

SUMMARY OF SUBMISSIONS

This matter was listed for **conference** before Justice Ross, President at **9:30 am on Tuesday 19 September 2017** (refer to [notice of listing](#)). This summary of submissions has been updated to reflect discussions during the 19 September 2017 conference.

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	Business SA	Submission – 02/08/17	2	Definitions – ‘departments or sections’ Definition of ‘departments or sections’ has been substantially changed. Under the PLED the three employees working in a department or section no longer need to be subordinate to the dedicated manager, they simply need to work in that department or section; regardless of who they report to. They submit this is a substantive change in the definition. Seek PLED definition mirror current definition.	Para 1.1	The word ‘other’ has been deleted and replaced with ‘subordinate’. See transcript , PNs 22 35.
	ABI & NSWBC	Submission – 03/08/17		Definition differs from the definition in GRIA. Proposes the following wording: <i>“Shop with departments or sections means a shop that has clearly distinguishable departments or sections, each of which has a dedicated manager and at least 3 subordinate employees who work solely or predominantly in that department or section.”</i>	Para 2.1	
	SDA	ReplySub – 17/08/17		Does not support wording proposed by ABI & NSWBC – it represents a substantive change. Supports Business SA’s submission that PLED definition should mirror the current definition.	Paras 4 – 5	
	ABI & NSWBC	ReplySub – 22/08/17		Agrees with Business SA’s submissions.	Para 2.1	

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2	SDA	Submission – 04/08/17	2	Definitions – ‘junior employee’² New definition of junior employee is consistent with s.12 of the Act but not with the definition of junior employee under GRIA. Submit that junior employee under GRIA is an employee who is <i>less than 20 years old and employed by their employer for 6 months or less.</i> Do not support inclusion of new definition.	Paras 9 – 11	Withdrawn – sub 21/09/17
	ABI & NSWBC	ReplySub – 22/08/17		Disagrees with SDA’s submission. Rates of pay at cl 18.2 apply to employees less than 21 years of age. An employee who is 20 years of age and employed for more than 6 months is paid 100% of adult rate does not affect the fact they still fall under definition of a junior employee for purpose of s.12 FW Act.	Paras 2.2 – 2.3	
	Business SA	Sub – 20/09/17		Proposal, if pressed by SDA, is unnecessary.	Para 1.	
3	SDA	Submission – 04/08/17	2	Definitions – ‘long term casual employee’² Submit proposed definition is consistent with s.12 of the Act but inconsistent with GRIA which does not currently contain reference to a long term casual. Proposed definition can only be considered in the context of the current GRIA cl 19.3 (Adult apprentice minimum wages). New definition is unnecessary and does not assist with interpretation of existing provision. Does not support inclusion of definition.	Paras 12 – 15	Withdrawn – sub 21/09/17
	Business SA	Sub – 20/09/17		Disagrees that definition of long term casual employee is unnecessary.	Para 2	

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4	SDA	Submission—04/08/17	2	<p>Definitions—‘National employment standards’</p> <p>The definition has been extended compared to the current definition.</p> <p>Propose:</p> <ol style="list-style-type: none"> 1. the abbreviation for NES be retained; should be included in definition as t is used in other parts of GRIA; 2. the reference to s59 of Act be reinstated so definition remains consistent with GRIA and to provide direct reference to purpose of NES; 3. that extract from s59 of Act be reproduced to extract from s61 in PLED (extracted paras at para 18(iii) of Submission. 	Paras 16—18	Withdrawn. See transcript , PN 61 and sub 21/09/17 .
	Business SA	Reply Submission—22/08/17		<p>Agree that abbreviation for NES be retained in definitions. Appropriate for definition to contain abbreviation not at cl 3.1 of PLED.</p> <p>Does not agree a specific reference to s.59 needs to be reinstated. PLED points reader to Part 2-2 of Act & s.59 is first section of 2-2. Reference to purpose of NES already provided by PLED definition.</p> <p>Does not agree an extract of s.59 should be added to PLED to precede the extract from s.61. PLED already points reader to Part 2-2 of Act—proposed wording does not do any work not already done by PLED and Act.</p>	Para 2.1	
	ABI & NSWBC	ReplySub—22/08/17		Opposes SDA’s submission. Reference to s.59 is adequately captured by reference to Part 2-2 of	Paras 2.4—2.5	

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				Act. Does not oppose inclusion of a reference to abbreviation 'NES' in cl 2.		
5	SDA	Submission – 04/08/17	2	Definitions – rostered day off New definition inconsistent with current definition in GRIA. Current cl 28.2 deals with full-time employees having a fixed day off in 4 week cycle, also referred to as a rostered day off (RDO). PLED definition 'a continuous 24 hour period between the end of the last ordinary shift and the start of the next ordinary shift, on which an employee is rostered for duty', is inconsistent with GRIA and a substantive change. The definition interferes with overtime provisions and will change the legal effect of GRIA. SDA does not support inclusion of new definition.	Paras 19 – 22	Definition of rostered day off deleted. See transcript , PN 62.
	ABI & NSWBC	ReplySub – 22/08/17		Agrees with SDA submissions. New definition is inconsistent with use of the term in the Award generally.	Paras 2.6	
6	SDA	Submission – 04/08/17	2	Definitions – 'standard rate' Current definition in GRIA 'means the minimum weekly wage for a Retail employee level 4 in cl 17...' Where an allowance is provided for on an hourly basis the reference to standard rate means 1/38th of the weekly wage referred to above. PLED replaced current definition with definitions for 'standard hourly rate' and	Paras 23 – 26	Withdrawn – sub 21/09/17

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				‘standard weekly rate’. Submit new definitions are inconsistent with those in GRIA and seek to retain current definition.		
	Business SA	Reply Submission – 22/08/17		Does not agree with SDA. PLED contains guidance re calculation of allowances provided on an hourly basis. Note in cl.23.1 directs reader to Sched C. Sched C.1.1 specifically states hourly wage-related allowances are based on the ‘standard hourly rate as defined in cl 2’.	Para 2.2	
	Business SA	Sub – 20/09/17		Maintains submission re: item 6 if SDA presses its submission.	Para 3	
	ABI & NSWBC	ReplySub – 22/08/17		No longer any requirement for PLED to include term ‘standard rate’ for the purpose of calculating the amount payable with re various allowances, due to those allowances not expressed as monetary amounts.	Para 2.7	Note: percentage of standard rate is still referred to in schedule C.
7	SDA	Submission – 04/08/17	3	NES and this award The phrase from GRIA ‘whichever makes them more accessible’, which has the effect of giving the employer a choice of how copies of NES and Award are made available, GRIA has been removed from the end of PLED clause. Submit that this phrase should be retained in PLED – current clause is constructed to ensure that the most accessible means is adopted.	Paras 27–29	Withdrawn – sub 21/09/17
	Business SA	Reply Submission – 22/08/17		SDA’s proposed amendment is not necessary, but does not oppose submission.	Para 3	

