 2	
10	APESMA	Sub-28Jan15	2.3	5 and 6	Provision of copies of award and NES – Believes current requirements for copies of award to be made available should be retained; submitted wording from Full Bench decision appropriate.	Paras 10–13	See Full Bench decision [2014] FWCFB 9412 23 December 2014 para [29]
	SDA	Sub-28Jan15			Submits combining current award clauses 5 and 6 and removing word ‘access’ from clause title changes substantive provisions in clause 5; change appears to remove necessity to provide physical copy; believes reference to use of noticeboards should remain. Supports wording adopted by Full bench preference to wording proposed in ED.	Paras 7–13	

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	HSU	Sub-28Jan15			Submits unclear how copies of award will be made available to employees or how employees can ask for copies of award and NES.	Para 7	
	PGA	Reply-sub-4Mar15			Submits words in Exposure Draft should be adopted as most community pharmacies are small businesses who don't have notice boards	Page 2 and 3	
11	APESMA	Sub-28Jan15	5		Facilitative provision – Agrees with ACTU submission that facilitative provision contained in Manufacturing Award (and related ED) be adopted as appropriate facilitative provision.	Paras 14–16	
	SDA	Sub-28Jan15			Does not object to inclusion of facilitative provision; supports ACTU submission as model for all awards. Supports use of clause 8.1 from Manufacturing Award as introductory paragraph as clearer than that used in ED; supports use of clause 8.2 and 8.3 from Manufacturing Award.	Paras 14–20	
	HSU	Sub-28Jan15			Adopts ACTU submissions in relation to general issues concerning facilitative provisions.	Para 8	
	PGA	Reply-sub-4Mar15			Oppose use of term “facilitative provisions” as term is not likely to be understood by small businesses, and community pharmacies will not look for	Page 2 and 3	

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					the term to find out how application of award can be altered.		
	ABI & NSWBC	Reply-sub-5Mar15			Disagree with the submissions of SDA at [17]-[20] and APESMA at [14]-[16]. Submits that the provision in the Exposure Draft is sufficiently clear to identify the facilitative provisions in the Award.	Para 75	
12	HSU	Sub-28Jan15	6.5		Casual employment – not convinced necessary to insert standardised clause purporting to identify entitlements covered, or not, by casual loading in modern awards in order to achieve modern awards objective; supports position of ACTU and AMWU that any consideration to include such standard clause should not be considered without rigorous examination and if considered during this review process, should be dealt with as part of casual/part-time common issue proceedings.	Paras 15–23	Proposal that matter that may potentially be dealt with as part of casual and part-time common issue proceedings - AM2014/197–Casual Employment
13	APESMA	Sub-28Jan15	Schedule B		Summary wages tables – Supports inclusion of summary tables to clarify minimum pay entitlements and application of overtime and penalty rates, but agrees with SDA submission that tables require notes explaining application and referring to relevant award clauses for explanation of when	Para 38	

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					various forms of rates apply.		
	HSU	Sub-28Jan15			Adopts submissions of ACTU in relation to Group 1 EDs on this issue; notes award rates are minimum wage rates only and that employees may be entitled to higher rates as part of a contract of employment.	Paras 13–14	
14	APESMA	Sub-28Jan15	Schedule G	3.1	Definitions – Submits would be more appropriate for definitions to remain at start of award	Para 39	
	SDA	Sub-28Jan15			Submits necessary to have definitions at beginning of award; should remain at clause 3 and preceded substantive award provisions. Submits would be more logical and user friendly.	Paras 3–5	
	PGA	Reply-sub-4Mar15			Disagree with APESMA and SDA, submits that definitions should be at the end of document, as it is more common for definitions to be at the end of a document.	Page 3	
Award specific issues							
15	SDA	Sub-25Nov14	6.3	11	Full-time employment – Seeks to vary clause to include requirement for agreement in writing at time of engagement on regular pattern of work.	Paras 4–6	Parties to further consider

