

## ***Hair and Beauty Industry Award 2010***

### **Agenda for Conference – 10:00am, 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 21 January Statement are opposed. In the absence of opposition from parties, the provisional view will be confirmed and amendments marked up in the PLEDs 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 proposed resolution was outlined for 4 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 – apprentice (clause 2) <ul style="list-style-type: none"> <li>• Ai Group objects to the definition of ‘apprentice’ due to concerns it is not appropriate and would also apply to trainees. Submits the definition should be deleted</li> <li>• SDA and AWU not opposed</li> </ul>	Current award contains definition of ‘adult apprentice’ but not ‘apprentice’  <b>Propose to remove the definition of apprentice</b>
Item 2	Definitions – minimum hourly rate (clause 2) <ul style="list-style-type: none"> <li>• Ai Group submits omission of reference to the rates prescribed by cl. 18 makes the application of provisions regarding the ‘minimum hourly rate’ for apprentices, trainees and graduates unclear. Suggests inserting a reference to cl.18 in the definition.</li> <li>• SDA and AWU not opposed</li> </ul>	Propose amending definition to read:  <b>“minimum hourly rate means the minimum hourly rate specified in clause 17 – Minimum rates or clause 18 – Apprentice, trainee and graduate rates, as applicable.”</b>  Note: this change should also be made at clause 24.3(a) (Annual leave loading).
Item 4	Definitions – deletion of standard weekly rates (clause 3.4) <ul style="list-style-type: none"> <li>• SDA objects to the deletion of the reference to the allowance in the PLED definition of ‘standard weekly rate.’</li> <li>• Ai Group submits SDA’s changes are not necessary given the approach taken in Schedule B of the PLED.</li> </ul>	Reflects definition in <a href="#">Comparison of HABIA Current / ED</a>  No change necessary
Item 5	The National Employment Standards and this award (clause 3.4) <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>	Standard approach across all awards  Matter dealt with in <a href="#">[2014] FWC FB 9412</a> at para [29].  No change necessary.
Item 7	Coverage (clause 4.2(e)) <ul style="list-style-type: none"> <li>• ABI Submits that the words ‘face or head massaging’ in PLED cl. 4.2(e) should constitute a separate provision as cl. 4.2(f).</li> <li>• SDA not opposed</li> </ul>	Suggest adding new clause 4.2(f) as follows (and renumbering the clauses that follow accordingly):  <b>‘(f) face or head massaging’</b>
Item 11	Coverage (clause 4.6) <ul style="list-style-type: none"> <li>• Ai G objects due to concerns about ambiguity. Submits replacing the words ‘the employee’ with ‘it’ make is unclear whether the provision requires an assessment of the environment in which the <i>work</i> is normally performed or the environment in which the work is normally performed by <i>the employee</i>.</li> </ul>	Propose to revert to the <a href="#">current award</a> wording as Ai Group suggest:  <b>“... the work performed by the employee and to the environment in which the employee normally performs the work.”</b>

	<ul style="list-style-type: none"> <li>• SDA and AWU not opposed</li> </ul>	
<b>Item 17</b>	<p>Part time employees (clause 10.6)</p> <ul style="list-style-type: none"> <li>• Ai Group objects that cl. 10.6 only refers to cl. 17. Submits the minimum rates payable to apprentices, trainees and graduates in cl. 18 should also be referenced. Alternative wording provided.</li> <li>• SDA and AWU support the inclusion of the reference to clause 18</li> </ul>	<p>Propose PLED clause 10.6 be amended:</p> <p>‘A part-time employee must be paid in accordance with clause 17— Minimum rates <b>or clause 18—Apprentice, trainee and graduates, as applicable.</b>’</p>
<b>Item 18</b>	<p>Casual employees (clause 11)</p> <ul style="list-style-type: none"> <li>• Ai G provides a suggested a clause outlining ordinary hours of work for casual employees to be inserted at PLED cl. 11.</li> <li>• SDA support; AWU not opposed</li> </ul>	<p>Propose a new clause 11.3 be inserted as follows (and the clauses that follow be renumbered accordingly):</p> <p><b>‘11. 3 The ordinary hours of work for a casual employee:</b></p> <p><b>(a) May be no more than 38 ordinary hours per week; or</b></p> <p><b>(b) Where the employee works in accordance with a roster, they may be no more than 38 ordinary hours per week averaged over the course of the roster cycle.’</b></p>
<b>Item 19</b>	<p>Casual employees (clause 11.3(a))</p> <ul style="list-style-type: none"> <li>• Ai Group objects that cl. 11.3(a) only refers to cl. 17. Submits the minimum rates payable to apprentices, trainees and graduates in cl. 18 should also be referenced.</li> <li>• SDA and AWU support AiG proposal</li> </ul>	<p>Propose PLED clause 11.3(a) be amended as follows:</p> <p>‘(a) the minimum hourly rate in clause 17—Minimum rates <b>or clause 18—Apprentice, trainee and graduates, as applicable</b> for the classification in which they are employed; and’</p>
<b>Item 24</b>	<p>Apprentices (clause 12.5)</p> <ul style="list-style-type: none"> <li>• SDA submits that the wording of HABIA cl.19.5(i) should be retained, particularly the phrase ‘...<i>work</i> or be required to work’. Objects to deletion of the word ‘work’ as italicised above.</li> <li>• Ai G not opposed</li> </ul>	<p>Propose amending clause 12.5 in order to be consistent with current award clause 19.5(i), as follows:</p> <p><b>‘Except in an emergency, an apprentice must not work or be required to work <del>employer must not require an apprentice to work</del> overtime or shiftwork at any time that would prevent their attendance at training in accordance with their training agreement.’</b></p>
<b>Item 36</b>	<p>Rostering – part time employees (clause 15.3(d))</p> <ul style="list-style-type: none"> <li>• Ai G submits that a reference to cl.10.4 should be added to cl.15.3(d) to ensure that any subsequent</li> </ul>	<p>Propose amending clause 15.3(d) to:</p> <p>‘An employer may change an employee’s roster, but not the</p>