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8	SDA	Submission – 04/08/17	4	<p>Coverage Cl 4.6 of GRIA has been varied and moved to Cl 4.2(b) of PLED. The words ‘hosted by a company to perform work at a location where the activities described herein are being performed’. Seek to retain the reference to ‘perform at a location’ to ensure definition consistent with GRIA</p>	Paras 31 – 33	<p>Drafter’s comments:</p> <p>Clause 4.2(b) of the PLED requires that the host employer is covered by the award but does not mandate that the apprentices/trainees be employed “at a location where the activities described herein are being performed”.</p> <p>A clause along the lines of clause 4.2(b) is in all recent PLEDs.</p> <p>If it is considered that the qualification is required for consistency with clause 6.6 of GRIA then I suggest substituting for clause 4.2(b) the following:</p> <p>(b) apprentices or trainees employed by a group training employer and hosted by an employer covered by this award to perform work in the</p>

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						general retail industry (with a classification defined in Schedule A— Classification Definitions) at a workplace where employees mentioned in clause 4.1(b) also perform work and the group training employers of those apprentices or trainees.”
9	SDA	Submission – 04/08/17	6	Award flexibility Current cl.6 has been renamed ‘Award flexibility’ and moved to cl.7 of PLED. SDA relies on its submissions re Award Flexibility as part of AM2016/15 – standard clauses review. Further submissions on 9/8/17 and hearing on 21/8/17.	Para 34	Award flexibility clause has been determined. See [2017] FWCFB 4419
10	SDA	Submission – 04/08/17	7 New column	Facilitative provisions Propose insertion of new column “Employment category” in Table 1 to indicate which category of employee the facilitative provisions apply to. This will enhance the readers understanding of the application of each provision. Also recommends that the following clause is added to ensure that employee is provided with a copy of any agreement with their employer, where a variation is made. Note – no clause was provided in submission.	Paras 35—37	Withdrawn. See transcript , PN 74 and sub 21/09/17 .

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	Business SA	Reply Submission – 22/08/17		Submits SDA's proposal is unnecessary.	Para 4.1	
11	Business SA	Submission – 02/08/17	7, Table 1	Facilitative provisions The reference to 15.10(b) should be to 15.10(a).	Para 2.1	Drafting comment: Drafter agrees with Business SA. Reference should be to 15.10(a).
	ABI & NSWBC	Submission – 03/08/17		Reference to 15.10(b) should be to 15.10(a).	Para 3.1	
	SDA	Reply Submission – 17/08/17		Does not support Business SA submission re 'inaccuracies' with references to cls. 15.10(b), 25.3, 32.8 and 32.9 in Table 1. Does not support Business SA's submission that table should reference specific clauses. Submits reader must be guided about how clause is operative by reading entire provision in context and should be directed to the full provision rather than a specific clause. Re 15.10(a) and (b) Table should reference cl 15.10.	Para 6	
	SDA	sub 21/09/17		Presses the submission above. This item should be determined by full bench with regard to submissions put.		
	Business SA	Reply Submission – 22/08/17		Supports ABI & NSWBW's submission.	Para 4.2	
12	Business SA	Submission – 02/08/17	7, Table 1	Reference to 23.11(b) should be included. 23.11(b) allows an employer and an individual employee to change how the employee is paid when they are recalled to work.	Para 2.2	References to clauses 23.11(b) and 29.10 included in Table 1. See transcript , PNs 85 – 87.
	ABI &	Submission –		Table should also refer to cls 23.11(b) and 29.10.	Para 3.2	

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	NSWBC	03/08/17				
	Business SA	Reply Submission – 22/08/17		Supports ABI & NSWBW’s submission re inclusion of cls. 23.11(b) and 29.10.	Para 4.3	
13	Business SA	Submission – 02/08/17	7, Table 1	Reference to 25.3 is not accurate. The specific provision relating to TOIOPFO is cl.25.3(a). The rest of cl.25.3 provides guidance regarding the agreement made under cl.25.3(a).	Para 2.3	Full Bench to determine with regard to submissions put.
	SDA	Reply Submission – 17/08/17		Does not support Business SA’s submission that table should reference specific clauses. SDA submits reader must be guided about how clause is operative by reading entire provision in context and should be directed to the full provision rather than a specific clause.	Para 6	See report of 19/09/17.
14	Business SA	Submission – 02/08/17	7, Table 1	Reference to 29.10 should be included. Substitution of shift for public holiday may occur by agreement between an employer and: a majority of employees.	Para 2.4	Reference to clause 29.10 included in Table 1.
	ABI & NSWBC	Submission – 03/08/17		Table should also refer to cl 29.10.	Para 3.2	See transcript , PN 87.
	Business SA	Reply Submission – 22/08/17		Supports ABI & NSWBW’s submission re inclusion of cls. 23.11(b) and 29.10.	Para 4.3	
15	Business SA	Submission – 02/08/17	7, Table 1	Reference to 32.8 should be to cl 32.8(a) (annual leave in advance). The rest of cl.32.8 gives reader guidance about how agreement under cl.32.8(a) will operate.	Para 2.5	Full Bench to determine with regard to submissions put.
	SDA	Reply Submission –		Does not support Business SA’s submission that table should reference specific clauses.	Para 6	See report of 19/09/17.

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		17/08/17		SDA submits reader must be guided about how clause is operative by reading entire provision in context and should be directed to the full provision rather than a specific clause.		
16	Business SA	Submission – 02/08/17	7, Table 1	Reference to 32.9 should be to clause 32.9(c) (cashing out of annual leave). The rest of c.32.8 gives reader guidance about how agreement under 32.9(c) will operate.	Para 2.6	Full Bench to determine with regard to submissions put.
	SDA	Reply Submission – 17/08/17		Does not support Business SA’s submission that table should reference specific clauses. SDA submits reader must be guided about how clause is operative by reading entire provision in context and should be directed to the full provision rather than a specific clause.	Para 6	See report of 19/09/17.
17	SDA	Submission – 04/08/17	8.3	Types of employment Cl 8.3 of PLED reflects cl 12.10 of GRIAs. Propose that clause be redrafted to align it with GRIA which clearly sets out protective mechanisms which prevent an employee from converting to another type of employment without consent first being obtained from employer. Propose that cl.8.3 of PLED be re-drafted using wording at para 40 of SDA Submission.	Paras 38 – 40	Clause 8.3(c)(ii) amended to read ‘if that request is granted by the employer, may return to full-time employment at a future date agreed in writing with the employment’. See transcript , PNs 134 – 137.
	Business SA	Reply Submission – 22/08/17		Does not support SDA’s proposed wording for 8.3(a). Preference is PLED wording for para (a). Does not oppose SDA’s submission regarding 8.3(c) but proposes alternative wording if change is to be made to PLED. Alternative own wording	Paras 5.1-5.2	

