DECISION

Fair Work Act 2009
s.156—4 yearly review of modern awards

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

(AM2020/26)

VICE PRESIDENT HATCHER
COMMISSIONER HAMPTON
COMMISSIONER BISSETT

SYDNEY, 4 SEPTEMBER 2020

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

Introduction

[1] This decision deals with outstanding substantive matters relating to the *Registered and Licensed Clubs Award 2010* (Clubs Award) in the 4 yearly review of modern awards. The matters involve claims for variations to the Clubs Award made by Clubs Australia Industrial (CAI), the Club Managers Association Australia (CMAA), the United Workers' Union (UWU) and the Professional Golfers Association (PGA).

[2] We deal with each claim in turn below. Where we have formed the view that a claim has sufficient merit to justify a variation to the award, or we have formed a provisional view that a variation should be made subject to further submissions from interested parties, the course we propose to take at this stage is to include the variation in a draft version of the exposure draft for the Clubs Award to be published in conjunction with this decision. This version of the exposure draft has been updated by Commission staff to reflect decisions made by other Full Benches since the publication of the last exposure draft on 30 April 2020. Interested parties will then be given a final opportunity to comment on the form of the variation, or the provisional view (as the case may be) before the reviewed Clubs Award is finalised.

Claims made by Clubs Australia Industrial

Definition of "club manager"

[3] CAI seeks to vary two definitions contained in clause 3.1 of the Clubs Award. The first is the definition of "*club manager*". The current definition is as follows:

> **club manager** means a person appointed as such who is responsible for the direction and overall operation 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 C.11 of Schedule C—Classification Definitions.

[4] CAI submits that the current definition is ambiguous in that it is unclear whether a "*club manager*" refers to only the manager responsible for the general management of the club, such as a chief executive officer, general manager or secretary manager, or whether it also includes a broad class of managerial employees, being those classified as Levels A-G in clause C.11.2 of Schedule C. It submits that as the definition is unclear, it raises the question of whether various clauses in the award apply to a broad class of managerial employees or rather just the sole manager of the club. It contends that the definition of "*club manager*" ought to apply to any managerial employee who is employed by a club, classified pursuant to clause C.11.2 of Schedule C and paid in accordance with clause 17.2 in levels 6-13 inclusive. The new definition is proposed is as follows (noting that the clause references are to the most recently-published exposure draft rather than the current award clauses):

club manager means a person who is employed and appointed as such and who:

(a) is responsible for the direction and operation of a registered and licensed club, subject to the strategic direction determined by its Board of Directors, Committee of Management or more senior managers; and

(b) is classified according to Clause A.11.2 of Schedule A—Classification Definitions based upon any or all of the duties and responsibilities as referred to in clause A.11.1 of Schedule A.

[5] The CMAA and UWU consent to CAI's proposed variation (except that the CMAA suggests that "*or*" is more appropriate than "*and*").

[6] We agree that the current definition is too narrow and does not embrace the full range of club managers for which the Clubs Award makes provision. However, the proposed new definition is unsatisfactory. In particular, it retains (in paragraph (a)) a modified form of the existing definition for no discernible purpose. Our provisional view is that the following definition is sufficient:

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 based upon the performance of any or all of the duties and responsibilities as referred to in clause A.11.1 of Schedule A.

[7] Such a definition would, we consider, achieve the modern awards objective in s 134(1) of the *Fair Work Act 2009* (FW Act) having regard in particular to that part of the consideration in paragraph (g) which refers to the need to ensure a simple and easy to understand modern award system.

[8] Interested parties who wish to file submissions in response to this provisional view may do so within 21 days of the date of this decision.

Entitlement to extra week's annual leave

[9] Section 87(1)(b)(i) of the FW Act provides that an employee is entitled to 5 weeks of annual leave where a modern award which applies to the employee defines or describes the employee as a shiftworker for the purpose of the National Employment Standards (NES). Currently, there are two provisions in the Clubs Award relevant to s 87(1)(b)(i). First, there is a definition of "*shiftworker*" in clause 3.1 as follows:

> **shiftworker** means a seven day shiftworker who is regularly rostered to work on Sundays and public holidays, and includes a club manager

[10] Second, clause 30.1 deals with leave entitlements directly as follows:

> **30.1 Leave entitlement**
>
> **(a)** Annual leave is provided for in the NES. It does not apply to casual employees.
>
> **(b)** For the purpose of the additional week of leave provided by the NES, a **shiftworker** means a seven day shiftworker who is regularly rostered to work on Sundays and public holidays, and includes a club manager.

[11] CAI proposes that the definition of shiftworker in clause 3.1 be replaced by the following:

> **shiftworker** means a 7 day shiftworker who is regularly rostered to work on Sundays and public holidays (34 Sundays and 6 Public Holidays)

[12] It also proposes that the entitlement to the extra week's annual leave, currently found in clause 30.1 (clause 25.1 of the exposure draft), be varied to read as follows:

> [NOTE: Where an employee is receiving over-award payments such that the employee's base rate of pay is higher than the rate specified under this Award, the employee is entitled to receive the higher rate while on a period of paid leave (see sections 16 and 90 of the Act)].
>
> **(a)** Annual leave is provided for in the NES.
>
> **Additional paid annual leave for certain shiftworkers**
>
> **(b)** **(i)** A shiftworker for the purposes of the NES is an employee who is a 7 day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for 7 days a week.
>
> **(ii)** A shiftworker other than a shiftworker to whom subparagraph (i) applies and who is a shiftworker as defined within clause 2 Definitions of the Award will accrue annual leave under this Award based on an entitlement of 5 weeks of paid annual leave.
>
> **Additional paid annual leave for club managers**

(c) A club manager who is classified at Level 6 to Level 13 of clause 18.3 Minimum rates – Adult employee rates of the Award will accrue annual leave under this Award based on an entitlement of 5 weeks of paid annual leave.

