

## SUMMARY – AGENDA ITEMS FOR CONFERENCE

This summary reflects the order of the agenda for the conference listed on 6 March 2018 – see Statement [\[2018\] FWC 1118](#). This document will be used as a run sheet during the conference.

1. Provisionally resolved items – to be confirmed

a) Proposed amendments included in PLED:

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REF	NOTES
5	ABI & NSWBC	<a href="#">Sub-12/10/17</a>	4.2	<p><b>Coverage</b></p> <p>Submits ‘security services industry’ definition has omitted some words from current award cl 4.2. Submits they should be reinserted.</p> <p>(a) Subclause (a) should be redrafted to read ‘<i>patrolling, protecting, screening, watching or guarding any people and/or property (including <u>cash or other valuables</u>)</i>’; and</p> <p>(b) Subclause (d) should be amended to read ‘<i>the operation of a <u>security control room or monitoring centre</u></i>’.</p>	Para 3.1	<p>Provisionally resolved.</p> <p>See <a href="#">Transcript-08/11/17</a> PNs284-292.</p> <p><b>Amendments proposed by drafter and comment:</b></p> <p>(1) and/or is not used in a plain language document;</p> <p>(2) agree to insert “cash or other” before “valuables” in paragraph (a);</p> <p>(3) if the definition of “monitoring centre” does not cover a “security control room” then I agree “security control room” should be inserted.</p>
	UV	<a href="#">Reply-Sub-20/10/17</a>		Does not object to ABI & NSWBC’s proposed changes.	Para 9	PLED provisionally updated.

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6	ASIAL	<a href="#">Sub-06/10/17</a>	4.2(c)	Submits clause should include the words 'or control room'.	Para 5	Provisionally resolved. See <a href="#">Transcript-08/11/17</a> PNs284-292. <b>Amendment proposed by drafter:</b> Insert 'security control room' at cl 4.2(d). PLED provisionally updated.
12	ASIAL	<a href="#">Sub-06/10/17</a>	10.3	<b>Part-time employment</b> Submits clause should be re-drafted to make reference to pro rata entitlements. Provides draft wording.	Para 8	Outstanding. Deferred until drafting comments received. See <a href="#">Transcript-08/11/17</a> PN303.
	ABI & NSWBC	<a href="#">Sub-12/10/17</a>		Submits clause is problematic because it can be interpreted to mean that other provisions of PLED would be applied to part-time employees in the same way as they are applied to a full-time employee, because it does not specify they should be pro-rated per current award cl 10.4(a)(iii).	Paras 4.1, 4.2	<b>Drafter comment:</b> Clause 10.3 could be omitted leaving the context in any particular provisions to indicate the categories of employees to which it applies.  NOTE: issue resolved in Clerks' award by deleting clauses 10.3 and 10.4. The Commission suggested deleting the clauses as, based on normal principles of interpretation, the award should be read as applying to everybody covered by it unless it specifically provided

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						otherwise. <a href="#">[2018] FWC 411</a> at [18]. PLED provisionally updated on this basis.
13	ABI & NSWBC	<a href="#">Sub-12/10/17</a>	10.4	Submits clause is problematic because it refers to payments made in accordance with the NES and it is unclear how the proportionality of those payments is determined.	Paras 4.3, 4.4	Outstanding. Deferred until drafting comments received. See <a href="#">Transcript-08/11/17</a> PN303. <b>Drafter comment:</b> Note: Issue resolved in Clerks' award by deleting clauses 10.3 and 10.4. The Commission suggested deleting the clauses as, based on normal principles of interpretation, the award should be read as applying to everybody covered by it unless it specifically provided otherwise. <a href="#">[2018] FWC 411</a> at [18]. PLED provisionally updated on this basis.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Supports retaining current award clause 10.4(a)(iii).	Para 14	<b>Drafter comment:</b> Not all conditions apply on a pro-rata basis.
14	ASIAL	<a href="#">Sub-06/10/17</a>	10.5, 10.6	Submits clauses restrict employers from	Para 9	Outstanding.