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16	SDA	Sub-25Nov14	6.3	11	Full-time employment –Seeks to vary award to include minimum shift of 4 hours for full-time employees.	Paras 7–9	Not agreed
17	PGA	Sub-25Nov14	6.3	11	Full-time employment – Requires full-time definition.	Item d	
18	PGA	Sub-25Nov14	6.4	12	Part-time employment – Review clause to provide more flexible work practices.	Item 3	Referred to Casual/Part-time Full Bench
19	APESMA	Sub-28Jan15	6.4(a)(i)	12.1	Part-time employment – Requests word “and” be added after semicolon at end of clause 6.4(a)(i).	Paras 17–20	
	SDA	Sub-28Jan15			Submits removal of word “and” substantively changes part-time definition and clause should not refer to 6.5(d), but rather 10.1.	Paras 45–47	
	PGA	Reply-sub-4Mar15			Submits removal of word “and” does not vary clause, but is not opposed to its retention	Page 2	
	PGA	Reply-sub-4Mar15			Supports SDA submission	Page 4	
	Business SA	Reply-sub-4Mar15			Does not object to retaining ‘and’ between provisions	Page 10	
	ABI & NSWBC	Reply-sub-5Mar15			Disagree with the submissions of SDA at [45]-[47] and APESMA at [17]- [20], that the removal of the word 'and' changes the definition of 'part-time employee.'	Para 76	

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20	SDA	Sub-28Jan15	6.4(d)		Part-time rate of pay – Cross-reference to clause 6.5(d) incorrect should refer to clause 10.1	Paras 48; 96–97	
	PGA	Reply-sub-4Mar15			Supports SDA submission	Page 4	
	ABI & NSWBC	Reply-sub-5Mar15			SDA submissions at [48] are correct and should be accepted.	Para 77	
21	PGA	Sub-28Jan15	6.4(d)		Part-time rate of pay – Propose to remove words “no less than”, which are not in existing award, so no argument is created about current over-award amounts becoming award rate.	Page 2 and attachment A	
	APESMA	Sub-28Jan15			Oppose PGA proposal. No need to delete words. Such variation could lead to disputes in relation to overaward payments.	Paras 16-19	
	SDA	Reply-sub-18Feb15			Does not support PGA proposed amendment.	Para 28.	
	Business SA	Reply-sub-4Mar15			Supports PGA submission	Page 10	
	ABI & NSWBC	Reply-sub-5Mar15			Support the submissions of the PGA in respect of deleting the words 'no less than' in clause 6.4(d).	Para 78	
22	APESMA	Sub-28Jan15	6.4(f)(i)	12.8(a)	Part-time rosters – Request to retain existing requirement to give 48 hours' <u>written</u> notice for roster change in case of	Paras 21–23	
	SDA	Sub-28Jan15				Paras 50–54	

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					an emergency.		
	PGA	Reply-sub-4Mar15			Support APESMA and SDA submission	Page 2 and page 4	
	Business SA	Reply-sub-4Mar15			Support the retention of current wording as the intention of the Exposure drafts is not to alter entitlements	Page 10	
	ABI & NSWBC	Reply-sub-5Mar15			Do not oppose submission of SDA at [49]-[54] and APESMA at [21]- [23].	Para 80	
23	PGA	Sub-28Jan15	6.4(f)		Part-time rosters – Propose to reinstate existing provisions that roster can be altered by <u>employer</u> giving notice to <u>employee</u> (and not the reverse).	Page 2 and attachment A	
	APESMA	Sub-28Jan15			Do not oppose PGA proposal, however, notes PGA does not have same concerns APESMA raised previously re requirement for employer to give written notice	Paras 20-21	
	SDA	Reply-sub-18Feb15			Not opposed.	Para 30	
	ABI & NSWBC	Reply-sub-5Mar15			Support PGA submission	Para 78	
24	SDA	Sub-28Jan15	6.5(c)(i)		Casual loading – change in use of term “actual” to “minimum” provides different entitlement, particularly where hours worked attract penalty; submits clause should reflect existing terminology and entitlements in current award.	Paras 55–60	

