

# Live Performance Award 2010

## Table of Contents

<b>Part 1— Application and Operation.....</b>	<b>5</b>
1. Title .....	5
2. Commencement and transitional .....	5
3. Definitions and interpretation.....	7
4. Coverage.....	17
5. Access to the award and the National Employment Standards .....	19
6. The National Employment Standards and this award .....	19
7. Award flexibility .....	19
<b>Part 2— Consultation and Dispute Resolution.....</b>	<b>27</b>
8. Consultation.....	27
9. Dispute resolution.....	29
<b>Part 3— General Employment Conditions .....</b>	<b>35</b>
10. Types of employment.....	35
11. Termination of employment.....	39
12. Redundancy .....	43
13. Classifications and minimum wages .....	45
14. General allowances.....	47
15. Accident pay.....	53
16. Higher duties .....	53
17. Payment of wages.....	53
18. Superannuation.....	53
19. Annual leave.....	57
20. Personal/carer’s leave and compassionate leave .....	67
21. Community service leave .....	67
22. Public holidays .....	67
<b>Part 4— Performers and Company Dancers.....</b>	<b>73</b>
23. Types of employment.....	73
24. Minimum wages .....	73
25. Special allowances .....	79
26. Ordinary hours of work and rostering .....	89
27. Breaks.....	103

## Live Performance Award 2010

28.	Overtime and penalty rates .....	105
<b>Part 5— Musicians.....</b>		<b>113</b>
29.	Types of employment .....	113
30.	Minimum wages .....	115
31.	Special allowances .....	117
32.	Ordinary hours of work and rostering.....	121
33.	Breaks .....	123
34.	Overtime and penalty rates .....	123
<b>Part 7— Production and Support Staff .....</b>		<b>129</b>
42.	Types of employment .....	129
43.	Minimum wages .....	131
44.	Special allowances .....	131
45.	Ordinary hours of work and rostering.....	135
46.	Breaks .....	137
47.	Overtime and penalty rates .....	139
<b>Schedule B —Classifications .....</b>		<b>147</b>
<b>Schedule F—2017 Part-day Public Holidays.....</b>		<b>167</b>
<b>Schedule G —Agreement to Take Annual Leave in Advance .....</b>		<b>169</b>
<b>Schedule H—Agreement to Cash Out Annual Leave.....</b>		<b>170</b>

### PLEASE NOTE:

This Modern Award is currently being reviewed by the Fair Work Commission (FWC) in the Award modernisation process. As of **1 July 2018**, the 4 yearly review of modern awards has not been completed by FWC.

**As such, some parts of this award have not been updated. Live Performance Australia (LPA) will update the entire award once FWC has completed their review process. Please note however that LPA has updated the minimum wages and expense related allowances to reflect the FWC Annual Wage Review Decision 2018.**

#### **The following parts of the Award HAVE been updated:**

- Part 3— General Employment Conditions – Clause 13 (Minimum wages), Clause 14 General Allowances and Clause 19 (Annual leave) (which apply to all employees).

**\*References to the high income threshold have also been updated to reflect the increase to the *high income threshold* which from 1 July 2018 is \$145,400.**

**PART 1:**  
**APPLICATION & OPERATION**

## **LPA COMMENTARY**

### **INTRODUCTION**

This Modern Award replaces 13 Transitional Awards, and contains a common salary structure with a list of the relevant Classifications in Schedule B. The Award is divided into different Parts as follows:

- Parts 1 – 3, which apply to all employees;
- Separate Parts according to the type of work the employee is performing, which contain additional conditions of employment above the standard as follows:
  - Part 4 – Performers & Company Dancers;
  - Part 5 – Musicians;
  - Part 6 – Striptease Artists;
  - Part 7 – Production & Support Staff.

### **CLAUSE 1 – TITLE**

This award replaces the Actors (Theatrical) Award, the Dance Company Award, the Musicians (General) Award, the Musicians (Opera and Ballet) Orchestral Award, the Orchestral Musicians Award, the Live Theatre and Concert Award, the Concert and Event Crewing Services Award, the Entertainment and Presentation Services Award, the Performing Arts Centres Award, the Ticketing Agencies Award, the Theatre Managers Award, the Clerical and Administrative Employees Award and the Arts Administration Award.