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				at para 5.2 of Business SA Submission.		
18	ABI & NSWBC	Submission – 03/08/17	8.3(c)(ii)	PLED clause does not contain words included in GRIA cl 12.10. Suggests re-drafting as follows: <i>“may return to full-time employment at a on a specified future date agreed in writing with the employer:.</i>	Para 4.1	Clause 8.3(c)(ii) amended to read ‘if that request is granted by the employer, may return to full-time employment at a future date agreed in writing with the employment’. See transcript , PNs 134 – 138.
	Business SA	Reply Submission – 22/08/17		Supports ABI & NSWBC’s submission.	Para 5.3	
19	ABI & NSWBC	ReplySub – 22/08/17	10	Part-time employment Agrees with Business SA and SDA to the extent that a number of operative provisions of GRIA that have been omitted from cl 10. Submits there may be scope for further review by the Drafter in advance of further discussions between parties.	Para 3.1	Further conference to discuss PT employment. Drafter comment: Clause 10.5 is drafted on the basis that the parties should not be required to agree to include in an agreement something that they are already required to do by the award e.g. minimum roster of 3 hours.
20	SDA	Submission – 04/08/17	10.1	Part-time employment PLED cl.10.1 introduces the concept of ‘an average of 38 ordinary hours’ which is not contained in GRIA. This is a substantive change to the legal effect of GRIA. Also submit it is unclear what the words ‘for	Para 41 – 44	Further conference to discuss PT employment. Drafter comment: I agree that the words “an average of” should be

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				fewer than an average' pertain to. Further submit insertion of words 'ordinary hours' is inconsistent with part-time employment for shiftworkers who work outside the span of 'ordinary hours'. Submit current cl 12 [12.1] is simple and easy to understand and should be retained. SDA does not support inclusion of PLED cl.10.1 as it is substantive change.		omitted from 10.1.
21	SDA	Submission – 04/08/17	10.5 and 10.9	Part-time employment Current cl 12.2 is now reflected in PLED cls 10.5 and 10.9. The words 'regular pattern of work' have been removed. Submit these words are a fundamental to the characteristic and nature of part-time employment, that which distinguishes it from casual employment. Submit this change is substantive and alters legal effect.	Paras 45 – 47	Further conference to discuss PT employment. Drafter comment: I agree that "with the employee to" should be substituted for the expression "with the employee on a regular pattern of work that must include".
22	SDA	Submission – 04/08/17	10.5 and 10.9	Part-time employment 'Words 'minimum daily engagement is three hours' occurring in current cl. 12.2 has been removed from PLED. Submit this is a substantive change which removes the 'minimum daily engagement from part-time employment which has the effect of allowing part-time employees to be engaged on more than one occasion per day. GRIA does not permit this.	Paras 48 – 49	Further conference to discuss PT employment. Drafter comment: In PLED clause 10.9 covers the minimum daily engagement. I suggest that 10.9 might be re-worded as "The

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				Cl 10.5 also removes right of a part-time employee to be notified of a 'minimum daily engagement' by the employer on securing part-time employment.		minimum daily engagement for a part-time employee is 3 consecutive hours".
	ABI & NSWBC	Submission – 03/08/17	10.5	PLED clause does not refer to requirement that an agreement must include the fact that the minimum daily engagement is three hours. This should be re-inserted (regardless of the reference at cl.10.9).	Para 5.1	As 10.9 provides for the minimum daily engagement, there is no need for this to be included in the agreement.
23	Business SA	Submission – 02/08/17	10.5 and 10.6	<p>Part-time employment</p> <p>Submit that 10.6 has been unnecessarily separated from 10.5 and that cl. 10.5 does not fully reflect GRIA provision at cl 12.2. Current 12.2 clearly lists the minimum matters which must be agreed in writing between and employer and part-time employee at time of first employment including “any variation will be in writing” and the “minimum daily engagement is three hours”.</p> <p>10.5 clearly lists matters which must <u>all</u> be agreed in writing when a part-time employee is first engaged. The use of ‘all’ strongly suggests this list is exhaustive. Cl 10.6 further states that the cl 10.5 agreement must state that variations must be in writing.</p> <p>The matters listed in 10.5 are not exhaustive and the PLED wording is less clear than the current wording as the necessary elements of a part-time agreement are split across multiple clauses.</p>	Para 3.1	<p>Further conference to discuss PT employment.</p> <p>Drafter comment:</p> <p>See above.</p> <p>EM: Matters that are provided for directly by an award are not necessary elements of an agreement.</p>

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				<p>The PLED also does not require part-time agreement to specify the daily minimum engagement. This is a requirement under current c 12.2.</p> <p>Submits both issues may be addressed by deleting 10.6 and adding new paragraphs 10.5(e) to (g) as per para 3.1 of Business SA submissions.</p> <p>This will ensure all matters which must be in a part-time employment agreement are contained in a single provision.</p>		
24	SDA	Submission – 04/08/17	10.5	<p>Part-time employment Requirement ‘that any variation will be in writing’ has been removed from cl 10.5. This should be retained as 10.5(f). PLED removes right of a part-time employee to be notified of the requirements for varying their regular pattern of work on securing part-time employment. Submit that reader is not aided by having to cross-reference cl 10.6 and 10.7.</p>	Para 51	<p>Further conference to discuss PT employment.</p> <p>Drafter comment: See above.</p>
	SDA	Submission – 04/08/17	10.5 and 10.7	<p>Part-time employment SDA does not support PLED cls 10.5 and 10.7. Proposes alternative at para 52 of submission.</p>	Para 52	
25	SDA	Submission – 04/08/17	10.9	<p>Part-time employment Submit that reference to daily engagement is also missing from 10.9. GRIA cl. 12.2 provides that minimum daily engagement is three hours.</p>	Para 50	<p>Further conference to discuss PT employment.</p> <p>Drafter comment:</p>

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						See above.
26	SDA	Submission – 04/08/17	10	<p>Part-time employment 12.3 and 12.4 of GRIA have been removed and submits this is a substantive change. The ‘regular pattern of work’ is an identifying and necessary feature of part-time employment under GRIA. The purpose of cls 12.3 and 12.4 go to an employee is engaged already as a part-time employee with a regular pattern of work. It is important that any change to a ‘regular pattern of work’ is agreed in writing and provided to the employee prior to and change. Proposes inclusion of two clauses after cl 10.5: <i>“Any agreement to vary the regular pattern of work must be made in writing before the variation occurs. The agreement and variation must be retained by the employer and a copy given by the employer to the employee.”</i></p>	Paras 53 – 55	<p>Further conference to discuss PT employment.</p> <p>Drafter comment: See item 21 above.</p> <p>I suggest that the following be substituted for 10.6: “The employer and the employee may agree in writing to vary the regular pattern of work agreed under clause 10.5 with effect from a future date or time.”</p>
27	SDA	Submission – 04/08/17	10	<p>Part-time employment GRIA cl 12.6 has been removed from PLED. 12.6 clearly prescribes how an employee who does not meet criteria set out under full time or part time employment is deemed to be a casual employee and paid at that rate. Submit that 12.6 operates as safeguard from being underpaid where they work on an hourly basis, without a regular and agreed pattern of work and not receiving casual wages. Provides clarity as to the</p>	Paras 56 – 58	<p>Further conference to discuss PT employment.</p> <p>Drafter comment: Clause 11.1 of the PLED is to the same effect as 12.6 of the GRIA.</p>