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				engaging part-time employees on a roster cycle in the same way as it could a permanent full-time employee. Submits this is inconsistent with cl 10.1 and requires further discussion/clarification.		Deferred until drafting comments received. See <a href="#">Transcript-08/11/17</a> PN303.  <b>Drafter comment:</b> Clauses 10.5 to 10.7 reflect clause 10.4(b) of current award.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Disagrees with ASIAL's submission. Submits PLED appropriately reflects existing entitlements in cl 10.4(b) of the current award.	Paras 15 – 16	
15	ASIAL	<a href="#">Sub-06/10/17</a>	10.9	Submits clause should be re-drafted to reflect current award cl 10.4(f) which is more accurate. Provides draft wording in submission.	Para 10	Outstanding. Deferred until drafting comments received. See <a href="#">Transcript-08/11/17</a> PN303.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Prefers the wording in PLED.	Para 17	<b>Drafter comment:</b> Unlike the current award, the PLED provides for hourly rates making clause 10.9 appropriately drafted.
16	ABI & NSWBC	<a href="#">Sub-12/10/17</a>	10.9	Submits clause would be improved by addition of a reference to the actual amount payable in accordance with cl 15.  Suggest: "A part time employee must be paid in accordance with Column 3 of Table 4 - Minimum Rates in clause 15 for each ordinary hour worked."	Para 4.5	Outstanding. Deferred until drafting comments received. See <a href="#">Transcript-08/11/17</a> PN303.  <b>Drafter comment:</b> The suggested amendment does not

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						seem necessary when clause 10.9 is read with clause 15.
17	ABI & NSWBC	<a href="#">Sub-12/10/17</a>	11.2(a)	<b>Casual employment – casual loading</b> Submits clause should be amended to reduce any uncertainty as to whether casual loading is cumulative or compounding. Suggest ‘in addition to’ rather than ‘on top of’.	Para 5	Provisionally resolved. See <a href="#">Transcript-08/11/17</a> PNs306-307. <b>Drafter comment:</b> I have no strong objection to using “in addition to”. PLED provisionally updated.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Supports retaining wording in current award cl 12.5(a) which states “ <i>an additional 25%</i> ”.	Para 20	<b>Drafter comment:</b> Clause 11.2 of the PLED is to the same effect as clause 10.5(b) of the current award.
19	ABI & NSWBC	<a href="#">Sub-12/10/17</a>	12.3(b)	<b>Classifications – Licensing</b> Submits current award cl 10.6(b)(ii) has been omitted from PLED. Notes clients would be interested to understand why, otherwise proposes it be reinserted.	Para 6	Provisionally resolved. See <a href="#">Transcript-08/11/17</a> PNs324-328. <b>Amendment proposed by drafter:</b> insert ‘their classification or’ after ‘appropriate licence for’. PLED provisionally updated.
38	ABI &	<a href="#">Sub-12/10/17</a>	19.4	<b>Allowances – Broken shift allowance</b>	Para 12	Provisionally resolved.

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	NSWBC			Submits PLED does not make it clear the allowance is not payable in respect of both periods of the broken shift. Submits 'total' be inserted before 'broken shift allowance'.		See <a href="#">Transcript-08/11/17</a> PNs409-411. <b>Amendment proposed by drafter:</b> I suggest substituting "rostered" for "broken" to make it clear that only one broken shift allowance is payable. PLED provisionally updated.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Disagrees with ABI's submission. Submits PLED is clear.	Para 37	
40	UV	<a href="#">Sub-06/10/17</a>	19.6	<b>Allowances – Relieving Officer Allowance</b> Submits PLED has amended the manner in which a relieving officer may be appointed. Submits current award cl 15.8 requires employee's agreement if employer wishes to appoint them as the relieving officer. Submits PLED has removed the agreement requirement and is a substantive change. Submits current award clause should be retained.	Paras 22 – 26	Provisionally resolved. See <a href="#">Transcript-08/11/17</a> PNs419-427. <b>Amendment proposed by drafter:</b> I suggest substituting in the definition of "relieving officer" in clause 2 the expression " , by agreement with the employer, is appointed by the employer" for "is appointed". PLED provisionally updated.
42	UV	<a href="#">Sub-06/10/17</a>	19.8	<b>Allowances – Meal Allowance</b> Submits PLED alters legal effect of the clause and changes the circumstances in which entitlement to the allowance arises.	Paras 33 – 37	Provisionally resolved. See <a href="#">Transcript-08/11/17</a> PNs440-442.