[13] CAI said that its proposed definition may require the addition of "*over a 52-week period*" at the end of the definition in order to define the period during which the abovementioned days are to be worked. It submits that the variation is necessary because there is no definition of "*7 day shiftworker*" in the award, which has implications for the interpretation of the current clause 30.1(b) which repeats the definition of "*shiftworker*" as a pre-condition for the application of the additional week of annual leave a year provided to shiftworkers under the NES. In relation to its proposed paragraph (b)(i), it submits that in order to be classified as a shiftworker for the purposes of the NES, an employee must engage in a pattern of *continuous* shift work. It pointed to the approach taken by other Full Benches of the Commission in the four yearly review in classifying the pattern as being "in a business in which shifts are continuously rostered 24 hours a day for 7 days of the week" such as in clause 30.2(a) of the *Hospitality Industry (General) Award 2020* . Similar approaches, it submitted, had been taken in the *Clerks - Private Sector Award 2020*, *Banking, Finance and Insurance Industry Award 2020* and the *Pharmacy Industry Award 2020*.

[14] In relation to the proposed paragraph (b)(ii), CAI contends that its claim is supported by a previous decision of a single member of the Commission in *O'Neill v Roy Hill Holdings Pty Ltd*,[1] in which it was determined that an employee must work at least 34 Sundays and 6 public holidays over the course of a year in order to be a person who "*regularly works on Sundays and public holidays*" so as to qualify for the additional week of annual leave prescribed by s 87(3) for award/agreement free employees. CAI said that it did not seek to remove any existing entitlement to a period of 5 weeks annual leave from any employee but instead sought a clear identification of whether the source of the entitlement is the NES or the award.

[15] The CMAA and the UWU oppose the claim (except that the CMAA did not oppose the separate specification of the entitlement for club manager).[2] Blacktown Workers' Club also filed a submission opposing the shiftworker claim.

[16] We are not satisfied that the variations proposed by CAI are necessary to meet the modern awards objective. The expression "*seven day shiftworker*" used in both the clause 3.1 definition and the above provisions is not defined in the Clubs Award. We do not consider that it is to be construed in the context of the Clubs Award as meaning someone working on a continuous "*24/7*" shift work system for two reasons: first, the award does not provide for any system of continuous shift work involving day, afternoon and night shifts and, second, continuous shift work is not, with what we expect are rare exceptions, a feature of the club industry in practice. Having regard to typical work and roster patterns in the industry, it is best understood to refer to an employee who is rostered to work on a shift work system which operates across all seven days of the week. Accordingly the first aspect of CAI's claim is rejected.

[17] As to the specification of the number of Sundays and public holidays which must be worked in a year to qualify as someone "*who is regularly rostered to work on Sundays and*

[1] [2015] FWC 2461

[2] PNs170-195

public holidays", we reject the proposition that the single member decision in *O'Neill v Roy Hill Holdings Pty Ltd*, which concerned the meaning of that expression in s 87(3) of the FW Act, is determinative of the position here. Section 87(1)(b)(i), which is the relevant statutory provision, does not require that a person be "*regularly rostered to work on Sundays and public holidays*" in order to qualify for the extra week's annual leave. Rather, the provision leaves it to the award to determine who qualifies. Nothing has been put before us to persuade us that the expression "*regularly rostered to work on Sundays and public holidays*" used in clauses 3.1 and 30.1 the Clubs Award, having regard to the industrial historical context of the award, necessarily means 34 Sundays and 6 public holidays. That calculation is derived from a continuous shift work system where it is assumed that a shift worker works an equal number of shifts on each of the seven days of the week, and takes it context from manufacturing and engineering operations where a continuous level of output is sought to be maintained.[3] The club industry, by contrast, faces far greater patronage at the latter end of the week and on weekends, and rosters staff accordingly. There is no proper basis for the assumption that an employee will work an equal number of shifts on each day of the week.

[18] For example, a club employee may be likely to work more Sundays than Mondays. Many public holidays fall on Mondays. That may result in the employee working more than 34 Sundays in a year, but less than 6 public holidays. On CAI's approach, that person does not regularly work Sundays and public holidays. The justification for that approach is not readily apparent.

[19] There is no evidence before us of any disputation concerning the operation of the current provision. Likewise, there is no evidence as to how the current provision is applied in practice, so there is no basis for satisfaction that the CAI's proposal might not reduce the current annual leave entitlement of some employees.

[20] We do not consider that the position of club managers requires any clarification. Read with the new definition of "*club manager*", we consider that clause 30.1(b) makes it clear enough that they are shiftworkers for the purpose of the NES and are entitled to the additional week's leave.

[21] We do provisionally consider however that the current definition of "*shiftworker*" in clause 3.1 of the Clubs Award (clause 2 of the exposure draft) should be deleted, since it serves no practical purpose. Clause 30.1(b) (clause 25.1(b) of the exposure draft) discharges the function of defining who is a shiftworker for the purpose of the NES. Parties may file submissions in response to this provisional view within 21 days of the date of this decision.

[22] The Note contained in CAI's proposed variation to the annual leave clause will not be included at this stage. This Note, which has been included in a number of awards, may be the subject of further consideration by another Full Bench.

Annual leave loading

[23] The current entitlement to annual leave loading in clause 30.3 of the Clubs Award is as follows:

---

[3] See [2015] FWC 2461 at [25]-[26]

> **30.3** In addition to the payment provided for in the NES, an employer is required to pay an additional leave loading of 17.5% of that payment.

[24] Under s 90 of the FW Act, the NES entitlement to annual leave must be paid at the employee's "*base rate of pay*" for the employee's ordinary hours of work in the period. The expression "*base rate of pay*" is defined in s 16(1) of the FW Act as follows:

> (1) The ***base rate of pay*** of a national system employee is the rate of pay payable to the employee for his or her ordinary hours of work, but not including any of the following:
>
> (a) incentive-based payments and bonuses;
>
> (b) loadings;
>
> (c) monetary allowances;
>
> (d) overtime or penalty rates;
>
> (e) any other separately identifiable amounts.

[25] The effect of s 90 is that if an employee receives an over-award rate of pay for ordinary hours that does not fall into any of the exclusions in paragraphs (a)-(e) of the section, that is payable on annual leave. The current clause 30.3 makes the annual leave loading calculable on the same amount – that is, inclusive of the over-award rate.

[26] CAI seeks that clause 30.3 be replaced by the following new provision, which would make the loading calculable on the minimum award rate of pay (noting that the clause reference is to the exposure draft clause rather than the current award clause):

> During a period of annual leave an employee will receive annual leave loading of 17.5% calculated on the rate prescribed in clause 18 – Minimum rates of this Award for the employee's ordinary hours of work in the period in addition to their minimum rate of pay. Annual leave loading payment is payable on leave accrued.