	<p>agreement to change an employee's hours of work is taken into account.</p> <ul style="list-style-type: none"> <li>• AWU not opposed</li> </ul>	<p>number of hours agreed under clause 10.3 <b>or as varied under clause 10.4...</b></p>
<b>Item 42</b>	<p>Broken Hill allowance (clause 20.4)</p> <ul style="list-style-type: none"> <li>• SDA suggests including a note showing the quantum as a percentage</li> </ul>	<p>Standard approach across all awards: percentages moved from allowances clause to Monetary Allowances Schedule</p> <p>No change proposed</p>
<b>Item 44</b>	<p>Tool allowance (clause 20.8(a))</p> <ul style="list-style-type: none"> <li>• AWU submits PLED cl. 20.8(a) should be amended to expressly state that the tool allowance is payable in relation to scissors and other cutting instruments.</li> <li>• Ai Group not opposed</li> </ul>	<p>Propose amending 20.8(a) as follows:</p> <p>‘(a) If an employer requires an employee to provide and use their own tools <b>(including, but not limited to, scissors and other cutting instruments)</b>, then the employer must pay the employee a tool allowance of \$8.99 per week.’</p>
<b>Item 45</b>	<p>Travelling time reimbursement (clause 20.9(a))</p> <ul style="list-style-type: none"> <li>• SDA notes that the PLED restricts the reimbursement to full-time or part-time employees. Submits that the clause should begin with ‘If an employer requires an employee to work...’ in order to capture any employee who is required to work somewhere other than their usual place of work</li> </ul>	<p>Current award clause 13.4 sets out provisions in the award that do not apply to casuals. Current award clause 21.5 (travelling time reimbursement) does not apply to casuals. The words ‘full-time or part-time’ were inserted to clarify that PLED clause 20.9(a) does not apply to casuals.</p>
<b>Item 48</b>	<p>Transport of employee reimbursement (20.10(b)(ii))</p> <ul style="list-style-type: none"> <li>• Ai G submits that the words whichever is applicable’ in cl.20.10(b)(ii) relate to cl.20.10(b)(i) and 20.10(b)(ii) and should therefore appear on a separate line below cl.20.10(b)(ii).</li> <li>• AWU not opposed</li> </ul>	<p>Propose to reword clause as follows:</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</p> <p>(ii) from their place of work to their usual place of residence, <b>whichever is applicable.</b>’</p>
<b>Item 52</b>	<p>Overtime rates (clause 22.5)</p> <ul style="list-style-type: none"> <li>• Ai G Submits that the reference to rostered days off in Table 16 should include a footnote referring to cl.23.2, otherwise it is not clear when those rates are payable.</li> </ul>	<p>Propose inserting a new Note 2 (and renumbering existing note 2 to note 3):</p>

	<ul style="list-style-type: none"> <li>• AWU not opposed</li> </ul>	<p>“NOTE 2: Clause 23.2 sets out provisions relating to working on a rostered day off.”</p>
<b>Item 53</b>	<p>Overtime rates (clause 22.5)</p> <ul style="list-style-type: none"> <li>• AWU submits that the wording of Note 1 is currently inaccurate because the Sunday and public holiday rates have not been calculated in the manner stated in the note.</li> <li>• Ai G agrees</li> <li>• SDA agrees</li> </ul>	<p>Propose amending note to clarify, as follows:</p> <p>NOTE 1: The overtime rates for casual employees for Monday to Saturday have been calculated by adding the casual loading specified in clause 11.3(b) to the overtime rates for full-time and part-time employees specified in clause 22.5.</p>
<b>Item 60</b>	<p>Temporary close-down (clause 24.4(b))</p> <ul style="list-style-type: none"> <li>• SDA objects to PLED cl.24.4(b) and submits it should be deleted because it is not in the HABIA.</li> <li>• Ai Group and AWU submit PLED clause 24.4(b) reflects current award clause 33.5</li> </ul>	<p>Propose to make no amendment.</p> <p>Current award clause 33.5 states:</p> <p>‘33.5 Requirement to take leave notwithstanding terms of the NES</p> <p>An employer may require an employee to take annual leave by giving at least four weeks’ notice as part of a close-down of its operations.’</p>

## 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.*

For reference, the remaining outstanding item numbers (from the summary of submissions document) are as follows: 8-10, 15, 16, 20, 22, 23, 25-29, 30, 32-34, 38, 40, 41, 43, 46, 47, 49, 50, 54-56, 58, 59, 61, 63-66.