### **CLAUSE 2 – COMMENCEMENT & TRANSITIONAL**

All provisions of the Live Performance Award 2010 came into effect on 1 January 2010 except those relating to wages, loadings and penalties. These matters are subject to the transitional provisions as set out in Schedule A. The transitional arrangements ended as of 1 July 2014.

An annual wage review will be conducted by the Fair Work Commission which will increase minimum wages and allowances from 1 July every year. LPA will provide new rates to Members prior to 1 July.

*Date of effect: 1 January 2010*

## Part 1—Application and Operation

### 1. Title

This award is the *Live Performance Award 2010*.

### 2. Commencement and transitional

2.1 This award commences on 1 January 2010.

2.2 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.

2.3 This award contains transitional arrangements which specify when particular parts of the award come into effect. Some of the transitional arrangements are in clauses in the main part of the award. There are also transitional arrangements in Schedule A. The arrangements in Schedule A deal with:

- minimum wages and piecework rates
- casual or part-time loadings
- Saturday, Sunday, public holiday, evening or other penalties
- shift allowances/penalties.

2.4 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

2.5 The Fair Work Commission may review the transitional arrangements in this award and make a determination varying the award.

2.6 The Fair Work Commission may review the transitional arrangements:

- (a) on its own initiative; or
- (b) on application by an employer, employee, organisation or outworker entity covered by the modern award; or

**LPA COMMENTARY**

**CLAUSE 3 - DEFINITIONS**

A new definition of **archival and/or reference recording** was introduced into the Award on 14 January 2011. This definition details the specific ways an archival and/or reference recording may be used for all employees. Should an employer want to make use of this type of recording in a manner that is not contained the list of authorised uses, they must obtain the prior agreement of all the participants involved in the recording (performers, company dancers, musicians, production & support staff). This agreement is to be negotiated between the parties and may require a payment to be made. LPA can assist with any such negotiations.

*Date of effect: 14 January 2011*

- (c) on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or
- (d) in relation to outworker arrangements, on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the arrangements relate.

### 3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

**Act** means the *Fair Work Act 2009* (Cth)

**agreement-based transitional instrument** has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

**archival and/or reference recording** means an audio, visual or audio-visual recording of a performance or rehearsal, which is not used for commercial sale or use or public broadcast and where:

- the employer and employee agree in writing to make the recording; and
- the employer keeps a record of all employees who participate in the recording.

An archival and/or reference recording is one which is only made for the purposes of:

- (a) an historical record or archival reference for use by the employer, rights holders, current employees, students or historians;
- (b) a performance reference for:
  - (i) a performer/company dancer where more than one performer/company dancer is cast to perform the same role; or
  - (ii) for a musician to enable training and teaching;
- (c) a guide to recreate the production when it is restaged, revised or in order to remount future productions.

An archival recording is one which must remain under the control of the owner and is not to be used for any other purpose without the written agreement of all employees who participated in the recording. The terms and conditions of the written agreement are those negotiated between the employer and employees.

## Live Performance Award 2010



## Live Performance Award 2010

**award-based transitional instrument** has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

**broken week** means a week at the commencement or termination of an employee's employment in which less than the ordinary number of hours of work and/or performance are given.

**call** means a call or direction by the employer to the employee to attend for work at a particular time or for the purposes of photography, wardrobe or other legitimate reasons

**company dancer** is an employee of a dance company and who is engaged to perform as part of the company of dancers. A company dancer is able to:

- (a) demonstrate a sound dance technique;
- (b) demonstrate appropriate skills and knowledge for learning, rehearsing and performing dance roles as part of the company of dancers;
- (c) demonstrate an ability to perform in public;
- (d) demonstrate stagecraft skills;
- (e) undertake all responsibilities associated with make-up and costume as required;
- (f) demonstrate musicality as appropriate to performing as a dancer; and
- (g) interpret physically and emotionally the choreographic content of a production.