[27] The CAI submits that the safety net to be provided by the Clubs Award should not incorporate payments made on an over-award basis, and that there is nothing that compels the continuance of over-award payments under the Clubs Award.

[28] The proposed variation is opposed by the CMAA and the UWU.

[29] We do not consider that the proposed variation is necessary to meet the modern awards objective. It represents a straightforward reduction in an employee entitlement. Because the NES entitlement to annual leave is required to be calculated on the "*base rate of pay*" as defined in s 16(1) of the FW Act, it is logical that the increment provided by way of the annual leave loading should be calculated in the same way, and that is the standard approach taken in modern awards generally. No basis for a different approach to be taken in the Clubs Award has been demonstrated. Further, CAI's proposal would add administrative complexity, since it would require a double calculation to be undertaken: first, the annual leave payment would have to be

calculated on the basis of the "*base rate of pay*" and, second, the leave loading would have to be calculated on the award minimum rate of pay. Accordingly, CAI's claim is rejected.

Club managers - level 6 classification

[30] In the classification structure set out in clause 17.2 of the Clubs Award, the role of "*Club manager of a club with a gross annual revenue of less than $500,000*" is graded at Level 6, while Club Managers at Levels A, B, C, D, E, F and G are graded at Levels 7, 8, 9, 10, 11, 12 and 13 respectively. The award provides for a minimum weekly wage, a minimum hourly rate and an annual salary for Levels 7-13, but only a minimum weekly wage and a minimum hourly rate are set for Level 6. Clause 17.3(a)(i) provides that, for managerial classification in Levels 7-13, certain specified provisions of the award will not apply to a club manager receiving a salary of 20% in excess of the minimum annual salary rate prescribed by clause 17.2, and clause 17.3(a)(ii) provides that certain additional provisions will not apply if a club manager receives 50% in excess of the minimum prescribed annual salary.

[31] CAI proposes that an annual salary rate of $49,072 (which is an extrapolation of the current weekly rate) be set for club managers graded at Level 6, and that the application of clauses 17.3(a)(i) and (ii) be extended to Level 6 club managers. The CMAA and the UWU agree to these changes being made.

[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.

[33] CAI also proposed minor drafting changes to clause 17.3(a) which we do not consider are necessary.

Club managers - non-application of annual leave loading and meal break entitlements

[34] CAI also proposes that the award provisions concerning meal breaks and annual leave loading be added to the list of award provisions which do not apply to club managers in clauses 17.3(a)(i) and (ii) (clause 18.5(a)(i) and (ii) of the exposure draft). The CMAA and UWU consented to the addition of meal breaks to the list of excluded entitlements, but opposed the addition of annual leave loading.

[35] CAI submits that the annual leave loading variation is necessary because the rationale of the annual leave loading is to compensate employees for the opportunity to earn extra payments, such as overtime and penalty rates, that they would have normally received during working hours but miss out on when they are on annual leave. Club managers on exemption-rate salaries pursuant to the award do not receive overtime or penalty rates, it submits, because they are compensated by their over-award salary and therefore do not lose the opportunity to earn such penalties whilst on annual leave, making the leave loading unnecessary. Further, CAI contended that such variation would correct an anomaly in the award insofar that a club manager of the same classification but paid at the minimum rate when on annual leave would

be paid annual leave loading in accordance with clause 30.3, but any club manager to whom clause 17.3(a)(i) applied would be paid not less than 20% above the minimum rate and incur no reduction in earnings over the period of annual leave. It also submits that, unless annual leave loading is added to the list of excluded award provisions, it is impossible for clubs to "buy out" the loading through an enhancement to salary.

[36] The CMAA opposes varying clauses 18.5(a)(i) and (ii) to add annual leave loading as an excluded entitlement on the basis that the NAPSA and pre-reform federal awards had always provided annual leave loading to all managers covered by the award, regardless of salary received. The UWU also opposed the inclusion of annual leave loading in clauses 17.3(a)(i) and (ii) of the Clubs Award. Various clubs also filed submissions in opposition to CAI's proposed variation.[4] Ettalong Beach War Memorial Club Ltd opposed the variation, but submitted that it would support a measure of removing the entitlement for club managers paid in excess of $100,000 per annum.

[37] We consider that the addition of meal breaks to the list of excluded provisions in clause 17.3(a)(i) and (ii) (clause 18.5(a)(i) and (ii) in the exposure draft) would be consistent with the achievement of the modern awards objective, placing weight on the consideration in paragraph (d) ("*the need to promote flexible modern work practices*"). The exclusion of prescriptive meal break provisions would be 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.

[38] However we reject the addition of the annual leave loading to the list of excluded provisions. This would simply amount to the abolition 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. We do not accept that, for club managers to whom clause 17.3(a)(i) or (ii) applies, it is not possible for clubs to "buy out" the annual leave loading. In accordance with the principles stated in *Poletti v Ecob*[5] and subsequently affirmed in the Full Federal Court decisions in *Australia and New Zealand Banking Group Limited v Finance Sector Union of Australia*[6] and *Linkhill Pty Ltd v Director, Office of the Fair Work Building Industry Inspectorate*,[7] this could be done by way of a separate salary increment, additional to a contractual salary amount which meets the requirements of clause 17.3(a)(i) or (ii), which is specified as being for the purpose of buying out the award leave loading entitlement.

Casual fitness instructor rates

[39] The rate of pay for a casual fitness instructed under the Clubs Award is prescribed by clause 17.6 as follows:

> **17.6 Casual fitness instructors**

[4] Culburra Bowling and Recreation Club Ltd, Harrington Bowling Club t/a Club Harrington, Blacktown Workers Club, Club Rivers, Lithgow & District Workmen's Club Ltd and Ettalong Beach War Memorial Club Ltd t/a Ettalong Diggers

[5] [1989] FCA 779; 31 IR 321

[6] [2001] FCA 1785; 111 IR 227

[7] [2015] FCAFC 99; 240 FCR 578, 252 IR 69

(a) Minimum rate per hour is $49.15.

(b) Minimum engagement—one hour.

