

## ***Fast Food Industry Award 2010***

### **Agenda for Conference – 9.30am, 12 February 2021**

This document sets the agenda for items to be discussed during the conference on 12 February 2021.

A Statement was issued on 21 January 2021, along with a summary of submissions document related to the *Fast Food Industry Award 2010* and the *Hair and Beauty Industry Award 2010*.

Updated plain language exposure drafts (PLEDs) for each award were also published on 21 January 2021.

In the summary of submissions document parties were requested to review the document to ensure that their submissions are accurately characterised. If parties wish to make amendments they were to notify [amod@fwc.gov.au](mailto:amod@fwc.gov.au) by COB 5 February 2021. **No submissions were received.**

#### **A. Confirm that no amendments are to be made to the summary of submissions documents.**

*Parties should attend the conference in a position to state whether any amendments are to be made to the summary of submissions document published on 21 January 2021.*

#### **B. Confirm provisional view outlined at [4] of the Statement [2021] FWCFB 293 (relating to minor errors):**

*Parties should attend the conference in a position to state whether any of the minor errors outlined at para [4] of the Statement are opposed. In the absence of opposition from parties, the provisional view will be confirmed and amendments marked up in the PLED published on 21 January 2021 will be adopted.*

#### **C. Items for determination (outlined at para [6] of the Statement [2021] FWCFB 293)**

The submissions raise a number of issues that require determination. The issues are summarised at para [6] of the Statement.

In the summary of submissions document, a resolution was outlined for a number of these issues.

##### **C.1 Items with a proposed resolution**

*Parties should attend the conference in position to state whether any of the proposed resolutions for the following items are opposed. In the absence of opposition from parties, the amendments will be adopted in the PLED.*

*The item numbers and description listed below correspond with the item numbers contained in the summary of submissions document:*

Item Ref	Description and PLED clause number	Proposed resolution
Item 1	Definitions - (clause 2) <ul style="list-style-type: none"><li>SDA note the words ‘unless the contrary intention appear’ have been deleted in the PLED</li></ul>	Standard wording across all PLEDs has been adopted. No change necessary

<b>Item 3</b>	<p>Definitions - default fund employee (clause 2)</p> <ul style="list-style-type: none"> <li>• SDA objects to the deletion of 'default fund employee'</li> <li>• Ai Group submit it is appropriate to delete the term as it is not used in the award</li> </ul>	<p>If a term in the current award is defined but not used anywhere in the award, the definition has been deleted.</p> <p>No change necessary.</p>
<b>Item 4</b>	<p>Definitions – standard rate (clause 2)</p> <ul style="list-style-type: none"> <li>• SDA objects to change in definition from weekly to hourly rates and the deletion of reference to the allowance and proposes a standard 'weekly rate' and 'standard hourly rate' definition.</li> <li>• Ai Group submits the changes proposed to the definition of standard rate by SDA are not necessary. Notes each of the relevant allowances in PLED Schedule B are expressed as a percentage of the hourly standard rate.</li> </ul>	<p>The definition is reflected in the <a href="#">Comparison of FFIA Current / ED</a>.</p> <p>Reference to allowances being 1/38<sup>th</sup> of the weekly wage is no longer relevant. Allowances are expressed as a percentage of the hourly standard rate.</p> <p>No change necessary.</p>
<b>Item 5</b>	<p>The National Employment Standards and this award (clause 3.4)</p> <ul style="list-style-type: none"> <li>• SDA objects to the deletion of the words 'whichever makes them more accessible'</li> <li>• Ai Group submit the approach reflects that taken by the FWC across all awards</li> </ul>	<p>Standard approach across all awards</p> <p>Matter dealt with in <a href="#">[2014] FWCFCB 9412</a> at para [29].</p> <p>No change necessary.</p>
<b>Item 6</b>	<p>Coverage – 'fast food industry' definition (clause 4.2)</p> <ul style="list-style-type: none"> <li>• SDA objects to location of 'fast food industry' definition within the coverage clause. Submits definition be located in the definitions clause and referred to by reference in cl. 4.2</li> </ul>	<p>PLED updated:</p> <p>Definition of industry moved to clause 4 and a reference definition inserted into clause 2</p>
<b>Item 7</b>	<p>Coverage: (clause 4.2(a))</p> <ul style="list-style-type: none"> <li>• Ai Group objects to replacing the words 'meals' and 'snacks' with 'food' due to concerns about altering the meaning of the coverage clause.</li> <li>• ABI agrees</li> <li>• SDA favours the current clause wording</li> </ul>	<p>Propose amending PLED clause 4.2(a) to:</p> <p><del>'food or meals, snacks or</del> beverages sold to the public primarily for consumption away from the point of sale; or'</p>
<b>Item 8</b>	<p>Coverage – 'fast food industry' definition (clause 4.2(b))</p> <ul style="list-style-type: none"> <li>• Ai Group objects to replacing the words 'take away foods' with 'food' due to concern it broadens the scope of the fast food industry and expands the coverage of the award.</li> <li>• ABI agrees the wording should be 'take away food'</li> <li>• SDA favours the current clause wording</li> </ul>	<p>Propose amending PLED clause 4.2(b) to:</p> <p>(b) <del>'food or</del> take away foods and/or beverages packaged, sold or served in such a way as to allow them to be consumed away from the point of sale should the customer so decide; or'</p>