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	PGA	Reply-sub-4Mar15			Oppose SDA submission	Page 4	
	Business SA	Reply-sub-4Mar15			Submits that the entitlement to penalty rates for casuals is not altered by the propose changed of wording	Page 10	
	ABI & NSWBC	Reply-sub-5Mar15			disagree with SDA submission and consider that the language used in the Exposure Draft has the same meaning and effect as the current Award provisions	Para 81	
25	SDA	Sub-28Jan15	6.5(c)(ii) and (iii)		<p>Casual employment – <i>Parties were asked to provide a list of provisions that do not apply to casual employees</i> SDA does not support inclusion of model award provision of nature prescribed in these clauses; issue of what does and does not apply to casuals should continue to be specified within award as currently does. SDA supports submissions of ACTU on issue and submits conclusion reached in paras [68]–[69] of Decision be applied to ED</p>	Paras 61–69	Full Bench decided to remove sub-clause and the note from EDs in Decision [2014] FWCFB 9412 , see para [69].
	PGA	Reply-sub-4Mar15			PGA understands that the Commission has dealt with this issue	Page 4	
	ABI & NSWBC	Reply-sub-5Mar15			disagree with the SDA submissions and contend that there is merit in identifying the purpose of casual loadings	Para 82	

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26	PGA	Sub-28Jan15	6.5(c)(ii)		Proposes to delete “paid personal leave”	Attachment A	
	ABI & NSWBC	Sub-2Feb15			Proposes to delete “paid personal leave” as already included in “paid personal/carer’s leave”.	Para 58	
	APESMA	Reply-sub- 17Feb15			Generally agrees with ABI&NSWBC submission	Para 31	
	SDA	Reply-sub- 18Feb15			Does not oppose deletion.	Para 49	
	PGA	Reply-sub- 4Mar15			Support ABI&NSWBC submission	Page 1	
27	PGA	Sub-25Nov14	8	25	Hours of work – Proposes two hour minimum engagement for school students	Item 4	
28	PGA	Sub-25Nov14	8.1(a) and (b)	25.4(a)(iv)	Rostering—Permanent employees – Seeks definition of “regularly works Sundays”	Item c	
29	PGA	Sub-25Nov14	8.2(d)-(f)	25.3	Hours of work – Seeks to address FWO interpretation issue.	Item a	
30	ABI & NSWBC	Sub-2Feb15	8.2(f)		Hours of work – Submits subclause has tendency to suggest other provisions of clause 8.2 do not apply to part-time and casual employees; should consider whether to retain or re-draft	Para 59	
	APESMA	Reply-sub- 17Feb15			Both agree with ABI & NSWBC submission.	Para 31	
	SDA	Reply-sub-				Para 50	

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		18Feb15					
	PGA	Reply-sub-4Mar15			Support ABI & NSWBC submission.	Page 1	
	Business SA	Reply-sub-4Mar15			Support redrafting of clause to remove any ambiguity	Page 11	
31	ABI & NSWBC	Sub-2Feb15	8.3(a)	25.4(a)	Rostering—Permanent employees – Submits formatting, particularly of subclauses (iii) and (iv) creates unnecessary ambiguity; wording of clause 25.4(a)(iii) of current award should be retained.	Para 60	
	APESMA	Reply-sub-17Feb15			Agree with ABI & NSWBC submission.	Para 31	
	SDA	Reply-sub-18Feb15				Para 51	
	PGA	Reply-sub-4Mar15			Oppose ABI & NSWBC submission as clause is not ambiguous	Page 1	
	Business SA	Reply-sub-4Mar15			Support redrafting of clause to remove potential confusion	Page 11	
32	PGA	Sub-28Jan15	9.3		Breaks – Proposes to insert table identifying break/s employees are entitled to for various hours worked.	Attachment A	
	APESMA	Reply-sub-17Feb15			Generally agree with PGA proposal to include a number of tables. Particularly in relation to 9.3. However, note some inaccuracies in their proposed tables.	Para 30	

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	SDA	Reply-sub-18Feb15			Not opposed, however second line of table needs to be amended, should read as 'More than 5 up to less than 7.6'.	Paras 37-38	
33	SDA	Sub-28Jan15	10; 14		Summary wages tables – Not opposed to concept of summary wages tables, however needs to be distinction between minimum wages in clause 10 and how this interacts with penalty rates table in clause 14, particularly in relation to use of term 'ordinary hours'. Clause 10.1 should be expressed as follows: " <i>An employer must pay adult employees the following minimum wages for hours worked by the employee.</i> " Submits note after wages table in clause 10 should be made into a new clause 10.2, which should precede wages table to avoid confusion.	Paras 21–27	
	PGA	Reply-sub-4Mar15			Not opposed to inclusion of minimum rates tables	Page 3	
34	APESMA	Sub-25Nov14	10.1	17	Minimum wages – Seeks to have rates for Pharmacists and Pharmacy students increased.	Page 2	
35	PGA	Sub-25Nov14	10.1	17	Minimum wages – Seeks specification as to when a pharmacy student moves up to next pay point.	Item b	