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				categories of employment upon which an employee can be engaged. SDA does not support removal of current 12.6 and seek that it be re-instated as: <i>“An employee who does not meet the definition of a part-time employee and who is not a full-time employee must be paid by the employer as a casual employee under cl XX”.</i>		
	Business SA	Reply Submission – 22/08/17		Does not support SDA’s submission. Submits that SDA’s concern is addressed by cl 11.1 of PLED.	Para 6.1	
28	SDA	Submission – 04/08/17	10.8	<p>Part-time employment GRIA 12.7 has been varied and moved to cl 10.8 of PLED. Submits 10.8 removes instruction for employer on how part-time employee must be paid by reference to the weekly rate.</p> <p>Submits variation to 2nd sentence of 10.8 changes legal effect of when overtime would be paid. Current clause states ‘all time worked in excess of the hours agreed’ while PLED states ‘for each hour worked in excess of the number of ordinary hours agreed.’ Submit change may reduce part-time employee’s entitlement to overtime to ‘for each hour’ rather than the greater ‘for all time’ resulting in loss of entitlement. Submits 10.8 adds the term ‘ordinary hours’ for which there is no explicit definition in the PLED. Reference to ‘ordinary hours’ also introduces</p>	Paras 59 – 62	<p>Further conference to discuss PT employment.</p> <p>Drafter comment: There is no need to instruct employer as to how to calculate an hourly rate as Table 3 sets out hourly rates.</p> <p>I agree that in 10.8 the words “any time” should be substituted for “each hour”.</p>

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				confusion as to how the provision may apply to part-time shiftworkers who work outside the span of hours.		The word “ordinary” could be omitted from clause 10.8 and a reference included to a variation under clause 10.6.
29	ABI & NSWBC	Submission – 03/08/17	10.8	Part-time employment Clause should include a reference to the possibility that an agreement under cl 10.5 may have subsequently been varied. Eg: <i>“For each hour worked in excess of the ordinary number of ordinary hours agreed under clause 10.5 (or as varied as mentioned in clause 10.6), the part-time employee must be paid at the overtime rate specified in Table 9—overtime rates”</i> . This wording is consistent with cl 25.1(b).	Para 5.2	Further conference to discuss PT employment. Drafter comment: See above.
30	SDA	Submission – 04/08/17	10.10 – 10.12	Part-time employment GRIA cl 12.8 heading ‘Rosters’ has been deleted and clauses moved to PLED cls 10.10 – 10.12. Deletion should be considered in context of other rostering provision elsewhere in PLED (including 15.7 – 15.11). A subheading ‘rosters’ assists reader to locate all rostering provisions relevant to them. Consider moving cls 10.10 – 10.12 to cl 15 so all rostering provisions are located together.	Paras 63 – 64	Further conference to discuss PT employment. Drafter comment: I suggest (1) converting 10.10 to 10.12 to paragraphs (a), (b) and (c) of a new 10.10 with the heading “Changes to roster” and (2) adding a Note at the foot of new 10.10 referring to 15.7.

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31	SDA	Submission – 04/08/17	10.11	<p>Part-time employment</p> <p>Cl 10.11 of PLED includes the term ‘mutual agreement’ which is also contained at cl 15.11. Prefer the current wording of 12.8(b): “<i>may be changed By employer and employee by mutual agreement</i>’. This is consistent with current cl 12.8(b). Prefer GRIA wording.</p>	Para 65	<p>Further conference to discuss PT employment.</p> <p>Drafter comment: I suggest substituting the words “by mutual agreement between the employer and the employee” for “by the employer and employee by mutual agreement”</p>
32	SDA	Submission – 04/08/17	10.12(a)	<p>Part-time employment</p> <p>Substantive change re frequency of roster changes permitted under GRIA. GRIA sates rosters must not be changed from week to week or fortnight to fortnight, not linked to pay periods. Effect of variation means that an employee on a fortnightly pay period may still be subject to a change of roster from week to week, which is not permitted. Suggests various changes to address this or re-drafting of clause:</p> <ol style="list-style-type: none"> 1. reinstate subheading Rosters to 10.10, 10.11 and 10.12 if they are retained in cl 10; or 2. vary PLED to relocate 10.10, 10.11 and 10.12 to sit under cl 15.with subheading ‘Rosters – part-time employees’; 3. proposes different wording for 10.11 (at para 67(iii) of submission); 	Paras 66 – 67	<p>Further conference to discuss PT employment.</p> <p>Drafter comment: I had interpreted “from week to week, or fortnight to fortnight” as referring to the pay period referenced in clause 23 of the GRIA.</p> <p>If this is not a correct interpretation, then I agree that clause 10.12(a) should refer to “from week to week or fortnight”.</p>

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				4. proposes different wording for 10.12 (at para 67(iv) of submission).		
33	SDA	Submission – 04/08/17	11.2	Casual employment Drafting provides incomplete reference to all the rates to which casual loading is payable. Propose reinsertion of the current cl 13.2.	Paras 68 – 70	Provisional note included at clause 11.2. Parties are invited to review.
	Business SA	Reply Submission – 22/08/17		SDA’s submission is unclear – SDA has not demonstrated which rates the casual loading is payable upon currently, but which are not captured by cl 11.2. Supports wording as it appears in 11.2 of PLED.	Para 7.1	
	Business SA	Sub – 20/09/17		During conference of 19 Sept 17 Ross J proposed concern Raised by SDA could be addressed by a note which directed the reader interested in penalty rates applicable to casual employees to Table 10 in clause 26.2. Business SA does not oppose the proposed note in principle but reserves position until draft released in revised ED.	Para 4	
	ABI & NSWBC	ReplySub – 22/08/17		Disagrees with SDA’s submission that wording of PLED cl 11.2 does not refer to ‘all the rates to which casual loading is payable’.	Para 4.1	
	ABI & NSWBC	Sub – 20/09/17		Do not oppose insertion of a note at cl 26.2 but reserve position until having had opportunity to review proposed note.	Page 1	
	SDA	Sub – 21/09/17		Withdraw suggestion to amend clause 11.1. Still press inclusion of notes at clause 18 that state the penalty rates applicable to casuals are set out in table 10 and overtime rates are set out in clause 25.	Page 1	

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES	
				Note provisions relating to overtime for casuals will be subject to casual employment full bench determinations.			
34	SDA	Submission – 04/08/17	11.3, 11.4	<p>Casual employment GRIA cl 13.4 has been redrafted in ss.11.3 and 11.4 of PLED. Proposed variations are substantive and reader is not aided by the PL redraft of cls 11.3 and 11.4. It is not clear that cls 11.3 and 11.4 should be read together. Reference to a minimum daily engagement of 3 hours for casual employees has been removed. Submit that this a substantive change.</p> <p>SDA do not support insertion of cls 11.3 and 11.4 and submit that GRIA cl 13.4 should be retained.</p>	Paras 74 – 79	<p>Drafter comment: Clause 11.3 of the PLED refers to “the circumstances set out in clause 11.4” which clearly indicate that they must be read together.</p> <p>Clause 11.3 covers the 3 hours minimum daily engagement.</p>	
	SDA	Sub – 21/09/17		<p>Withdraw suggestion to amend clause 11.1. Still press inclusion of notes at clause 18 that state the penalty rates applicable to casuals are set out in table 10 and overtime rates are set out in clause 25. Note provisions relating to overtime for casuals will be subject to casual employment full bench determinations.</p>			Page 1
	Business SA	Sub – 20/09/17		<p>SDA concern re: 11.3 and 11.4 is unwarranted. It is clear these clauses are intended to be read together based on reference to 11.4 in 11.3.</p>			Para 5
35	SDA	Submission – 04/08/17	11.5	<p>Casual employment PLED states that ‘unless the employer and the</p>	Paras 71 – 73	Clause 11.5 updated.	