NOTE: The hourly rate specified in this clause is inclusive of the 25% casual loading in clause 10.5.

[40] There is a dispute between the parties as to whether the casual fitness instructor rate in clause 17.6(a) (clause 18.4(a) in the exposure draft), which is currently inclusive of the 25% casual loading, is also inclusive of penalty rates. CAI seeks that the note to the clause be amended to read as follows (using the clause numbering in the exposure draft):

NOTE: The hourly rate specified in this clause is inclusive of the 25% casual loading in clause 10.5 and the penalty rates in clause 24.

[41] This issue has previously been the subject of conferences conducted by the Commission in the course of the 4 yearly review. It was also discussed by the separate Finalisation of Exposure Drafts Full Bench in a decision issued on 20 December 2019[8] (December decision). After noting the contention of the parties, the Full Bench said (referring to the clause numbering in the exposure draft):

"[11] As a general proposition we accept that the rate should be disaggregated or, at the very least, clause 18.4 should clearly identify the constituent elements of the rate. A disaggregated rate is transparent and provides a means of ensuring that the minimum classification rate is properly fixed.

[12] The disaggregated rates for a casual fitness instructor are as set out below:

Classification rate		Minimum hourly rate	Minimum weekly rate
Weekly	Hourly	(RATES INCLUSIVE OF 25% CASUAL LOADING)	
$1450.70	$38.18	$47.72	$1813.36

[13] As mentioned earlier, United Voice contends that the 'loaded' rate in clause 18.4 only includes the 25% casual loading and does not include any penalty rates. This proposition seems inherently unlikely. If the rate for a casual fitness instructor is disaggregated the minimum classification rate is $38.18 per hour or $1450.70 per week. This rate seems far too high in the context of the other minimum classification rates in this award. For example, a leisure attendant grade 2 is defined in clause A.7.2 to mean:

A.7.2 Leisure attendant grade 2 means a person who has the appropriate level of training and takes classes and/or directs leisure activities such as sporting areas, health clubs and swimming pools. This classification includes an assistant bingo caller.

[8] [2019] FWCFB 8585

> [14] A leisure attendant grade 2 is a Level 3 employee and receives a minimum hourly rate of $20.91 ($794.70 per week).
>
> [15] Further, there are 13 levels in the classification structure in the award:
> *[excerpt from Clubs Award classification structure not included]*
>
> [16] If United Voice's submission was accepted then casual fitness instructors would have the highest minimum classification rate in the award (before applying the 25% casual loading). Indeed, such an employee would be paid in excess of a Level G manager – the highest classification in the award. Such a proposition seems absurd. A comparison with the *Fitness Industry Award 2010* confirms this view.
>
> [17] The *Fitness Industry Award 2010* contains a nine level classification structure (see clause 17.1), as follows: [excerpt from classification structure in Fitness Industry Award not included]
>
> [18] An employee at level 3A holds a Fitness Industry AQF Certificate Level III qualification and works under general supervision and a Level 5 employee holds a Fitness Industry AQF Diploma level qualification or equivalent.
>
> [19] Clause 13.2 and 13.3 of the *Fitness Industry Award 2010* may also be relevant, they state:
>
> > 13.2 A casual employee for working ordinary hours on Monday to Friday must be paid per hour at the rate of 1/38th of the minimum weekly rate prescribed in clause 17—Minimum wages for the work being performed plus a casual loading of 25%.
> >
> > 13.3 A casual employee for working ordinary hours on a Saturday, Sunday or public holiday must be paid per hour at the rate of 1/38th of the minimum weekly rate prescribed in clause 17—Minimum wages for the work being performed plus a casual loading of 30%.
>
> [20] It seems to us that the disaggregation of the rate in clause 18.4(a) invites scrutiny of the disaggregated minimum classification rate for a fitness instructor. In particular, whether that rate is properly fixed. We would also observe that on the limited material presently before us we are not persuaded that the rate in clause 18.4 encompasses all penalty payments."

[42] The parties were directed to file further submissions in response to the above.

[43] The same Full Bench discussed the issue again in a decision issued on 10 March 2020[9] (March decision). After referring to the UWU's submission, which sought to contend that the current rate was properly fixed on plausible work value grounds, the Full Bench said (footnotes omitted):

---

[9] [2020] FWCFB 1260 at [46]

"[18] As mentioned earlier, if the rate for a casual fitness instructor in the Clubs Award is disaggregate then the minimum classification rate would be $38.18 per hour. In essence the UWU contends that a rate of $38.18 per hour is appropriate for the work in question and supported by what it describes as 'plausible work value reasons'. We find the UWU's submissions unpersuasive.

[19] The submission put is little more than a series of broad assertions, unsupported by any evidence. Further, the UWU submission fails to adequately grapple with two matters which tell against its position.

[20] The first matter is how the casual fitness instructor classification and wage rate aligns with comparable classifications in the Fitness Award. The UWU submits that such a comparison is 'unhelpful'. We disagree. While such a comparison may be 'unhelpful' to the UWU's case it is plainly relevant to our consideration of the issue before us, given that the Fitness Award is the relevant industry award.

[21] The minimum period of engagement of a casual fitness instructor under the Clubs Award (1 hour) is not relevantly distinguishable from the position under the Fitness Award.

[22] The Fitness Award provides that levels 2, 3, 3A, 4 or 4A instructors are engaged for a minimum of 1 hour save that on a public holiday a 4 hour minimum engagement applies to <u>all</u> employees. Further, the qualifications required of a Level 3A employee under the Fitness Award exceed those required of casual fitness instructors under the Clubs Award. An employee at level 3A performs the duties of a level 3 ***<u>and</u>***:

> (a) holds a Fitness Industry AWF Certificate III qualification relevant to the classification in which they are employed or equivalent; and
>
> (b) utilises the skills and knowledge derived from the Fitness Industry AWF Certificate Level III competencies relevant to the work undertaken at this level.

[23] The UWU submits that a comparison with the Fitness Award is not appropriate because the Fitness Award does not apply to fitness classes conducted on the premises of a club. It is asserted that fitness classes in a club context 'may be infrequent' and that it is 'not inconceivable' that there may only be 3 or 4 classes per week of one hours duration. There is simply no evidentiary basis for these assertions.

