

SUMMARY OF SUBMISSIONS

Revised as of 28 August 2015. Issues identified as agreed between parties in the SDA submission of 15 July 2015 have not been included.

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	
		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	
		Sub-31Mar15			Submission of plain-English draft of award.	Attachment A	
	APESMA	Reply-sub-17Feb15			Strongly opposes PGA proposal. Will result in serious issues and delay process of finalising new award.	Paras 4-12	
		Reply-sub-1Apr15				Page 1	
		Reply-sub-20Aug15			Paras 10–14		
	SDA	Reply-sub-18Feb15			Paras 6-20		

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		Reply-sub-1Apr15				Pages 1-2	
		Reply-sub-21Aug15				Paras 5–11	
	HSU	Reply-sub-1Apr15			Opposes plain-English draft.	Page 1-2	
		Sub-16Jul-15				Paras 10-11	
2	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 various forms of rates apply.	Para 38	
	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	

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Award specific issues							
3	SDA	Sub-25Nov14 Sub-15Jul15	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 Paras 52–54	ABI&NSWBC submits this should be determined by a separately constituted Full Bench.
4	SDA	Sub-25Nov14 Sub-15Jul15	6.3	11	Full-time employment –Seeks to vary award to include minimum shift of 4 hours for full-time employees.	Paras 7–9 Para 55–59	Not agreed
5	PGA	Sub-25Nov14	6.3	11	Full-time employment – Requires full-time definition.	Item d	
6	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
7	SDA	Sub-28Jan15 Sub-15Jul15	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 Paras 19-27	See also [2015] FWCFB 4658
	PGA	Reply-sub-4Mar15				Oppose SDA submission	

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	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 Sub-21Aug15			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 Para 2.9	
8	PGA	Sub-25Nov14	8	25	Hours of work – Proposes two hour minimum engagement for school students	Item 4	Referred to the full-time/part-time Full Bench
	PGA	Sub-15Jul15			Hours of work – Propose daily minimum engagement for secondary students of 90 mins, subject to certain circumstances.	Paras 18–24	
	HSU	Reply-sub-21Aug15			Opposes PGA proposal.	Paras 4–5, 11–12	
	SDA	Reply-sub-21Aug15			Opposes PGA proposal.	Paras 33–35	
	APESMA	Reply-sub-20Aug15			Opposes PGA proposal.	Para 7	
9	PGA	Sub-25Nov14	8.2(d)-(f)	25.3	Hours of work – Seeks to address FWO interpretation issue.	Item a	
10	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;	Para 59	

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					should consider whether to retain or re-draft		
	APESMA	Reply-sub-17Feb15			Both agree with ABI & NSWBC submission.	Para 31	
	SDA	Reply-sub-18Feb15				Para 50	
	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	
11	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	
12	SDA	Sub-15Jul15	10; 14		Wage tables – while some agreement has been reached regarding inclusion	Paras 12–22	

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					of these tables, the award would benefit from a definition of 'minimum hourly rate' and 'ordinary hours'.		
	ABI&NSWBC	Sub-21Aug15			Do not oppose SDA submission in respect of proposed clause 14.1(b), but oppose inclusion of definitions.	Paras 2.5–2.8	
13	APESMA	Sub-25Nov14 Sub-15Jul15	10.1	17	Minimum wages – Seeks to have rates for Pharmacists and Pharmacy students increased.	Page 2 Para 16.1	Has held discussions with other parties and they agreed this should be dealt with by a separate Full Bench.
14	PGA	Sub-25Nov14	10.1	17	Minimum wages – Seeks specification as to when a pharmacy student moves up to next pay point.	Item b	
15	SDA	Sub-25Nov14 Sub-15Jul15	10.2	18	Junior employees – Seeks to vary clause to provide for payment of junior rates to Level 1 employees only.	Paras 10–12 Paras 60–63	ABI&NSWBC submits this should be determined by a separately constituted Full Bench.
16	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	Item A and; Page 2 and attachment A	

