



## NOTICE TO MEMBERS

14 May 2020

Ref: 20200514

[CAI: Proposed changes to the  
Registered and Licenced Clubs Award]

### CAI Proposed Variation to Manager Entitlements

Members are advised that the Clubs Australia Industrial (**CAI**) application in the Fair Work Commission (**FWC**) regarding amendments to the Registered and Licensed Clubs Award 2010 comprises of two contentious variation provisions that will adversely affect the employment conditions of club managers.

#### Cessation of Annual Leave Loading for Managers receiving 20% and 50% Exemption Rates

**CAI** proposes a variation to management exemption rates in the Award. **CAI** proposes that clause 17.3 be amended to include Annual Leave loading in the exemption rates, meaning that managers receiving a salary in excess of 20% or 50% of the minimum award rates will not be entitled to Annual Leave loading of 17.5% moving forward.

With regard to the proposed variation to management exemption rates, **CAI** believes that it cannot see any justification for the continued payment of annual leave loading for salaried managers - it is not protecting them from lost wages but simply conferring an additional financial entitlement.

The Club Managers' Association Australia (**CMAA**) believes that this proposed variation is a brazen attempt to strip managers of an existing managerial entitlement loading for working over-time hours and will oppose it.

#### Decrease in Annual Leave Entitlements from 5 Weeks to 4 Weeks per annum

**CAI** proposes a variation to the amount of Annual Leave management currently receives from 5 weeks to 4 weeks per annum, 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.

The **CMAA** believes that this proposed variation is again a brazen attempt to strip managers of an existing managerial entitlement loading and will oppose it.



## Background

The **CMAA** is disappointed again that **CAI** has failed to consult with the Association on such important matters pertaining to the employment conditions of the industry's managers.

This is despite emphatic assurances given to the **CMAA** by **CAI** made on behalf of former **CAI** CEO Anthony Ball and former **CAI** President Peter Newell that:

*'Club Managers will not be adversely affected by the Award consolidation as our application to the FWC is conditional upon the existing managerial entitlements remaining in the consolidated Award'* (Reference: Below, CNSW Circular **18-059: 31 July 2018**)

**CAI** asserts that these variations to managers' employment entitlements should be strongly considered particularly in light of the current economic climate, club shut down and the COVID-19 pandemic.

**CMAA** argues that now, more than at any other time in the Club Industry's long and prestigious history, club managers' skills, knowledge and business acumen are required to navigate through the current COVID 19 related situation. To penalise these same individuals whom club boards and their members will be relying upon to ensure their club survives into the future is at best laughable at worst just downright degrading.

**CMAA** encourages members who feel that **CAI** proposals are unfounded and unfair should write directly to Commissioner Ross at Fair Work Commission to voice their opposition to the proposed variations.

Correspondence should be addressed by email to:

[AMOD@fwc.gov.au](mailto:AMOD@fwc.gov.au)

**IN THE FAIR WORK COMMISSION**

**MATTER No: AM2014/283 Registered and Licensed Clubs Award 2010**

**ATTN: Justice Ross**

CMAA IR team can be contacted anytime via:

<b>Allan Peter</b> Federal Secretary M: 0410 140 036 E: apeter@cmaa.asn.au	<b>Peter Cooper</b> Senior Industrial Advocate M: 0407 404 118 E: peter@cmaa.asn.au	<b>Peta Imber</b> Industrial Relations Advisor M: 0404 880 324 E: peta@cmaa.asn.au
---	--	---

**David Hiscox,**  
**Federal President**  
**Club Managers' Association, Australia**

Continues./. Clubs NSW Circular 18-059: 31 July 2018

Subject **CAI RESPONSE TO UNITED VOICE CORRESPONDENCE**

---

Circular No **18-059**

---

Date **31 July 2018**

---

Appropriate for  Directors  CEO  Gaming Mgr  Entertainment Mgr  
 HR Mgr  Marketing Mgr  Food and Beverage Mgr

---

Member Clubs may have recently received correspondence from the federal branch of United Voice in relation to Clubs Australia – Industrial’s (CAI) application in the Fair Work Commission (FWC) to merge the Clubs Award with the Hospitality Award.

Clubs should not take the letter at face value nor assume that a union, with minimal coverage in our sector, has their interests at heart. On the contrary, the letter contains many misrepresentations, designed to create uncertainty and publicity in support of the union’s political and membership objectives.

For background, I would like to restate important facts about our application, as set out in previous circulars.

1. It is a condition of our application, that a separate club specific schedule be established within the Hospitality Award to cover club employees. This will include recent, favourable changes to the Clubs Award that preserve flexible part-time conditions and minimum engagement periods for casuals.
2. Club Managers will not be adversely affected by the Award consolidation as our application to the FWC is conditional upon the existing managerial entitlements remaining in the consolidated Award.
3. Clubs will have the flexibility to pay weekend penalty rates in line with other comparable hospitality industries such as pubs and cafés. Again, it is important to remember the Award only sets out the minimum rates of pay and conditions and it is up to individual clubs to decide at what rate they pay their employees. Many clubs already pay above Award rates on weekends, either informally or through Enterprise Bargaining Agreements (EBAs) and they can continue to do that. While for some clubs public holiday penalty rates might not be a significant concern, they are for the roughly 50 per cent of our industry under financial stress and it is helpful for them to be able to pay the same rates as other hospitality businesses.

We have taken this approach after extensive consultation with clubs across Australia.

In relation to the union’s letter, the main points I would like to cover off are:

1. CAI is not arguing that clubs are the same as other hospitality businesses

As we have stated publicly, in the FWC and to the union itself, CAI argues there are significant differences between clubs and other hospitality businesses, but that the actual task of pouring a beer is the same

whether it occurs in a club or a hotel and as such the rates of pay for that should be aligned. The submission put by CAI is that there is no logical reason as to why a Club should pay 25% more for labour compared to a casino or a hotel for the same type of work.

## 2. CAI has consulted

CAI embarked upon an extensive consultation process throughout the entirety of the Modern Award Review process. It should be noted that CAI's position in respect of penalty rates has been on the record before the FWC since 2015.

## 3. Union red herrings

This matter has nothing at all to do with clubs' not-for-profit status, income tax treatment, treatment of gaming machines and the rates of taxation on gaming income. The FWC's jurisdiction is limited to award matters. It should be noted that the FWC has combined not-for-profit with for-profit employers in other awards, including *Aged Care Award 2010* and *Clerks – Private Sector Award 2010*. In its decision in February 2017, the FWC acknowledged the important difference and the role played by Clubs, but stated that these differences would not be an impediment to the same industrial instrument coverage for workers.

For more information contact CAI's Executive Director, Chris Mossman on (02) 9268-3000 or [cmossman@clubsnsw.com.au](mailto:cmossman@clubsnsw.com.au).

Anthony Ball  
Chief Executive Officer