

HMT Consulting

A Division of Plato Enterprises
ABN: 46 099 461 962

The Associate to Mr Deputy President Sams
Fair Work Commission
Terrace Tower
80 William Street
East Sydney.
NSW 2000.
Email: chambers.sams.dp@fwc.gov.au

21st June 2018.

Dear Associate,

RE: Response to the Summary of Submissions, dated 10th October 2007, relating to the Four Yearly Review of *Fitness Industry Award 2010* – substantive issues, [AM 2017/52].

I write on behalf of my Client, the *Australian Swim Schools Association (ASSA)*, with regard to the Directions issued on 23rd April, 2018, by Deputy President Sams, in the above matter. Since this matter was last before the Commission, my Client, representatives of ASCTA and the AWU have participated in several rounds of discussions relating to the group of issues numbered 17 – 32, in the document of 10th October, identified as ‘*outstanding*’ in the ‘*Summary of Submissions*’ referred to in the Directions.

Earlier today the representative of the ASCTA confirmed its position of support for a draft set of amendments to the current Schedule ‘B’ – Classification Structure and Definitions, of the current *Fitness Industry Award*, (both correspondence from Mr Chris Campbell of Aitken Legal, on behalf of ASCTA, and from myself on behalf of ASSA, to the National Secretary of the AWU, together with the amendments agreed to Schedule ‘B’) accompany this correspondence.

I understand that the agreed amendments highlighted in yellow constitute full settlement of all matters currently before the Commission, as far as the ASCTA, ASSA & AWU are concerned.

Yours faithfully,



Michael Taylor
Principal Consultant.

cc: Mr Ross Gage (to be noted)
CEO, ASSA,

Stephen Crawford – Senior National Legal Officer AWU,
Chris Campbell – Partner, Aitken Legal, on behalf of ASCTA.

Attachs:

21 June 2018

Mr Stephen Crawford
Senior National Legal Officer
Australia Workers' Union
Level 10, 377-383 Sussex Street
SYDNEY NSW 2000

AND

Mr Michael Taylor
HMT Consulting
PO Box 1324
Mooloolaba QLD 4557

BY EMAIL: stephen.crawford@nat.awu.net.au **AND** hmtconsulting@optusnet.com.au

Dear Sirs

FITNESS INDUSTRY AWARD 2010 – CLASSIFICATIONS - LEVELS 3 AND 4

We refer to the correspondence from HMT Consulting concerning further discussions between ASSA and the AWU about Levels 3 and 4. We have attached the proposed classification information document supplied by HMT Consulting and reference its yellow highlighted areas (relevant to this correspondence within Levels 3 and 4). Our client's instructions are that it fully supports the proposed changes agreed to by the AWU and ASSA, and that it can be stated to the Fair Work Commission that it fully supports those proposals as provided for in that draft of the classification section of the Award.

Yours faithfully
AITKEN LEGAL



Christopher Campbell
Legal Director
Contact Chris Campbell
Phone direct 5413 4005
Email chris.campbell@aitkenlegal.com.au
Our reference CJC2016074

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19th June 2018.

National Secretary
Australian Workers Union.
(attention: Mr Stephen Crawford, Senior National Legal Officer)
Level 10, 377 – 383 Sussex Street, Sydney
N.S.W 2000.
Email: stephen.crawford@nat.awu.net.au

Dear Mr Crawford,

RE: s156 – 4 yearly review of modern awards Group 3A (*Fitness Industry Award 2010 - MA 000094*) AM2014/227.

I write further to the discussions held earlier today, relating to the outstanding matters raised on behalf of my Client, the '*Australian Swim Schools Association Ltd*'; I seek to confirm that the Association considers all outstanding matters relating to the contents of the classification descriptors in the form of the draft '*Attachment 2*', forwarded from your office this afternoon, as fully settled between the Association and the AWU.

Steps will be taken shortly to convey this situation to the ASCTA and to Mr Deputy President Sams' office.

Thank you for your assistance in this matter.

Yours faithfully,



Michael Taylor
Principal Consultant.

cc: Ross Gage, to be noted.

Attach.

“ATTACHMENT 2”

Schedule B —Classification Structure and Definitions

[Sched B varied by [PR999528](#), [PR515150](#), [PR531302](#), [PR542214](#)]

B.1 Level 1

B.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;
 - (viii) door duties, attending a cloakroom or car park not involving the handling of cash; and
 - (ix) swimming and water safety teaching. To avoid doubt, an employee is classified at Level 2 or above if their duties include being responsible for the provision of any part of swimming and water safety teaching without being directly supervised as part of structured training/learning.