[24] The second matter is the context, in particular how the fitness instructor classification 'fits' into the Clubs Award. It is apparent that there is a similarity between the classification descriptions of a casual fitness instructor and a leisure attendant grade 2; and the disparity in hourly rates.

Leisure Attendant Grade 2	**(Casual) fitness instructor**
Leisure attendant grade 2 means a person who has the appropriate level of training and takes classes and/or directs leisure activities such as sporting areas, health clubs and swimming pools. This	**(Casual) fitness instructor** means an employee engaged in instructing people in either aqua aerobics, aerobics, pump, step aerobics, boxing circuits, circuits, walking, cardiac class, yoga or similar

classification includes an assistant bingo caller.	disciplines. An employee engaged as a fitness instructor will be engaged for a minimum shift of one hour.
$21.54 per hour	$49.15 per hour or $38.18 + 25% casual loading

[44] The Full Bench then recounted CAI's submissions, in which it detailed the industrial history of the casual fitness instructor's classification and rate and submitted that it was intended in the award modernisation process conducted by the Australian Industrial Relations Commission (AIRC) pursuant to Part 10A of the *Workplace Relations Act 1996* that the rate be inclusive of penalty rates, and that it was an error that the Clubs Award as made did not reflect this intention. The Full Bench also recounted the UWU's submissions in reply. The Full Bench then said (footnotes omitted):

> "[42] Having considered the submissions made we make the following observations on the basis of the material presently before us:
>
> 1. The minimum classification rate component of the casual fitness instructor rate under the Clubs Award ($38.18 per hour) does not properly reflect the 'work value' of the role, having regard to:
>
> - the disparity in hourly rates between the classifications of casual fitness instructor and leisure attendant grade 2, given the similarity in the relevant classification descriptions; and
>
> - the rates for the comparable classifications in the Fitness Award.
>
> 2. The relevant award history supports CAI's contention that intention was that the casual fitness instructor rate be inclusive of the 25% casual loading in clause 10.5 and the penalty rates in clause 29.
>
> [43] But these observations are not determinative of the matter before us and nor do they lead inexorably to the adoption of CAI's proposed variation. It is important to recall that this issue arises in the context of the 4 yearly review of modern awards.
>
> [44] Section 156 of the *Fair Work Act 2009* (Cth) (the Act) deals with the conduct of the Review and s.156(2) provides that the Commission must review all modern awards and may, among other things, make determinations varying modern awards. In this context 'review' has its ordinary and natural meaning of 'survey, inspect, re-examine or look back upon'. The discretion in s.156(2)(b)(i) to make determinations varying modern awards in a Review, is expressed in general, unqualified, terms.
> . . .
> [46] We propose to review the rate for a casual fitness instructor in the Clubs Award in order to examine the utilisation of fitness instructors by entities covered by the Clubs Award, the nature of their engagement and whether the current award rate is 'fair.' A conference will be convened before Deputy President Clancy shortly to discuss the conduct of such a review. A separate listing notice will be issued shortly."

[45] The contemplated review of the casual fitness instructor rate was subsequently referred to this Full Bench to undertake. However no party properly engaged with the matters referred to in the December decision or the March decision. No evidence was provided concerning the nature of the work or the mode of utilisation of casual fitness instructors covered by the Clubs Award. CAI simply continued to press for the variation it earlier proposed, and the UWU continued to oppose it.

[46] In the circumstances, we consider that we should first formally deal with CAI's claim. We reject it, for two reasons. The first is that we do not accept that the current provision is an error which is not reflective of the intention of the AIRC Full Bench which conducted the award modernisation process. It is clear that the starting point in consideration of the terms of the Clubs Award to be made was the NAPSA derived from the *Club Employees (State) Award*, an award of the Industrial Relations Commission of NSW. That award provided for a rate for casual fitness instructors which was described as a "*minimum all-up rate of pay*", and stated that "*No penalty or weekend payments of any type will apply*". For the purpose of the award modernisation process, the parties prepared a draft award which was similar in form to the NAPSA provision. However, the award modernisation Full Bench never adopted that provision. The first exposure draft for the new award published on 22 May 2009 was (leaving aside the rate, which was then $37.13) the same as the current clause 17.6 of the Clubs Award except that the Note currently appended to the clause was not included. There were no submissions subsequently made in relation to this proposed provision, and it was included in the Clubs Award when it took effect on 1 January 2010.

[47] Soon after the award took effect, CAI applied to vary clause 17.6 to include the Note. This application was made pursuant to s 160 of the FW Act – that is, to remove ambiguity or uncertainty or to correct error. The application was granted by Vice President Watson in a decision given in transcript on 11 October 2010 and by an order made the same day.[10] It is notable that the CAI application only addressed the issue of the casual loading and not any issue concerning the application of penalty rates. The natural inference to be drawn is that CAI did not at that time consider that there was any error in the fact that clause 17.6 contained no exclusion of the application of penalty rates. CAI placed some reliance upon a statement made by Vice President Watson at the hearing, but for the reasons stated in the December decision and the March decision, that submission has no substance.

[48] Nothing has been put before us to demonstrate that AIRC award modernisation Full Bench did not intend to make clause 17.6 of the Clubs Award in the form in which it currently appears. It may be noted that clause 17.3 makes specific provision for the exclusion of penalty rates for club managers in prescribed circumstances; that suggests that where the Full Bench intended to exclude penalty rates, it made express provision for this. We also note that CAI did not raise any issue about the provision until some 9 years after it took effect, and did not raise it in its 2010 application made pursuant to s 160.

[49] The second reason is that CAI's application would entrench the current rate of pay for casual fitness instructors. We consider, for the same reasons stated in the December decision and the March decision, that this is not a properly fixed rate of pay.

[50] Accordingly, we reject the CAI's claim. The current position will remain.

---

[10] PR502602

[51] However there remains the question of whether the casual fitness instructor rate in clause 17.6(a) of the Clubs Award is a properly-fixed minimum rate. The UWU submitted that consideration of the rate of an award-covered worker is a work value matter and can only be varied for work value reasons. The current rate, it submitted, should not be varied because there are no cogent work value reasons to vary it and, further, fitness instructors cannot be employed on a full-time basis due to the nature of the work being one of short periods of extreme physical exertion in leading fitness classes.