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
				<p>employee have agreed that the pay period of the employee is either weekly or fortnightly ...”.</p> <p>GRIA stipulates that casual pay arrangements are in accordance ‘with pay arrangements for full-time and part-time employees’.</p> <p>Drafting introduces pay arrangements by individual agreement between casual employee and the employer, which is inconsistent with GRIA which prescribes default pay arrangements.</p> <p>Proposes re-drafted version: <i>“An employer must pay a casual employee at the end of each engagement or weekly or fortnightly in accordance with pay arrangements for full-time and part-time employees”.</i></p>		See transcript , PN 183.
	ABI & NSWBC	ReplySub – 22/08/17		Agrees with SDA’s submission regarding pay arrangements.	Para 4.2	
36	SDA	Submission – 04/08/17	13	Junior employees Opposed to insertion of definition for ‘junior employee’ and the ‘note’ inserted. See reasons at item 2 of submission summary.	Paras 9 – 11, 80 – 81	Withdrawn – sub 21/09/17
37	SDA	Submission – 04/08/17	13.3	Junior employees New clause inserted – this is a substantive change to GRIA. The Guidelines do not contemplate that an entirely new clause can be introduced which would change the legal effect. Unclear what rights an employee has where they have already provided proof of age to their employer at the point of the engagement and, upon a subsequent request for proof of age, they	Paras 82 – 84	Clause 13.3 deleted. See transcript , PN 183.

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				refuse on reasonable grounds to produce it again. Does not support introduction of new PLED clause.		
38	SDA	Submission – 04/08/17	14.2	Classifications GRIA phrase ‘as determined by the employer’ has been removed from PLED. Propose that it be reinserted.	Paras 85 – 86	Clause 14.2 updated. See transcript , PN 186.
	ABI & NSWBC	Submission – 03/08/17		PLED clause should contain ‘as determined by the employer’ at the end of the sentence as per clause 16.2 of GRIA.	Para 6.1	
	Business SA	Reply Submission – 22/08/17		Agrees with submissions of the SDA and ABI & NSWBC.	Para 8.1	
39	Business SA	Submission – 02/08/17	15	Ordinary hours of work – employees regularly working Sundays Submit 15.10(d) is unnecessarily complicated compared to 28.13(c) of GRIA. GRIA states ‘an employee can terminate the agreement by giving four weeks’ notice to the employer’. This is a clear statement regarding how an agreement may be terminated. PLED states ‘The employee may end an agreement under paragraph (a) <u>at any time</u> by giving the employer 4 weeks’ notice’. Addition of the words ‘at any time’ is unnecessary given current provision is clear. While an agreement may be terminated at any time, the termination date must still be at least 4 weeks away. Propose that ‘at any time’ be deleted.	Para 4.1	Words ‘at any time’ deleted. See transcript , PNs 191 to 196.

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40	SDA	Submission – 04/08/17	15	Ordinary hours of work Drafting issues with use of terms ‘span of hours’, ‘spread of hours’ and ‘ordinary hours’. GRIA cl 27.2(c) states ‘hours of work on any day will be continuous’ yet PLED 15.1 changes ‘hours of work’ to ‘ordinary hours of work’ – this has a fundamental impact on the meaning as work inside the ‘span of hours’ or outside the ‘span of hours’ must still be continuous. Consistency of language is particularly important.	Paras 87 – 90	Further conference to discuss HOW. Drafter comment: Clause 27.2(c) of the GRIA appears under the heading “Ordinary hours”. It seems reasonable to interpret it as relating only to ordinary hours as has been done in clause 15.3 of the PLED.
	ABI & NSWBC	ReplySub – 22/08/17	15	Ordinary hours of work Agrees with the SDA that changes to cl 15 may have inadvertently extended its operation in an unintended way; to employees other than full-time employees. Consider there to be scope for parties to discuss re-ordering of its provisions.	Paras 5.1 – 5.2	
41	ABI & NSWBC	Submission – 03/08/17	15.1	Ordinary hours of work Submit the table at cl 27.2(a) of GRIA is easier to understand than wording of PLED cl 15.1 Preferable to revert back to GRIA format.	Para 7.1	Further conference to discuss HOW.
	Business SA	Reply Submission – 22/08/17		Agrees with ABI & NSWBC’s submissions. GRIA table is clearer than PLED.	Para 9.1	
42	SDA	Submission – 04/08/17	15	Ordinary hours of work Cl 28.14(f) has been removed from the PLED. Clause provides significant protection for employees in the event their roster is changed in such a way to avoid them receiving or enjoying a benefit under this Award.	Paras 123-125	Further conference to discuss HOW. Drafter comment: I suggest (1) deleting 10.12(b); (2) adding an

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				SDA notes that PLED 10.12 provides similar protection for part time employees, it excludes full time employees. Oppose deletion of GRIA cl 28.14(f). Should be reinstated under cl 15 PLED.		additional note at 10.12 cross-referring to 15.11; (3) including in 15.11 a statement that the roster of an employee must not be changed so as to avoid any award entitlement; (4) adding an additional note at 15.11 cross-referring to 10.10 to 10.12.
43	SDA	Submission – 04/08/17	15.3	Ordinary hours of work 'Ordinary' in place of 'on any day' in PLED cl 15.3 is a substantive change. Oppose insertion of clause. GRIA cl 27.2(c) should be reinstated.	Paras 89-90	Further conference to discuss HOW. Drafter comment: Clause 27.2(c) of the GRIA appears under the heading "Ordinary hours". It seems reasonable to interpret it as relating only to ordinary hours as has been done in clause 15.3.
44	SDA	Submission – 04/08/17	15.6	Full-time employees GRIA cl 28 '38 hour week rosters' is varied and replaced with PLED 15.6 'full time employees'. GRIA cl 28.5 has been moved to PLED 15.7(e) under 'Rosters (full time and part-time employees)'. Variation is substantive change to GRIA, as provision only has application to rostering of full time employees and not part-time employees.	91-94	Further conference to discuss HOW. Drafter comment: If clause 28.5 of the GRIA applied only to full-time employees then I suggest clause 15.7(e) and (f) of the PLED be moved into

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				<p>The phrase ‘unless specific agreement exists to the contrary between an employer and an employee’ has been removed.</p> <p>Deletion reduced the flexibility for the employer and employee to agree to a different arrangement.</p> <p>Wording in GRIA is precise in defining that it is 19 days ‘in each four week cycle’ rather than ‘per cycle’ in PLED cl 15.7(e).</p> <p>SDA does not support insertion of cl 15.7(e). Cl 28.5 should be reinstated under 15.6.</p> <p>SDA provide wording at para 94 of submissions.</p>		<p>clause 15.6.</p> <p>I do not see that “in each four week cycle” is any clearer than “per 4 week cycle”.</p>
45	SDA	Submission – 04/08/17	15.7(a)	<p>Rosters (Full-time and part-time employees)</p> <p>Varying and moving GRIA cl 28.9 to 15.7(a) is a substantive change and not clear that this exception has limited application to full time employees only.</p> <p>GRIA clause is “A roster period cannot exceed 4 weeks.”</p> <p>SDA suggests redrafting clause as follows: <i>“A roster period cannot exceed 4 weeks. A longer roster period is only permitted in accordance with clause 15.6(g(v) where the full-time employee and their employer have agreed to this arrangement”.</i></p>	Paras 104 – 107	<p>Further conference to discuss HOW.</p> <p>Drafter comment: The exception in clause 15.7 of the PLED is clearly only applicable to full-time employees as clause 15.6 only applies to full-time employees.</p>
46	SDA	Submission – 04/08/17	15.7(b)	<p>Rosters (Full-time and part-time employees)</p> <p>Does not support move of GRIA cl 28.6 to PLED cl 15.7(b). Variation is a substantive change as the provision only has application to rostering of full-time employees and not part-</p>	Paras 95 – 97	<p>Further conference to discuss HOW.</p> <p>Drafter comment: If clause 28.6 of the GRIA</p>

