



**Modern  
(AM2023/21)**

**Awards**

**Review**

**2023-24**

### **Submission cover sheet**

#### **Name**

(Please provide the name of the person lodging the submission)

Lucinda Gramoski

#### **Organisation**

(If this submission is completed on behalf of an organisation or group of individuals, please provide details)

Clubs Australia

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#### **Modern Award Review Stream:**

Arts and Culture:

Job Security:

Work and Care:

Usability of awards:

#### **How to prepare a submission**

Submissions should be emailed to [awards@fwc.gov.au](mailto:awards@fwc.gov.au). Directions set out the due dates for submissions. Directions are issued by a Member of the Commission and will be published on the [Commission website](#).

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Make sure you use numbered paragraphs and sign and date your submission.

Your submission. Provide a summary of your experience and any relevant issues. You may wish to refer to one or more of the issues outlined in the relevant discussion paper.

#### Issues

1. Using numbered paragraphs, outline the main issues you want the Fair Work Commission to consider as part of the Modern Award Review 2023-34 including your responses to any questions set out in Commission discussion papers. Include, if possible, references to any relevant sections of the *Fair Work Act 2009*, or other legislation or specific clauses in modern awards that apply.

#### Proposals

2. Tell us your proposals to address the issues you have raised in the submission. If you are proposing that the Commission should consider varying an award, you should include draft wording for the proposed variation]

L.Gramoski

Signature:

Name: Lucinda Gramoski

Date: 7 February 2024



## Introduction

1. Clubs Australia welcomes the opportunity to provide feedback on the Discussion Paper – Job Security within the context of the Modern Award Review 2023-24 (**the Review**).
2. According to the discussion paper released by the Fair Work Commission (**FWC**) on 18 December 2023, it is acknowledged that the focus of this review is confined to the seven modern awards enumerated below:
  - Children's Services Award 2010 [MA000120] (Children's Award);
  - Clerks—Private Sector Award 2020 [MA000002] (Clerks Award);
  - Fast Food Industry Award 2020 [MA000003] (Fast Food Award);
  - General Retail Industry Award 2020 [MA000004] (Retail Award);
  - Hospitality Industry (General) Award 2020 [MA000009] (Hospitality Award);
  - Restaurant Industry Award 2020 [MA000119] (Restaurant Award); and
  - Social, Community, Home Care and Disability Services Industry Award 2010 [MA000100] (SCHADS Award).
3. Clubs Australia observes that while the Discussion Paper specifies that the review is limited to the seven modern awards mentioned, various elements within the discussion paper suggest a broader contemplation of modern awards. For instance, the examination of standard clauses imply an intention to address issues affecting modern awards more broadly, and therefore potentially affecting any modern award.
4. Based on this, Clubs Australia holds a general interest in this issue, particularly in understanding how the proceedings might affect the Registered and Licensed Clubs Award 2020 (**Registered Clubs Award**).

## Background of the Club Industry

5. Clubs Australia serves as the representative body for over 6,000 not-for-profit licensed clubs, collectively employing over 140,000 individuals nationwide. These clubs, owned by their members, come in diverse forms and sizes, encompassing sporting, returned service, and bowling clubs. According to Clubs Australia's latest survey (**Clubs Australia 2024 Survey**), 53% of the direct employment positions in clubs across Australia were occupied by women. The fact that the clubs' industry workforce is constituted by a majority of women is important when considering the flexibilities already contained in the Registered Clubs Award (discussed further below).
6. Clubs have a diverse occupational workforce which includes hospitality workers, such as bar attendants and chefs, as well as those working in areas ancillary to the hospitality operations, such as greenkeepers, leisure attendants, fitness instructors and childcare workers.
7. The majority of employees who work in clubs fall under the provisions of the Registered Clubs Award, and numerous clubs have established their own enterprise bargaining agreements (**EBA**).



8. Compared to other hospitality establishments, clubs exhibit a higher reliance on permanent employees and have a lower proportion of casual workers. Across the industry, clubs have a workforce comprising 54% permanent staff, in contrast to the 35% permanent staff employed in other segments of the hospitality sector.
9. A comparison between a large club group in New South Wales and a national hospitality group shows that clubs employ 10.3 permanent employees per \$1 million in revenue. This is relative to a figure of 2.8 permanent employees per \$1million in revenue in the non-club hospitality group which equates to a multiple of 3.7 times more permanent employees per revenue level in the large club group.
10. Clubs across Australia provide multiple career pathways for workers and often employ workers on a medium to long tenure, which provides the opportunity for career progression and the promotion of job security. For instance, a selection of large regional clubs in New South Wales have reported that the tenure of their employees is on average 6.4 years and within metropolitan clubs, the average tenure is 6 years.
11. Clubs Australia provides the below responses to the discussion questions relating to job security.
12. Clubs Australia responds to each question with reference to the Registered Clubs Award (not the seven selected modern awards) to exemplify the position that the Registered Clubs Award already properly provides provisions relating to secure work and job security.
13. Clubs Australia submits that the Registered Clubs Award strikes an appropriate balance between flexibility and job security, as evidenced by the extended tenure of employees and the diverse employment arrangements prevalent in the club industry across Australia.