**complete percussion kit** includes drum kit, timpani, xylophone, marimba, vibraphone, glockenspiel, military drum, tambour, piccolo snare drum, tenor drum, cymbals, triangle, tambourine, maracas, castanets, woodblocks, plus associated stands and fittings, sticks and beaters

**crewing services employer** means an employer that provides casual staff at concert and other venues where employees undertake work that involves the transportation, setting up, operation and dismantling of sound, lighting and associated equipment but does not include employees of venues, producers, promoters or sound and/or lighting companies

**dance company** means an organisation of dancers and associated personnel created to primarily perform repertory dance productions. A dance company will usually engage dancers (Company Dancers) who will undergo training and class work in addition to preparation for repertoire and other dance productions and will be subject to the direction of a resident choreographer/s and/or artistic director/s. Dancers engaged by a dance company will usually progress through a classification structure based on years of training and professional experience.

## Live Performance Award 2010

## Live Performance Award 2010

**doubling** means when a musician is required to play one or more additional instruments in the same call other than the instrument for which the musician is primarily employed

**default fund employee** means an employee who has no chosen fund within the meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth)

**defined benefit member** has the meaning given by the *Superannuation Guarantee (Administration) Act 1992* (Cth)

**Division 2B State award** has the meaning in Schedule 3A of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

**Division 2B State employment agreement** has the meaning in Schedule 3A of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

**employee** means national system employee within the meaning of the Act

**employer** means national system employer within the meaning of the Act

**engaged by the week** means being engaged for at least a week of employment

**enterprise award-based instrument** has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

**exempt public sector superannuation scheme** has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth)

**live performance industry** means producing, including pre-production and post-production, staging, lighting, audio and audio/visual, presenting, performing, administration, programming, workshops, set and prop manufacture, or otherwise undertaking live theatrical, performance art, operatic, orchestral, dance, erotic, variety, revue, comedy, multi-media, choral, or musical performances, productions, presentations, workshops, rehearsals or concerts, including the provision, sale, service or preparation of food or drink and also including selling tickets by any means, for or in or in connection with any such performances, productions, presentations, workshops, rehearsals or concerts, and including the operation of venues or other facilities, whether permanent or temporary, utilised for such performances, productions, presentations, workshops, rehearsals or concerts are performed or presented in the presence of an audience, or are recorded by any means.

**Live Performance Award 2010**

**MySuper product** has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth)

**NES** means the National Employment Standards as contained in [sections 59 to 131](#) of the *Fair Work Act 2009* (Cth)

**on-hire** means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client

**overdubbing** means where a producer requires a Musician to play additional parts

**pantomime** means a production with an appeal primarily for children presented during the school holiday period

**performance** means a performance given by employees which is open to the general public on payment of an admission charge and/or for which the employer receives payment or other benefit

**performer** is an employee who takes part in a performance and includes an actor, singer, dancer, musician, understudy/swing performer, puppeteer, compere, comedian or any other type of performer

**place of residence** means the place where an employee ordinarily resides

**Principal (musician) or Principal Musician** in any orchestra or band will mean and include: Repetiteur violin (that is, a violin sitting with the leader), principal second violin, principal viola, principal cello, principal bass, principal flute, principal piccolo, principal oboe, principal cor anglais, principal clarinet, principal E flat clarinet, principal bass clarinet, principal bassoon, principal contra bassoon, principal alto saxophone, principal tenor saxophone, principal baritone saxophone, principal and third horn, principal cornet, principal trumpet, principal and bass trombone, principal euphonium, principal tuba, principal tympani, principal percussion, principal vibracussion, principal harp, principal piano, principal organ, principal rhythm player (as appointed by the Musical Director); the first of any one or more musical instruments other than in the foregoing; where there is only one player of any one instrument in an orchestra, the player of that instrument.