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				Submits under current award cl 15.3 the entitlement arises where employee is required to work 'more than one hour' without being notified before the previous day. Submits PLED provides the entitlement where employee is required to work 'overtime' of more than one hour without being notified before the previous day. Submits PLED should be amended. Provides draft wording.		<b>Amendment proposed by drafter:</b> delete 'overtime of' from cl 19.8(a)(i).  PLED provisionally updated.
	ASIAL	<a href="#">Reply-Sub-20/10/17</a>		Submits that if a finishing time is fixed for a permanent full-time or part-time employee any change at the discretion of the employer would invoke the overtime clause. Submits UV's assertion is a misinterpretation of the award.	Para 6	

b) Proposed amendments listed at Attachment A of the revised Summary of Submissions (not yet included in PLED):

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24	ABI & NSWBC	<a href="#">Sub-12/10/17</a>	13.3(h)	Submits definition of 'rest breaks' is clumsy. Proposes clause be amended. Provides draft wording.	Para 7.3	Outstanding. See <a href="#">Transcript-08/11/17</a> PN350.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Agrees with ABI's submission.	Para 26	<b>Amendment proposed by drafter:</b> See <b>ATTACHMENT A</b> for proposed drafting.
26	UV	<a href="#">Sub-06/10/17</a>	13.5, 13.6	<b>Ordinary hours of work and rostering</b> Submits PLED substantially changes provisions of display of rosters which alters the legal effect. Submits current award has an entitlement to overtime where an employer has notified an employee of the roster and amended it without notice, but PLED does not contain such a provision. Submits current award wording ' <i>Such times, once notified, may not be changed without the payment of overtime, or by seven days' notice given in accordance with this clause</i> ' should be retained.	Paras 6 – 10	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs351-356. <b>Amendment proposed by drafter:</b> Insert a new subclause 13.5(c). See <b>ATTACHMENT A</b> for proposed drafting.
27	ASIAL	<a href="#">Sub-06/10/17</a>	13.5(c)	Submits current award cl 21.12 should be retained.	Para 15	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs351-



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	ABI & NSWBC	<a href="#">Sub-12/10/17</a>		Submits reference to payment of overtime in circumstances where less than 7 days' notice has been provided has been omitted. Submits reference provides clarity.	Para 8.2	356.  <b>Amendment proposed by drafter:</b> Insert a new subclause 13.5(c). See <b>ATTACHMENT A</b> for proposed drafting.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Agrees key parts of current award cl 21.12 should be retained. Refers to submissions in relation to item 26.	Para 29	
29	UV	<a href="#">Sub-06/10/17</a>	14	<b>Breaks</b> Submits 'Example 1' may cause confusion. Example does not clearly articulate George should be paid for the full 7.6 hours even though he does not work it. Submits example is unclear and should be amended.	Paras 14 – 17	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs358-367.  <b>Amendment proposed by drafter:</b> Amend 'calculating pay for a break of 8 or more hours' section of example 1. See <b>ATTACHMENT A</b> for proposed drafting.
	ASIAL	<a href="#">Reply-Sub-20/10/17</a>		Submits there is no confusion in PLED.	Para 3	
35	ASIAL	<a href="#">Sub-06/10/17</a>	17.2	<b>Payment of wages</b> Submits 'or Thursday' should be added after 'Wednesday'.	Para 20	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs395-399.  <b>Amendment proposed by drafter:</b> See <b>ATTACHMENT A</b> for
	ABI & NSWBC	<a href="#">Sub-12/10/17</a>		Submits clause should be amended to reflect requirement in current award cl 19	Para 11	

