

10 January 2017

Deputy President Clancy
Fair Work Commission

BY EMAIL: amod@fwc.gov.au

Attention: Award Modernisation Team

MODERN AWARD REVIEW – FITNESS INDUSTRY AWARD 2010

We continue to act for the Australian Swimming Coaches and Teachers Association (ASCTA), which also operates the organisation known as Swim Australia.

We refer to the Directions dated 14 December 2016, for the *Fitness Industry Award 2010* award modernisation submissions.

Reaffirm 8 August 2016 position:

Further to our correspondence with Deputy President Clancy's chambers on 8 August 2016, we have been instructed to restate and affirm our client's instructions as provided in that correspondence and attachment, in relation to the Classifications in the current Exposure Draft of the *Fitness Industry Award 2010* dated 29 July 2016.

Consistent with Deputy President Clancy's call for comments in relation to technical and drafting claims that are still being pursued, our client wishes to reaffirm its recommendation to add certain words to the relevant classifications which affect its industry.

We have **attached** to our correspondence a Word document with the suggested changes noted in blue.

Filing and Service:

We submit this document for filing. Unfortunately, apart from HMT Consulting, we are not privy to the addresses for service for the other interested parties, and so we cannot serve our client's comments at this point in time. Once we have the service details of the other parties of interest, we will also forward documentation to them.

Further information:

Our client as the Australian Swimming Coaches and Teachers Association, and with its members working closely with this Award, confirms its desire to assist the Commission in

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any way possible. Should it be considered that further information is required on its suggestions then it stands ready to do so. As such should further information required about the reasoning for those suggestions on the review be needed, then we will take our client's further instructions.

Yours faithfully
AITKEN LEGAL

Chris Campbell
Partner

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Schedule A—Classification Definitions

A.1 Level 1

A.1.1 An employee at this level works under direct supervision with specific instructions and procedures and after appropriate in-house training. Duties may include any or all of the following:

(a) general counter duties including reception, taking bookings, members and membership enquiries, sale of products, activities organising and customer liaison; (b) general tidying/cleaning of immediate work area; (c) undertaking structured training/learning in the following areas: (i) clerical assistant duties including switchboard operation, reception, information services, taking bookings; (ii) providing general assistance to employees of a higher grade, not including cooking or direct service to customers; (iii) cleaning, tidying and setting up of kitchen, food preparation and customer service areas, including cleaning of equipment, crockery and general utensils; (iv) assembly and preparation of ingredients for cooking; (v) handling pantry items and linen; (vi) setting and/or wiping down tables, removing food plates, emptying ashtrays and picking up glasses; (vii) general cleaning, gardening and labouring tasks; and (viii) door duties, attending a cloakroom or car park not involving the handling of cash; and (ix) providing general assistance to tennis coaches in the delivery of tennis coaching or classes.

(x) Trainee Swimming Instructor working under direct supervision

A.2 Level 2 A.2.1 An employee at this level has completed 456 hours training at Level 1 so as to enable the employee to perform work within the scope of this level or has a swim teacher or coach qualification.

A.2.2 An employee at this level: (a) performs work above and beyond the skills of an employee at Level 1 and to the level of their training; and (b) works from instructions or procedures and under direct supervision either individually or in a team environment, and is primarily engaged in one or more of the following duties: Exposure draft – Fitness Industry Award 2015 MA000094 25 (i) assisting with classes and directing activities in a centre;

(ii) attending to equipment and displays, e.g. pool attendant; and **Pool Plant operations**

(iii) providing customer advice, sales and services; (iv) operating a switchboard and/or telephone paging system; (v) clerical duties, involving intermediate keyboard skills with instructions; (vi) program/ticket selling and general sales involving receipt of monies and giving change, including operation of cash registers, use of electronic swipe input devices; (vii) laundry and/or cleaning duties involving the use of cleaning equipment and/or chemicals; (viii) maintaining general presentation of grounds; (ix) door duties, attending a cloak room or car park; (x) serving from a snack bar, buffet or meal counter; (xi) supplying, dispensing or mixing of liquor, including cleaning of bar area and equipment, preparing the bar for service, taking orders and serving drinks; (xii) non-cook duties in a kitchen; (xiii) beginner swimming and water safety teacher, being a holder of any current qualification with the following competencies: SRC AQU 003B Respond to an aquatic emergency using basic water rescue techniques; SRC AQU 008B Apply the principles of movement in water to aquatic activities; SRC AQU 010B Instruct water safety and survival skills; SRC AQU 009B Instruct the strokes of swimming; and SRC CRO 007B Operate in accordance with accepted instructional practises, styles and legal and ethical responsibilities. (xiv) coaching beginner swimmers (including mini and junior squads), being a holder of a current Australian Swimming Coaches and Teachers Association (ASCTA) "Junior Squad and Assistant Coach"

qualification or equivalent; (xv) coaching beginner tennis or providing general assistance to tennis coaches in the delivery of tennis coaching or classes, having completed an introductory coaching course or equivalent. Exposure draft – Fitness Industry Award 2015 26 MA000094

A.3 Level 3 A.3.1 An employee at this level works under general supervision which requires operation within defined areas of responsibility with adherence to established guidelines and procedures and who is employed to carry out work associated with the centre's operations.

