

Information note—Proposal to vary the adult rates and exemption clauses in the *Registered and Licensed Clubs Award 2020* and a history of clauses relevant to the proposal

14 April 2021

This document has been prepared by Fair Work Commission staff and does not purport to be a comprehensive discussion of the issues involved. It does not represent the views of the Fair Work Commission on any issue

Table of contents

Introduction	1
Variation proposals	2
Proposal to vary clause 18.3 by inserting salaries for Cook Levels 4 to 6 employees	2
Proposal to vary clause 18.4 by inserting an exemption clause for Cook Levels 4-6 employees	4
Proposal to vary clause 18.4 by deleting references to ‘club manager’ and inserting ‘any managerial classification role level 6 to 13 inclusive as set out in clause 18.3’	5
Overall impact of proposals.....	7
History of the term ‘club manager’	7
Award Modernisation proceedings	7
4 yearly review proceedings.....	9
History of the annual salary exemption	9
Award Modernisation proceedings	9
4 yearly review proceedings.....	17
History of variations made to the Registered and Licensed Clubs Award 2010	18

Introduction

On 9 December 2020, the President received a letter from the Minister for Industrial Relations in which the Minister expresses the Government’s view that:

‘...in the extraordinary circumstances that have been caused by the COVID pandemic that it would be in Australia’s economic best interest for the Fair Work Commission to use its powers under s.157(3)(a) of the *Fair Work Act 2009* (the Act) to undertake a process to ensure several priority modern awards in sectors hardest hit by the pandemic be amended. The process would be envisaged, if you considered it appropriate, to maintain a focus on key changes that could potentially support Australia’s economic recovery. The Government would obviously provide every available assistance to ensure the timely and comprehensive conduct of this process.’

As a result the Fair Work Commission has commenced a process on the Commission's own motion to consider the inclusion of loaded rates and exemption rates clauses in *the General Retail Industry Award 2020, Hospitality Industry (General) Award 2020, Restaurant Industry Award 2020* and the *Registered and Licenced Clubs Award 2010 (AM2020/103)*. The process will also consider whether any changes can be made to simplify the classification structures in these awards and any other changes proposed by any interested party.

On 25 March 2021 the Registered Clubs Association of NSW submitted draft determinations proposing to vary the adult rates and exemption clauses in the *Registered and Licensed Clubs Award 2020 (Clubs Award)*. This information note provides an overview of the potential effects of those proposals.

This information note also contains detail on the history of exemption clauses and the definition of 'club manager' in the Clubs Award, as well as general information regarding the history of variations to the Clubs Award, since it was made on 4 September 2009.

This brief supplements the [Classification structure in the Clubs Award](#) document published by the Fair Work Commission on 10 December 2020.

Variation proposals

Proposal to vary clause 18.3 by inserting salaries for Cook Levels 4 to 6 employees

Clause 18.3 of the Clubs Award consists of a table setting out adult employee rates of pay, ranging from Introductory Level employees to those classified as Level 13 employees. The table shows a minimum weekly rate for full-time employees and a minimum hourly rate for all employee levels.

Additionally, the table sets out an annual rate for full-time employees employed from Level 6 (club manager of a club with a gross annual revenue of less than \$500,000) and Level 7 to Level 13.

The Registered Clubs Association of NSW's proposal seeks to extend the option to remunerate employees in accordance with an annual rate by specifying an annual rate for full-time employees employed at Level 4 (cook (tradesperson) grade 3), Level 5 and (cook (tradesperson) grade 4) and Level 6 (cook (tradesperson) grade 5). Proposed amendments to clause 18.3 are as follows:

Level	Classification	Minimum weekly rate (full-time employee)	Minimum hourly rate	Annual rate (where applicable) (full-time employee)
		\$	\$	\$
Level 4	Clerical grade 3 Cook (tradesperson) grade 3 Food and beverage attendant (tradesperson) grade 4 Front office grade 3 Guest service grade 4 Leisure attendant grade 3 Maintenance and horticultural level 3 (tradesperson) Storeperson grade 3	877.60	23.09	
Level 4	Cook (tradesperson) grade 3			45,761
Level 5	Child care worker grade 2 Clerical supervisor Cook (tradesperson) grade 4 Food and beverage and gaming attendant grade 5 Assistant or Teaching Professional Front office supervisor Guest service superviso Maintenance and horticultural level 4	932.60	24.54	
Level 5	Cook (tradesperson) grade 4			48,628
Level 6	Cook (tradesperson) grade 5 Child care worker grade 3	957.60	25.20	
Level 6	Club manager of a club with a gross annual revenue of less than \$500,000 Cook (tradesperson) grade 5	957.60	25.20	49,932
Level 7	Level A manager	981.70	25.83	51,189

Level	Classification	Minimum weekly rate (full-time employee)	Minimum hourly rate	Annual rate (where applicable) (full-time employee)
		\$	\$	\$
Level 8	Level B manager Maintenance and horticultural management level 1	1023.20	26.93	53,353
Level 9	Level C manager	1036.80	27.28	54,062
Level 10	Level D manager	1074.90	28.29	56,048
Level 11	Level E manager Maintenance and horticultural management level 2	1114.10	29.32	58,092
Level 12	Level F manager Lead golf professional	1184.60	31.17	61,768
Level 13	Level G manager	1207.80	31.78	62,978

NOTE: See **Error! Reference source not found.** for a summary of hourly rates of pay, including overtime and penalty rates.

Proposal to vary clause 18.4 by inserting an exemption clause for Cook Levels 4-6 employees

Clause 18.4 of the Clubs Award prescribes that particular provisions of the Clubs Award do not apply to certain employees within particular classifications receiving specified salaries.

Employees able to access the exemption clause presently include **maintenance and horticultural levels 1–4 employees** in receipt of a salary of not less than **33% more** than the minimum weekly rate for level 4 (maintenance and horticultural level 3—tradesperson) and **club managers employed at levels 6-13** in receipt of a salary that is either **20%** or **50% in excess** of the minimum annual rates for the appropriate classification. In the case of club managers, the higher excess amount is associated with an ability to be exempt from a higher number of award provisions.

The Registered Clubs Association of NSW’s proposal seeks to broaden the application of this provision by exempting a new group of employees who have not had access to this provision previously, **Cook Levels 4-6 employees** receiving a salary of **20%** in excess of the minimum annual rates from the application of clauses 15—Ordinary hours of work, 17.2—Meal breaks, 19.2(c)—Broken periods of work allowance, 22—Overtime and 24—Penalty rates (other than penalty rate provisions relating to public holidays) of the Clubs Award. A new clause 18.4(c) is proposed:

(c) Cooks level 4-6 inclusive in clause 18.3

(i) Subject to the requirements of the NES, the provision of clauses:

- clause 15—Ordinary hours of work;

- clause 17.2—Meal breaks;
- clause 19.2(c)—Broken periods of work allowance
- clause 22—Overtime; and
- clause 24—Penalty rates (other than penalty rate provisions relating to public holidays (see clause 24 – Penalty rates));

will not apply to Cooks Level 4-6 receiving a salary of 20% in excess of the minimum annual rates for the appropriate classification prescribed in Schedule A – Classification Definition.

