



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF  
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/78

AWARD MODERNISATION

**AFEI**  
Australian Federation of  
Employers & Industries

**BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**AWARD MODERNISATION**

**MATTERS NO. AM2008/78 – HEALTH AND WELFARE SERVICES**

**(REMAINDER) – FITNESS, LIFESTYLE & LEISURE SERVICES**

1. AFEI has earlier provided written and oral submissions to the Commission concerning Award Modernisation in a wide range of matters. AFEI represents major organisations in the fitness, lifestyle and leisure services industry, as well as smaller organisations.
2. AFEI support the making of a modern award that applies to employees currently employed under the Notional Agreement Preserving Health, Fitness and Indoor Sports Centres State Award in New South Wales, engaged in services providing health and fitness services and classes. Such services include, but are not limited to, gymnasiums and aquatic centres.
2. The fitness, lifestyle and leisure services industry operates over 7 days a week. Such organisations also operate beyond normal business hours to provide services in the early mornings and evenings. An hours of work provision in any award that applies to this industry needs to recognise the industry's operating requirements and provide appropriate flexibility.
3. The most significant awards that currently apply in this industry are as follows:

- Notional Agreement Preserving Health, Fitness and Indoor Sports Centres State Award, in New South Wales (the NSW NAPSA);
  - Notional Agreement Preserving Health and Fitness Centres, Swim Schools and Indoor Sports Award – State 2005, in Queensland (the Qld NAPSA);
  - Fitness Industry (Victoria) Interim Award 2000 (the Victorian Award); and
  - Fitness, Recreation and Leisure Facilities – Local Government Contractors Award 2004, in Victoria (the Victorian local government contractors Award).
4. Each of the above instruments includes flexible hours of work provisions that allow the industry to operate effectively. The NSW NAPSA, for example, does not specify a daily span of hours, except for employees in weight loss centres, and provides for ordinary hours to be worked Monday to Sunday.
  5. Similarly, the Victorian awards and the Qld NAPSA also provide flexible hours of work provisions. The Victorian local government contractors Award prescribes ordinary hours can be worked from 5am to 11.30pm, Monday to Friday, and 6am to 10pm, Saturday and Sunday. The Qld NAPSA allows ordinary hours to be worked between 5.30am and 12pm, Monday to Sunday.
  6. AFEI submits that a modern award should adopt the hours of work provisions of the NSW NAPSA, that is the daily span of hours should not be limited and ordinary hours could be worked on any 7 days of the week, Monday to Sunday.

7. AFEI submits that a modern award for the fitness, lifestyle and leisure services industry should enable organisations to operate on weekends without the imposition of excessive penalties. The current penalties for weekend work are:
  - The Victorian local government contractors award – no penalties;
  - The NSW NAPSA - 25% for ordinary hours on Saturday and 50% for ordinary hours on Sunday;
  - The Qld NAPSA - 25% for ordinary hours on Saturday and 50% for ordinary hours on Sunday;
  - The Victorian award - 25% for ordinary hours on Saturday, and 75% for ordinary hours on Sunday.
8. AFEI submit that the weekend penalties as contained in the NSW NAPSA and the Qld NAPSA should be adopted in a modern award.
9. It is also significant that many of the current awards in the fitness, lifestyle and leisure services industry allow for flexible casual provisions. These include all-up casual loadings, or the substitution of penalty loadings in lieu of casual loadings.
10. The NSW NAPSA and the Victorian award allow for a higher casual loading to be paid for all casual ordinary hours in lieu of other penalty rates. The NSW NAPSA provides for the engagement of casuals with a higher loading of 30%, which is inclusive of any further amounts payable in lieu of annual leave, or any penalties and loadings payable for weekends, public holidays and night work. The Victorian award also allows employers to engage casuals with a loading of 30%,

which is inclusive of any amounts payable for weekend work, overtime or annual leave.

11. The QLD NAPSA also provides for flexibility in payment of casual employees, which although it does not contain an all-up casual rate inclusive of other penalties or loadings, it does provide for penalties such as the Saturday loading of 25% or the Sunday loading of 50% to be paid in lieu of the ordinary casual loading of 23%.
12. The Victorian local government contractors award also contains flexible casual payment provisions. The award includes a casual loading of 25%, but does not apply any other weekend or shift penalties for casual or permanent employees. Further, for work outside of the ordinary span of hours, Monday to Sunday, employees are paid a loading of 50%. For casual employees under this award in Victoria who work outside the ordinary span of hours, this loading of 50% is paid in lieu of the ordinary casual loading.
13. AFEI submits that a modern award adopt an all-up casual loading as provided in the Notional Agreement Preserving Health, Fitness and Indoor Sports Centres State Award, in New South Wales (the NSW NAPSA).

**24 July 2009**