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36	Business SA	Reply-sub-4Mar15	10.1	17	Minimum wages – proposes the inclusion of specific clause regarding the calculation of hourly rates, which defines method of calculating hourly rates	Page 4	
37	SDA	Sub-25Nov14	10.2	18	Junior employees – Seeks to vary clause to provide for payment of junior rates to Level 1 employees only.	Paras 10–12	Not agreed
38	PGA	Sub-28Jan15	10.2	18	Junior employees – Propose to include following note after rates table: “Note: Junior employees will move to next pay point on their birthday.”	Attachment A	
39	SDA	Proposed variation-25Nov14	10.3	22	Payment of wages – Seeks to vary clause so that all wages shall be paid on regular pay day within 4 days of end of pay period.	Paras 13–19	Being discussed by parties
40	PGA	Proposed variation-25Nov14 and Sub-28Jan15	10.3		Hours of work – Seeks conference to discuss potential ambiguity created by operation and interaction of award clauses providing averaging hours over two weeks and payment on weekly or fortnightly basis.	Item A and; Page 2 and attachment A	
41	APESMA	Sub-28Jan15	10.4(a) and (b)	27.1 and 27.2	Annualised salary (pharmacists only) – Proposes current annualised salary provisions for pharmacists should be retained. Make it clear that employee’s	Paras 24–28	

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					annualised salary agreement must provide compensation for all provisions they have agreed to annualise; ED wording may be interpreted differently. Notes current provision has been in operation since 1998.		
	SDA	Sub-28Jan15			Change to wording substantively changes current provision; annual salary must be in satisfaction of <u>all</u> of provisions, not <u>any</u> . SDA does not oppose change in format of clause but strongly opposes changes to wording provided in current award; strongly argues existing provisions should be retained to provide more appropriate safety net.	Paras 77–85	
	HSU	Sub-28Jan15			Supports retention of annualised salary provisions contained in current award and not those in ED.	Para 39	
	PGA	Reply-sub-4Mar15			Oppose APESMA, SDA and HSU, submit that annualised salary clause in Exposure Draft doesn't alter meaning of current clause.	Page 2,3 and 4	
	Business SA	Reply-sub-4Mar15			Propose to retain current clause, with the addition of 'applicable provisions' i.e. 'the annual salary may be in satisfaction of the applicable provision of the award'	Page 11	

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	ABI & NSWBC	Reply-sub-5Mar15			Disagree that the Exposure Draft has changed the entitlement to and rules surrounding the use of an annualised salary. Oppose SDA at [80]-[85] and APESMA at [24]-[28]. The format and wording of the Exposure Draft at clause 10.4 is much clearer and simpler than clause 27 of the current Award.	Para 83	
42	PGA	Sub-25Nov14 and Sub-28Jan15	10.4		Annualised salary – propose to delete “(Pharmacists only)” from clause title; seeks annualised salary for pharmacy assistants.	Item 2 and attachment A	No agreement
	SDA	Reply-sub-18Feb15			Strongly opposes PGA proposal. Substantial change. Issue should be addressed at conference and hearing, not in relation to ED.	Paras 41-45	
43	ABI & NSWBC	Sub-2Feb15	10.5		Supported wage system – Propose to delete words “because of the effects of a disability” to avoid leading employers into error in relation to eligibility for supported wage; if additional words are considered necessary, it should be done in annotated version of award.	Para 61	
	APESMA	Reply-sub-17Feb15			Generally agrees with ABI & NSWBC submission.	Para 31	
	PGA	Reply-sub-4Mar15			Support ABI & NSWBC submission.	Page 1	
44	APESMA	Sub-28Jan15	11.2(a)(iii)	19.1(b)	Meal allowance – <i>Parties were asked to clarify whether</i>	Para 30	
	SDA	Sub-28Jan15				Paras 87–89	

