

IN THE FAIR WORK COMMISSION

FWC MATTER Nos: AM2014/283

Registered and Licenced Clubs Award 2010

PARTY: Clubs Australia Industrial

OUTLINE OF SUBMISSIONS ON BEHALF OF CLUBS AUSTRALIA INDUSTRIAL

1. This submission is made pursuant to the directions of the Full Bench of the Fair Work Commission (**FWC**) on 30 April 2020.
2. In accordance with those directions, Clubs Australia Industrial (**CAI**) makes the following submissions regarding the outstanding substantive issues in relation to the Registered and Licensed Clubs Award 2010 Exposure Draft, dated 30 April 2020.

OUTSTANDING SUBSTANTIVE ISSUES- CLUBS AUSTRALIA INDUSTRIAL

3. CAI confirms that claim number S2 is pressed (*Clauses 15.7 and 15.8- time off instead of payment for overtime*).
4. CAI confirms that claim number S4 is pressed (*Clause 2- Definitions- "shift worker"*) and that the definition should adopt the formula prescribed in the case of *O'Neill v Roy Hill Holdings Pty Ltd* (2015) FWC 2461 whereby an employee must work at least 34 Sundays and 6 public holidays over the course of a year in order to qualify for the additional week's annual leave.
5. CAI confirms that claim number S5 is pressed (*Clause 2- Definitions- "club manager"*).
6. CAI confirms that claim number S6 is pressed (*Clause 17.4- Meal breaks*).

7. CAI confirms that claim number S8 is pressed (*Clause 18.5(a)(i) and 18.5(a)(ii)- Non-application of particular provisions of this award to employees within particular classifications receiving specified salaries*). CAI confirms that it proposes that the 20% and 50% exemption rate salaries would not attract annual leave loading payments.
8. Further to paragraph 7 above, CAI submits that historically, the rationale of annual leave loading was to compensate employees for the opportunity to earn extra payments (such as overtime and penalty rates, which they would have normally received during working hours, over and above their ordinary pay) that they miss out on when they are on annual leave.
9. However, employees on management exemption rate salaries under the Award do not receive overtime or penalty rates as they are compensated by their above award salary. Therefore, such employees do not lose the opportunity to earn penalty rates or overtime whilst on annual leave and as such annual leave loading is not necessary to maintain their wages. CAI submits that the Award be amended accordingly.
10. Finally CAI does not press claim number S9 (*Schedule A- Classification definitions- tender boat drivers or deckhands*).

PROPOSED SUBSTANTIVE VARIATIONS- PROFESSIONAL GOLFERS ASSOCIATION (PGA)

11. CAI opposes the insertion of the proposed classifications into the minimum wages schedule at Clause 18 (claim number S9A) until the proposed classifications' work value is assessed by FWC to determine the appropriate pay rates.



Mikhail Ushakoff, Legal Counsel- Workplace Relations

Clubs Australia Industrial

11 May 2020

