

Award Coverage in the Outdoor Recreation Sector

Introduction:

Since January 1st, a network of new, *Modern Awards* has come into operation covering all 'National System Employers and Employees'. Concurrently, the States of N.S.W, Qld, Tasmania and South Australia have delegated most of their IR powers to the Commonwealth.

Effectively all non public service employees, excepting state award based employees in W.A, are now covered by the *National System*, under the provisions of the *Fair Work Act 2009*.

Some of the workforce, approximately fifteen percent, fell outside the *National System*, prior to 1st January; since then however, under the transitional arrangements contained in the federal legislation this segment of the workforce will be covered by *Division 2B State Awards*. These are currently in identical terms to the previous state jurisdiction awards that operated in the delegating states prior to 1st January. The intention is to cancel or merge the contents of *Division 2B awards* into *Modern Awards* between the present and 31st December 2010.

Members of the *Outdoor Council of Australia*, depending upon their incorporation and the nature of their activities, will be currently covered by either a *Modern Award* or a *Division 2B State Award*. It is important to note that an employer can be covered by more than one award at the same time.

The 'Coverage Clause', *classifications and any exclusion* contained within a *Modern Award* will determine the extent of coverage of an individual enterprise. To demonstrate this point:

The *Fitness Industry Award 2010*, clause 4 (Coverage) prescribes:

"4.1 This industry award covers employers throughout Australia in the fitness industry and their employees in the classifications in this award to the exclusion of any other modern award."

"4.2 This award does not cover employers or employees covered by the following awards:

- (a) *The Amusements, Events and Recreation Award 2010*
- (b) *The Children's Services;*
- (c) *The Cleaning Services;*
- (d) *The Hospitality(General);*
- (e) *The Registered and Licensed Clubs;*
- (f) *The Security Services Industry Award 2010."*

"4.9 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work normally performed by the employee and to the environment in which the employee normally performs the work."

Note: "Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage."

The following table has been compiled from published materials found on the *Fair Work Australia* website to assist Council Members identify which of the current awards apply to their operations.

In the short-term, unincorporated bodies will be covered by the *Division 2B State Awards*, whilst incorporated organisations will be covered by the appropriate *Modern Award(s)*.

The awards grouped under each of the *Modern Awards* will eventually be 'absorbed' into the Modern Award.

Clerks Private Sector Award 2010 (Modern Award Reference: MA000002)

- *Clerical and Administrative Employees (State) Award N.S.W*
- *Clerks (South Australia) Award*
- *Clerical Employees Award – State 2002 (Qld)*

Amusements, Events and Recreation Award 2010 (MA000080)

- *Exhibition Industry (State) Award NSW*
- *Miscellaneous Worker's General Services (State) Award NSW*
- *Theatrical Employees Recreation and Leisure Industry (State) Award NSW*
- *Sports Ground Employee's Award – Southern Division (Eastern District) 2002 Qld*
- *Tour Guides Award – State 2003 Qld*

Fitness Industry Award 2010 (MA000094)

- *Health, Fitness and Indoor Sports Centres (State) Award NSW*
- *Health and Fitness Centres, Swim Schools and Indoor Sports Award State 2005 Qld*
- *Life Guard Award – State 2003 Qld*
- *Health Recreation and Fitness Award S.A*
- *Health and Fitness Centres Award Tas.*

Hospitality Industry (General) Award 2010 (MA000009)

- *Hotel Employees (State Award NSW)*
- *Motels, Accommodation and Resorts, &C., (State Award) NSW*
- *Restaurant, &C. ,Employee's Retail Shops (State)Award NSW*
- *Accommodation Industry (other than hotels) award – South Eastern Division 2003 (Qld)*
- *Boarding House Employees Award – State (excluding South-East Queensland) 2003 (Qld)*
- *Clerical Award – Hotels, Resorts and Certain Other Licensed Premises – State (South Eastern Queensland) award 2002*
- *Hotels, Resorts and Accommodation Industry Award – South Eastern Division 2002*
- *Hotels, Resorts and Certain Other Licensed Premises Award – State (Excluding South-East Queensland 2003 (Qld)*
- *Off-Shore Island Resorts Award – State 2005 (Qld)*
- *Queensland Accommodation Clerical Award 2005 (Qld)*
- *Hotels, Resorts, Hospitality and Motels Award Tas.*

Gardening and Landscaping Services Award 2010 (MA000101)

- *Landscape Gardeners, &C., on Building and General Construction and Maintenance, Civil and Mechanical Engineering (State) Award.*

Local Government Industry Award 2010 (MA000112)

- *Local Government (State) Award 2007 (NSW)*
- *Municipal Baths Attendants Award State 2003 (Qld).*

Educational Services (Schools) General Staff Award 2010 (MA000076)

- *Boarding Schools, Residential Colleges and other non-commercial establishments Accommodation Award – South Eastern Division 2003 (Qld.)*

Fast Food Industry Award 2010 (MA000003)

- *Hospitality Industry – Restaurants, Catering and Allied Establishments Award S.E Division 2002 (Qld)*
- *Delicatessens, Canteens, Unlicensed Cafes and Restaurants Etc Award S.A*
- *Retail Industry (S.A) Award.*

Cleaning Services Award 2010 (MA000022)

- *Caretakers and Cleaners Award S.A*

Sporting Organisations Award 2010 (MA000082)

- *Sports Persons, Coaches, Umpires and Associated Support Staff Interim Award S.A.*

Aside from the awards listed above, there remains a group of awards that don't readily fit in with the structures covered by the *Modern Award* network, it is therefore problematical what FWA will ultimately decide in regard to their workforce coverage. These awards are:

- *Tourism Industry – Zoological Gardens Award – South Eastern Division 2004 (Qld)*
- *Outdoor Leaders Award – State 2005 (Qld)*
- *Miscellaneous Gardeners, &C., (State) Award NSW.*

Finally there is one *Modern Award* worth making mention of, the ***Professional Diving Industry (Recreational) Award 2010 (MA000108)***. The Queensland Outdoor Leaders Award covers "Snorkelling and Scuba Diving". Due to considerable Industry lobbying, the Full-Bench of FWA saw fit to make a *Modern Award* for 'Recreational Diving', however, declined to do likewise for Outdoor Recreation as a Sector.

Each organisation is urged to carefully read the relevant 'Coverage' or 'Scope' provisions of awards that they feel are relevant to their activities, if in doubt seek professional assistance or advice from the *Fair Work Ombudsman*.

Michael Taylor
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