The proposal to insert clause 18.4(c) is sought in tandem to the proposal to vary clause 18.3 (set out above), as an annual salary is required to be inserted into the Clubs Award for Cook Levels 4-6 employees for the proposed exemption clause at 18.4(c) to refer to.

Issue of note

Currently, the exemption clause for managerial classifications (clause 18.4(a)) contains the following provision

‘(iii) To avoid doubt, where a club manager is not paid in accordance with either clause 18.4(a)(i) or clause 18.4(a)(ii) above, the club manager will be entitled to the benefits of all relevant provisions of this Award.’

No provision of a similar nature is proposed by Registered Clubs Association of NSW’s for the exemption clause for Cook Levels 4-6 employees set out above.

Proposal to vary clause 18.4 by deleting references to ‘club manager’ and inserting ‘any managerial classification role level 6 to 13 inclusive as set out in clause 18.3’

The first exemption prescribed by current clause 18.4(a) of the Clubs Award is titled ‘Managerial classifications—levels 6–13 inclusive in clause 18.3’.

The classifications set out in clause 18.3 of the Clubs Award associated with these levels include :

- ‘club manager of a club with a gross annual revenue of less than \$500,000’;
- ‘Level A manager’;
- ‘Level B manager’;
- ‘Maintenance and horticultural management level 1’;
- ‘Level C manager’
- ‘Level D manager’;
- ‘Level E manager’;
- ‘Maintenance and horticultural management level 2’;
- ‘Level F manager’;
- ‘Lead golf professional’; and
- ‘Level G manager’.

Beyond the title, the text of clause 18.4 refers to ‘club manager’ in describing the group of employees to which the exemption applies.

The term 'club manager' is defined by clause 2 of the Clubs Award as a person who is appointed to a position which is covered by a managerial classification in clause A.12.2 of Schedule A—Classification Definitions and has duties and responsibilities as referred to in clause A.12.1 of Schedule A—Classification Definitions.

Clause A.12.2 of the Clubs Award prescribes that club managers will be classified as:

- Club manager of a club with a gross annual revenue of less than \$500,000 (level 6 in the classification structure in clause 18.3); or
- A manager level A to G, in respect of which the Management Committee of an employing club will establish an appropriate management classification level for management positions at their respective club. From the commencement date of this award and subject to clause A.12.2 a management employee will be classified in accordance with the nature of the job being performed, into any of the following classification levels.

The managerial classifications in clause A.12.2 set out the responsibilities, training, experience and indicative tasks for manager levels A to G. The categories of duties and responsibilities set out at clause A.12.1 include amongst others, 'policy', 'secretarial', 'legal', 'accounting', 'personnel/human resources', 'bar operations', 'catering operations', 'poker machine/gaming and wagering operations', 'premises operations', 'club promotion', 'club entertainment/function', 'club sporting/greens and course operations', 'club information and technology operations', 'club commitment and involvement with sporting, charity, and community activities' and 'club external operations'.

It appears that the classifications of 'Lead Golf Professional Level 12', 'maintenance and horticultural management level 1' and 'maintenance and horticultural management level 2' may not be included within the meaning of 'club manager', instead being defined by clauses A.3.4, A.10.5 and A.10.6 of the Clubs Award respectively. Consequently, these classifications may not be subject to the exemptions prescribed by clause 18.4(a) of the Clubs Award.

The Registered Clubs Association of NSW's proposal seeks to capture these additional classifications by deleting the reference to 'club manager' and inserting 'any managerial classification role level 6 to 13 inclusive as set out in clause 18.3':

18.4 Non-application of particular provisions of this award to employees within particular classifications receiving specified salaries

(a) Managerial classifications—levels 6–13 inclusive in clause 18.3

(i) Subject to the requirements of the NES, the provisions of clauses:

- 15—Ordinary hours of work (other than clause 15.8—Special provisions for accrued rostered days off—club managers);
- 17.2—Meal breaks;
- 18.11—Higher duties;
- 19.2(c)—Broken periods of work allowance;
- 22—Overtime;
- 23—Recall to duty—club managers; and
- 24—Penalty rates (other than penalty rate provisions relating to public holidays (see clause 24—Penalty rates));

will not apply to ~~a club manager~~ any managerial classification role level 6 to 13 inclusive as set out in clause 18.3 receiving a salary of 20% in excess of the minimum annual rates for the appropriate classification prescribed in Schedule A—Classification Definitions.

(ii) Subject to the requirements of the NES, the provisions of clauses:

- 15—Ordinary hours of work;
- 17.2—Meal breaks;
- 18.11—Higher duties;
- 19.2(c)—Broken periods of work allowance;
- 19.3(b)—Meal allowance—club managers;
- 19.3(d)—Uniforms—club managers;
- 19.3(e)—Vehicle allowance;
- 22—Overtime;
- 23—Recall to duty—club managers;
- 24—Penalty rates; and
- 31.4—Additional arrangements for full-time employees

will not apply to ~~a club manager~~ any managerial classification role level 6 to 13 inclusive as set out in clause 18.3 receiving a salary in excess of 50% above the minimum annual rate for the appropriate classification prescribed in Schedule A—Classification Definitions.

(iii) To avoid doubt, where ~~a club manager~~ any managerial classification role level 6 to 13 inclusive as set out in clause 18.3 is not paid in accordance with either clause 18.4(a)(i) or clause 18.4(a)(ii) above, the club manager will be entitled to the benefits of all relevant provisions of this Award.

The effect of this proposal would be that employees who may not currently have access to this exemption provision ('Lead Golf Professional Level 12', 'maintenance and horticultural management level 1' and 'maintenance and horticultural management level 2') would be included.

Overall impact of proposals

Overall, the proposals put forward by Registered Clubs Association of NSW's would expand the categories of employees who could be covered by an exemption clause.

This includes Cook Levels 4-6 employees who have not previously been covered, and who would have a smaller list of provisions which can be exempted (contained within a new clause).

It also includes managers who may have not previously been covered by an exemption clause ('Lead Golf Professional Level 12', 'maintenance and horticultural management level 1' and 'maintenance and horticultural management level 2'). Those managerial employees would be subject to an existing exemption clause which contains two tiers of exemptions.

History of the term 'club manager'

Award Modernisation proceedings

The [exposure draft](#) for the Registered and Licensed Clubs Award 2010 published by the Australian Industrial Relations Commission (AIRC) on 22 May 2009 included the following definition of 'club manager' at clause 3.1:

"club manager means a person appointed as such who is responsible for the direction and overall operations of a registered and licensed club, subject to the strategic direction determined by its Board of Directors or Committee of Management. A club manager has

duties and responsibilities as referred to in clause A.11 of Schedule A— Classification Definitions”

Clause A.11 of Schedule A—Classification Definitions included, amongst others, functions related to administration, secretarial, legal, accounting, personnel/human resources, bar operations, catering operations, poker machine/gaming and wagering operations, premises operations, club promotion, club entertainment/function, club sporting/greens and course operations, club information and technology operations, club commitment and involvement with sporting, charity, and community, club external relations. It included managerial classification levels A to G.