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				time employees. Do not support inserting cl 15.7(b). GRIA cl 28.6 should be reinstated under 15.6.		applied only to full-time employees then I suggest clause 15.7(b) of the PLED be moved into clause 15.6.
47	SDA	Submission – 04/08/17	15.7(c), 15.7(d)	Rosters (Full-time and part-time employees) Does not support moving and varying GRIA cl 28.10 to cls 15.7(c) and (d). The varied clauses do not make clear there is a default rostering arrangement of 5 days in each week. Cross-referencing between clauses in cl 15.7 makes the document less accessible as reader is constantly required to navigate back and forth. Suggest 15.7(a) PLED is redrafted – provides draft wording at para 110 of submissions.	Paras 108 – 110	Further conference to discuss HOW. Drafter comment: Clause 15.7(c) and (d) have the same effect as clause 28.10 of the GRIA.
48	SDA	Submission – 04/08/17	15.7(e)	Rosters (Full-time and part-time employees) Does not support move of current cl 28.5 to cl 15.7(e). Variation is a substantive change to GRIA as the provision only has application to rostering of full-time employees and not part-time employees. GRIA cl 28.5 should be reinstated to cl 15.6 PLED – provide wording at para 94 of submission. See item 44 above re PLED cl 15.6.	Paras 92 – 94	Further conference to discuss HOW. Drafter comment: See comment re: item 44 above.
49	SDA	Submission – 04/08/17	15.7(g), 15.7(k)	Rosters (Full-time and part-time employees) – Consecutive days off Does not support moving and varying GRIA cls 28.11(a)-(c) to cls 15.7(g)-(k).	Paras 111 – 113	Further conference to discuss HOW. Drafter comment:

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				<p>PLED clauses more difficult for reader due to amount of cross-referencing that is required to understand the rostering entitlements that full-time and part-time employees have. This is an important provision as it ensures both employer and employee understand that time off from work must be meaningful.</p> <p>GRIA clause 28.11(a)-(c) should be retained, including the sub-heading, in cl 15.7 PLED.</p>		<p>Clause 15.7(g) to (k) are not difficult to read. I do suggest, however, substituting “make a request” for “agree to an arrangement” in clause 15.7(k) for greater consistency with clause 28.11(b) of the GRIA.</p>
50	SDA	Submission – 04/08/17	15.8	<p>Substitution of rostered days off</p> <p>Does not support moving and varying current cl 28.7 to cl 15.8. Substantive change as GRIA clause has no application at present to part time employees and it should sit directly under ‘38 hour week rosters’.</p> <p>PLED introduces confusion re the concepts of non-working or non-rostered days for part-time employees and a rostered day off.</p> <p>Should be reinstated to cl 15.6 PLED.</p> <p>See item 44 above re PLED cl 15.6.</p>	Paras 98 – 100	<p>Further conference to discuss HOW.</p> <p>Drafter comment: If clause 28.7 of the GRIA applies only to full-time employees, then clause 15.8 of the PLED should be moved into clause 15.6.</p>
51	SDA	Submission – 04/08/17	15.9	<p>Banking of rostered days off</p> <p>Does not support variation and moving of current cl 28.8 to cl 15.9. Substantive change – the clause currently has no application to part-time employees and does not and should not apply to part-time employees.</p> <p>Should be reinstated to cl 15.6 PLED.</p>	Paras 101 – 103	<p>Further conference to discuss HOW.</p> <p>Drafter comment: If clause 28.8 of the GRIA applies only to full-time employees, then clause 15.9 of the PLED should be moved into clause 15.6.</p>

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52	SDA	Submission – 04/08/17	15.10(a)-(e)	<p>Employees regularly working Sundays Does not support moving and varying current cl 28.13(a)-(c) to cl 15.10(a)-(e). Substantive change as the ability to vary the agreement is given more weight rather than the absolute obligation of an employer to roster days off to include a Saturday and Sunday. Do not support inclusion of 15.10. GRIA cl 28.13 should be reinstated.</p>	Paras 114 – 116	Further conference to discuss HOW. Drafter comment: Clause 15.10 of the PLED is to the same effect as clause 28.13 of the GRIA. I do suggest, however, for greater consistency with clause 28.13(b) of the GRIA, re-wording clause 15.10(e) as “An employee cannot be required as a condition of employment to make a request mentioned in paragraph (b).”
	Business SA	Reply Submission – 22/08/17		Does not support the SDA’s submission. Employer’s rostering obligation is adequately expressed in PLE cl 15.10(a). Para states “unless otherwise agreed ... the employer must ...”	Para 9.2	
53	SDA	Submission – 04/08/17	15.11	<p>Notification of rosters Does not support varying and moving current cl 28.14(a) to cl 15.11. Changes meaning and application of current provision. Current phrase “will exhibit” has been replaced with “is available” which is less accessible to an employee. GRIA cl 28.11(a) is constructed to oblige employers to exhibit the rosters and ensure it is available to all employees. Additions to PLED are not currently contemplated in GRIA. GRIA c. 28.11(a) should be reinstated.</p>	Paras 117 – 119	Further conference to discuss HOW. Drafter comment: Clause 15.11(a) of the PLED introduced the notion of making rosters available electronically for consistency with clause 3.3. If that is not acceptable, then reference to electronic means should be removed from clause

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						15.11(a). Clause 15.11(a) and (b) is otherwise to the same effect as clause 28.14(a) of the GRIA.
54	SDA	Submission – 04/08/17	15.11(d)	Notification of rosters Does not support moving and varying current cl 28.14(d) to cl 15.11(d) and the added note. Effect of clause changed. GRIA clause obliges both parties to have discussions aimed at resolving any dispute in regarding to a roster change. GRIA cl 28.14(d) should be reinstated.	Paras 120 – 122	Further conference to discuss HOW. Drafter comment: Clause 15.11(e) of the PLED is drafted on the basis as leaving clause 39 as the exclusive provision dealing with dispute resolution and not introducing a stand-alone dispute resolution provision.
55	ABI & NSWBC	Submission – 03/08/17	15.11(e)	Notification of rosters Term ‘disagree with roster change’ in cl 27.2(a) of GRIA has been replaced with ‘objects to the change before it takes effect’. Wording of current clause should be reinstated.	Para 7.2	Further conference to discuss HOW. Drafter comment: For greater consistency with clause 28.14(d), I suggest that the whole second sentence should be re-worded as “If the employee disagrees with the change, the period of written notice of the change required to be
	Business SA	Reply Submission – 22/08/17		Supports ABI & NSWBC’s submission.	Para 9.3	