[52] We disagree. For the reasons stated by the Full Bench in the December decision and the March decision, we consider that it is patent that the current rate is 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*. Our provisional view is that the following changes should be made to correct this position:

(1) The current clause 17.6 of the Clubs Award (clause 18.4 of the exposure draft) should be removed.

(2) "*Fitness instructor*" should be included 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*".

(3) Clause 10.5(d) of the Clubs Award (clause 11.6 of the exposure draft) should be varied to provide that the minimum payment for a casual fitness instructor on each engagement is one hour.

(4) The definition of "*(Casual) fitness instructor*" in Schedule C clause C.7.4 of the Clubs Award (Schedule A clause A.7.4 of the exposure draft) should be varied to omit "*(Casual)*" from the defined term and also to omit the last sentence (which refers to a one-hour minimum engagement).

[53] Interested parties shall be allowed 21 days from the date of this decision to file any evidence and submissions in response to this provisional view.

Time off instead of payment for overtime

[54] CAI sought that the following text be inserted at the end of what is currently clause 28.6 of the Clubs Award and is clause 22.8 in the exposure draft (with cross-references being to the clause numbering in the exposure draft):

> This clause 22.8 does not apply to work performed on a Rostered Day Off. Refer to clauses 15.7 and 15.8 for arrangements for time off in lieu of overtime payments when an employee works on a Rostered Day Off.

[55] CAI contends that this variation is necessary to clarify that clauses 15.7 and 15.8 (current clauses 26.7 and 26.8) apply where an employee is required to work on a rostered day off and there is agreement between the employee and employer that the employee will receive time off in lieu rather than be paid overtime. CAI submitted that this practice was permitted prior to the insertion of clause 28.6 of the current award (clause 22.8 of the exposure draft) on 14 December 2016. The CMAA and UWU consented to this proposed variation.

[56] We do not propose to grant this variation for two reasons. First, it modifies the standard provision for time off instead of payment of overtime which was developed for modern awards generally in the 4 yearly review. There is no evidence that the standard provision is not meeting the modern awards objective. Second, the proposed provision would only cause confusion since the other provisions referred to do not actually say anything about time off in lieu of overtime where an employee works on a rostered day off.

Meal breaks

[57] CAI sought two variations to the meal breaks provision in clause 24 of the Clubs Award. Clause 24.2 provides that an employee is to be paid a penalty rate of 150% of the ordinary hourly rate if an employee is not given a meal break in accordance with clause 24.1 until either the meal break is given or for the remainder of the employee's shift. Clause 24.4 creates an exclusion for clubs that employ fewer than 10 people covered by the award from the penalty rate provided in clause 17.2, stipulating that the meal break can be substituted by a paid 20 minute crib break taken any time within that day's shift.

[58] CAI sought to amend clause 24.2 (clause 17.2 of the exposure draft) to exclude the application of the penalty rate to club managers on the basis that club managers should be able to determine when a meal break is to be taken themselves. Its second variation sought to amend clause 24.4 (clause 17.4 of the exposure draft) to increase the number of employees a club may employ before the provision applies from "*fewer than 10 people*" to "*fewer than 15 people*". It submitted that this would create consistency with the definition of a "*small business employer*" pursuant to s 23 of the FW Act.

[59] We reject both proposed variations. We have already accepted CAI's proposed variation to add the meal breaks clause to the excluded provisions for club managers who are paid enhanced salaries pursuant to clause 17.3(a). It would be inconsistent with this variation to permit club managers to be excluded from any aspect of the meal breaks provision where the enhanced salary rate is not paid. As to the proposed variation to clause 24.4, there is no relationship between this provision and the definition of "*small business employer*" in s 23 of the FW Act, nor is there any evidence before us to demonstrate that the current provision is not meeting the modern awards objective.

Other matters

[60] In various submissions filed during the 4 yearly review, CAI sought various other drafting changes to the exposure draft for the Clubs Award. It does not appear that, by the time of the hearing, those changes (except to the extent already discussed above) were still pressed by the CAI. In any event, we do not propose to make any of those changes.

Claims made by the Club Managers' Association Australia

Definition of ordinary hourly rate

[61] The CMAA seeks the amendment of the definition of the expression "*ordinary hourly rate*" that appears in the exposure draft in clause 2 (but is not currently contained in the Clubs Award) to read as follows (with the amendment underlined):

> **ordinary hourly rate** means the minimum hourly rate for an employee's classification specified in clause 18.3 and 18.5(a)(i) plus any all purpose allowance to which the employee is entitled.

[62] The CMAA contends the amendment is necessary to clarify the status quo and avoid doubt in the application of the historical condition of club managers receiving an annualised salary pursuant to clause 17.3(a)(i) of the Clubs Award (clause 18.5(a)(i) in the exposure draft) that is at least 20% but less than 50% in excess of the minimum annual rate under the award. It submits that this provision had applied to club managers in the pre-reform federal awards and NAPSA and continues under the current award.

[63] CAI opposes this variation on the basis that the proposed amendment would result in club managers at the same classification level being paid at different rates when performing an identical period of work which, it submitted, is contrary to s 3(b) of the FW Act to provide a *minimum* guaranteed safety net. It submitted that if any such largesse is to be extended, it should be by way of over-award payment and common law contract rather than from a provision of the award. The UWU did not oppose the CMAA's claim.

[64] We are not satisfied that amendment is necessary to meet the modern awards objective. We are not persuaded that any difficulty currently exists which would be rectified by the amendment which the CMAA seeks. Further, the amendment is confusing, since clause 17.3(a)(i) does not specify any minimum hourly rate.

Laundry allowance

[65] The CMAA sought a variation to the laundry allowance payable to club managers pursuant to clause 18.1(c)(ii) of the Clubs Award (clause 19.3(d)(ii) of the exposure draft). The clause provides:

> **(ii)** Where the employer requires a manager to wear a uniform, the employer must pay to the employee an allowance of $10.00 per week to cover the costs of laundering the uniform. The provisions of this clause do not apply where the employer arranges for the uniform to be laundered without cost to the manager.