In a decision accompanying the publication of the [exposure draft](#), the AIRC stated that the exposure draft generally was based on a [draft award](#) submitted by the LHMU and Clubs Australia in March 2009.¹

While the origin of the definition of ‘club manager’ included in the [draft award](#) provided by the LHMU and Clubs Australia is not stated, it bears some similarity to the definition of ‘club manager’ in the [Liquor and Accommodation Industry - Licensed Clubs - Managers and Secretaries \(A.C.T\) Award 2003](#):

“7.9 Secretary/Manager, Club Manager, Manager, General Manager and Chief Executive Officer (which classifications are in this award collectively referred to as the **Club Manager**) shall mean an employee who is appointed by the Club’s Board of Directors or Committee of Management to undertake the duties of the general management, promotion and supervision of the Club’s activities, functions and business and the direction, supervision and control of all other staff employed therein, and without limiting the generality of the foregoing shall unless otherwise directed by the Board, include any but not necessarily all of the areas covered in clause 8 - Duties and responsibilities.”

And is also similar to the definition in the [Club Managers' \(State\) Award 2006](#):

“5.10 Secretary/Manager, Club Manager, Manager, General Manager, Chief Executive Officer (which classifications are in this award collectively referred to as the Club Manager) shall mean an employee who is appointed by the club’s Board of Directors or Committee of Management, or the governing body’s duly appointed representative, to undertake the duties of the general management, promotion and supervision of the Club’s activities, functions and business and the direction, supervision and control of all other staff employed therein, and without limiting the generality of the foregoing shall unless otherwise directed by the Board, include any but not necessarily all of the areas cover in Clause 6. of this award.”

The duties and responsibilities, as well as managerial levels, in clause A.11 appear fairly common to the industry at the time because the content of clauses 8 - Duties and responsibilities and 9 – Classifications and Wage Rates of the [Liquor and Accommodation Industry - Licensed Clubs - Managers and Secretaries \(A.C.T\) Award 2003](#), 13 – Classifications and Wages and 5.12 (scope of management functions) of the [Liquor and Accommodation Industry - Licensed Clubs - Managers and Secretaries – Award 2002](#) and 6 – Duties and Responsibilities and 9 – Classification and Wage Rates [Club Managers' \(State\) Award 2006](#) display similarity.

The [Registered and Licensed Clubs Award 2010](#) was made on 4 September 2009. The definition of ‘club manager’ in clause 3.1 was published in the same terms as those in the [exposure draft](#). The first paragraph of clause A.11.2 of the [exposure draft](#) was modified to include a new reference to level 6 club managers, in addition to managerial levels A to G:

“A.11.2 Classifications

Club managers will be classified as:

¹¹ [\[2009\] AIRCFB 450](#) at [101]

- Club manager of a club with a gross annual revenue of less than \$500,000 (level 6 in the classification structure in clause 17.2); or
- A manager level A to G, in respect of which the Management Committee of an employing club will establish an appropriate management classification level for management positions at their respective club. From the commencement date of this award and subject to this clause a management employee will be classified in accordance with the nature of the job being performed, into any of the following classification levels”

4 yearly review proceedings

In the course of the 4 yearly review of the *Registered and Licensed Clubs Award 2010*, a new definition of ‘club manager’ was adopted:²

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.

This variation followed concerns submitted by Clubs Australia Industrial (CAI) that it was unclear if the definition of ‘club manager’ referred only to the manager responsible for general management of the club, for example a chief executive officer, general manager or secretary manager, or if it also included managerial employees classified as Levels A to G in clause C.11.2 of the Clubs Award 2010.³ CAI supported a definition of ‘club manager’ encompassing any managerial employee who is employed by a club, classified pursuant to clause C.11.2 and paid in accordance with clause 17.2 in levels 6 to 13 inclusive.⁴

The Full Bench agreed that the definition was too narrow and did not encompass the full range of club managers provided for by the Clubs Award.⁵ It adopted the definition proposed by CAI, noting it is simple and easy to understand.⁶

History of the annual salary exemption

Award Modernisation proceedings

Clause 17.3 of the [exposure draft](#) for the Registered and Licensed Clubs Award, published by the AIRC on 22 May 2009, set out a table showing the minimum rates of pay for club managers, as defined in clause 3.1 of the draft award. The table included the base annual salary for managerial levels A to G. It additionally included a column specifying the base annual salary plus 30% and another column specifying the base annual salary plus 50%. The exemption clauses were included in two notes at the bottom of the table:

² [\[2020\] FWCFB 6104](#) at [4]-[5].

³ [\[2020\] FWCFB 4762](#) at [4]

⁴ [\[2020\] FWCFB 4762](#) at [4]

⁵ [\[2020\] FWCFB 4762](#) at [6]

⁶ [\[2020\] FWCFB 6104](#) at [5].

17.3 Club managers (as defined—see clause 3.1)

(a) Club managers must be paid the following minimum rates.

(b) This clause does not apply to clubs with a gross annual revenue of less than \$500,000.

Classification level	Base annual salary	+ 30% (Note 1)	+ 50% (Note 2)
	\$	\$	\$
Level A	38 248	49 722	57 371
Level B	39 099	50 829	58 648
Level C	40 509	52 662	60 763
Level D	42 200	54 860	63 300
Level E	46 148	59 992	69 222
Level F	52 350	68 055	78 525
Level G	60 104	78 135	90 156

Note 1: Subject to the requirements of the NES, the provisions of clauses 18.1(h)—Higher duties, 26—Ordinary hours of work and rostering, 27—Recall to duty—club managers and 28—Overtime, will not apply to a club manager receiving a salary of 30% in excess of the minimum annual salary rates for the appropriate classification prescribed in Schedule A—Classification Definitions.

Note 2: Subject to the requirements of the NES, the provisions of clauses 18.1(a)—Meal allowance, 18.1(c)—Uniforms—club managers, 18.1(d)—Vehicle allowance, 26—Ordinary hours of work and rostering, 26.7—Special provisions for accrued rostered days off—club managers, 27—Recall to duty—club managers, 28—Overtime and 34—Public holidays, will not apply to club managers receiving a salary in excess of 50% above the minimum annual salary rate for the appropriate classification prescribed in Schedule A—Classification Definitions.

Clause 17.2 of the [exposure draft](#) set out a table showing the minimum weekly wage and minimum hourly wage for club employees for the levels 'introductory' and 1 to 6 inclusive. Level 6 included the role 'Club manager of a club with a gross annual revenue of less than \$500,000'. An annual salary exemption clause was not included for these groups of employees.

Clause 17.5 of the [exposure draft](#) set out a table showing the minimum weekly rate and minimum hourly rate for greenkeepers. It included the classifications Level 1, Level 2, Level 3 (trade), Level 4, Level 5 (management employee) and Level 6 (management employee). An annual salary exemption clause was not included for these groups of employees.