**Question 1: Are there specific provisions in the seven modern awards the subject of this review that parties consider are necessary to improve access to secure work across the economy?**

**a. Types or modes of employment**

14. Like almost all modern awards, the Registered Clubs Award provides for three types of employment - casual, part-time and full-time.
15. Clubs Australia submits that full-time and part-time employment is consistent with the new objective of improving access to secure work.
16. The part-time provision in the Registered Clubs Award ensures that employees have reasonable and predictable hours of work. It also provides further job security by ensuring that part-time employees must have:
  - a minimum of 8 guaranteed hours per week;
  - minimum engagement;
  - must not be rostered outside the employee's availability; and
  - provides for increasing guaranteed hours to match regular work pattern.



17. Clubs Australia submits that in considering the lengthy average tenure among permanent employees in clubs, as highlighted in the Clubs Australia 2024 Survey findings, - permanent employment contributes to secure work. Essentially, the high rate of permanent employees across clubs within Australia meets the current objective of promoting security work and job security for the future.
18. While clubs have a lower percentage of casual workers compared to other industries, this employment category remains significant and vitally important for the operational success and employment opportunities in the clubs sector. Casual employment offers flexibility to adapt to the unpredictable and variable nature of the industry and also allows casual employees to retain employment whilst completing studies, such as tertiary education or where other significant personal flexibility is required – such as caring for a relative with unpredictable needs.
19. The club industry utilises casual workers to supplement existing permanent staffing levels for events like weddings, wakes, and functions. Some industry examples include:
  - A member sporting Club can engage around 150-200 casual workers annually to staff a stadium during “home” matches. These casual employees typically work no more than 10 shifts per year and due to their minimum weekly engagement, they are not suitable for casual conversion.
  - Regional and coastal clubs frequently hire several casual employees during the summer season to support the increased operational demand from holidaymakers. These casual workers are often university students returning home for the summer break or individuals on working visas.
20. Both these examples highlight the importance and necessity of casual employees to a club’s operational requirements and also emphasises the job opportunities available for individuals who are seeking casual work afforded by clubs.
21. Based on the feedback received from member clubs, it is evident that casual employees seek out this employment arrangement, as it provides them with flexibility and aligns with their individual needs.
22. Additionally, the 25% on top of a casual employee’s base rate of pay compensates casual workers for not receiving paid leave entitlements under the NES. This reflects the flexibility inherent in casual employment, allowing workers to have greater control over their work hours and schedules. The extra compensation acknowledges the irregular nature of casual work, where individuals may not have consistent or guaranteed shifts. Overall, the loading serves as a financial recognition of the unique conditions associated with casual employment.
23. Furthermore, causal employees have the ability to convert to permanent employment under the Fair Work Act 2009 (Cth) (**FWA**). This provides eligible casual employees the right to request or be offered by their club employer the ability to convert their casual employment to permanent employment. This provision specifically meets the objective of guaranteeing secure work for such casual employees within Australia by creating a pathway for permanent and secure employment.



**b. Rostering arrangements, including rostering restrictions**

24. Clubs Australia submits that the current rostering provisions in the Registered Clubs Award provide for predictability and security for employees by notifying employees of their shifts in advance.
25. The Registered Clubs Award provides that a roster for all full-time and part-time employees showing normal starting and finishing times will be prepared by the employer and will be posted in an obvious place or places accessible to the employees concerned.
26. Under the award, rosters can also only be changed with seven days' notice or by mutual consent of the employee and employer.
27. The Registered Clubs Award also provides that where practicable, two week's notice of rostered day or days off will be given, provided that the days off may be changed by mutual consent or through absence, due to sickness or other cause over which the employer has no control.
28. Clubs employ various strategies to ensure job security. For instance, based on data the Clubs Australia 2024 Survey, 76.79% of participating clubs indicated that rosters for permanent staff (both full-time and part-time) remain consistent and undergo minimal changes with each new roster cycle.
29. According to anecdotal feedback received from member clubs, there is also a widespread practice among most clubs that any modifications to the roster are typically carried out with the mutual consent of the staff. If an employee does not agree to a change in their roster, then the club will not proceed to change the employee's roster.
30. Clubs Australia submits that the current rostering provisions of the Registered Clubs Award provide employees and clubs with the required necessary balance between flexibility and job security.