**production & support staff** means employees engaged specifically as production and or support staff in a live venue or by a live producer

**repetiteur** means a musician employed as a piano/keyboard instrumental player who is required to accompany performers, backstage, on stage, in a rehearsal room, or in the pit during rehearsals or auditions and to work as directed, including for any musical preparation to a production

## Live Performance Award 2010

## Live Performance Award 2010

**run of the play or plays** means the period which in any city or cities, town or towns or states of Australia for which the employee's services have been distinctly contracted for in writing for rehearsal of and performances in a particular production or productions and commences on the first day of the employee's rehearsal for the production or productions and concludes on the last day or night of the presentation of the production or productions in such city, cities, town or towns or states of Australia for which the employee's services have been contracted in writing. It will include a return season or seasons in a place in which a season has already taken place if the employee's engagement is still continuing at the date of commencement of such return season.

**short performance** means a performance of up to one hour in duration

**sound and/or lighting company** means a company that services the live performance industry and engages factory and tour employees who are involved in or in connection with the supply, design, production, fabrication, construction, maintenance, installation, setting up, erection, transportation or dismantling of stages, lighting, audio or audio-visual equipment or associated componentry but does not include employees of venues, producers, promoters or crewing services employers

**specialty entertainment (musician)** means entertainment provided by artists of international standing or merit, imported or otherwise, engaged as a celebrity act

**specialty entertainment (orchestral musician)** means entertainment provided by artists of international standing or merit, imported or otherwise, where the artist is appearing other than in a theatrical production or concert within the scope of the opera, ballet or symphony concert repertoire, as a celebrity act (orchestral) engaged as a celebrity act

**sound balance or seating call** means a call where the employee is required to rehearse for the purpose of seating, sound balancing or balancing electronic equipment

**specialty entertainment** means entertainment provided by artists of international standing or merit, imported or otherwise, engaged as a celebrity act

**standard rate** means the minimum wage for a Level 4 employee in clause 13—Classifications and minimum wages

**suitable accommodation** means a single room in a modern motel or serviced apartment accommodation with private facilities provided that where an employee is required to stay longer than one week in a single location the accommodation must contain cooking facilities, have clean linen supplied once per week and be cleaned at least once per week at the cost of the employer

**LPA COMMENTARY**

**CLAUSE 3 – DEFINITIONS**

The definition of **specialty entertainment** only applies to Musicians accompanying artists of substantial stature, and should not be applied in other circumstances. A celebrity act is a headline or main act which requires the musicians to be of the highest technical competence. Typically, such musicians would require only a single rehearsal to accomplish the required level of competence for any particular act.

The definition of **standard rate** is required for calculating many allowances, which are now represented in the award as a percentage of the standard rate.

*Date of effect: 1 January 2010*



**supernumerary** means a person appearing only incidentally or in background, or participating only in crowd or background speech or noise, who does not speak or dance or perform individually as directed

**transitional minimum wage instrument** has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

**upper salary limit figure** will be equivalent to three times the rate prescribed in clause 13—Classifications and minimum wages for a Live Performance Employee Level 7

**vocalist** means a person who sings as a soloist and may be accompanied by other musicians

- 3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

#### 4. Coverage

- 4.1 This industry award covers employers throughout Australia in the live performance industry and their employees in the classifications set out in this award to the exclusion of any other modern award.
- 4.2 The award does not cover an employee excluded from award coverage by the Act.
- 4.3 The award does not cover employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.
- 4.4 The award does not cover employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.
- 4.5 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 4.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.
- 4.6 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.

**LPA COMMENTARY**

**CLAUSE 4 - COVERAGE**

The award covers all private sector employers throughout Australia in the live performance industry and their employees set out in the classifications in **Schedule B of the Award**. The **live performance industry** is defined in **clause 3 – definitions**. The award is not intended to extend award coverage except for occupations which have a similar nature of work to occupations that have historically regulated by awards in the past (including State awards).

The Award will now cover positions that may have been award-free in the past, such as administrative employees (Level 2 to Level 6), marketing/publicity assistant (Level 3 or 4), accounts clerk (Level 4 or 5) and marketing/publicity officer (Level 6), however the Award does not extend the representational rights of unions.

The **Media, Entertainment and Arts Alliance (MEAA)** has representational rights for all Performers, Company Dancers, full time Musicians employed in the old ABC orchestras and some Production & Support Staff, namely front of house, backstage, ticketing, sound & lighting and crewing employees.

The **Musicians Union of Australia (MUA)** has representational rights for Vocalists and all Musicians except full time musicians in old ABC Orchestras.