B.2 Level 2

B.2.1 An employee at this level has:

- (a) completed 456 hours training at Level 1 so as to enable the employee to perform work within the scope of this level;
- (b) a swim and water safety teacher or coach qualification; or
- (c) duties which include being responsible for the provision of any part of swimming and water safety teaching without being directly supervised as part of structured training/learning.

B.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/or is primarily engaged in one or more of the following duties:
 - (i) assisting with classes and directing activities in a centre;
 - (ii) attending to equipment and displays, e.g. pool attendant – including basic pool plant duties (e.g. water quality testing) unless this work is performed by an employee at a higher classification level;
 - (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;

[B.2.2(b)(xiii) substituted by [PR999528](#) ppc 01Aug10]

- (xiii) beginner swimming and water safety teacher, being a person who provides any part of swimming and water safety teaching without being directly supervised as part of structured training/learning or the holder of any current qualification with the following competencies:

SISCAQU002 Perform basic water rescues

SISCAQU008 Instruct water familiarisation, buoyancy and mobility skills

SISCAQU009 Instruct water safety and survival skills

SISCAQU010 Instruct swimming strokes

These competencies reflect the Australian Skills Quality Authority's (ASQA) approved skill set for a Swimming and Water Safety Teacher. Any amendments to these competencies made by ASQA will apply for the purposes of interpreting this award.

- (xiv) a coach of beginner swimmers (including mini and junior squads), being a holder of a current recognised "Junior Coach and Assistant Coach" swimming coaching qualification or equivalent.

B.3 Level 3

[B.3 varied by [PR999528](#); substituted by [PR515150](#), [PR531302](#) from 16Nov12]

B.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.

B.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.

B.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 (xiii) above, who has:

(i) performed 12 hours per year of recognised workshops and 250 hours of paid swimming and water safety teaching under this award and who holds a second recognised instructing qualification, or

(ii) delivered 350 hours of paid swimming and water safety teaching under this award; or

(b) a coach of beginner swimmers (including mini and junior squads), being a holder of a current recognised "Bronze Licence for Coaching" swimming coaching qualification or equivalent.

(c) a pool lifeguard who has completed a nationally-recognized Lifeguarding qualification, and has been appointed to the position of pool lifeguard by the employer.

B.4 Level 3A

[B.4 varied by [PR999528](#); substituted by [PR515150](#), [PR531302](#) from 16Nov12]

B.4.1 An employee at this level performs the duties of a Level 3 and who:

- (a) holds an Fitness Industry 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 AQF Certificate Level III competencies relevant to the work undertaken at this level.

[B.4.2 substituted by [PR542214](#) ppc 04Dec13]

B.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.

B.5 Level 4

[B.5 substituted by [PR531302](#) from 16Nov12]

B.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.

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

B.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 (xiii) above, who has:
 - (i) performed 12 hours per year of recognised workshops and 500 hours of **paid** swimming and water safety teaching **under this award** and who holds a third recognised teaching qualification, or
 - (ii) delivered 700 hours of **paid** swimming and water safety teaching **under this award**; or
- (c) **(b) a coach of beginner swimmers (including mini and junior squads), being a holder of a current recognised "Bronze Licence for Coaching" swimming coaching qualification or equivalent, who has:**
 - (i) performed 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.
- (d) a senior pool lifeguard, being a holder of industry-recognized 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.

B.6 Level 4A

[B.6 substituted by [PR531302](#) from 16Nov12]

B.6.1 An employee at this level performs the duties of a Level 4:

- (a) holds an Fitness Industry 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 AQF Certificate Level IV competencies relevant to the work undertaken at this level.

[B.6.2 substituted by [PR542214](#) ppc 04Dec13]

B.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.

B.7 Level 5

[B.7 substituted by [PR531302](#) from 16Nov12]

B.7.1 An employee at this level:

- (a) holds a Fitness Industry AQF Diploma level or equivalent;
- (b) utilises the skills and knowledge derived from the Fitness Industry 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; and
- (d) has demonstrated an ability to train or develop programs for special groups.

B.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.

B.8 Level 6

[B.8 substituted by [PR531302](#) from 16Nov12]

B.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.

B.9 Level 7

[B.9 inserted by [PR531302](#) from 16Nov12]

B.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.

B.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
- (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.

B.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 co-ordinating events; or
- (c) development of in-house training programs for instructors and co-ordinators.

[B.10 inserted by [PR531302](#) from 16Nov12]

B.10 Employees classified under the provisions of 0, 0, 0, 0, 0, 0, 0, 0, 0 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.

B.11 Any dispute concerning the correct classification for a swimming and water safety teacher or swimming coach will be referred to the Fair Work Commission for determination.