**c. Payment of wages, in particular pay cycles**

31. Clause 20 of the Clubs Registered Award affords employees with a sense of security and predictability when receiving payment of their wages. Specifically, clause 20 provides that (except in the case of employment termination), all wages, including overtime, will be disbursed on any weekday other than Friday, Saturday, or Sunday each week. Nevertheless, if there is mutual agreement between the employer and the majority of employees in the workplace, during a week with a holiday, wage payment may occur on a Friday.
32. By agreement between the Club and the employee, wages may be paid either weekly or fortnightly by either cash, cheque or electronic funds transfer.

**d. Agreed regular patterns of work or guaranteed hours for part-time employees**

33. The Registered Clubs Award promotes a sense of job security for part-time employees by enforcing that prior to a part-time employee being engaged by the club, the club must agree, in writing, to the number



of guaranteed working hours to be provided to the employee and their availability. If there are any changes to the part-time employees guaranteed hours, this can only be made with written consent of the employee.

34. Providing a guaranteed number of hours offers stability and consistency to part-time employees, as well as more security and predictability in their income. Furthermore, by clubs having a part-time employee's availability to work schedule, rostering is accurate, operationally works for both parties and minimizes any stress or confusion regarding ability to work on certain times and days.
35. Clubs Australia is keenly aware of the importance of employees feeling secure in their jobs and supports the continued ability for part-time employees to increase their hours<sup>1</sup> pursuant to the Registered Clubs Award.

#### e. Minimum engagement/payment periods

36. We submit that the Registered Clubs Award provides job security for employees by providing minimum engagement period for employees. Specifically, a casual employee (other than a casual employee engaged solely as a bingo caller, assistant bingo caller or fitness instructor) is entitled to a minimum payment for 2 hours' work on each occasion that they are required to attend work.
37. Furthermore, a casual employee engaged solely as a bingo caller, or an assistant bingo caller is entitled to a minimum payment for 3 hours' work. A casual employee engaged as a fitness instructor is entitled to a minimum payment for 1 hour of work.
38. An employee other than a casual employee working on a public holiday will be paid for a minimum of 4 hours' work.
39. Lastly, part-time employees must not be rostered to work in excess of 12 or fewer than 3 hours in any one day.

**Question 2: Are there any additional specific award provisions that are consistent with the new modern awards objective? If so, parties are asked to consider and address whether it is relevant and necessary to vary any awards to include that or those specific award provision(s).**

40. Clubs Australia holds the view that the existing provisions of the Registered Clubs Award adequately uphold and promote job security, and there is no need for any current amendments.



**Question 3: Are there specific award provisions that are not consistent with the new modern awards objective? If so, parties are asked to address whether it is relevant and necessary to vary any awards to amend or remove that specific award provision.**

41. Clubs Australia maintains the position that the Registered Clubs Award aligns harmoniously with the objective of promoting job security. Clubs Australia submits that there is a perceived congruence between the provisions outlined in the Registered Clubs Award and the overarching goal of fostering stability and job security in employment.

**Question 4: Having regard to the new modern awards objective, should the exclusion of casual employees from accessing certain NES entitlements (such as paid personal leave) continue?**

42. Clubs Australia asserts that the existing entitlements provided to casual employees under the Registered Clubs Award are already fair and commensurate.

43. Pursuant to the Registered Clubs Award, casual employees are entitled to a casual loading rate of 25% on top of the ordinary hourly rate applicable to them. This allocation of additional compensation is a reflection of the acknowledgment that casual employees do not benefit from provisions such as personal and annual leave, which are typically accorded to permanent staff. The purpose of this loading rate is to compensate for the absence of these leave entitlements.

44. It is important to note that casual employees are already entitled to superannuation, long service leave, overtime and penalty rates under the Registered Clubs Award.

45. Casual employees also possess the freedom to accept or decline shifts based on their individual circumstances. For numerous casual workers, the appeal of the casual loading and the flexibility in scheduling plays a pivotal role in their choice of employment. This preference is notably evident among casual employees facing various personal commitments, including academic pursuits and caregiving responsibilities. Many of these individuals find permanent employment less appealing due to the potential constraints of fixed roster patterns. They appreciate the adaptability that comes with casual employment, coupled with the advantage of a 25% loading on the base rate of pay. It would be incongruous to continue paying casual employees a 25% loading which compensates them for NES entitlements such as paid personal leave, and then require employers to also provide these entitlements.

46. Casual employees receive fair compensation for their employment status. According to the Clubs Australia survey, 91.07% of responding clubs expressed the view that casuals should not be entitled to benefits like personal leave and annual leave.