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				that payment of wages will occur no later than Thursday. Provides draft wording.		proposed amendment.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Submits PLED is not necessarily clearer than current award cl 19. Supports retaining current award clause.	Para 34	
43	ASIAL	<a href="#">Sub-06/10/17</a>	21.3	<b>Overtime – Overtime rates</b> Submits clause is inconsistent with other clauses in award. Submits overtime occurs outside of or in excess of ordinary rostered hours.	Para 24	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs442-451. <b>Amendment proposed by drafter:</b> See ATTACHMENT A.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Disagrees with ASIAL’s submission. Submits there is no inconsistency.	Para 38	
44	ASIAL	<a href="#">Sub-06/10/17</a>	21.3(a)	Submits ‘minimum hourly’ should be deleted and current award cl 23.3 wording reinstated.	Para 27	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs451-453.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Prefers wording in PLED.	Para 40	<b>Amendment proposed by drafter:</b> See ATTACHMENT A.
45	ASIAL	<a href="#">Sub-06/10/17</a>	21.3(b)	Submits current award cl 23.4 should be retained.	Para 25	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs454-455. <b>Amendment proposed by drafter:</b>

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						See ATTACHMENT A.
46	ASIAL	<a href="#">Sub-06/10/17</a>	21.3(b)	Submits PLED is a departure from current award which is clear. Submits current award cl 23.4 should be retained otherwise it may be inconsistent with the object to ensure 'no employee can take home less pay'.	Para 29	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs456-461. <b>Amendment proposed by drafter:</b> See ATTACHMENT A.
	ABI & NSWBC	<a href="#">Sub-12/10/17</a>		Submits PLED departs from current award cl 23.4. Submits current award wording should be reinserted.	Para 14	
	UV	<a href="#">Reply-Sub-20/10/17</a>		Disagrees with both submissions above. Submits PLED clarifies meaning of the clause.	Para 39	
51	UV	<a href="#">Sub-06/10/17</a>	23.2	<b>Annual leave – Additional paid annual leave for certain shiftworkers</b> Submits PLED alters the legal effect of the clause and significantly reduces the number of employees who would be defined as shift workers under the award. Submits PLED introduces a requirement for a business to operate 24 hours a day, 7 days a week for an employee to be defined as a shift worker that does not exist in the current award. Submits definition in current award cl 24.2(a) should be	Paras 38 – 41	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs476-477. <b>Amendment proposed by drafter:</b> See ATTACHMENT A.

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REF	NOTES
				retained.		
	ASIAL	<a href="#">Reply-Sub-20/10/17</a>		Submits UV's concerns are dealt with at s.87(3)(i)–(ii) of the Act.	Para 7	
52	ASIAL	<a href="#">Sub-06/10/17</a>	23.2(a)	Submits essential clauses have been omitted. Submits clause should be re-drafted. Provides draft wording.	Para 32	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs478-479. <b>Drafter's proposed amendment:</b> See <b>ATTACHMENT A</b> .
53	UV	<a href="#">Sub-06/10/17</a>	23.3	<b>Annual leave – Payment for annual leave</b> Submits PLED reduces employee entitlements. Submits current award cl 24.6 provides the employee will receive the greater of the two options for payment during annual leave, but PLED removes this and only provides for the 17.5% loading. Submits current award cl 24.6 and 24.10 should be retained.	Paras 42 – 49	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs480-486. <b>Drafter's proposed amendment:</b> See <b>ATTACHMENT A</b> .
	ABI & NSWBC	<a href="#">Sub-12/10/17</a>		Submits reference to payment for annual leave at rate employee would have received for working their normal hours per current award cl 24.6(a) appears to have been omitted.	Para 15	