A.3.2 An employee at this level is able to fulfil a role at Level 1 and 2 where relevant and supervises

Level 1 and 2 employees where requested. A.3.3 An employee at this level may also be: (a) an intermediate swimming and water safety teacher, being a holder of any current qualification with the competencies detailed in clause A.2.2(b)(xiii) above, who has:

(i) performed attended 12 hours per year of recognised workshops and 250 hours of swimming and water safety teaching, at Level 2, and who holds a second recognised instructing qualification, or

(ii) delivered 350 hours of swimming and water safety teaching; at level 2 or

(b) a coach of beginner swimmers (including mini and junior squads), being a holder of a current ASCTA "Bronze Licence for Coaching" or equivalent. (c) a pool lifeguard who has completed a nationally-

recognised Lifeguarding qualification, and has been appointed to the position of pool lifeguard by the employer. A.4 Level 3A A.4.1 An employee at this level performs the duties of a Level 3 and who: (a)

holds an Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level III qualifications relevant to the classification in which they are employed or equivalent; and (b) utilises the skills and

knowledge derived from the Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level III competencies relevant to the work undertaken at this level. A.4.2 Any dispute concerning an

employee's entitlement to be paid at Level 3A may be referred to the Fair Work Commission for determination. The Fair Work Commission may require an employee to demonstrate to its satisfaction

that the employee utilises skills and knowledge derived from the Fitness Industry Certificate III competencies, and that these are relevant to the work the employee is doing.

A.5 Level 4 A.5.1 An employee at this level works under limited supervision and guidance and is required to exercise initiative and judgment in the performance of their duties and who is employed to carry out work associated with the centre's operations. Exposure draft – Fitness Industry Award 2015 MA000094

27 A.5.2 An employee at this level receives broad instructions and their work is checked intermittently.

A.5.3 An employee at this level may also be: (a) an experienced swimming and water safety teacher, being a holder of any current qualification with the competencies detailed in clause A.2.2(b)(xiii) above, who has:

(i) performed attended 12 hours per year of recognised workshops and 500 hours of swimming and water safety teaching, at Level 3, and who holds a third recognised teaching qualification, or

(ii) delivered 700 hours of swimming and water safety teaching; at Level 2 or

(b) a coach of beginner swimmers (including mini and junior squads), being a holder of a current ASCTA "Bronze Licence for Coaching" or equivalent, who has: (i) performed attended 12 hours per year of

recognised workshops and 500 hours of coaching beginners and attended a recognised seminar/conference within the past 12 months, or (ii) delivered 700 hours of coaching beginners. (c) a

senior pool lifeguard, being a holder of industry-recognised pool lifeguard qualifications and who has been appointed by the employer to lead a team comprised of qualified pool lifeguards, and/or persons undertaking a nationally-recognised course of lifeguarding to become pool lifeguards.

A.6 Level 4A A.6.1 An employee at this level performs the duties of a Level 4: (a) holds an Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level IV qualifications relevant to the classification in which they are employed or equivalent; (b) utilises the skills and knowledge derived from the Fitness Industry or Sport Coaching (specialising in tennis) AQF Certificate Level IV competencies relevant to the work undertaken at this level; (c) is employed to carry out work associated with the classification of tennis centre Club Professional. A.6.2 Any dispute concerning an employee's entitlement to be paid at Level 4A may be referred to the Fair Work Commission for determination. The Fair Work Commission may require an employee to demonstrate to its satisfaction that the employee utilises skills and knowledge derived from the AQF Certificate Level IV competencies, and that these are relevant to the work the employee is doing. Exposure draft – Fitness Industry Award 2015 28 MA000094

A.7 Level 5 A.7.1 An employee at this level: (a) holds a Fitness Industry or Management (specialising in tennis) AQF Diploma level or equivalent; (b) utilises the skills and knowledge derived from the Fitness Industry or Management (specialising in tennis) AQF Diploma Level relevant to the work undertaken at this level; (c) is employed to carry out work associated with the classification of Fitness Trainer, or Fitness Specialist, tennis centre Master Club Professional or tennis centre High Performance Coach; and (d) has demonstrated an ability to train or develop programs for special groups. A.7.2 An employee at this level exercises high levels of initiative and judgment with broad instruction in the performance of their duties. An employee at this level would be able to supervise Level 4 employees where requested.

A.8 Level 6 A.8.1 An employee at this level has duties which include but are not limited to: (a) supervision of front desk, including customer liaison and rostering of front office staff; (b) supervision, training and co-ordination (including rostering) of employees within their respective work area to ensure delivery of service; (c) those of a trade qualified person in a single trade stream and the giving of trade directions to Level 1 to 5 employees; (d) supervision of floor staff; or (e) overseeing the day to day activities and operations of the business. A.9 Level 7 A.9.1 An employee at this level is engaged in supervising, training and coordinating employees, is responsible for the maintenance of service and operational standards and exercises substantial responsibility and independent initiative and judgment with a requisite knowledge of their specific field and of the employer's business. A.9.2 An employee at this level has: (a) worked or studied in a relevant field and/or has specialist knowledge, qualifications and experience; (b) formal trade or technical qualifications relevant to the employer in more than one trade or technical field, which are required by the employer to perform the job; or Exposure draft – Fitness Industry Award 2015 MA000094 29 (c) specialist post-trade qualifications which are required by the employer to perform the job and organisation or industry specific knowledge sufficient for them to give advice and/or guidance to their organisation and/or clients in relation to specific areas of their responsibility. A.9.3 Indicative duties at this level are: (a) general supervision of catering or retail functions; (b) centre administration involving supervision of staff and systems and coordinating events; or (c) development of in-house training programs for instructors and co-ordinators. A.10 Employees classified under the provisions of A.2.2(a), A.2.2(b), A.3.3, A.4.1, A.5.3, A.6.1, A.7.1, A.8.1, A.9.2 will hold, at all times, the relevant accreditations required by both this award's classification descriptors and State and Territory legislation permitting work with children (e.g. Child Protection Police Checks). In

the event of any employee losing, having suspended, or being refused such accreditation, they will advise their employer(s) within 14 days of such loss, refusal or suspension.