In an accompanying decision, the AIRC stated that the exposure draft generally was based on a [draft award](#) submitted by the LHMU and Clubs Australia in March 2009.⁷⁷

⁷⁷ [2009] AIRCFB 450 at [101]

While the source of the [draft award](#) submitted by the LHMU and Clubs Australia is not stated, clause 17.3 of the [exposure draft](#) bears a resemblance to:

- Table 1 in Part B of the [Liquor and Accommodation Industry - Licensed Clubs - Managers and Secretaries \(A.C.T\) Award 2003](#);
- Table 1 in Schedule A to the [Liquor and Accommodation Industry - Licensed Clubs - Managers and Secretaries – Award 2002](#); and
- clauses 9.5.1 and 9.5.2 and tables 1.1 and 1.2 in Part B to the [Club Managers' \(State\) Award 2006](#).

The exclusion of clubs with a gross revenue of less than \$500,000 at clause 17.3(b) of the [exposure draft](#) appears based on clause 7.2 of the [Club Managers' \(State\) Award 2006](#).

In response to the [exposure draft](#), the AWU submitted a [draft award](#). Their draft award maintained two separate tables showing minimum rates for club employees and club managers (clauses 17.2 and 17.3 of the AWU draft). It incorporated the minimum rates for greenkeepers, referred to in their draft as maintenance and horticulture employees, in the table related to club employees and included additional maintenance and horticulture employee classifications at levels 8 and 11.⁸ It also included an exemption clause applying to maintenance and horticultural employees paid a salary of not less than 33% of excess of the minimum weekly rate of pay for Level 4 – Tradesperson.

In contrast, Clubs Australia submitted a [draft clause](#) setting out a single minimum rates table for club employees, club managers and maintenance and horticulture employees. Their draft also included additional maintenance and horticulture employee classifications at levels 8 and 11.⁹

Responding to the AWU's draft award, Clubs Australia specifically made submissions regarding the annual salary exemption for maintenance and horticulture management level 1 and 2 employees:

“Clubs Australia is of the view that the exemption provisions for managers under the Exposure Draft should apply to maintenance and horticultural employees classified as management level 1 and level 2 employees. In support of this position it is submitted that these work responsibilities, seniority and remuneration of these employees is comparable responsibility to other managerial employees and that they should not be differentially treated solely on the basis that their managerial responsibilities relate to greens keeping operations or because they are eligible to members of the AWU as opposed to the CMAA.”¹⁰

The [Registered and Licensed Clubs Award 2010](#), as made on 4 September 2009, set out a single table displaying the minimum rates for club employees, clubs managers and maintenance and horticulture employees at clause 17.2 specifying the minimum weekly wage, minimum hourly wage

⁸ [AWU submission](#) on 11 June 2009, page 2

⁹ [Clubs Australia submission](#) on 12 June 2009, para 48(e)

¹⁰ [Clubs Australia submission](#) on 12 June 2009, 48(f)

and, where applicable, an annual salary for each level of employee. The classifications associated with each employee level was also displayed in the table:

17.2 Club employees

Level	Classification	Minimum weekly wage	Minimum hourly wage	Annual salary (where applicable)
		\$	\$	\$
Introductory		543.90	14.31	
	Level 1	560.50	14.75	
	<input type="checkbox"/> Food and beverage attendant grade 1			
	<input type="checkbox"/> Guest service grade 1			
	<input type="checkbox"/> Kitchen attendant grade 1			
Level 2		583.00	15.34	
	<input type="checkbox"/> Clerical grade 1			
	<input type="checkbox"/> Cook grade 1			
	<input type="checkbox"/> Doorperson/ Security officer grade 1			
	<input type="checkbox"/> Food and beverage attendant grade 2			
	<input type="checkbox"/> Front office grade 1			
	<input type="checkbox"/> Guest service grade 2			
	<input type="checkbox"/> Kitchen attendant grade 2			
	<input type="checkbox"/> Leisure attendant grade 1			
	<input type="checkbox"/> Maintenance and horticultural employee level 1			
	<input type="checkbox"/> Storeperson grade 1			
Level 3		603.90	15.89	
	<input type="checkbox"/> Clerical grade 2			
	<input type="checkbox"/> Cook grade 2			
	<input type="checkbox"/> Food and beverage attendant grade 3			
	<input type="checkbox"/> Forklift driver			
	<input type="checkbox"/> Front office grade 2			
	<input type="checkbox"/> Guest service grade 3			
	<input type="checkbox"/> Handyperson			
	<input type="checkbox"/> Kitchen attendant grade 3			

Level	Classification	Minimum weekly wage	Minimum hourly wage	Annual salary (where applicable)
		\$	\$	\$
	<input type="checkbox"/> Leisure attendant grade 2 <input type="checkbox"/> Maintenance and horticultural employee level 2 <input type="checkbox"/> Storeperson grade 2 <input type="checkbox"/> Timekeeper/ Security officer grade 2			
Level 4		637.60	16.78	
	<input type="checkbox"/> Clerical grade 3 <input type="checkbox"/> Cook (tradesperson) grade 3 <input type="checkbox"/> Food and beverage attendant (tradesperson) grade 4 <input type="checkbox"/> Front office grade 3 <input type="checkbox"/> Guest service grade 4 <input type="checkbox"/> Leisure attendant grade 3 <input type="checkbox"/> Maintenance and horticultural level 3 (tradesperson) <input type="checkbox"/> Storeperson grade 3			
Level 5		679.30	17.88	
	<input type="checkbox"/> Clerical supervisor <input type="checkbox"/> Cook (tradesperson) grade 4 <input type="checkbox"/> Food and beverage supervisor <input type="checkbox"/> Front office supervisor <input type="checkbox"/> Guest service supervisor <input type="checkbox"/> Maintenance and horticultural level 4			
Level 6		698.20	18.37	

Level	Classification	Minimum weekly wage	Minimum hourly wage	Annual salary (where applicable)
		\$	\$	\$
	<input type="checkbox"/> Cook (tradesperson) grade 5			
	<input type="checkbox"/> Club manager of a club with a gross annual revenue of less than \$500,000			
Level 7	<input type="checkbox"/> Level A manager	716.40	18.85	37 355.15
Level 8	<input type="checkbox"/> Level B manager	747.80	19.68	38 992.45
	<input type="checkbox"/> Maintenance and horticultural management level 1			
Level 9	<input type="checkbox"/> Level C manager	758.00	19.95	39 524.30
Level 10	<input type="checkbox"/> Level D manager	786.80	20.71	41 026.00
Level 11	<input type="checkbox"/> Level E manager	816.50	21.49	42 574.65
	<input type="checkbox"/> Maintenance and horticultural management level 2			
Level 12	<input type="checkbox"/> Level F manager	869.70	22.89	45 348.65
Level 13	<input type="checkbox"/> Level G manager	887.20	23.35	46 261.15

In an accompanying decision¹¹ the AIRC explained:

[117] ... We have decided to adopt the integrated minimum rates provision suggested by Clubs Australia, incorporating the maintenance and horticultural employees, both non-managerial and managerial, into the existing structure at the levels they proposed. We have applied the rates for managerial classifications from the *Liquor and Accommodation Industry - Licensed Clubs - Managers and Secretaries – Award 2002*, updated since 2005...