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54	UV	<a href="#">Sub-06/10/17</a>	23.3	Submits 23.3(a) PLED provides a loading of 17.5% is payable on accrued annual leave entitlements on termination. Submits this is significantly less than current award cl 24.10 which would reduce the annual leave payment of employees on termination. Submits current award cl 24.10 be retained.	Paras 47 – 49	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs486-505. <b>Drafter's proposed amendment:</b> See ATTACHMENT A.
55	UV	<a href="#">Sub-06/10/17</a>	23.4	<b>Annual leave – Temporary close-down</b> Submits PLED removes entitlements. Submits current award cl 24.9(c) provides public holidays falling within close-down period will be paid but there is no equivalent in the PLED. Submits NES does not specifically provide any entitlements regarding public holidays that fall in a period of leave without pay. Submits current cl 24.9(c) be retained.	Paras 50 – 54	To be dealt with separately – see Statement...XX. Outstanding. See <a href="#">Transcript-08/11/17</a> PNs505-506. <b>Amendment proposed by drafter:</b> See ATTACHMENT A.

## 2. Outstanding items for further discussion at conference

ITEM	PARTY	DOCUMENT	CLAUSE (PLED)	SUMMARY OF ISSUE	THEIR REF	NOTES
3	ASIAL	<a href="#">Sub-06/10/17</a>	2	Submits definition of a shift worker should be included in definitions clause: <i>‘For the purpose of the NES, a shiftworker is an employee:  (a) who works a roster and who, over the roster cycle, may be rostered to work ordinary shifts on any of the seven days of the week; and  (b) who is regularly rostered to work on Sundays and public holidays’.</i>	Para 4	Outstanding.  UV not opposed to inclusion of definition if it is in the same terms as that of the current award.  <a href="#">Transcript-08/11/17</a> PNs279 – 280:  Commission to seek the drafter’s comment and come back to parties.  <b>Drafter comment:</b>  The definitions clause defines terms for the purposes of the award. The definition of “shiftworker” is for the purposes of the NES.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Does not object to ASIAL’s submission provided the definition inserted is current award cl 24.2.	Para 8	
18	ASIAL	<a href="#">Sub-06/10/17</a>	12.1	<b>Classifications</b>  Submits clause should be amended.  <i>‘An employer must pay an employee the rate of pay applicable to the classification in which the employee works’.</i>	Para 11	Outstanding.  See <a href="#">Transcript-08/11/17</a> PNs311-323.  <b>Drafter comment:</b>  Clause 12 does not deal with the requirement to pay.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Submits ASIAL’s proposed amendment is not necessary.	Para 18	

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39	ASIAL	<a href="#">Sub-06/10/17</a>	19.5	<b>Allowances – Supervision allowance</b> Submits allowance should be expressed as a per shift allowance as well as per week.	Para 22	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs412-418. <b>Drafter comment:</b> It was my understanding that it was a weekly allowance.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Disagrees with ASIAL’s submission. Submits it is a substantive change.	Para 36	
	UV	<a href="#">Sub-17/11/17</a>		Reserves its position on this item.	Para 11	
	ASIAL	<a href="#">Sub-20/11/17</a>		Submits the allowance should be expressed as a per shift allowance as well as per week. Submits the supervision or leading hand allowance was expressed as both weekly and per shift in a number of pre-reform awards and NAPSAs prior to 2010. Submits the FWO has published tables showing the allowance as per shift. Provides examples as attachments to submission.	Page 2	
41	UV	<a href="#">Sub-06/10/17</a>	19.6	<b>Allowances – Relieving Officer Allowance</b> <i>Response to question from Fair Work Commission</i>	Paras 27 – 28	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs428-439.