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					weekly or fortnightly basis.		
17	PGA	Sub-25Nov14 Sub-28Jan15 Sub-15Jul15	10.4		Annualised salary – propose to delete “(Pharmacists only)” from clause title; seeks annualised salary for pharmacy assistants.	Item 2 Attachment A Paras 14–17	No agreement
	SDA	Reply-sub-18Feb15 Reply-sub-21Aug15		Strongly opposes PGA proposal. Substantial change. Issue should be addressed at conference and hearing, not in relation to ED.	Paras 41-45 Paras 12–13, 29–32		
	HSU	Reply-sub-21Aug15		Oppose PGA proposal.	Paras 4–5, 9–10		
	APESMA	Reply-sub-20Aug15		Oppose PGA proposal.	Para 7		
18	APESMA	Sub-28Jan15	11.2(a)(v)		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	Para 31	

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					notice.		
	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	
19	SDA	Sub-15Jul15	13.2	26.2	Overtime – Exposure draft fails to reference all of the clauses in 8.2 which are currently included in the award.	Paras 28–35	
	ABI&NSWBC	Sub-21Aug15			Agree with SDA	Para 2.10	
20							
21	SDA	Sub-15Jul15	13.2(a)	26.2	Overtime – Payment for overtime should also occur when an employee works out “ordinary” hours.	Paras 36–39	
	ABI&NSWBC	Sub-21Aug15			Opposed SDA submission.	Para 2.11	

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22	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	
	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	Para 64	

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					employees are not entitled to overtime payments.		
	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			APEMSA 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	
23	SDA	Sub-25Nov14 Sub-15Jul15	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 Paras 40–51	Parties suggest this be dealt with as part of casual and part-time Full Bench proceedings.

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	ABI&NSWBC	Sub-21Aug15			Do not agree that any changes have been made to substantive entitlements.	Paras 2.12-2.13	
24	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. 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.	Paras 25-28	
	SDA	Reply-sub-18Feb15			Opposes PGA proposal to remove words ‘for each hour worked’. Wording necessary to describe rate at	Para 33-36	

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					which they will receive time off. Also oppose removal of wording 'elects to'		
25	SDA	Sub-28Jan15	Schedule B		Summary wages tables – Tables not consistent with use of term 'minimum hourly rate' and 'ordinary hours'; submits 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.	Paras 28–30	
	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	
Proposed new clauses							
26	SDA	Sub-25Nov14 Sub-15Jul15			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 Paras 66–67	Being considered. SDA to provide draft clause
27	SDA	Sub-25Nov14			Bone marrow donor leave – Seeks inclusion of new clause to provide all	Paras 23–27	Being considered. SDA to provide

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		Sub-15Jul15			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 68-71	draft clause
28	APESMA	Sub-25Nov14 Sub-15Jul15			Professional services allowance – Seeks inclusion of new allowance to cover additional duties.	Page 2 Para 16.2	
29	APESMA	Sub-25Nov14 Sub-15Jul15			Reimbursement of expenses – Seeks inclusion of new clause providing reimbursement for Professional Insurance costs and Registration Fees.	Page 2 Para 16.3	
30	APESMA	Sub-25Nov14 Sub-15Jul15			CPD training and study leave – Seeks inclusion of new clause providing for employers to provide financial and time assistance.	Page 2 Para 16.4	<i>See item 56</i>
31	APESMA	Sub-25Nov14 Sub-15Jul15			Workloads – Seeks inclusion of new provision restricting number of prescriptions pharmacists may dispense in one day.	Page 3 Para 16.5	Subject to separate discussions
32	PGA	Sub-15Jul15			Direction to take annual leave – Seek inclusion of a clause permitting an employer to direct an employee to take annual leave during close-down.	Paras 7–13	See also [2015] FWCFB 3406
	APESMA	Reply-sub-20Aug15			Opposed to submission.	Para 7	
	SDA	Reply-sub-21Aug15			Opposed to submission.	Paras 12–13, 15–28	

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	HSU	Reply-sub-21Aug15			Opposed to submission.	Paras 6–8	