The AIRC also stated that it had amended the exposure draft to incorporate changes agreed between the AWU and Clubs Australia in relation to the definitions of maintenance and horticultural employee and the inclusion of maintenance and horticultural employee classification minimum wage rates.¹²

The annual salary exemption for club managers was included in the Clubs Award as a standalone clause and applied to managerial classifications levels 7 to 13 inclusive. An exemption was also added for employees classified as maintenance and horticultural levels 1 to 4:

17.3 Non-application of particular provisions of this awards to employees within particular classifications receiving specified salaries

¹¹ [\[2009\] AIRCFB 826](#)

¹² [\[2009\] AIRCFB 826](#) at [121]

(a) Managerial classifications—levels 7–13 inclusive in clause 17.2

- (i) Subject to the requirements of the NES, the provisions of clauses 18.1(h)—Higher duties, 26—Ordinary hours of work and rostering, 27—Recall to duty—club managers and 28—Overtime, will not apply to a club manager receiving a salary of 20% in excess of the minimum annual salary rates for the appropriate classification prescribed in Schedule A—Classification Definitions.
- (ii) Subject to the requirements of the NES, the provisions of clauses 18.1(a)—Meal allowance, 18.1(c)—Uniforms—club managers, 18.1(d)—Vehicle allowance, 26—Ordinary hours of work and rostering, 26.8—Special provisions for accrued rostered days off—club managers, 27—Recall to duty—club managers, 28—Overtime and 34—Public holidays, will not apply to club managers receiving a salary in excess of 50% above the minimum annual salary rate for the appropriate classification prescribed in Schedule A—Classification Definitions.

(b) Maintenance and horticultural levels 1–4

An employee classified at Maintenance and horticultural levels 1–4 (as defined) may freely agree in writing to payment of a salary of not less than 33% in excess of the minimum weekly rate of pay for level 4 (Maintenance and horticultural level 3—tradesperson) instead of the following provisions of the award—clause 18.1(a)—Meal allowance; clause 24—Meal breaks; clause 26—Ordinary hours of work and rostering; clause 28—Overtime; and clause 34—Public holidays, provided that no employee on such a salary arrangement will be required to work in excess of 38 ordinary hours per week, averaged over a 52 week period. An agreement made pursuant to this subclause may be terminated by either party after 12 months by giving 28 days' written notice or such lesser period as is agreed.

In an accompanying decision¹³ the AIRC explained:

[118] We have applied the exemption provisions within the exposure draft to all managerial positions, including the maintenance and horticultural managerial classifications, reflecting a two level exemption process. We have applied 20% at the first exemption level, reflecting the terms of the major federal award for club managers. We have also included an exemption provision for maintenance and horticultural managerial classifications in the terms of the New South Wales [Bowling and Golf Clubs Employees \(State\) Award](#).

On 22 June 2010 the annual salary exemption provisions at clause 17.3(a) were varied to break the exempted provisions into separate bullet points and add a paragraph specifying that club managers that do not meet the relevant salary requirements receive all the relevant entitlements provided by the award.

The excluded provisions listed at clause 17.3(a)(i) were expanded to include clauses 18.3—Broken shifts and 29—Penalty rates (excepting public holidays). The variations also clarified that club managers retained their entitlements under clause 26.8—Special provisions for accrued rostered days off—club managers.

¹³ [\[2009\] AIRCFB 826](#)

The excluded provisions listed at clause 17.3(a)(ii) were expanded to include clauses 18.1(h)—Higher duties and 29—Penalty rates. The express reference to the inclusion of clause 26.8—Special provisions for accrued rostered days off—club managers was removed. Clause 34—Public holidays was removed from the list and clause 34.3—Additional arrangements for full-time employees was added.

The amended clause stated:

(a) Managerial classifications—Levels 7-13 inclusive in clause 17.2

(i) Subject to the requirements of the NES, the provisions of clauses:

- 18.1(h)—Higher duties;
- 18.3—Broken shifts;
- 26—Ordinary hours of work and rostering (other than sub-clause 26.8—Special provisions for accrued rostered days off—club managers);
- 27—Recall to duty—club managers;
- 28—Overtime; and
- 29—Penalty rates (other than penalty rate provisions relating to public holidays (see clause 29));

will not apply to a club manager receiving a salary of 20% in excess of the minimum annual salary rates for the appropriate classification prescribed in Schedule C—Classification Definitions.

(ii) Subject to the requirements of the NES, the provisions of clauses:

- 18.1(a)—Meal allowance;
- 18.1(c)—Uniforms—club managers;
- 18.1(d)—Vehicle allowance;
- 18.1(h)—Higher duties;
- 18.3—Broken shifts;
- 26—Ordinary hours of work and rostering;
- 27—Recall to duty—club managers;
- 28—Overtime;
- 29—Penalty rates; and
- 34.3—Additional arrangements for full-time employees;

will not apply to a club manager receiving a salary of 50% in excess of the minimum annual salary rates for the appropriate classification prescribed in Schedule C—Classification Definitions.

(iii) To avoid doubt, where a club manager is not paid in accordance with either paragraph (i) or (ii) above, the club manager will be entitled to the benefits of all relevant provisions of this Award.

The decision related to this variation was recorded on [transcript](#) on 17 June 2010. The variation was made in terms agreed to by the parties.¹⁴

¹⁴ [Transcript](#) on 17 June 2010 at PN 64

4 yearly review proceedings

In course of the 4 yearly review, the Commission agreed to vary the Clubs Award by inserting an annual salary rate in clause 17.2 for the Level 6 role of ‘*Club manager of a club with a gross annual revenue of less than \$500,000*’ and extend the application of the annual salary exemption provisions to Level 6 club managers by changing the title of clause 17.3(a) from ‘Managerial classifications—levels 7–13 inclusive in clause 17.2’ to ‘Managerial classifications—levels 6–13 inclusive in clause 18.3’. Regarding this variation, which proposed by CAI and supported by the CMAA and the UWU,¹⁵ the Full Bench stated:

[32] We accept that the CAI’s proposed variations are necessary to achieve the modern awards objective in s 134(1), with the considerations in paragraph (d) (“*the need to promote flexible modern work practices*”) and paragraph (g) (“*the need to ensure a simple, easy to understand ... award system*”) being of most relevance and weight. It is anomalous and confusing that Level 6 club managers, unlike club managers graded at higher levels, do not have an annual minimum salary specified and are not included in clause 17.3, which facilitates both flexibility for clubs and higher remuneration for club managers. These variations will therefore be made.¹⁶