[66] The amount of $10.00 has not changed since the Clubs Award was made, since clause 18.1(k), which provides for adjustment of expense related allowances, does not provide any mechanism for adjustment of the laundry allowance. The CMAA proposes, and CAI and the UWU consent to, a variation in the following terms:

> **(ii)** Where the employer requires a manager to wear a uniform, the employer must pay to the employee a laundry allowance of $10.00 per week, or the demonstrable cost of laundering the uniform up to the maximum value of $15.00 per week. The provisions of this clause do not apply where the employer arranges for the uniform to be laundered without cost to the manager.

[67] The laundry allowance is an expense-related allowance, and a mechanism should be included in the award for its adjustment. The provision proposed by the CMAA does not solve the problem, because it simply creates a new non-adjustable allowance amount. Our provisional view is that the preferable course is to retain the clause in its current form, but to adjust the amount in accordance with CPI changes since the award came into effect, and to vary clause

18.1(k) (Schedule C clause C.2.2(b) of the exposure draft) to provide that the laundry allowance will be adjusted in accordance with the CPI for the Clothing and footwear group. Interested parties will be given an opportunity to make submissions in response to this provisional view within 21 days of the date of this decision.

Claim made by the United Workers' Union

Tool allowance

[68] The UWU seeks that the tool allowance in clause 18.1(b)(i) of the Clubs Award (clause 19.3(c)(i) of the exposure draft) be amended so that it is consistent with the equivalent allowances in the *Hospitality Industry (General) Award 2020* (Hospitality Award) and *Restaurant Industry Award 2020* (Restaurant Award). The current clause 18.1(b)(i) is as follows:

> **(i)** Where a cook is required to use their own tools, the employer must pay an allowance of $1.55 per day or part thereof up to a maximum of $7.60 per week. Where a maintenance and horticultural employee is required to supply and use their own tools, the employer will reimburse the cost of such tools.

[69] The clause proposed by the UWU is as follows:

> **(i)** Where a cook or apprentice cook is required to use their own tools, the employer must pay an allowance of $1.73 per day or part thereof up to a maximum $8.49 per week.

[70] The amendment would widen the coverage of the tool allowance to include apprentice cooks using their own tools. In seeking the expansion of the coverage of the allowance, it relies on a prior Full Bench decision issued on 12 December 2018 in which the tool allowance in the Hospitality Award and the Restaurant Award was determined to be applicable to both cooks and apprentice cooks.[11] It referred to the same Full Bench decision as authority for an increase in the tool allowance under the award to be consistent with that provided for under the Hospitality Award and the Restaurant Award,[12] and submitted that this parity is consistent with consideration s 134(1)(g) of the modern awards objective.

[71] CAI consented to the UWU's proposed variation.

[72] We are persuaded that the grant of the claim is necessary to meet the modern awards objective in s 134(1). As to the coverage of the allowance, we think it likely that the word "*cook*" in the existing provision would already encompass an apprentice cook, and the removal of any doubt on that score would be beneficial having regard in particular to the consideration in s 134(1)(g) ("*the need to ensure a simple, easy to understand ... modern award system*"). If, contrary to this view, apprentice cooks were not included, that would demonstrate a lack of relevance and fairness in the safety net in that respect. The adjustment of the amounts of the allowance and alignment with the amounts in the Hospitality Award and the Restaurant Award would be fair and beneficial having regard to s 134(1)(a) ("*the needs of the low paid*"). Any

[11] [2018] FWCFB 7263 at [222]-[223], [229]-[230]

[12] Ibid at [241]-[242]

cost impact would be minimal, so the consideration in s 134(1)(f) ("*the likely impact of any exercise of modern award powers on business, including on... employment costs*") does not weigh in any significant fashion against the grant of the claim.

[73] We note that in the 12 December 2018 Full Bench decision relied upon by the UWU, the Full Bench formed the view that the use of the CPI footwear and clothing group as the indexation benchmark was inappropriate, and changed this to the CPI "Tools, equipment" component.[13] Clause 18.1(k)(i) of the Clubs Award (Schedule C clause C.2.2(b) of the exposure draft) likewise provides that the CPI Clothing and footwear group is the indexation benchmark for the tools allowance. Our provisional view is that this should be changed so that the tools allowance is indexed according to the CPI "Tools, equipment" component. Interested parties will be given 21 days to file any submissions responsive to this provisional view.

Claims made by the Professional Golfers Association

[74] The PGA has advanced a series of related claims to vary the Clubs Award to confirm award coverage for Golf Professionals and Golf Trainees and insert classification definitions and rates of pay for such employees. As part of the proposed coverage provisions, the PGA intends to clarify the distinction between the coverage of the Clubs Award and the *Amusement Events and Recreation Award 2020* (Amusement Award).

[75] The PGA is a members association and the peak professional body for the sport of golf in Australia, representing 2,800 members across Australia and overseas. The PGA states[14] that its members comprise all Australian professional golfers and includes:

- Trainees;
- Assistant Professionals;
- Teaching Professionals;
- Golf Shop Managers; and
- Tournament Professionals.

[76] The PGA is not a registered organisation but has members with a proper interest in the terms of the Clubs Award. The proposed variations to the Clubs Award now sought by the PGA are set out in Attachment A.[15]

[77] The claims advanced by the PGA[16] also take account of recent structural changes to the PGA Trainee Program and the removal of the delivery of the Certificate III in Sport (Career Oriented Participation) course.

[78] The PGA contends that at present, golf professionals are classified in the Clubs Award as Leisure Attendants attending a shop associated with the clubs activities, for example a golf pro shop owned and operated by the club. However, it posits that golf professionals are career

[13] Ibid at [222]-[223]

[14] PGA submission 16 April 2019

[15] Confirmed in a Statement issued by the Commission on 30 April 2020, [2020] FWC 2262

[16] PGA submissions 7 April 2020

employees who undertake a far greater range of duties than attending a shop and this should be recognised with the award.

