

FAIR WORK COMMISSION

Matter No.: AM2014/283

4 yearly review of modern awards – *Registered and Licensed Clubs Award 2010*

SUBMISSIONS IN REPLY - UNITED WORKERS UNION

1. On 18 May 2020, the Commission published a Statement ([\[2020\] FWC 2588](#)) (**the second statement**) in relation to the *Registered and Licensed Clubs Award 2010* (**the Award**).
2. The second statement referred to an earlier Statement published by the Commission on 30 April 2020 outlining the various claims in relation to this Award ([\[2020\] FWC 2262](#)) (**the first statement**). The Commission has also published an [exposure draft](#) of the Award on 29 January 2020 (**the exposure draft**).
3. On 29 May 2020 the Commission made Directions including that the parties file any Evidence or Submissions in Reply in relation to this matter by 5:00pm Thursday 23 July 2020. These Submissions in Reply are made by United Workers Union (**UWU**) in relation to that direction.
4. On the basis of the material filed by the parties in relation to this matter, each of the matters that appear to be unresolved in relation to this Award are set out below.

Professional Golf Australia claims

5. Attachment A to the first statement sets out various claims made by Professional Golf Australia (**PGA**). In so far as those claims relate exclusively to golf trainees or golf professionals, UWU does not oppose those claims.

Sole UWU claim – tool allowance

6. On 1 July 2020 UWU filed [Submissions](#) in which confirmed:

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- a. that the only remaining claim in relation to this Award made by UWU is the claim in relation to the tool allowance; and
- b. the manner in which UWU submit this allowance should be indexed.

UWU refers to and relies upon those submissions.

Clubs Australia International Claims

7. On 25 June 2020 Clubs Australia Industrial (CAI) filed a [Further Outline of Submissions](#) (CAI Submissions June 2020) which appear to confirm the matters that continue to be pressed by CAI and that are outstanding. The CAI Submissions June 2020 are based in part on a [draft determination](#) filed by CAI on 21 May 2020.

The outstanding issues appear to be in relation to the following:

- a. the definition of “club manager” in clause 2 of the Award ([30] – [37]) (“claim number S5”) (**the definition of a club manager matter**);
- b. the definition of “shift-worker” in clause 2 of the Award relating to the two matters below ([5] – [29]) (“claim number S4”) (**the definition of a shift-worker matter**);
 - i. the meaning of the term “regularly rostered to work”; and
 - ii. the inclusion of a reference to “club managers” in the definition;
- c. the way in which time off in lieu of overtime works in relation accrued days off (“claim number S2”) (**the time off in lieu of overtime for accrued days off matter**) ;
- d. two amendments in relation to meal breaks ([84] – [87]) (“claim number S6”) (**the meal breaks matters**):
 - i. that club managers whose break is not taken in accordance with the timeframes prescribed by the Award are not entitled to a penalty as a result;

- ii. to increase the qualifying requirement that would give rise to a variation of the meal breaks provision in circumstances where the club only employs 10 people covered by the Award, to 15 such people.
 - e. the exclusion of meal breaks and annual leave loading from having application to club managers ([38] – [40]) (**the exclusion for managers matter**);
 - f. the inclusion of a Level 6 club manager within the exclusion provisions provided for in clause 18.5(a) of the Award ([41] – [43]) (**the level 6 club manager matter**);
 - g. the appropriate minimum classification rate for casual fitness instructors (**the casual fitness instructors matter**).
8. While not referred to in the CAI Submissions June 2020, it appears CAI also press the following:
- a. a claim to vary the Award to provide that maintenance and horticultural employees can be engaged on a casual basis (“claim number S8”) (**the maintenance and horticultural employees matter**).

The definition of a club manager matter

9. UWU does not oppose the thrust of the CAI Submissions June 2020 in relation to this matter.

The definition of a shift-worker matter

10. CAI raises two issues in relation to the proposed definition of shift worker which can be found at clause 2 of the exposure draft.
11. The first issue is a proposal to amend the proposed definition by “identifying the number of Sundays and public holidays required to be worked by a 7-day shift worker”.

12. The second issue is a proposal to amend the proposed definition by removing the reference to “club manger” in the proposed definition.

13. UWU does not support either of these proposed amendments to the exposure draft.

The time off in lieu of overtime for accrued days off matter

14. The CAI draft determination proposes as follows:

“[1] By inserting the following after 22.8(a):

NOTE: Clause 22.8 does not apply to work performed on a Rostered Day Off. Refer to clauses 15.6 and 15.7 for arrangements for accrued time off in lieu of overtime payments when an employee works on a Rostered Day Off. “

15. UWU does not oppose the proposition that this note be included in the Award.

The meal breaks matter

16. CAI proposes variations to the exposure draft to the effect that (a) club managers whose break is not taken in accordance with the timeframes prescribed by the Award are not entitled to a penalty as a result; and (b) to increase the qualifying requirement that would give rise to a variation of the meal breaks provision in circumstances where the club only employs 10 people covered by the Award, to 15 such people. UWU does not oppose these proposed variations to the exposure draft.

The exclusion for managers matter

17. CAI proposes that meal breaks and annual leave loading are included within the exclusion provisions. UWU does not oppose the proposition that meal breaks be included, but does not support the proposition that annual leave loading are included.

The level 6 club manager matter

18. CAI proposes to include Level 6 club manager within the exclusion provisions. UWU does not oppose this proposition.

The Casual Fitness Instructors matter

19. UWU filed submissions in relation to the casual fitness instructors matter on [18 February 2020](#) and [31 January 2020](#). We refer to and rely upon those submission.

The maintenance and horticultural employees matter

20. UWU does not oppose the proposition that the exposure draft be varied to provide that maintenance and horticultural employees may be engaged on a casual basis.

Clubs Managers Association Australia claims

21. The Club Managers Association Australia (**CMAA**) claims are identified in the Annexure A to the first statement and, as confirmed in the second statement, continue to be pressed by CMA. Those issues are:

- a. to add a cross-reference to the definition of “ordinary rate” to the clause dealing with the exclusion arrangements for club managers;
- b. to increase the rate of the uniform allowance for club managers;
- c. to provide for additional annual leave for club managers.

22. UWU does not oppose the CMMA claims.

UWU

24 July 2020