

## Plain Language Exposure Draft - Pharmacy Industry Award 2010

Summary of submissions and submissions in reply filed in accordance with Decision issued on 20 January 2017

PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE
Shop Distributive and Allied Employees' Association and others	<a href="#">Joint submission - plain language - Pharmacy Award</a> 06/02/2017	2 – Definitions – on-hire	Supports the Full Bench's provisional view to delete the definitions of 'on-hire employer' and 'on-hire employee' and to insert the definition of 'on-hire' from clause 3.1 of the current award.	Para 2-5
			Submits that an employer provided with labour from a third party, such as a labour hire company, is an employer covered by the Pharmacy Award. Submits that an employer will be covered by virtue of the fact that they are supplied with labour.	
Business SA	<a href="#">Submission – plain language - Pharmacy Award</a> 06/02/2017		Supports the Full Bench's provisional view to delete the definitions of 'on-hire employer' and 'on-hire employee' and to insert the definition of 'on-hire' from clause 3.1 of the current award.	Para 1-2
			Submits that if a client does not employ anyone then they are not an employer for the purposes of clause 4.1 of the current Pharmacy Award. Submits that no employment relationship exists between the client and the on-hire employee for the purpose of clause 4.1. Submits that clause 4.5 of the current Pharmacy Award does not require the client to be covered by the award. Submits that clause 4.5 provides award coverage to the on-hire employer and on-hire employee.	
Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award</a> 07/02/2017		Supports the Full Bench's provisional view to delete the definitions of 'on-hire employer' and 'on-hire employee' and to insert the definition of 'on-hire' from clause 3.1 of the current Pharmacy Award.	Para 5
			Submits that the intention of clause 4.5 is that person who is supplied with labour is also covered by the Pharmacy Award.	Para 19-22
Shop Distributive and Allied Employees'	<a href="#">Joint submission in reply - plain language -</a>		Disagrees with Business SA and submits that clauses 4.1 and 4.5 of the current Pharmacy Award should be read together. Submits that 4.1 is the critical clause defining coverage and would	Para 2-9

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Association and others	<a href="#">Pharmacy Award</a> 10/02/2017		cover the on-hire employers, employees supplied and the community pharmacies to which they are supplied.	
Business SA	<a href="#">Submission in reply – plain language - Pharmacy Award</a> 10/02/2017		Disagrees with the Unions’ submission and submits that it is possible that an employee could be on-hired to a host outside the community pharmacy industry and in those cases the host would not become covered by the Pharmacy Award.	Para 1.1-1.3
Pharmacy Guild of Australia	<a href="#">Submission in reply – plain language - Pharmacy Award</a> 13/02/2017		Disagrees with the Unions’ submission that an employer who is supplied labour becomes covered by the Pharmacy Award by virtue of the fact that they have been supplied with labour. Submits on-hire employees are only covered whilst engaged in the performance of work for a business in that industry.	Para 6-10
		Submits that clause 4.3 of the exposure draft should be replaced by clause 4.5 of the current Pharmacy Award because they submit that the revised wording has made the current application of these provisions unclear.		
Shop Distributive and Allied Employees’ Association and others	<a href="#">Joint submission - plain language - Pharmacy Award</a> 06/02/2017	4 – Coverage	Supports the Full Bench’s decision to delete the words “by retail” in clause 4.1 as well as the words after the word “government”	Para 6-7
Business SA	<a href="#">Submission in reply – plain language - Pharmacy Award</a> 10/02/2017		Supports the Full Bench’s decision to delete the words “by retail” in clause 4.1	Para 2

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Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award 07/02/2017</a>		Submits that the Guild does not make a submission in relation to the proposed change in clause 4.1.	Para 6
Shop Distributive and Allied Employees' Association and others	<a href="#">Joint submission - plain language - Pharmacy Award 06/02/2017</a>	10 – Part-time employment	Submits that no tension exists between clause 10.5 and 10.8 and that for clarity a reference to clause 10.5 could be included at clauses 10.8(b) and 10.10.	Para 8-16
			Submits that clause 10.4 should retain the words “on a regular pattern of work”	
			Submits that the new wording of clause 10.10 may alter the legal effect and the current terminology should be used.	
Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award 07/02/2017</a>		Submits that no tension exists between clause 10.5 and 10.9. Submits that no variation to the provisions is necessary.	Para 23-28
			Submits that as all other variations to the hours of work of a part-time employee must be made in writing, the agreement in clause 10.10 should be in writing too.	
Business SA	<a href="#">Submission in reply – plain language - Pharmacy Award 10/02/2017</a>		Agrees with the Unions' and the Guild's submissions that no tension exists between clause 10.5 and 10.9 and that a variation under clause 10.10 should be in writing	Para 3.1-3.2
Pharmacy Guild of Australia	<a href="#">Submission in reply – plain language - Pharmacy Award 13/02/2017</a>		Submits that the change proposed by the Unions to include a reference to clause 10.5 at 10.8(b) and 10.10 is unnecessary. Does not agree with the Unions' submission that the words “on regular pattern of work” are necessary to establish that an employee is part-time.	Para 11-12
Shop Distributive and Allied	<a href="#">Joint submission - plain language -</a>	11 – Casual employment	Supports the Full Bench's provisional view that a casual conversion clause be considered by the part-time and casual Full Bench.	Para 17-18