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					<i>clause 11.2(a)(iii) applies to both clause 11.2(a)(i) and 11.2(a)(ii) or just 11.2(a)(i)</i> APESMA and SDA submit clause 11.2(a)(iii) applies to both 11.2(a)(i) and 11.2(a)(ii).		
	HSU	Sub-28Jan15			Supports submissions of SDA and APESMA.	Para 40	
	PGA	Sub-28Jan15			Proposes to change “This provision” to “11.2(a)(i) and (ii)”.	Attachment A	
	APESMA	Reply-sub-17Feb15			Agrees with PGA submission.	Paras 23, 29	
	SDA	Reply-sub-18Feb15			Does not oppose PGA amendment.	Para 47	
	ABI & NSWBC	Sub-2Feb15			Clear from current award exclusion clause is meant to apply to both meal allowances; if Commission considers formatting of ED makes clause unclear, proposes following amendment: “ <i>The meal allowances in this provision will not apply when the employer has advised the employee of the requirement to work overtime on the previous day.</i> ”	Para 62	

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	SDA	Reply-sub-18Feb15			Does not oppose wording provided by ABI & NSWBC.	Para 52	
	PGA	Reply-sub-4Mar15			Support ABI & NSWBC submission.	Page 1	
	PGA	Reply-sub-4Mar15			Support APESMA submission	Page 3	
	Business SA	Reply-sub-4Mar15			Supports the submission of ABI and NSWBC that the permanent change to part-time roster creates new ordinary hours for the employee.	Page 11	
	ABI & NSWBC	Reply-sub-5Mar15			agree the submissions made by SDA, APESMA and the PGA in relation to the questions asked by the Commission in clause 11.2 of the Exposure Draft	Para 84	
45	APESMA	Sub-28Jan15	11.2(a)(v)		<p>Meal allowance – <i>Parties were advised that clause 6.4(c) permits a permanent change to a part-time employee's regular hours, and asked how clause 11.2(a)(v) interacts with clause 6.4(b)(vi)</i> APESMA submits clause 11.2(a)(v) has no relationship with clauses 6.4(b)(vi) or 6.4(c) because clause 11.2(a)(v) is meant to cover situations where employee has been asked to perform additional hours without notice.</p>	Para 31	

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	SDA	Sub-28Jan15			Submits there is no interaction between clause 11.2(a)(v) and 6.4(b)(vi).	Paras 90–95	
	HSU	Sub-28Jan15			Supports submissions of SDA and APESMA.	Para 40	
	ABI & NSWBC	Sub-2Feb15			Submits there is no ambiguity in this clause; no change necessary.	Para 63	
	APESMA	Reply-sub-17Feb15			Generally agrees with ABI & NSWBC submission.	Para 31	
	PGA	Reply-sub-4Mar15			Support SDA, HSU and ABI & NSWBC submission.	Page 1 and 4	
46	PGA	Sub-25Nov14	11.2(c)(ii)	19.3(b)	Special clothing allowance – Seeks review of allowance so it applies fairly, having regard to number of days an employee works.	Item 5	Not pressed
47	PGA	Sub-28Jan15	12		Superannuation – Proposes to include annotation in clause 12.1 that notes clause refers to what is commonly known as compulsory superannuation contributions and that it applies regardless of whether employer is small or large business; also proposes to include note that describes who gets superannuation at end of clause 12.	Attachment A	