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				Submits an employee appointed to the position is paid the allowance from the time of appointment until the time they transfer to a stationary position. Submits the allowance is paid on a weekly basis regardless of how many shifts are worked that week.		<b>Drafter comment:</b> Draft is consistent with this.
	ASIAL	<a href="#">Sub-06/10/17</a>		Submits this appointment is made with short notice to cover sick leave and unplanned longer term leave.	Para 23	<b>Drafter comment:</b> Definition in clause 2 is consistent with this.
	ABI & NSWBC	<a href="#">Sub-12/10/17</a>		Submits clauses 19.5 and 19.6 refer to weekly allowances. Submits the current practice is for these allowances to be divided into a daily figure for employees who do not work a full week as a supervisor or relieving officer.	Para 13	<b>Drafter comment:</b> Is the practice consistent with the current award?
	ASIAL	<a href="#">Reply-Sub-20/10/17</a>		Submits depending on size and operational requirements, relieving officers may be appointed in different ways. Regardless, allowance is paid weekly. Notes current award cl 24.6(b) indicates it can be a continuous arrangement.	Para 5	<b>Drafter comment:</b> Draft is consistent with this.
	UV	<a href="#">Sub-17/11/17</a>		Submits full-time and part-time employees should not be appointed to the	Paras 12 –	



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				position of relieving officer for less than a period of one week. Submits that where appointed for less than one week, current award clause 21.12 applies. Submits expressing the allowance as a daily allowance would enable employers to circumvent clause 21.12. Objects to the allowance being expressed as a daily one.	28	
48	ASIAL	<a href="#">Sub-06/10/17</a>	22.2	<b>Penalty rates</b> Submits new subclause '(d) the casual loading is not included when calculating the overtime rate' should be inserted.	Para 28	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs462-475. <b>Drafter comment:</b>
	UV	<a href="#">Reply-Sub-20/10/17</a>		Objects to ASIAL's submission. Submits this process is not appropriate for ASIAL to pursue this additional clause.	Paras 41, 42	Column 3 of Table 7 makes it clear that the rate is inclusive of casual loading.
49	ASIAL	<a href="#">Sub-06/10/17</a>	22.3 [22.2]	Submits clause should be re-drafted. Provides draft wording.	Para 30	Outstanding. See <a href="#">Transcript-08/11/17</a> PNs462-475.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Submits ASIAL's submission relates to cl 22.2. Submits cl. 22.1 PLED already addresses issue identified and proposed amendment is not necessary.	Para 43	<b>Drafter comment:</b> Clause 22.1 makes it clear that penalty rates are not applicable if the overtime rate is applicable.

## 3. Outstanding items to be determined by the Full Bench with regard to submissions already made:

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30	ABI & NSWBC	<a href="#">Sub-12/10/17</a>	14	Submits a provision similar to current award cl 14.4 is not included in PLED. Submits an employee who is unable to be provided with an unpaid meal break due to operational requirements will be able to be provided with a paid meal break. Submits clause be removed.	Para 10	Outstanding.  Full Bench to determine with regard to submissions put.  See <a href="#">Transcript-08/11/17</a> PNs370-377.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Disagrees with ABI's submission. Submits cl 14.4 retains the meaning within current award cl 21.6(a).	Para 30	
32	ASIAL	<a href="#">Sub-06/10/17</a>	14.5	<b>Breaks between work periods</b>  Submits current award cl 21.3 ' <i>Breaks between successive shifts</i> ' is more appropriate.  14.5 should read: ' <i>Each ordinary time shift must be separated from any subsequent ordinary time shift by a minimum break of not less than eight hours</i> '.	Para 18	Outstanding.  Full Bench to determine with regard to submissions put.  See <a href="#">Transcript-08/11/17</a> PNs380-385.
	UV	<a href="#">Reply-Sub-20/10/17</a>		Prefers PLED wording.	Para 32	
33	UV	<a href="#">Sub-06/10/17</a>	15	<b>Minimum rates</b>	Paras 18 –	Outstanding.