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						given is extended to at least 14 days in total.”
56	Business SA	Submission – 02/08/17	16	Breaks – Table 2 Clarity of table 2 could be enhanced. The current table includes a row applicable to employees who work less than 4 hours. These workers receive no rest break or meal break and the row has been omitted from the table. Retaining this row would make clear that an employee who does not work more than 4 hours is not entitled to a rest or meal break.	Para 5.1	<p>Drafter’s comment:</p> <p>The purpose of Table 2 is to set out entitlements. It is clear from the table that employees who work less than 4 hours per shift have no entitlement to a break. If it is desired to highlight the absence of an entitlement to a break for an employee who works less than 4 hours, this could be done in a Note.</p> <p>Table 2 could be improved by adding a column 3 so that the availability of rest breaks and meal breaks is made clearer.</p> <p>A revised Table 2 is at Attachment A to this Summary of Submissions.</p>
	ABI & NSWBC	Submission – 03/08/17		Table has omitted reference to employees working less than 4 hours as per table at cl 31.1(a) of GRIA. Submit this should be reinserted.	Para 8.1	
	Business SA	Reply Submission – 22/08/17		Supports ABI & NSWBC’s submission.	Para 10.1	
	SDA	Submission – 04/08/17		Table could be improved by adding a third column so entitlement to both rest breaks and meal breaks per shift is easier to reference.	Paras 126 – 127	
57	SDA	Submission – 04/08/17	18.1	Minimum rates Table could be improved to ensure it provides a complete, precise and accurate summary.	Paras 128 – 130	Submission references cl 17 – appears to be in relation to cl 18.

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				<p>Proposes to insert 'at least' before 'the minimum hourly rate' in cl 18.1.</p> <p>Does not support definition of adult employee – see submissions at item 2.</p> <p>Submits three additional notes should be inserted: “NOTE 4: Clause X—Overtime sets out rates of pay when overtime applies. NOTE 5: Clause X—Penalty rates sets out rates of pay when penalties should apply. NOTE 6: Clause X—Public holidays sets out rates of pay for work on Public holidays.”</p>		Submission to add words 'at least' withdrawn – 21/09/17
	SDA	Sub – 21/09/17		Press items in relation to insertion of additional notes in relation to penalty rates, overtime and public holidays. The additional notes would better inform the reader about all rates that must be considered in relation to payment of wages under this award.	Page 2	
	Business SA	Sub – 20/09/17		Understands SDA will not press submission to insert 'at least' before 'minimum hourly rate'. Business SA is not aware of a similar approach being taken in other awards. The 3 notes already in clause assist the reader in calculating the minimum rate payable to an employee. Proposed notes are unnecessary and go beyond assisting minimum rate calculations.	Para 6	
	ABI & NSWBC	Sub – 20/09/17		Our clients oppose the insertion of the three notes proposed by SDA.	Page 1	

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58	SDA	Submission – 04/08/17	18.2	Minimum rates Does not support definition of junior employee – see submissions at item 2.	Para 131	Withdrawn – sub 21/09/17 .
59	SDA	Submission – 04/08/17	19	Higher duties Submits clause should be varied to ensure consistency with GRIA: Word ‘minimum’ deleted from cls 19.1 and 19.2; Minimum rates table updated – see submissions at item 57.	Paras 132–133	Withdrawn – sub 21/09/17 .
	Business SA	Reply Submission – 22/08/17		Does not support the SDA’s submission. Reference to ‘minimum hourly rate’ appropriately links provisions to rates in Table 3.	Para 11.1	
60	SDA	Submission – 04/08/17	23.2	Meal allowance ‘Without being given 24 hours’ notice’ in GRIA cl 20.1 has been changed to ‘the employee was not advised of that requirement on or before the previous day’. Substantive change as it reduces the notice period from 24 hours to the night before – does not support change.	Paras 134 – 135	Clause 23.2(a)(ii) updated. See transcript , PNs 261 – 273.
	ABI & NSWBC	Submission – 03/08/17		Requirement regarding notification of the requirement to work overtime has been changed from wording of cl 20.1 of GRIA. Submit PLED clause should be amended to state: <i>“The employee was not provided with at least 24 hours’ notice of the requirement to work overtime.”</i>	Para 9.1	
	Business SA	Reply Submission – 22/08/17		Agrees with submissions of the SDA and ABI & NSWBC.	Para 12.1	

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61	SDA	Submission – 04/08/17	23.3	Special clothing allowance GRIA clause has been varied. Substantive change which limits the definition of special clothing by removing any reference to uniform. Does not support change. GRIA cl 20.2 should be reinstated.	Paras 136 – 137	Clause 23.3 updated. See transcript , PNs 274 – 299.
	ABI & NSWBC	Submission – 03/08/17		Reference to ‘uniform’ as part of definition of ‘special clothing’ should be inserted into 23.3(a), as per cl 20.2(a) of GRIA.	Para 9.2	
	Business SA	Reply Submission – 22/08/17		Does not oppose SDA’s submission regarding reference to ‘uniform’. However, drafting in PLED is preferable to GRIA drafting. If a change is made, it should be the proposal by ABI & NSWBC, that ‘uniform’ be inserted in (a) of 23.3 as part of ‘special clothing’.	Para 12.2	
62	SDA	Submission – 04/08/17	23.6	Moving expenses The term ‘township’ requires a definition or replacement with a more precise expression to clarify the effect of the provision. Other Awards refer to a transfer requiring ‘change of residence’ to identify the scope of the clause. Support notion that transfer from one township to another which requires a change of residence would trigger payment of moving expenses. Use of the term ‘family’ should be in line with the NES.	Paras 138 – 141	Drafter comment: I agree we need something more precise than “township”. Clause 23.6 of the PLED is in line with clause 20.5 of the GRIA including in the reference to “family”. It would be helpful to clarify who a family member is.
	SDA	Submission – 20/09/17		Moving expenses should be paid where an employee is required by their employer to transfer to another place of employment that		

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				means that the employee is required to change residence on a permanent or temporary basis.		
	Business SA	Sub – 20/09/17		Business SA has been unable to find a satisfactory definition of ‘township’ for the purpose of this clause.	Para 7	
63	SDA	Submission – 04/08/17	25	Overtime Do not support varying and moving GRIA cl 29.1 to cl 25 of PLED. Relies on its submissions in AM2014/196 and AM2014/197 . Request that current clause be reinstated.	Paras 142 – 143	Drafter’s comment: Section 62 of the Act deals with working overtime and sets out factors to be taken into account in determining whether or not overtime may be considered unreasonable. The list is more comprehensive than in clause 29.1 of GRIA. The Note at the beginning of clause 25 of PLED points to section 62.
64	Business SA	Submission – 02/08/17	25.1	Overtime Submits an important element of GRIA’s overtime clause has not been reproduced in the PLED. Cl 29.2(d) of GRIA states overtime is calculated on a daily basis. This statement does not appear in the PLED. Business SA submits a new cl 25.1(c) should be added which clarifies overtime is calculated on a daily basis.	Para 6.1	New clause 25.1(c) updated. See transcript , PNs 311 – 316.