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Employees' Association and others	<a href="#">Pharmacy Award 06/02/2017</a>		Supports the adoption of a casual conversion clause consistent with the Pharmacy Industry Award Transitional Provision at Appendix A9.	
Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award 07/02/2017</a>		Submits that any variation to include a casual conversion clause should be supported by merits based argument and evidence that one is needed to provide a fair and relevant safety net. Submits that there is presently no such material before the Commission. Requests the opportunity to advance submissions in relation to such a variation.	Para 7-12
Shop Distributive and Allied Employees' Association and others	<a href="#">Joint submission in reply - plain language - Pharmacy Award 10/02/2017</a>		Submits that the Guild has previously interpreted the Pharmacy Award to include a casual conversion clause and their submission that a merit based argument supported by evidence is required is disingenuous and contradictory to their previous submissions.	Para 10-13
Business SA	<a href="#">Submission in reply – plain language - Pharmacy Award 10/02/2017</a>		Agrees with the Guild's submissions	Para 4
Pharmacy Guild of Australia	<a href="#">Submission in reply – plain language - Pharmacy Award 13/02/2017</a>		Does not oppose a casual conversion clause in general. Opposes the casual conversion clause proposed by the Unions.	Para 13-14
Shop Distributive and Allied	<a href="#">Joint submission - plain language -</a>	13 – Hours of work	Supports the Full Bench's provisional view to amend wording of clause 13.4.	Para 19-22

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Employees' Association and others	<a href="#">Pharmacy Award</a> 06/02/2017		Supports the Full Bench's provisional view not to amend wording of clause 13.5.	
Business SA	<a href="#">Submission – plain language - Pharmacy Award</a> 06/02/2017		Supports the Full Bench's proposed amendment of clause 13.4.	Para 3
Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award</a> 07/02/2017		Supports the Full Bench's proposed amendment of clause 13.4.	Para 13
Shop Distributive and Allied Employees' Association and others	<a href="#">Joint submission - plain language - Pharmacy Award</a> 06/02/2017	14 – Rostering arrangements	Agree with the Full Bench's provisional view to amend wording of clause 14.1(e).	Para 23-24
Business SA	<a href="#">Submission – plain language - Pharmacy Award</a> 06/02/2017		Supports the Full Bench's proposed amendment of clause 14.1(e).	Para 4
Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award</a> 07/02/2017		Does not support the Full Bench's proposed amendment of clause 14.1(e). Submits that it would be more appropriate to define what “regularly works Sundays” means.	Para 14-18
Shop Distributive and Allied Employees' Association and	<a href="#">Joint submission in reply - plain language - Pharmacy Award</a>		Submits that the wording was agreed because of a shared understanding by the parties about what the provision meant. Does not agree with the Guild's submission at para 17 of their submission made on 7/02/17.	Para 18-30

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others	10/02/2017		Submits that shift work is not a feature of the community pharmacy industry. Submits that a change to the clause as suggested by the Guild would represent a significant change to the legal effect of the Award. Submits that the provisional view of the Full Bench should be adopted.	
Business SA	<a href="#">Submission in reply – plain language - Pharmacy Award 10/02/2017</a>		Recognises the restriction raised by the Guild.	Para 5.1
Shop Distributive and Allied Employees' Association and others	<a href="#">Joint submission - plain language - Pharmacy Award 06/02/2017</a>	16 – Junior wages	Agree with the Full Bench's use of the table and with the introductory wording proposed for the table.	Para 25
Business SA	<a href="#">Submission in reply – plain language - Pharmacy Award 10/02/2017</a>		Agree with the Unions that the table is the appropriate format.	Para 6
Shop Distributive and Allied Employees' Association and others	<a href="#">Joint submission - plain language - Pharmacy Award 06/02/2017</a>	18 – Allowances	Supports the Full Bench's proposed amendment to clause 18.6.	Para 26-31

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Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award 07/02/2017</a>		Supports the Full Bench’s proposed amendment of clause 18.6.	Para 34
Shop Distributive and Allied Employees’ Association and others	<a href="#">Joint submission - plain language - Pharmacy Award 06/02/2017</a>	21 – Penalty rates	Submits that an error appears in clause 21.1 where the word “days” has been deleted.	Para 32
Business SA	<a href="#">Submission in reply – plain language - Pharmacy Award 10/02/2017</a>		Agrees with the Unions that the word “days” should appear at the end of the sentence at clause 21.1.	Para 7
Pharmacy Guild of Australia	<a href="#">Submission – plain language - Pharmacy Award 07/02/2017</a>	Schedule A	Proposes amendment to the definition of “Dispensary assistant”	Para 29–33