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				Submits current award cl 14.1 contains recognition that minimum weekly wages are exclusive of penalties and allowances and PLED removes this. Submits PLED should be amended. Provides draft wording.	21	Full Bench to determine with regard to submissions put. See <a href="#">Transcript-08/11/17</a> PNs385-390. A similar issue arose in relation to the Clerks award. Clause provisionally updated to reflect how this was resolved in clerks. Interested parties should review. <a href="#">[2018] FWC 411</a> at [72].
	ASIAL	<a href="#">Reply-Sub-20/10/17</a>		Submits this is adequately explained in NOTE 2: Schedule B.	Para 4	
37	UV	<a href="#">Sub-06/10/17</a>	19.1	<b>Allowances</b> Submits PLED alters language regarding payment of allowances and current award cl 15.1 is clearer and more direct. Submits current award cl should be retained.	Paras 29 – 32	Outstanding. Full Bench to determine with regard to submissions put. See <a href="#">Transcript-08/11/17</a> PNs403-408.
56	ASIAL	<a href="#">Sub-06/10/17</a> <a href="#">Sub-20/10/17</a>	23.10	Submits new clause should be added – ‘23.10 Payment of accrued annual leave on termination’. Provides draft wording.	Para 33	Outstanding. Substantive decision to be made. See <a href="#">Transcript-08/11/17</a> PNs491-505.

**List of abbreviations (in alphabetical order)**

ABI &amp; NSWBC Australian Business Industrial &amp; New South Wales Business Chamber

AIG	Australian Industry Group
ASIAL	Australian Security Industry Association Ltd
PLED	Plain Language Exposure Draft
UV	United Voice

## **ATTACHMENT A**

### **Item 24: Clause 13.3(h)**

#### **Proposed amendment:**

- (h) However, an employee may be rostered to work ordinary hours in broken shifts, that is, in up to 2 periods of duty, exclusive of rest breaks.
- (i) An employee who works broken shifts is entitled to be paid for at least 3 hours for each period of duty on a broken shift even if the employee works for a shorter time.

### **Items 26 and 27: Clause 13.5**

#### **Proposed amendment:**

- (c) An employer may change the rostered time at which an employee starts or finishes work by:
  - (i) giving the employee 7 days' (or any shorter period agreed between the employer and the employee) notice of the change; or
  - (ii) in the absence of such notice, by paying the employee at the overtime rate mentioned in clause 21.3 for any time worked outside the previously notified starting and finishing time.

### **Item 29: Clause 14.5**

#### **Proposed amendment:**

##### **Calculating pay for a break of 8 or more hours**

Alternatively, George may be directed by his employer to start work at 8.00 am on Wednesday (one hour later than his usual 7.00 am start) so he can receive an 8 hour break.

In this case even though George only works 6.6 hours on Wednesday, he must still be paid his minimum hourly rate for 7.6 hours:  $\$20.54 \times 7.6 = \$156.10$ .

**Item 35: Clause 17.2**

**Proposed amendment:**

- 17.2** Wages must be paid by no later than the following days in a pay week:
- (a) Wednesday if Friday of that week is a public holiday; or
  - (b) Friday if any day of that week other than Friday is a public holiday; or
  - (c) Thursday in any other case.

**Items 43, 44, 45 and 46: Clause 21.3**

**Proposed amendment:**

**21.3 Overtime rates**

- (a) The overtime rate is the relevant percentage specified in column 2 of **Table 5—Overtime rates** (depending on when the overtime was worked, as specified in column 1) of the employee’s minimum hourly rate applicable under **Table 4—Minimum rates**.

**Table 5—Overtime rates**

<b>Column 1</b> <b>For overtime worked on</b>	<b>Column 2</b> <b>Overtime rate</b> <b>(% of minimum hourly rate)</b>
Monday to Saturday—first 2 hours	150%
Monday to Saturday—after 2 hours	200%
Sunday—all day	200%
Public holiday—all day	250%

NOTE: **Schedule B—Summary of Hourly Rates of Pay** sets out the hourly overtime rate for all employee classifications according to when overtime is worked.