<b>Item 9</b>	<p>Coverage – ‘fast food industry’ definition (clause 4.2)</p> <ul style="list-style-type: none"> <li>• Ai Group objects that the words ‘inside the catering establishment’ have not been retained in PLED cl. 4.2(c) due to concerns their deletion may alter the coverage of the award.</li> <li>• SDA submits AiG’s objections are consistent with their position</li> </ul>	<p>Propose amending PLED clause 4.2(c) to:</p> <p>(c) ‘food or beverages sold or served in food courts, shopping centres or retail complexes, excluding coffee shops, cafes, bars and restaurants that primarily provide a sit-down service <b>inside the catering establishment.</b>’</p>
<b>Item 13</b>	<p>Coverage – clause 4.5</p> <ul style="list-style-type: none"> <li>• Ai Group objects to the replacement of the words ‘the employee’ with ‘it’ in PLED cl 4.5 – creates ambiguity.</li> <li>• SDA submits AiG’s objections are consistent with their position</li> </ul>	<p>Propose amending PLED clause 4.5 as follows:</p> <p>“... the work performed by the employee and to the environment in which <b>the employee normally performs the work.</b>”</p>
<b>Item 16</b>	<p>Part-time employees – (clause 10)</p> <ul style="list-style-type: none"> <li>• SDA objects that current award clause 12.8 is not retained in the PLED.</li> </ul>	<p>Current award clause 12.8 is located at PLED clause 11.2 (casual employees).</p> <p>No change necessary</p>
<b>Item 23</b>	<p>Classification definitions (clause 12.4(a)(i))</p> <ul style="list-style-type: none"> <li>• Ai G submits that the word ‘food’ in PLED cl. 12.4(a)(i) should be replaced with ‘meals, snacks’ (see item 7)</li> </ul>	<p>Propose to amend this in line with Item 7</p>
<b>Item 24</b>	<p>Classification definitions (clause 12.4(a)(i))</p> <ul style="list-style-type: none"> <li>• Ai G objects to using the phrase ‘food or beverages’ in PLED cl. 12.4(a)(i) rather than ‘food and/or beverages’ because read literally it excludes employees undertaking the relevant activities in relation to both food <i>and</i> beverages. Submits ‘or’ should be replaced with ‘and/or’</li> </ul>	<p>Propose to replace the word ‘or’ with ‘<b>and/or</b>’</p>
<b>Item 26</b>	<p>Classification definitions (clause 12.4(a)(i))</p> <ul style="list-style-type: none"> <li>• Ai Group submits that PLED cl. 12.4(a)(i) defines a level 1 employee more expansively than the FFIA does and introduces new undefined and unclear terminology such as the reference to ‘retail complex’. Submits ‘retail complex should be deleted’.</li> <li>• <i>What does the SDA say about this?</i></li> </ul>	<p>Propose to amend 12.4(a)(i) of the PLED as follows:</p> <p>(i) Engaged in taking orders for ... consumption away from the point of sale or in a food court <b>in a shopping centre</b> <del>or retail complex</del></p>
<b>Item 27</b>	<p>Classification definitions (clause 12.4(b)(i))</p> <ul style="list-style-type: none"> <li>• Ai Group submits that the first ‘or’ in PLED cl. 12.4(b)(i) should be replaced with ‘and/or’.</li> <li>• SDA submits AiG’s objections are consistent with their position</li> </ul>	<p>Propose to replace the word ‘or’ with ‘<b>and/or</b>’</p>