The Commission also considered a proposal by CAI to add meal break and annual leave loading entitlements to the list of provisions club managers may be exempted from under clause 17.3 of the Clubs Award.¹⁷ The CMAA and UWU consented to the addition of meal breaks to the list of excluded entitlements and opposed the addition of annual leave loading.¹⁸

The Full Bench concluded that the addition of meal breaks to the list of excluded provisions in clause 17.3(a)(i) and (ii) of the Clubs Award would be consistent with the achievement of the modern awards objective. The Full Bench placed weight on the need to promote flexible modern work practices, stating that excluding prescriptive meal break provisions is “consistent with a flexible employment structure with higher remuneration that already excludes provisions relating to ordinary hours of work and rostering, overtime and penalty rates”.¹⁹

The Full Bench declined to add the annual leave loading to the list of excluded provisions. It stated that such a variation amounted to the abolishment of a “valuable existing entitlement for club managers without any substantive justification or compensating benefit in return, and without any advantage in terms of productivity”.²⁰

The insertion of the classification ‘lead golf professional’ at level 12 of the minimum rates table at clause 18.3 of the Clubs Award 2020 resulted from various claims made in the 4 yearly review relating to coverage, classification definitions and rate of pay for Golf Professionals and Golf

¹⁵ [\[2020\] FWCFB 4762](#) at [30] and [31]

¹⁶ [\[2020\] FWCFB 4762](#)

¹⁷ [\[2020\] FWCFB 4762](#) at [34]

¹⁸ [\[2020\] FWCFB 4762](#) at [34]

¹⁹ [\[2020\] FWCFB 4762](#) at [37]

²⁰ [\[2020\] FWCFB 4762](#) at [38]

Trainees.²¹ The PGA had submitted that the Clubs Award 2010 should be varied to recognise that golf professionals, at the time classified as Leisure Attendants attending a shop associated with the club's activities, are career employees who undertake a far greater range of duties than attending a shop.²² The Full Bench considered that the variations would "provide an award-specific fair and relevant minimum safety net of terms and conditions".²³

History of variations made to the Registered and Licensed Clubs Award 2010

The [Registered and Licensed Clubs Award 2010](#) was made by the AIRC on 4 September 2009.

Clause 23.4 of the Clubs Award was [varied](#) on 15 December 2009 to insert 'Tasplan' as a superannuation fund eligible to be selected by an employer for the purpose of making superannuation contributions for the benefit of employees.

The Clubs Award was [varied](#) on 16 December 2009 to incorporate transitional provisions. The schedules to the Award were re-numbered.

Clause 23.4 of the Clubs Award was [varied](#) on 24 December 2009 to insert 'AustralianSuper' as a superannuation fund eligible to be selected by an employer for the purpose of making superannuation contributions for the benefit of employees.

Schedule C-Classification definitions of the Clubs Award was [varied](#) on 30 December 2009 to insert a new clause C.1.3 setting out a definition of 'appropriate level of training'. In making this variation the AIRC stated that it accepted that the inclusion of a definition of 'appropriate level of training' is necessary for the effective operation of the classification structure and that it will assist in the transition of employees after 1 January 2010 from their existing industrial instrument to the modern award.²⁴

The Clubs Award was [varied](#) on 30 December 2009 to insert a definition of a new definition of 'food and beverage attendant grade 3' at clause C.2.3 and delete the 'food and beverage attendant grade 4' at clause C.2.4. It has been submitted these grades constituted duplication and caused confusion about classification levels, particularly in relation to gaming and wagering employees. The AIRC stated that this variation would rectify some unintentional changes to the food and beverage attendant grades that occurred when integrating ground maintenance classifications into the structure.²⁵

Clubs Award was [varied](#) on 26 March 2010 to incorporate transitional provisions, amend the coverage clause to exclude employees covered a State public sector award, amend the coverage clause to include on-hire employees and employers providing group training services, and to insert Schedule E-National Training Wage.

Clause 3-Definitions and interpretation of the Clubs Award was [varied](#) on 4 June 2010 to incorporate amended definitions of employee and employer.

Various clauses of the Clubs Award were [varied](#) on 22 June 2010 pursuant to ss.160 and 157 of the *Fair Work Act 2009*. As a result of the variations clause 10.5(d) was amended to prescribe

²¹ [\[2020\] FWCFB 6104](#) at [8] and [11]

²² [\[2020\] FWCFB 4762](#) at [78]

²³ [\[2020\] FWCFB 4762](#) at [81]

²⁴ [\[2009\] AIRCFB 991](#) at [6]

²⁵ [\[2009\] AIRCFB 991](#) at [7] and [8]

different minimum payments for casual employees engaged as bingo callers, additional child care worker classification grades were inserted at levels 2, 5 and 6 of the rates table at clause 17.2, 'food and beverage attendant grade 3' at Level 3 was replaced by 'food and beverage and gaming attendant grade 3' in the rates table at clause 17.2, 'food and beverage supervisor' at Level 5 was replaced by 'food and beverage and gaming attendant grade 5' in the rates table at clause 17.2, the annual salary exemptions applicable to club managers were restructured, clauses were added and removed from the list of excluded provisions and a paragraph clarifying the entitlements of managers who do not received the prescribed salary was added at clause 17.3(a), a new provision concerning management trainees course enrolment and pay requirements was added at clause 17.9, the heading 'C.2 Food and beverage' in Schedule C was changed to 'C.2 Food and beverage and gaming', the classification 'food and beverage attendant grade 3' in clause C.2.3 was changed to 'food and beverage and gaming attendant grade 3', inserting a definition of 'food and beverage and gaming attendant grade 5' at clause C.2.5, inserting definitions for child care workers grades 1, 2 and 3 at clauses C.4.10, C.4.11 and C..4.12 respectively, and inserting new definitions for leisure attendants grades 2 and 3 at clauses C.7.2 and C.7.3 respectively.

The Clubs Award was [varied](#) on 21 July 2010 pursuant to s.160 of the Fair Work Act 2009 to remove ambiguity. The words 'The late and early work penalty prescribed in clause 29.4 will apply to the Monday to Friday casual rate in clause 29.1.' in Clause 10.5(b) were deleted to clarify that everyone should be paid the standard hourly rate.²⁶

Various clauses of the Clubs Award were [varied](#) on 11 October 2010 pursuant to s.160 to remove ambiguity.²⁷ As a result of these variations a note stating that the hourly rate prescribed by the provision includes the casual loading was added to clause 17.6 concerning pay rates for casual fitness instructors, a new transitional provision in respect of NSW and the ACT concerning the application of the annual salary exemption clause was added at A.1.3 and the definition at clause A.4 of loadings and penalty rates for the purpose of Schedule A-Transitional provisions was amended to clarify that the shift allowance/penalty included the broken shift allowance in clause 18.3.

Various clauses of the Clubs Award affecting transitional arrangements were [varied](#) by consent on 6 December 2010.

The Clubs Award was [varied](#) on 8 November 2012. The variation extended the application of a transitional provision regarding part-time employment in respect of employers in NSW, QLD, SA, WA and Tasmania at clause 10.4(b) until 31 March 2013 and restructured clause 24.1 concerning meal breaks into two subparagraphs.