- (b) If a period of overtime starts on one day and continues into the next day, the overtime rate applicable to the portion worked on each day is the appropriate rate for that day.
- (c) Except as provided by paragraph (b), overtime worked on any day stands alone from overtime worked on any other day.

**Items 51 and 52: clause 23.2**

**Proposed amendment:**

**23.2 Additional paid annual leave for certain shiftworkers**

- (a) Clause 0 applies to an employee who:

- (i) works a roster and who, over the roster cycle, may be rostered to work an ordinary shift on any day of the week; and
  - (ii) is regularly rostered to work on Sundays and public holidays.
- (b) The employee is a shiftworker for the purposes of the NES (entitlement to an additional week of paid annual leave).

### Items 53 and 54: clause 23.3

#### Proposed amendment:

#### 23.3 Payment for annual leave

- (a) Before the start of a period of annual leave, the employer must pay the employee for the employee's ordinary hours of work in that period the greater of:
- (i) the amount the employee would have earned during that period for those ordinary hours had they not been on leave; and
  - (ii) the employee's minimum hourly rate specified in column 3 of Table 4- Minimum rates for those ordinary hours together with any applicable first aid allowance, supervision allowance or relieving officer allowance payable in accordance with clause **Error! Reference source not found.**-Allowances plus a loading of 17.5%.
- (b) An employee paid by electronic funds transfer may be paid in accordance with their usual pay period while on paid annual leave.
- (c) An employee who has a period of untaken paid annual leave when the employment of the employee ends is entitled to be paid:
- (i) an amount calculated in accordance with paragraph (a)(i); and
  - (ii) a loading of 17.5% calculated in accordance with paragraph (a)(ii), unless the employee was dismissed for misconduct; and
  - (iii) the cash value of any board or lodging provided to the employee by the employer during the period to which the accrued annual leave relates as part of the employee's ordinary time pay and not because of any special circumstances, such as the employee having to sleep away from their usual residence in order to work at a particular place.
- (d) The cash value of board or lodging mentioned in paragraph (c)(iii) is its cash value as fixed by or under the employee's terms of employment or, if not so fixed, calculated at the rate of **\$2.63** per week for board and **\$1.33** per week for lodging.

NOTE: Section 90(2) of the Act provides for payment for annual leave when the employment of an employee ends.

**Item 55: clause 23.4**

**Proposed amendment:**

**23.4 Temporary close-down**

- (a) Clause 0 applies if an employer:
  - (i) intends to close down, or reduce staffing levels in, all or part of a workplace for a particular period (**temporary close down period**); and
  - (ii) wishes to require affected employees to take leave during that period.
- (b) The employer must give the affected employees at least 28 days' written notice of a temporary close down period.
- (c) The employer must give immediate written notice of a temporary close down period to any employee who is engaged after the notice is given under paragraph (b) and who will be affected by that period.
- (d) The following applies to any affected employee during a temporary close down period:
  - (i) if the employee has accrued an entitlement to sufficient paid annual leave to cover the whole of the temporary close down period, the employee must take that leave to cover the whole of the temporary close down period;
  - (ii) if the employee has accrued an entitlement to paid annual leave but the amount accrued is insufficient to cover the whole of the temporary close down period, the employee must take all the paid annual leave to which they have accrued an entitlement and also take leave without pay to cover the balance of the temporary close down period;
  - (iii) if the employee has not accrued an entitlement to any paid annual leave, the employee must take leave without pay to cover the whole of the temporary close down period.
- (e) An employee must be taken not to be on leave on any public holiday that falls during a temporary close down period.

NOTE: Public holiday entitlements are provided for in the NES.

- (f) In determining the amount of paid annual leave to which an employee has accrued an entitlement, any period of paid annual leave taken in advance by the employee, in accordance with an agreement under clause 23.8 to which an entitlement has not been accrued is to be taken into account.