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48	FWO	Corr-24Nov14	13.1(a)	26.1(a); 26.1(a)(iii)	Overtime – Unclear whether casual employees are able to work overtime and whether they are entitled to overtime rates for this work.	Item 18	
49	SDA	Sub-28Jan15	13.2	26(2)(a)	Overtime for casuals – <i>Parties were asked whether the award should state when a casual is entitled to overtime</i> SDA strongly submits that the award needs to state that casual is entitled to overtime. Overtime in award applies to all employees performing work beyond times and patterns considered ‘ordinary’, including casuals, and as such strongly opposes change in definition of overtime included in ED.	Paras 70–76	SDA submits issue of overtime may be more appropriately dealt with as part of the common issues dealing with casual and part-time employment (para 76).
	APESMA	Sub-28Jan15			Supports inclusion of provision clarifying casual employees are entitled to receive overtime; requests ED be varied to reflect provisions in existing award.	Paras 32–34	
	HSU	Sub-28Jan15			Supports making it clear that casuals are entitled to overtime.	Para 41	
	ABI & NSWBC	Sub-2Feb15			Clause 13.2, in combination with clause 13.1(a), indicates casual employees are not entitled to overtime payments.	Para 64	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES
	APESMA	Reply-sub-17Feb15			Disagree with ABI & NSWBC submission.	Paras 32-33	
	PGA	Reply-sub-4Mar15			Oppose ABI & NSWBC and SDA submission, submits casual employees only entitled to overtime if they work more than 12 hours per day (refer to clause 25.2)	Page 1 and 4	
	PGA	Reply-sub-4Mar15			APESMA does not say if casuals should get overtime, submits current award provides overtime for casuals if they work more than daily hour in clause 25.2 only	Page 3	
	PGA	Reply-sub-4Mar15			Supports HSU submission	Page 4	
	Business SA	Reply-sub-4Mar15			Supports the view that any change to wording would change the current entitlements of the award and will have a significant effect on the industry	Page 11	
	ABI & NSWBC	Reply-sub-5Mar15			Support PGA submission	Para 85	
50	PGA	Sub-28Jan15	13.2		Overtime – Proposes to make clear overtime is only payable when worked at <u>direction</u> (replacing “discretion”) of employer; this has same meaning as current award which provides overtime is payable on <u>authorised</u> additional hours.	Page 2 and attachment A	
	APESMA	Reply-sub-17Feb15			Agrees with PGA submission.	Para 24	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES
	SDA	Reply-sub-18Feb15			Does not oppose PGA submission.	Paras 31-32.	
	SDA	Reply-sub-18Feb15			Strongly opposes ABI & NSWBC submission. Rely on submission 28 January 2015.	Paras 53-54	See Sub-28Jan15 .
51	PGA	Sub-25Nov14	13.3; 14.1	26.2; 31.3	Overtime and penalty rates – seeks reduction to weekend and public holiday penalty rates.	Item 1	Refer to Penalty Rates Full Bench
52	SDA	Sub-25Nov14	13.3(a)	26.2(a)(i)	Payment for overtime – Seeks to vary clause to ensure no ambiguity as to payment of overtime for all permanent and casual employees performing work.	Para 3	Not agreed
53	PGA	Sub-28Jan15	13.4(d)		Time off instead of overtime payment – Proposes to remove entitlement being “for each hour worked”, to avoid argument overtime is not payable for less than an hour’s work; proposes to insert note indicating an employee cannot be forced to take time off in lieu of payment at overtime rates and that time off in lieu applies to overtime but not other penalties.	Page 2 and attachment A	
	APESMA	Reply-sub-17Feb15			Does not support PGA submission. Believes wording necessary to describe rate at will employee will receive time off.	Paras 25-28	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES
					Essential to retain option for employees to elect to take time off instead of being paid for overtime. Removal of words remove decision to elect from employee to employer, not consistent with the current award.		
	SDA	Reply-sub-18Feb15			Opposes PGA proposal to remove words 'for each hour worked'. Wording necessary to describe rate at which they will receive time off. Also oppose removal of wording 'elects to'	Para 33-36	
54	PGA	Sub-28Jan15	14.2		Meal break – propose to delete clause as already dealt with in clause 11.2(b).	Page 2 and attachment A	
55	SDA	Sub-28Jan15	18		Public holidays – Summary is an oversimplification of NES provision and does not provide sufficient information	Paras 35–40	Illustrative of complexity of creating accurate summaries (See paras 31–33)
56	PGA	Sub-28Jan15	20.2		Notice of termination – Proposes to include table setting out relevant notice periods.	Attachment A	
	APESMA	Reply-sub-17Feb15			Generally agree with PGA proposal to include a number of tables. Particularly in relation to 20.2. However, note some inaccuracies in their proposed tables.	Para 30	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES
	SDA	Reply-sub-18Feb15			Not opposed to inclusion of table.	Para 40.	
57	SDA	Sub-28Jan15	21.2		Redundancy – Proposed definition of ‘small business employer’ is unnecessary as is already contained in definitions clause.	Para 34	Illustrative of complexity of creating accurate summaries (See paras 31–33)
	PGA	Reply-sub-4Mar15			Support SDA submission, however ‘small business’ should be bolded and hyperlinked to definition.	Page 4-5	
58	HSU	Sub-25Nov14	Schedule A	Schedule B	Classification definitions – Seeks to amend definitions of Pharmacists and Pharmacy Intern.	Para 26	Re-considering
59	PGA	Sub-25Nov14	Schedule A	Schedule B	Classification definitions – Seeks review of classification descriptions, payment for offsite training and replace out of date terminology.	Item e	Training packages alignment – Employer directed training paid by employer
60	APESMA	Sub-28Jan15	Schedule A	14; Schedule B	Classification definitions – Requests ED be varied to reflect current classification structure sequential order, specifically in relation to student and intern pharmacists.	Paras 35–37	
	ABI & NSWBC	Reply-sub-5Mar15			So not oppose APESMA submissions	Para 86	
61	SDA	Sub-28Jan15	Schedule B		Summary wages tables – Tables not consistent with use of term ‘minimum hourly rate’ and ‘ordinary hours’; submits	Paras 28–30	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES
					heading in column 2 of tables B.1.1 and B.2.1 should read “Ordinary hours worked where the minimum hourly rate applies” to be consistent with use of “% of minimum hourly rate” used below in same tables.		
	APESMA	Sub-28Jan15			Disclaimer at start of wages tables should be included advising readers to refer to relevant award clauses	Para 38	
	PGA	Reply-sub-4Mar15			Disagree with APESMA, hourly rates tables assist in payment of correct wages, and they are available from PGA and FWO	Page 3	
62	SDA	Sub-28Jan15	Schedule G	3.1	Definition of default fund employee – Notes definition deleted from ED.	Para 6	
	ABI & NSWBC	Sub-2Feb15			Submits although term not used in award, notes that Full Bench decided to include definition in all awards; consideration should be given to retaining definition in accordance with decision.	Para 65	See Full Bench decision [2013] FWCFB 10016
	APESMA	Reply-sub-17Feb15			Generally agree with ABI & NSWBC submission.	Para 31	
	SDA	Reply-sub-18Feb15			Supports ABI & NSWBC submission.	Para 55	
	PGA	Reply-sub-4Mar15			Support ABI & NSWBC submission.	Page 1	