[Variations](#) were made on 21 December 2012 to insert Schedule G-2012 Part-day public holidays.

[Variations](#) by consent were made on 8 January 2013 to extend the transitional provision regarding part-time employment at clause 10.4(b) in respect of employers in NSW, QLD, SA, WA and Tasmania.

Schedule G of the Clubs Award was [varied](#) on 13 November 2013 to update the references from '2012' to '2013' and clarify that the schedule is not intended to detract from or supplant the NES.

²⁶ [Transcript](#) of proceedings on 21 July 2010 at PN 6

²⁷ [Transcript](#) of proceedings on 11 October 2010 at PN 95

Various clauses were [varied](#) on 22 November 2013 to insert a definition of adult apprentice in clause 3.1, insert adult apprentice pay rates at clause 17.4(e), and amend clauses F.8, F.9 and F.10 setting the wage scale progression for school-based apprentices

On 4 December 2013 the Clubs Award was [varied](#) to give effect to the decision by the Award Flexibility Full Bench on 12 November 2014 ([2013] FWCFB 8859). Clause 7.2 was amended to prescribe that an individual flexibility agreement can only be entered into after the employee has commenced employment with the employer, clause 7.3(b) was amended to state that the better off overall test is assessed based on the time the agreement is made, clause 7.8 was amended to require 13 weeks' notice be given to unilaterally terminate an individual flexibility agreement, and clause 7.9 was inserted to prescribe that the 13 week termination notice period did not apply to agreements entered into before 4 December 2013.

On 17 December 2013 clause E.6.3 was [varied](#) to include a note that the time to be included for the purpose of calculating the wages for part-time trainees whose approved training is fully off-the-job is determined by clause E.5.2(f)(ii) and not by clause E.6.3.

On 24 December 2013 clause 8—Consultation regarding major workplace change was [varied](#) to include the model consultation clause adopted by the Full Bench reviewing requirements regarding consultation about changes to regular rosters and ordinary hours of work ([\[2013\] FWCFB 10165](#)).

Clause 3.1 of the Clubs Award was [varied](#) on 30 December 2013 to additional definitions concerning superannuation.

Clause 23.4(g) of the Clubs Award was [varied](#) on 30 December 2013 to require that the superannuation fund offer a MySuper product or be an exempt public sector scheme.

The Clubs Award was [varied](#) to insert clause 23.4(h) allowing employers to make superannuation contributions to funds or schemes the employee is a defined benefit member of.

Schedule G of the Clubs Award was [varied](#) on 12 November 2014 to update the references from '2013' to '2014'.

Clause 11 of the Clubs Award was varied on 23 December 2014 to insert provisions setting apprentice conditions concerning, amongst others, overtime and shiftwork and attendance at training, travel costs and training fees.

Clause 10.4(b) was [varied](#) on 24 December 2014. It concerned an interim provision regarding the application of rostering and overtime clauses in respect of part-time employees engaged prior to 1 January 2015.

On 5 March 2015 the Clubs Award was [varied](#) to incorporate changes to transitional arrangements. Clauses 14.5 (Transitional provisions—NAPSA employees), 14.6 (Transitional provisions—Division 2B State employees), 19 (District allowances), and 20 (Accident pay) were deleted.

Schedule G of the Clubs Award was [varied](#) on 16 November 2015 to update the references from '2014' to '2015'.

Schedule G of the Clubs Award was [varied](#) on 31 May 2016 to update the references from '2015' to '2016'.

On 29 July 2016 the Clubs Award was [varied](#) to give effect to the outcome of the review of annual leave arrangements. Clause '30.4—Requirement to take leave notwithstanding terms of the NES' was replaced by clause '30.4 Close-down', clauses regarding excessive leave accrual, cashing out of annual leave and taking annual leave in advance were inserted.

On 4 December 2016 the Clubs Award was [varied](#) to insert a provision concerning time off instead of payment for overtime, as determined by the Full Bench [2016] FWCFB 7737, at clause 28.5.

On 16 December 2016 the Clubs Award was [varied](#) to give effect to new wording at clause 21.4 regarding the requirement to pay overtime rates to employees who are paid their wages outside work time and are kept waiting more than 15 minutes.

On 21 June 2017 the Clubs Award was [varied](#) by deleting Schedule E-National training wage and inserting a provision at clause 17.8 to incorporate the terms of Schedule E to the *Miscellaneous Award 2010* into the award.

Schedule G of the Clubs Award was [varied](#) on 4 December 2017 to update the references from '2016' to '2017'.

On 12 December 2017 the Clubs Award was [varied](#) to insert the provisions regarding part-time employees and overtime, as determined by the Full Bench's review of Part-time employment and Casual employment provisions, at clauses 10.4 and 28 respectively.

On 27 July 2018 the Clubs Award was [varied](#) to incorporate provisions concerning leave to deal with family and domestic violence at clause 34A.

On 26 October 2018 the Clubs Award was [varied](#) to incorporate standard clauses developed during the plain language process concerning individual flexibility arrangements (clause 7), consultation about major workplace change (clause 8), consultation about changes to rosters or hours of work (clause 8A), dispute resolution (clause 9) and termination of employment (clause 13).

Schedule G of the Clubs Award was [varied](#) on 7 November 2018 to update the references from '2017' and insert 'December in each year' and to cease the clause being an interim provision subject to review.

On 21 November 2018 the Clubs Award was [varied](#) to incorporate provisions about making requests for flexible working arrangements at clause 29A.

On 18 April 2019 the Clubs Award was [varied](#) to state that, in addition to falling on a weekend, the 50% loading prescribed by clause 29.3(c) applies to Christmas Days that are not prescribed as a public holiday under the NES.

On 18 April 2019 the Clubs Award was [varied](#) to incorporate the standard redundancy clause drafted during the plain language process at clause 14.

On 26 August 2019 the Clubs Award was [varied](#) to incorporate a clause concerning payment on termination of employment, as determined by the Full Bench reviewing payment of wages, at clause 21.6.

On 20 September 2019 the Clubs Award was [varied](#) to give effect to amendments to various provisions concerning the substitution of public holidays as a result of the plain language process.

On 19 December 2019 Schedule G of the Clubs Award was [varied](#) pursuant to s.160 of the *Fair Work Act 2009* to change how various periods of time are referred to in relation to part-day public holidays.

Schedule X—Additional Measures During the Covid-19 Pandemic was [inserted](#) on 8 April 2020, [extended](#) on 2 July 2020, [extended](#) a second time on 24 September 2020 and [extended](#) a third time on 26 March 2021.

