

IN THE FAIR WORK COMMISSION

FWC MATTER Nos: AM2014/283

Registered and Licenced Clubs Award 2010

Clause 18.4: Casual Fitness Instructors

APPLICANT: Clubs Australia Industrial

OUTLINE OF SUBMISSIONS ON BEHALF OF CLUBS AUSTRALIA INDUSTRIAL

1. This submission is in response to the Fair Work Commission Full Bench Decision [2020] FWCFB 4762 (the **Decision**) issued on 4 September 2020 in the 4-yearly review of Modern Awards – Registered and Licensed Clubs Award 2010 (the **Clubs Award**).
2. In accordance with that direction, Clubs Australia Industrial (**CAI**) provides the following responses to the Commission’s provisional reviews.

Club Managers

3. At paragraph [8] of the Decision, the FWC directed interested parties to file a submission on the provision view regarding the definition of Club manager:

club manager means a person who is appointed to a position which is covered by a managerial classification in Clause A.11.2 of Schedule A—Classification Definitions based upon the performance of any or all of the duties and responsibilities as referred to in clause A.11.1 of Schedule A.

4. CAI largely supports the FWC’s provisional view but suggests the following amendments:

Club manager means a person who is appointed to a position which is covered by a managerial classification in Clause A.11.2 of Schedule A – Classification Definitions and has duties and responsibilities as referred to in clause A.11.1 of Schedule A.

5. CAI's proposed definition ensures the wording is simple and easy to understand to meet the modern award objectives.

Shiftworker

6. At paragraph [21] of the Decision, the FWC directed interested parties to file a submission on the provision view to delete the definition of shiftworkers in clause 3.1 of the Clubs Award.
7. CAI does not oppose the provisional view to delete the definition of shiftworker from Clause 3.1 of the Clubs Award.

Fitness instructor

8. At paragraph [53] of the Decision, the FWC directed interest parties to file a submission on the provisional view regarding the fitness instructor rates:

(1) The current clause 17.6 of the Clubs Award (clause 18.4 of the exposure draft) should be removed.

(2) "Fitness instructor" should be included as a role within the Level 3 classification in clause 17.2 of the Clubs Award (clause 18.3 of the exposure draft) immediately after "Leisure attendant grade 2".

(3) Clause 10.5(d) of the Clubs Award (clause 11.6 of the exposure draft) should be varied to provide that the minimum payment for a casual fitness instructor on each engagement is one hour.

(4) The definition of "(Casual) fitness instructor" in Schedule C clause C.7.4 of the Clubs Award (Schedule A clause A.7.4 of the exposure draft) should be varied to omit "(Casual)" from the defined term and also to omit the last sentence (which refers to a one-hour minimum engagement).

9. CAI supports the FWC provisional view outlined at paragraph [52] of the decision.
10. The provisional view is consistent with the modern award objective of providing 'a fair and minimum safety net of terms and conditions' and ensures Section 134(e) of the Act is adequately considered.



Laundry allowance

11. At paragraph [67] of the Decision, the FWC directed interested parties to file a submission on the provision view regarding the laundry allowance. The FWC expressed a provisional view:

‘to retain the clause in its current form, but to adjust the amount in accordance with CPI changes since the award came into effect, and to vary clause 18.1(k) (Schedule C clause C.2.2(b) of the exposure draft) to provide that the laundry allowance will be adjusted in accordance with the CPI for the Clothing and footwear group’

12. CAI does not oppose the FWC provisional view outlined at paragraph [67] of the Decision on the basis that it is adjusted in line with the CPI increase at the time of any adjustment to the standard rate, that is annually.
13. To apply a quarterly CPI increase would be extremely burdensome on clubs’ administration and would be contrary to considerations arising under section 134(1)(d) and 134(1)(f) of the Act.

Tool Allowance

14. At paragraph [73] of the Decision, the FWC directed interested parties to file a submission on the provision view regarding the tool allowance. The FWC expressed a provisional that:

‘the tools allowance is indexed according to the CPI “Tools, equipment” component.’’

15. CAI does not oppose the FWC provisional view outlined at paragraph [73] of the Decision on the basis that it is adjusted with the CPI increase at the time of any adjustment to the standard rate, , that is annually.
16. To apply a quarterly CPI increase would be extremely burdensome on clubs’ administration and would be contrary to considerations arising under Section 134(1)(d) and 134(1)(f) of the Act.



Professional Golfers Association Claims

17. At paragraph [82] of the Decision, the FWC directed interested parties to file submissions in response to the proposed variation by the PGA.
18. The PGA has proposed to insert classification definitions and rates of pay for Professionals and Gold Trainees.
19. CAI does not oppose the proposed variation by the PGA.



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Clubs Australia Industrial

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