47. Additionally, 62.5% indicated that they would reconsider hiring casual employees if compelled to provide leave entitlements along with the existing 25% casual loading. This is an important consideration given many job seekers would miss out on any employment opportunity if casual employment became undesirable to employers and was simply not offered. This type of job seeker, who cannot commit to part-time or full-time employment, would be unemployed – resulting in lost income, loss of on-the-job experience, potential personal social impacts such as lower morale and self-confidence etc.



48. Clubs Australia recommends that the current NES leave entitlements should not be extended to include casual employees.

**Question 5: Should any of the awards be varied to supplement these NES entitlement gaps for casual employees?**

49. As noted above, Clubs Australia believes the current NES entitlements in conjunction with other entitlements received by casual employees are reasonable and sufficient under the Registered and Licensed Club Award.
50. As noted above, casual employees employed under the Registered Clubs Award currently receive an additional 25% casual loading rate on top of their ordinary base rate of pay, which effectively compensates casual employees for personal leave and annual leave. Casual employees are already entitled to superannuation, long service leave, overtime and penalty rates under the Registered Clubs Award.
51. Furthermore, it would be a disadvantage to permanent employees who do not receive a casual loading rate if casual employees are afforded the same leave entitlements under the NES and highly undesirable for club employers to pay a 25% loading whilst also being required to pay for the NES entitlements.

**Question 6: Is there evidence that use of individual flexibility arrangements undermines job security?**

52. The Clubs Australia Survey revealed that it is typically club employees that seek out from their club employer Individual Flexibility Arrangements (**IFAs**) to accommodate flexibility needs in their employment – such as parental or caregiving responsibilities, as well as academic studies. This flexibility is perceived as a valuable and attractive employment benefit for employees.
53. As with any modern award, the Registered Clubs Award is not a “one size fits all” employment arrangement. IFAs allow club employers and employees to negotiate terms that suit their specific needs and circumstances. This flexibility enables a more customised employment arrangement that aligns with the employee’s skills, preferences, and life circumstances. According to the Clubs Australia Survey, our members club provided feedback that 46.43% of employees who requested IFAs did so due to parental responsibilities.
54. By club employers having the ability to offer and accept an employee’s request for an IFA, clubs can retain skilled and experienced employees who might otherwise seek alternative employment, or indeed choose to not work at all, due to personal constraints and limited work schedule flexibility.
55. Clubs Australia has not observed any evidence indicating that IFAs compromise job security. Indeed IFAs are predominantly utilised at the request of employees seeking specific flexibilities permitted under the Registered Clubs Award. As noted above, this often occurs in situations such as accommodating study commitments or meeting parental/caregiver responsibilities.



56. By embracing IFAs, the clubs' industry throughout Australia not only acknowledges the diverse requirements of its workforce but also actively contributes to fostering a work environment characterized by adaptability and sustained job security for its employees.

**Question 7: Having regard to the following modern award standard clauses:**

- Individual flexibility arrangements;
- Consultation about major workplace change;
- Consultation about changes to rosters or hours of work;
- Dispute resolution;
- Termination of employment; and
- Redundancy.

**a. Are provisions of the standard clauses consistent with the new modern awards objective?**

57. Clubs Australia submits that the existing provisions within the standard clauses of the Registered Clubs Award are both fair and aligned with the objectives of FWA including the new objectives. The current Registered Clubs Award provisions appropriately balance the interests of employers and employees, ensuring a harmonious and contemporary framework in line with the evolving landscape of employment standards.

**b. Do any of the standard clauses negatively impact job security? If so, how?**

58. Clubs Australia maintains the perspective that none of the standard Registered Clubs Award clauses have an adverse impact on job security within the industry.

59. These clauses as currently drafted strike an equilibrium between bolstering job security and accommodating the essential flexibility necessary to address the varying needs of both employees and employers. The intent is to create a framework that not only ensures a stable employment environment but also acknowledges and responds to the dynamic requirements of the workforce and businesses alike.

**c. Do any or any part of the standard clauses:**

- i. prevent or limit access to secure work? ii. enhance access to secure work?

60. Clubs Australia asserts that the existing standard clauses do not act as barriers or constraints impeding access to secure employment.

61. As outlined in various paragraphs in this submission, the current provisions of the Registered Clubs Award already enhance access to secure work in various ways including but not limited to, the use of IFA's, agreed patterns of work/minimum guaranteed hours of work for part-time employees, restrictions on changes to rosters etc.



Clubs Australia

**Question 8: Are there variations to the standard clauses that could improve access to, or remove barriers to accessing, the standard clauses by employees who are vulnerable to job insecurity?**

62. For the reasons set out above in this submission, Clubs Australia does not support any substantive variations to the standard clauses in the Registered Clubs Award – unless such changes were limited to simplification of language.