On 13 November 2020 the Commission made the *Registered and Licensed Clubs Award 2020*. Various amendments were made to give effect to variations determined by the Full Bench in the course of the 4 yearly review, including:

- A broader definition of club manager was adopted in clause 3.1²⁸ (see history of the term club manager for details).
- The insertion of an indexation benchmark for the laundry allowance provided at clause 18.1(c)(ii) of the Clubs Award (clause 19.3(d)(ii) of the exposure draft).²⁹ The Full Bench considered it appropriate to include a mechanism for its adjustment due to it being an expense-related allowance and decided to vary clause 18.1(k) of the Clubs Award (Schedule C clause C.2.2(b) of the exposure draft) to provide for its adjustment in accordance with the CPI for the Clothing and footwear group.³⁰
- By changing the indexation benchmark for the tools allowance at clause 18.1(k)(i) of the Clubs Award (Schedule C clause C.2.2(b) of the exposure draft) from CPI Clothing and footwear group to the CPI 'Tools, equipment' component.³¹
- The widening of the coverage of the tool allowance at clause 18.1(b)(i) of the Clubs Award (clause 19.3(c)(i) of the exposure draft) to include apprentice cooks using their own tools, as well as an increase to the amount of the allowance to align with that of the Hospitality and Restaurant awards.³²
- The deletion of the definition of 'shiftworker' in clause 3.1.³³ It was considered to serve no practical purpose, noting that clause 30.1(b) defined who is a shiftworker for the purpose of the NES.³⁴
- The alteration of the minimum rate and classification provisions applicable to fitness instructors,³⁵ the deletion of clause 17.6 of the Clubs Award (clause 18.4 of the exposure draft), the insertion of 'fitness instructor' 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' the variation of clause 10.5(d) of the Clubs Award (clause 11.6 of the exposure draft) to provide that the minimum payment for a casual fitness instructor on each engagement is one hour, and the variation of the definition of '(Casual) fitness instructor' in clause C.7.4 of the Clubs Award (clause A.7.4 of the exposure draft) to omit the word '(Casual)' and the last sentence referring to a one-hour minimum engagement from the definition. This variation occurred because the Full Bench determined the casual fitness instructor rate in clause 17.6(a) was not a properly-fixed minimum rate reflective of work value having regard to the relativity with a Leisure attendant grade 2 under the Clubs Award and a Level 3 employee under the Fitness Industry Award 2010.³⁶
- To incorporate various amendments proposed by the Professional Golfers Association relating to coverage, classification definitions and rate of pay for Golf Professionals and

²⁸ [\[2020\] FWCFB 6104](#) at [4] and [5]

²⁹ [\[2020\] FWCFB 6104](#) at [6] and [7]

³⁰ [\[2020\] FWCFB 4762](#) at [65]-[67]

³¹ [\[2020\] FWCFB 6104](#) at [6] and [7]; [\[2020\] FWCFB 4762](#) at [73]

³² [\[2020\] FWCFB 4762](#) at [68]-[72]

³³ [\[2020\] FWCFB 6104](#) at [8] and [11]

³⁴ [\[2020\] FWCFB 4762](#) at [21]

³⁵ [\[2020\] FWCFB 6104](#) at [8] and [11]

³⁶ [\[2020\] FWCFB 4762](#) at [52]

Golf Trainees.³⁷ The PGA sought the variations to recognise that golf professionals are career employees who undertake a far greater range of duties than attending a shop.³⁸ The Full Bench considered that the variations would “provide an award-specific fair and relevant minimum safety net of terms and conditions”.³⁹

- The annual salary exemption clause in 17.3(a) was extended to Level 6 club managers and meal breaks added to the list of excluded provisions in 17.3(a)(i)⁴⁰ (see history of the annual salary exemption for details).
- Deleting the words ‘registered or recognised under State, Territory or Commonwealth legislation’ from coverage clause 4.1. Words were considered superfluous given definition of ‘club’ at clause 4.2.⁴¹
- Amending clause 4 to insert a definition of ‘club industry’ which was previously undefined.⁴²
- Amendments to provide that maintenance and horticultural employees may be engaged on a casual basis and to add a casual employee row to the table in clause 24.2 of the exposure draft.⁴³
- Amending clause 13.1 of the exposure draft to clarify that only junior employees actually engaged in serving liquor are entitled to be paid at the adult rate.⁴⁴
- Amending clause 18.2 regarding minimum wages to add the word ‘ordinary’ before ‘rate of pay’.⁴⁵
- Amendments to clause 24.4 concerning the late and early work penalty to it operates on a pro-rata basis where work is performed for part of an hour.⁴⁶
- Deleting the reference to maintenance and horticulture employees in clause 19.3(c) concerning the clothing, equipment and tools allowance and inserting a new clause specifically addressing the reimbursement of maintenance and horticulture employees for the cost of supplying their own tools.⁴⁷

Variation claims made as part of the 4 yearly review proceedings were refused. This included variations modifying the definition of shiftworker and the entitlement to the extra week’s annual leave in clause 30.1 of the Clubs Award (clause 25.1 of the exposure draft),⁴⁸ to make the annual leave loading entitlement at clause 30.3 of the exposure draft calculable on the minimum award rate of pay,⁴⁹ to modify the standard provision for time off instead of payment of overtime at clause 28.6 of the Clubs Award (clause 22.8 in the exposure draft),⁵⁰ to modify the application of the meal

³⁷ [\[2020\] FWCFB 6104](#) at [8] and [11]; see paras [27]-[35] of [\[2020\] FWC 2262](#) for detail

³⁸ [\[2020\] FWCFB 4762](#) at [78]

³⁹ [\[2020\] FWCFB 4762](#) at [81]

⁴⁰ [\[2020\] FWCFB 4762](#) at [30]-[38]

⁴¹ [\[2020\] FWCFB 2124](#) at [343] – [348]

⁴² [\[2020\] FWCFB 2124](#) at [349] – [353]

⁴³ [\[2020\] FWCFB 2124](#) at [356] – [358]

⁴⁴ [\[2019\] FWCFB 8585](#) at [26]-[28]

⁴⁵ [\[2019\] FWCFB 8585](#) at [29]

⁴⁶ [\[2019\] FWCFB 8585](#) at [40] – [41]

⁴⁷ [\[2019\] FWCFB 8585](#) at [37]-[39]

⁴⁸ [\[2020\] FWCFB 4762](#) at [9]-[22]

⁴⁹ [\[2020\] FWCFB 4762](#) at [23]-[29]

⁵⁰ [\[2020\] FWCFB 4762](#) at [54]-[56]

breaks provisions in clause 24 of the Clubs Award to exclude the application of the penalty rate to club managers and to increase the number of employees a club may employ before certain provisions applied from 'fewer than 10 people' to 'fewer than 15 people',⁵¹ to modify the definition of 'ordinary hourly rate' at clause 2 of the exposure draft,⁵² to modify the note to clause 17.6 to add that the hourly rate specified in the clause includes penalty rates.⁵³

An application to revoke the *Registered and Licensed Clubs Award 2010* was refused by the Commission on 21 March 2019.⁵⁴

⁵¹ [\[2020\] FWCFB 4762](#) at [57]-[59]

⁵² [\[2020\] FWCFB 4762](#) at [61]-[64]

⁵³ [\[2020\] FWCFB 4762](#) at [40] and [46]

⁵⁴ [\[2019\] FWCFB 349](#)