



8 February 2018

The Honourable Justice Ross AO  
President  
Fair Work Commission  
11 Exhibition Street  
MELBOURNE VIC 3000

By email: [amod@fwc.gov.au](mailto:amod@fwc.gov.au)

Dear Justice Ross

**4 yearly review of modern awards—plain language re-drafting  
(AM2016/15 and AM2014/272)**

1. We refer to the above matter and the Commission's statement of 22 January 2018, [2018] FWCFB 449 ("Statement") regarding the plain language re-drafting of the *Hospitality Industry (General) Award 2010* ("HIGA").
2. The Statement invites submissions in relation to various matters, including the Plain Language Exposure Draft ("PLED") dated 22 January 2018.
3. These submissions are made on behalf of the Australian Hotels Association, the Accommodation Association of Australia and the Motor Inn, Motel and Accommodation Association (the "Associations") with respect to:
  - A. The Part-time and Casual employment determination and redrafting of clauses 10 and 11 in the PLED;
  - B. The four Items of 34, 56, 71 and 77 listed in paragraphs 27 and 28 the Statement;
  - C. New item 110 in the PLED; and
  - D. The revised PLED published 22 January 2018.

**A. Part-Time and Casual Employment Determinations**

4. The Associations submit that with respect to clauses 10 and 11 in the PLED, as revised as a result of PR598473, the clause changes are consistent with the Determination of the Fair Work Commission. The Associations do, however, propose the following amendments:
  - a) At Clause 10.2, the points (a) and (b) represent the conditions that result with a part-time employee receiving an entitlement to proportionate terms and conditions to a full-

time employee. Point (c) should not be linked as a condition, rather it stands alone as the entitlement upon the meeting of the conditions in points (a) and (b). The Associations submit that clause 10.2 be deleted in its entirety and replace it with the following:

*“A part-time employee who:*

- (a) is engaged to work at least 8 and fewer than 38 ordinary hours per week or, if the employer operates a roster, an average of at least 8 and fewer than 38 hours per week over the roster cycle; and*
- (b) has reasonably predictable hours of work;*

*is entitled on a proportionate basis to the same pay and conditions as those of full-time employees who do the same kind of work.”*

- b) At Clause 10.6 the opening text to the clause should read *“However, the part-time employee:”* as elsewhere in clause 10, reference to an employee is stated as reference to a part-time employee. The Associations submit the above wording change provides greater consistency throughout the clause.
- c) At Clauses 10.8 and 10.9, the word ‘clause’ had been mis-spelt.
- d) At Clause 11.2, the Associations submit that the words *“minimum hourly rate otherwise applicable under clause 18 – Minimum rates”* be deleted and replace it with the words *“ordinary hourly rate”*.

**B. Items 34, 56, 71 and 77**

- 5. The Associations have conferred with Business SA and United Voice.
- 6. The Associations confirm our position as being:
  - a) Item 34. This Item was raised by Business SA, and links with similar concerns raised by the AHA at Item 33. The Associations support the position advised by Business SA that this Item be addressed as part of technical and drafting proceedings;
  - b) Item 56. The Associations submit that this Item be addressed under the substantive proceedings;
  - c) Item 71. The Associations submit that this Item be addressed as part of technical and drafting proceedings;
  - d) Item 77. The Associations submit that this Item be addressed as part of technical and drafting proceedings.

**C. New Item 110**

- 7. The Associations have reviewed the PLED amendments made as per Item 110 and consider this Item resolved.

**D. Revised PLED published 22 January 2018**

- 8. The Associations submit that at PLED clause 15.5(b), there is a formatting error with no space between the words ‘finish’ and ‘work’;
- 9. The Associations submit that at PLED clause 18.3, the words ‘hours or work’ should more accurately read ‘hours of work’.

**Summary**

10. The Associations will participate in the Conferences on 12 February and 23 February 2018.

Any query in relation to this matter should be directed to Ms Joanna Minchinton at the AHA (Queensland Branch). Ms Minchinton can be contacted on (07) 3221 6999 or by email at [jminchinton@gha.org.au](mailto:jminchinton@gha.org.au).

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'P. Ryan', with a long horizontal stroke extending to the right.

**PHILLIP RYAN  
NATIONAL DIRECTOR, LEGAL AND INDUSTRIAL AFFAIRS**