<b>Item 32</b>	<p>Adult rates (clause 15.1)</p> <ul style="list-style-type: none"> <li>• SDA submits that including the following note linking the hourly rate to the minimum weekly rate would add clarity: 'The minimum hourly rate is 1/38th of the minimum weekly rate'</li> <li>• Ai Group not opposed</li> </ul>	<p>Propose inserting the following note as Note 1 and renumbering existing notes as Note 2 and Note 3:</p> <p><b>Note 1: 'The minimum hourly rate is 1/38th of the minimum weekly rate'</b></p>
<b>Item 35</b>	<p>Broken Hill allowance (clause 17.2)</p> <ul style="list-style-type: none"> <li>• SDA suggests including a note showing the quantum as a percentage</li> <li>• Ai Group submits SDA's amendment not necessary</li> </ul>	<p>Standard approach across all awards: percentages moved from allowances clause to Monetary Allowances Schedule</p> <p>No change necessary</p>
<b>Item 36</b>	<p>Cold work allowance (clause 17.3)</p> <ul style="list-style-type: none"> <li>• SDA suggests including a note showing the quantum as a percentage</li> <li>• Ai Group submits SDA's amendment not necessary</li> </ul>	<p>Standard approach across all awards: percentages moved from allowances clause to Monetary Allowances Schedule</p> <p>No change necessary</p>
<b>Item 41</b>	<p>Transport of employee reimbursement (clause 17.7(b))</p> <ul style="list-style-type: none"> <li>• Ai Group Submits that the words following the scomma should appear in a separate line below PLED cl. 17.7(b)(ii). They are to be read with cl. 17.2(b)(i) - 17.2(b)(ii).</li> <li>• SDA supports Ai Group</li> </ul>	<p>Propose the following amendment:</p> <p>'The employer must reimburse the employee, <b>as applicable</b>, for any cost they reasonably incur in taking a commercial passenger vehicle:</p> <p>(i) from their usual place of residence to their place of work; or (ii) from their place of work to their usual place of residence; <b>whichever is applicable.'</b></p>
<b>Item 43</b>	<p>Accident pay (clause 18)</p> <ul style="list-style-type: none"> <li>• SDA objects to the definition for injury at FFIA cl. 20.1(b) is not retained in the PLED cl.18.</li> <li>• Ai Group submits the definition is reflected in clause 18.2(c)</li> </ul>	<p>Current award clause 20.1(b) is at PLED clause 18.2(c).</p> <p>No change necessary</p>
<b>Item 48</b>	<p>Overtime rates: (clause 20.6)</p> <ul style="list-style-type: none"> <li>• Ai Group submits that PLED cl. 20.6 and Table 5 are not clear that each day stands alone when calculating overtime rates on Monday to Saturday.</li> <li>• Supports Ai Group's concerns</li> </ul>	<p>Propose to add new clause 20.7 as follows (and renumber the clauses that follow accordingly):</p> <p><b>'The overtime rates prescribed in clause 20.6 for overtime work on Monday to Saturday are to be calculated on the basis that each day's work stands alone.'</b></p>
<b>Item 58</b>	<p>Unpaid family and domestic violence leave (clause 26)</p> <ul style="list-style-type: none"> <li>• SDA objects to referring to the NES and</li> </ul>	<p>Standard clause inserted into all modern awards.</p> <p>No change necessary</p>

	the deleting of the family and domestic violence leave clause (FFIA cl. 32).	
<b>Item 65</b>	Expense-related allowances – clause B.2.1 <ul style="list-style-type: none"> <li>• Ai Group submits that the references in PLED cl. B.2.1 to ‘per meal’ should be replaced with ‘per occasion’ because the allowance is not payable by reference to each meal consumed, rather the entitlement arises each occasion the relevant criteria are satisfied.</li> </ul>	Propose to replace all references to ‘per meal’ with ‘per occasion’ in clause B.2.1

## C.2 Outstanding items

*The remaining items are outstanding and will be determined on the papers. Parties should attend the conference in position to state whether they are opposed to the remaining items being dealt with on the papers, or if they seek the opportunity to file further submissions on any of the issues.*

The remaining outstanding item numbers (from the summary of submissions document) are as follows: Items 2, 10, 11, 13, 15, 17, 18, 19, 20, 21, 22, 28, 30, 31, 33, 37, 38, 39, 40, 45 and 50-55.