[79] We note that the classifications and associated wage rates now proposed have recently been inserted into the Amusement Award.[17] The Full Bench in that matter found:

> "[9] Our conclusion that it is appropriate to vary the Award in the terms proposed by the PGA is reinforced by the fact that the variation addresses trainee-related classifications within the golf industry. We consider that is a significant matter for potentially younger and/or vulnerable workers as opposed to the presumptively older golf professionals to whom the proposed variation also refers. Borrowing from what was said by a Full Bench concerning classifications in the swim industry in *4 Yearly Review of Modern Award: Fitness Industry Award 2010*, we similarly consider here that given the practical and sensible effect of these variations, we are satisfied the variations proposed by the PGA are necessary to achieve the modern awards objective; we also accept the variations are appropriate having regard to that objective and the circumstances of the Award more generally." (footnote omitted)

[80] Although CAI initially expressed reservations about the wage rates proposed by the PGA, pending the Commission's assessment of the "*appropriate pay rates*",[18] we do not understand that the PGA application is now opposed by CAI or any other party with an interest in the Clubs Award.

[81] We are satisfied that it is appropriate to determine this matter on the papers (as the PGA has proposed) and our preliminary view is to include the variations sought by the PGA in the exposure draft for the Clubs Award so as to provide an award-specific fair and relevant minimum safety net of terms and conditions. In reaching this view, we have had regard to the modern award objective in s 134, the statutory charter for the Commission in s 138 to "*include terms that it is permitted to include, and must include terms that it is required to include, only to the extent necessary to achieve the modern awards objective and (to the extent applicable) the minimum wages objective*", and the minimum wages objective in s 284 of the FW Act.

[82] The variations confirming the nature and extent of coverage of the golf professionals and golf trainees set out in the proposed variations also appear to be appropriate. However, we are keen to avoid any unintended consequences of the variations, noting that certain provisions in the Clubs Award apply to categories of employees. Accordingly, interested parties will be given a further opportunity to file submissions in response to these proposed variations within 21 days.

---

[17] [2020] FWCFB 1518 issued on 9 April 2020

[18] CAI submission, 11 May 2020

VICE PRESIDENT

Appearances:

Mr *R Moore* of counsel with Mr *M Ushakoff* on behalf of Clubs Australia Industrial.
Mr *P Cooper* with Ms *P Imber* on behalf of Club Managers Association Australia.
Mr *J Kenchington-Evans* on behalf of the United Workers' Union.

Hearing details:

2020.
Sydney (via video-link):
5 August.

Printed by authority of the Commonwealth Government Printer

<PR722543>

Attachment A

Schedule of variations to the Registered and Licensed Clubs Award 2010 sought by the PGA

Note: References to clause numbers are those contained in the draft variation determination published by the Commission on 29 January 2020.

(i) Clause 2—Definitions—golf professional and golf trainee

The PGA seeks to insert two definitions into clause 2, "golf professional" and "golf trainee" as follows:

> **golf professional** means a qualified and current Full Member (Vocational) of the Professional Golfers Association of Australia referred to in clause C.3 of Schedule C – Classification Definitions.
>
> **golf trainee** means an individual formally undertaking the Professional Golfers Association's Trainee Program, for the purposes of becoming a Full Member of the Professional Golfers Association of Australia referred to in clause C.3 of Schedule C – Classification Definitions

(ii) Clause 4.3 – Coverage

The PGA seeks an amendment to clause 4.3 as follows:

> To avoid doubt, this award covers the work of bar attendants, golf professionals or stewards employed in a club situated on a football ground, cricket ground, golf course or sports ground and persons engaged as greenkeepers, ground attendants, gardeners, propagators, lawn mower and motor roller drivers and general labourers in the construction and maintenance of bowling greens and golf courses, golf facilities including but not limited to golf clubs, on-course and off-course golf shops and driving ranges, but does not cover…

(iii) Clause 4.4(d) — Coverage

The PGA seeks to amend exclusions provision to refer to "contracted Golf professional' rather than employer as follows:

> 4.4 This award does not cover:
>
> > (d) employees employed by ~~an employer~~ a contracted Golf Professional other than the club, where the employer operates a golf pro shop, driving range or other golfing facility, or provides golf coaching or other similar services, which are accessible to the general public;

(iv) Clause 4.5 – Coverage

The PGA seeks to add the *Amusements, Events and Recreations Award 2010* to list of excluded awards in the coverage clause.

(v) Clause 18 — Minimum wages

The PGA seeks to insert the following classifications into the minimum wages tables at clause 18:

- Golf Trainee Year 1 (at Level 1)
- Golf Trainees Years 2 and 3 (at Level 2)
- Assistant or Teaching Professional (at Level 5)
- Lead Golf Professional (at Level 12)

(vi) Schedule A —Classification definitions

Accompanying the claim to amend the minimum wages table at clause 18 is a claim to insert classification definitions into Schedule A as follows:

> **C. 3 Golf Professionals**
>
> **C.3 Professional Golfers**
>
> **C.3.1 1 Golf Trainee Year 1** means a first year Golf Trainee with the Professional Golfers of Australia.
>
> **C.3.1 Golf Trainee Level 2** means an employee who has satisfactorily completed the appropriate level of training to be considered a Year 2 or 3 Trainee by the Professional Golfers Association of Australia.
>
> **C.3.2 Assistant or Teaching Professional Level 5** means an employee who has completed the appropriate level of training and is engaged in the following activities:
>
> (a) Assist in the operation of a golf professional shop including retail sales, service, stock-control and club-repair.
>
> (b) Deliver golf coaching and club-fitting programs.
>
> (c) Assist in the operation and delivery of club events, time sheets and competition fields.
>
> (d) Assist in the operation of cart fleets.
>
> **C.3.3 Lead Golf Professional Level 12** means an employee who has completed the appropriate level or training and is engaged in the following activities:

(a) Manage an appropriately stocked golf professional shop, providing retail sales and advice, customer service and golf club repair.

(b) Manage, develop and deliver golf coaching and club-fitting programs to club members and guests.

(c) Manage golf professional shop staff including recruitment and rostering, while ensuring club procedures and employee relations policies and implemented.

(d) Establish and maintain a safe working environment, ensuring WH&S procedures comply with up to date legislation.

(e) Manage time sheets, competition fields and the handicap system, including the calculation and processing of competition results.

(f) Manage and maintain the cart fleet and other rental equipment.

(g) Attend scheduled management meetings and other club meetings as required.

(vii) Schedule A — Classification Definitions

The PGA seeks to amend the classification definition for Leisure attendant grade 1 as follows:

Leisure attendant grade 1 means a person who:

(a) attends a shop associated with the club's activities~~, for example a golf pro shop owned and operated by the club;~~ or (strikethrough indicates proposed change).