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	ABI & NSWBC	Submission – 03/08/17		Reference to overtime being calculated on a daily basis as per cl 29.2(d) of GRIA should be reinserted at cl 25.1 of GRIA.	Para 10.1	
65	SDA	Submission – 04/08/17	25.1, 25.2	<p>Payment of overtime / Overtime rate</p> <p>PLED does not accurately reflect current entitlements. Must be drafted with precision to ensure the reader is clear at which points overtime rates must be paid to full-time, part-time and casual employees.</p> <p>Should be drafted after all PLED rostering provisions are determined to ensure accuracy.</p> <p>Should be re-drafted to include each employment type to ensure that referencing from this clause is accurate and simple for the reader.</p> <p>Should include reference to PLED Part 3 in relation to span of hours and any reference to ‘ordinary hours’ (see submissions under ‘Hours of work’).</p>	Paras 144 – 149	Drafter comment: Clause 25.1(a)(ii) references clause 15. A note could be added stating that ordinary hours are set out at clauses 15.1 and 15.2.
66	SDA	Submission – 04/08/17	25.2	<p>Overtime</p> <p>GRIA cl 29.2(d) is not included in PLED. Substantive change which impacts on how overtime is calculated under the Award which, currently, is ‘on a daily basis’.</p> <p>Does not support insertion of cl 25.2. Submit GRIA clause should be reinstated instead.</p>	Paras 150 – 151	<p>New clause 25.1(c) updated.</p> <p>See transcript, PNs 311 – 316.</p>

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67	SDA	Submission – 04/08/17	26	<p>Penalty rates PLED cl 26.1 is new and introduces some ambiguity as to when overtime rather than penalty rates should apply. Wording of clause is not precise (eg an employee who works a shift outside the span of hours, but with less than a 12 hour break between starting and finishing the previous day must be paid overtime rates, under GRIA 31.12. Clause does not meet objectives set by PL guidelines. Penalty rates are of critical importance to retail employees. Do not support insertion of PLED cl 26. GRIA cl 29.4 should be reinstated.</p>	Para 152 – 155	<p>Drafter comment: Clause 26 of the PLED is to the same effect as clause 29.4 of the GRIA. Clause 26.1 of the PLED is intended as a simple explanatory statement of what the clause is about. Given its explanatory nature, the material in it could be included in a Note and clause 26.1 omitted.</p>
	SDA	Submission – 21/09/17		<p>SDA presses that the explanatory statement at clause 26.1 be amended to read ‘clause 26 sets out penalty rates for ordinary hours worked at specified times or on specified days.’ The following reference to overtime should be deleted ‘that are not required to be paid at the overtime rate mentioned in clause 25.2 overtime rate.’</p>	Page 2	<p>Clause 26.1 provisionally converted to a note. Clause 16.6 of the PLED is to the same effect as clause 31.2 of the GRIA.</p>
	Business SA	Reply Submission – 22/08/17		<p>Does not agree with SDA’s submission. Supports drafting of PLED cl 26.2 and Table 10.</p>	Para 13.1	
	Business SA	Sub – 20/09/17		<p>During 19 Sept 17 conference, Ross J suggested the following amendment to clause 26.1: “Clause 26 sets out penalty rates for ordinary hours worked at specified times or on specified days.”</p>	Para 8	

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
				Business SA does not oppose the proposed amendment.		
	ABI & NSWBC	Sub – 20/09/17		Do not oppose the wording proposed by the President to amend clause 26.1.	Page 1	
68	SDA	Submission – 04/08/17	26.3	Penalty rates – work on public holidays Does not support PLED provision. Relies on submissions in AM2014/301.	Para 156	Withdrawn – sub 21/09/17
69	Business SA	Submission – 02/08/17	27	Shiftwork – application Notes that GRIA cl 27 in general seeks to make clear which employees Part 6 applies to. The wording in GRIA cl 30.1(a) does this more effectively than PLED cl 27.1. Submits 27.1 is less clear than GRIA cl 30.1(a), which states ‘ <i>This clause will only apply to persons specifically employed as shiftworkers under this award.</i> ’ The word ‘ <i>specifically</i> ’ should be inserted into the PLED for clarity.	Para 7.1	Full Bench to determine with regard to submissions put. See report of 19/09/17.
70	ABI & NSWBC	Submission – 03/08/17	29.9	Rate of pay for shiftwork Operation of clause should be clarified so it is clear whether or not this entitlement applies to all employees.	Para 11.1	Withdrawn. See transcript , PN 358.
71	SDA	Submission – 04/08/17	37-39	Consultation and dispute resolution Opposes relocation from Part 2 of GRIA to Part 8 of PLED. Consultation and Dispute Resolution provisions clarify the rights and obligations of employees and employers in relation to disputes under award and are essential to timely discussions between employees and employers.	Paras 6–8	Withdrawn. See transcript , PN 364.

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
				Seek reinstatement of these clauses at Part 2.		
	Business SA	Reply Submission – 22/08/17		Disagrees with SDA’s submission. PL guidelines suggests awards be organised logically, and relocation of clause to Part 8 is appropriate in this context. Supports location of provisions in PLED.	Para 1	
72	SDA	Reply Submission – 17/08/17	Sched B	Summary of Hourly Rates of Pay Notes the use of the term ‘ordinary hours’ in PLED Sched B. Requests Sched B be revised to ensure ‘ordinary hours’ is used consistently and accurately across PLED.	Para 7	Further conference to discuss HOW employment.
73	SDA	Reply Submission – 17/08/17	Sched B	Summary of Hourly Rates of Pay Does not support inclusion of the ‘note’. Should be deleted because it is incorrect. Requests further variations be made to Sched B to ensure it accurately reflects that all terms and conditions of the Award, not just wage schedules, must be met.	Paras 8 – 9	Note deleted. See transcript , PNs 369 – 375.

List of abbreviations (in alphabetical order)

ABI & NSWBC Australian Business Industrial & New South Wales Business Chamber
 Business SA Business SA
 SDA Shop, Distributive and Allied Employees’ Association

ATTACHMENT A

An employee who works the number of hours in any one shift specified in column 1 of **Table 2—Entitlements to meal and rest break(s)** is entitled to a rest break or rest breaks as specified in column 2 or a meal break or meal breaks as specified in column 3.

Table 2—Entitlements to meal and rest break(s)

Column 1 Hours worked per shift	Column 2 Rest breaks	Column 3 Meal breaks
4 or more but no more than 5	One 10 minute paid rest break	
More than 5 but less than 7	One 10 minute paid rest break	One unpaid meal break of at least 30 minutes and not more than 60 minutes
7 or more but less than 10	Two 10 minute paid rest breaks (one to be taken in the first half of the shift and one in the second half)	One unpaid meal break of at least 30 minutes and not more than 60 minutes
10 or more	Two 10 minute paid rest breaks (one to be taken in the first half of the shift and one in the second half)	Two unpaid meal breaks of at least 30 minutes and not more than 60 minutes

NOTE 1: An employee who works less than 4 hours in a shift has no entitlement to break,

NOTE 2: The rest breaks and meal breaks of shiftworkers are paid. See clause **Error! Reference source not found.—Error! Reference source not found.**