

9 March 2017

Award Modernisation Team
Fair Work Commission

BY EMAIL: amod@fwc.gov.au

Dear Award Modernisation Team

MODERN AWARD REVIEW – FITNESS INDUSTRY AWARD 2010
Proposed Amendments to Award Classification Structure

We continue to hold instructions from the Australian Swimming Coaches and Teachers Association (ASCTA). Our client notes that the Commission has provided parties with further time to lodge any additional submissions and evidence, relative to the Award Modernisation process for the *Fitness Industry Award*.

We note that in particular, as relevant to the swimming industry, ASSA has provided Submissions as well as Statements. We further note that the Australian Workers Union (AWU) has also provided Submissions and a Statement.

The instructions we hold from ASCTA are to repeat and rely upon its previous positions on the Award modernisation process for this *Fitness Industry Award*, and as set out in our previous correspondence directed to the Commission. ASCTA adopts that information and positions as its submissions.

In addition, our client provides additional submissions on the following issues:

1. Trainee Swim Teacher

The Submission of ASCTA is that it supports a position that 'trainee swim teacher' be referenced in the *Fitness Industry Award* and only at Level 1 of the Award.

ASCTA rejects the positions taken by the AWU in respect of trainee swim teachers, and in particular the insertion of any reference to a trainee swim teacher within Level 2 of the Award.

It is to be noted that the references currently at Level 1 include reference to "appropriate in-house training" and ASCTA makes the clear submission that what has been sought to be achieved here, by the inclusion of a direct reference to a trainee swim teacher, is an

incorporation of that reference as supporting, and as part of, the reference to in-house training (as already provided for within Level 1).

Further on this issue, in respect of Level 2 there is a reference to the completion of 456 hours training – it is incomprehensible and without complete justification to insert a trainee at Level 2, as an employee who has completed 456 hours training is usually no longer a trainee; further the wording proposed cannot be comprehended when one cross references the completion of 456 hours training with the words proposed by the AWU (*or is undertaking training to become a swim teacher or coach*) – how can those requirements be comprehended as complimenting or working together?

The clear intent of Level 2 is that it has worked well and provides for an employee having completed at least 456 hours training at Level 1 or has a swim teacher or coach qualification.

The clarification by insertion of wording relevant to a trainee within a Level 1 sits well and is appropriate in respect of Level 1.

It is recognised that a nominal number of hours must be undertaken by a trainee before being accredited, an accreditation is not granted until the person is competent, and this may take longer than the nominal hours (thus the reference at Level 2 in its current wording). Note that a trainee is required to work under supervision of another qualified teacher and cannot earn any income for their employer in their own right, and requires directions as to what tasks to perform and how to perform them.

2. Classification 2A

As to the creation of a Classification Level 2A, ASCTA's submission is that this should not occur. It appears that this has only been suggested because of the attempt to insert a trainee within Level 2, and then becomes unnecessary once that argument is rejected.

Further it creates another layer of administration and assessment for an employer that is unnecessary in the circumstances where the levels (subject to inclusions within such levels) of themselves work well with respect to classification and related payments as currently provided for.

To repeat again – it is recognised that a nominal number of hours must be undertaken by a trainee before being accredited, an accreditation is not granted until the person is competent, and this may take longer than the nominal hours (thus the reference at Level 2 in its current wording). Note that a trainee is required to work under supervision of another qualified teacher and cannot earn any income for their employer in their own right, and requires directions as to what tasks to perform and how to perform them. The creation of a Classification Level 2A is not supported by the level of training and qualification – the Levels (subject to inclusions within such levels) should remain as they at present.

3. Updated Competencies

We are instructed to bring to the Commission's attention, Attachment E to the material filed by ASSA and uploaded to the award modernisation page on 23 January 2017. We are instructed that these competencies are reviewed every three years by the Australian Skills Quality Authority. The competencies then listed by ASSA in their submissions have now changed, and we are instructed to confirm that those competencies listed in the attached **Schedule A** to this correspondence are the current competencies for reference.

Our client considers that perhaps a reference to these competencies in the Award, with words to the following effect, may assist in keeping the Award current between reviews:

"The Award relates to the following competencies as amended from time to time by the Australian Skills Quality Authority".

Should the Commission require any further clarification on the submissions ASCTA has now confirmed and provided it stands ready to assist the Commission in that regard.

Further, should it be of benefit for the parties to speak to their submissions by attendance before the Commission, then ASCTA will attend to do so.

ASCTA repeats and relies upon the information that it has previously provided to the Commission in respect of the review of the *Fitness Industry Award*, including its positions on inclusions within Classification Definitions.

Yours faithfully
AITKEN LEGAL



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SCHEDULE A

ASCTA Course	Unit Name	Competency	Link
SAT "swimming and water safety Teacher"	SISCAQU002	Perform basic water rescues	https://training.gov.au/Training/Details/SISCAQU002
	SISCAQU008	Instruct water familiarisation, buoyancy and mobility skills	https://training.gov.au/Training/Details/SISCAQU008
	SISCAQU009	Instruct water safety and survival skills	https://training.gov.au/Training/Details/SISCAQU009
	SISCAQU010	Instruct swimming strokes	https://training.gov.au/Training/Details/SISCAQU010
	SISCCRO302A	Apply legal and ethical instructional skills	https://training.gov.au/Training/Details/SISCCRO302A
These Competencies were attained in completion of		SISSS00112 - Swimming and Water Safety Teacher	https://training.gov.au/Training/Details/SISSS00112
SAT B&T "Babies and Toddlers"	SISCAQU011	Promote development of infants and toddlers in an aquatic environment	https://training.gov.au/Training/Details/SISCAQU011
SAT CS	SISSSWM301A	Teach the competitive strokes of swimming	https://training.gov.au/Training/Details/SISSSWM301A
"Competitive Swimming"	SISSSCO101	Develop and update knowledge of coaching practices	https://training.gov.au/Training/Details/SISSSCO101
	SISXRSK301A	Undertake risk analysis of activities	https://training.gov.au/Training/Details/SISXRSK301A
SAT LWD "Learner with Disability"	SISCAQU012	Assist participants with a disability during aquatic activities	https://training.gov.au/Training/Details/SISCAQU012

PPOP	SISCAQU001	Test pool water quality	https://training.gov.au/Training/Details/SISCAQU001
"Pool Plant Operations"	SISCAQU003	Maintain aquatic facility plant and equipment	https://training.gov.au/Training/Details/SISCAQU003
	SISCAQU004	Develop and implement pool water maintenance procedures	https://training.gov.au/Training/Details/SISCAQU004
	SISCAQU005	Develop and implement aquatic facility maintenance procedures	https://training.gov.au/Training/Details/SISCAQU005
	SISXEMR001	Respond to emergency situations	https://training.gov.au/Training/Details/SISXEMR001
	SISXRSK301A	Undertake risk analysis of activities	https://training.gov.au/Training/Details/SISXRSK301A