



DECISION

Fair Work Act 2009

s.156 — 4 yearly review of modern awards

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

(AM2020/26)

VICE PRESIDENT HATCHER
COMMISSIONER HAMPTON
COMMISSIONER BISSETT

SYDNEY, 13 NOVEMBER 2020

4 yearly review of modern awards—Registered and Licensed Clubs Award 2010—outstanding substantive claims.

[1] This decision deals with the finalisation of substantive variations to the *Registered and Licensed Clubs Award 2010* (Clubs Award), as part of the 4 yearly review of modern awards (review). The Clubs Award was a Tranche 3 award for the purpose of the review.

[2] We issued a decision¹ on 4 September 2020 (decision) in respect of the outstanding substantive claims seeking variations to the Clubs Award. In this decision, among other things, we expressed a number of provisional views as to variations to be made to the Clubs Award in response to some of the various substantive claims advanced by the parties. The variations which would give effect to these provisional views were included in a draft version of the exposure draft for the Clubs Award which was published in conjunction with the decision.

[3] Interested parties were given an opportunity to comment on the provisional views and the draft version of the exposure draft for the Clubs Award. The only submissions received were from Clubs Australia Industrial (CAI) and the Club Managers Association Australia (CMAA). We deal with the issues raised in those submissions below.

Definition of “club manager”

[4] The CMAA supported our provisional view as to a modified definition of the expression “*club manager*” in clause 3.1 of the Clubs Award. CAI also largely supported our provisional view but proposed an alternate draft of the modified definition as follows:

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.

¹ [\[2020\] FWCFB 4762](#).

[5] CAI contended that its proposed definition is simple and easy to understand and thus better meets the modern awards objective. We agree and it will be adopted.

Laundry allowance and tool allowance

[6] The CMAA and CAI supported our provisional views concerning the insertion of an indexation benchmark for the laundry allowance and the alteration of the indexation benchmark for the tool allowance. However, CAI submitted that adjustments to the allowance in accordance with the indexation benchmarks should occur annually, and that applying a quarterly increase would be “*extremely burdensome*” on clubs’ administration and would be contrary to considerations arising under sections 134(1)(d) and (f) of the *Fair Work Act 2009* (FW Act).

[7] We did not intend that adjustments to the above allowances would occur other than on an annual basis. Clause C.2.2(a) of Schedule C in the exposure draft published on 4 September 2020 makes it clear that expense-related allowance in the Clubs Award will be adjusted on an annual basis.

Other provisional views

[8] In our earlier decision we also expressed provisional views about the following matters:

- the deletion of the definition of “*shiftworker*” in clause 3.1;
- the alteration of the minimum rate and classification provisions applicable to fitness instructors; and
- claims made by the Professional Golfers Association relating to coverage, classification definitions and rate of pay for Golf Professionals and Golf Trainees.

[9] Draft variations that would give effect to these provisional views were published.

[10] No submissions were received opposing or addressing these provisional views or the draft variations.

[11] Accordingly, we confirm the provisional views stated in the earlier decision and adopt them as our final conclusions. We consider that the draft variations are necessary to be made in order to achieve the modern awards objective, having regard to the matters in paragraphs (a)-(h) of s 134(1) of the FW Act.

Other amendments

[12] Since the September decision, decisions impacting the Clubs Award have been handed down from other Full Benches and have been adopted as follows:

- A temporary note has been inserted into the National Training Wage incorporation clause at clause 18.8(b) to direct users to the rates in Schedule E to the Miscellaneous Award as at 1 July 2019; and²
- The operation of Schedule X has been extended to 29 March 2021.³

[13] There are no other outstanding substantive matters to be determined in relation to the Clubs Award. The variations to give effect to our earlier decision and this decision will be included in the determination for the 2020 version of the Clubs Award, which will be issued in conjunction with this decision and will commence operation on **21 December 2020**. Interested parties will have until **4.00 pm on Friday 20 November 2020** to file an objection to any of the amendments to the Clubs Award to be effected by this decision and our earlier decision. All objections must be sent electronically to amod@fwc.gov.au. This process is intended only to provide an opportunity to correct any errors; it is not an opportunity to relitigate the issues which have already been determined.



VICE PRESIDENT

Final written submissions:

CMAA – 22 September 2020.

CAI – 26 September 2020.

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² [\[2020\] FWCFB 5676](#).

³ [\[2020\] FWCFB 5137](#).