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	PGA	Reply-sub-4Mar15			Support SDA	Page 3	
	Business SA	Reply-sub-4Mar15			Supports ABI and NSWBC in retaining definition of 'default fund employee' based on FWCFB 10016	Page 11	
63	PGA	Sub-28Jan15	Schedule G	3.1	Definitions – Proposes to insert note explaining term “national system”.	Attachment A	
Proposed new clauses							
64	SDA	Sub-25Nov14			Blood donor leave – Seeks inclusion of new clause to provide all employees with 2 hours paid leave on maximum of 4 occasions per year. Casuals would be entitled to be absent for 2 hours, up to 4 occasions per year without pay.	Paras 21–22	Being considered. SDA to provide draft clause
65	SDA	Sub-25Nov14			Bone marrow donor leave – Seeks inclusion of new clause to provide all employees with 2 hours paid leave on maximum of 2 occasions per year. Casuals would be entitled to be absent for equivalent time, without pay.	Paras 23–27	Being considered. SDA to provide draft clause
66	APESMA	Sub-25Nov14			Professional services allowance – Seeks inclusion of new allowance to cover additional duties.	Page 2	
67	APESMA	Sub-25Nov14			Reimbursement of expenses – Seeks inclusion of new clause providing reimbursement for Professional Insurance costs and Registration Fees.	Page 2	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	Reference	NOTES
68	APESMA	Sub-25Nov14			CPD training and study leave – Seeks inclusion of new clause providing for employers to provide financial and time assistance.	Page 2	<i>See item 56</i>
69	APESMA	Sub-25Nov14			Workloads – Seeks inclusion of new provision restricting number of prescriptions pharmacists may dispense in one day.	Page 3	Subject to separate discussions

List of abbreviations (in alphabetical order)

APESMA	The Association of Professional Engineers, Scientists and Managers, Australia
ABI & NSWBC	Shop, Distributive and Allied Employees Association
FWO	Health Services Union
HSU	National Employment Standards
NES	Pharmacy Guild of Australia
PGA	Private Hospital Industry Employers' Association
PHIEA	Australian Business Industrial and the New South Wales Business Chamber Ltd
SDA	Fair Work Ombudsman