Clerical and administrative employees can be represented by anyone or any union, but are excluded from MEAA's coverage.

This award does not cover managerial positions, which have traditionally been award-free, except for a **Technical Manager**.

Employees that are high income earners are not covered by an award. Only the National Employment Standards apply as their minimum conditions of employment. As of 1 July 2018, the rate of a high income earner is **\$145,400** per annum, which is indexed annually.

*Date of effect: 1 January 2010*

*Amended: July 2018*

- 4.7** 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 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.

## **5. Access to the award and the National Employment Standards**

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

## **6. The National Employment Standards and this award**

The [NES](#) and this award contain the minimum conditions of employment for employees covered by this award.

## **7. Award flexibility**

- 7.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

- 7.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer.

**LPA COMMENTARY**

**CLAUSE 7 – AWARD FLEXIBILITY**

If certain conditions of the Award do not meet the genuine individual needs of the employer and an individual employee, then they can enter into an individual flexibility arrangement after the employee has commenced employment with the employer. The agreement must be **genuinely made without coercion**, and must leave the employee **better off overall** compared to the Award. This can be quite a subjective test, particularly if it is the employee that is wanting to vary the Award conditions. The provisions of the Award that may be varied are limited to the following:

- arrangements for when work is performed;
- overtime rates;
- penalty rates;
- allowances; and/or
- leave loading.

The agreement must be in writing, name the parties and be signed by the employer and the individual employee and, if the employee is under 18, their parent or guardian. It must state each term of the Award that is varied and detail how each term has been varied. The agreement must also detail how the agreement results in the individual employee being better off overall and state the date it commences. The employer must give the employee a copy of the agreement and keep a copy as a time and wages record.

The agreement can be terminated by 13 weeks' notice on either side, with the agreement ceasing to operate at the end of the notice period or by agreement between the parties.

The **Fair Work Ombudsman (FWO)** has published a Best Practice Guide with regard to the use of individual flexibility arrangements, which can be downloaded here:

<http://www.fairwork.gov.au/about-us/policies-and-guides/best-practice-guides/use-of-individual-flexibility-arrangements>

*Date of effect: 4 December 2013*

Note: An Award Flexibility Agreement which was entered into **prior to 4 December 2013** only requires **4 weeks'** notice of termination.

*Updated: July 2014*

## Live Performance Award 2010

- 7.3** The agreement between the employer and the individual employee must:
- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
  - (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.
- 7.4** The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
  - (b) state each term of this award that the employer and the individual employee have agreed to vary;
  - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
  - (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
  - (e) state the date the agreement commences to operate.
- 7.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.6** Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 7.7** An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 7.8** The agreement may be terminated:
- (a) by the employer or the individual employee giving 13 weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
  - (b) at any time, by written agreement between the employer and the individual employee.

Note: If any of the requirements of s.144(4), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see s.145 of the *Fair Work Act 2009* (Cth)).

## Live Performance Award 2010

## **Live Performance Award 2010**

- 7.9** The notice provisions in clause 7.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 7.8(a), subject to four weeks' notice of termination.
- 7.10** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

## Live Performance Award 2010



**PART 2:**  
**CONSULTATION & DISPUTE**  
**RESOLUTION**

**LPA COMMENTARY**

**CLAUSE 8 – CONSULTATION REGARDING MAJOR WORK CHANGE**

Where an employer has made a definite decision to introduce major changes in the workplace, the employees and their representatives (if any) must be notified. The employer must discuss the changes with the employees affected and their representatives, and must provide in writing all relevant information about the changes.

Employers are required to provide information to employees about changes to rosters or working hours, invite employees to give their views on the impact of change and give these views consideration. Please note that it does not apply where an employee has irregular, sporadic or unpredictable working hours.

The FWO has developed a Best Practice Guide for consultation and co-operation in the workplace, which can be downloaded here: <http://www.fairwork.gov.au/resources/best-practice-guides/Pages/consultation-and-cooperation-in-the-workplace.aspx>

*Updated: July 2014*

## Part 2—Consultation and Dispute Resolution

### 8. Consultation

#### 8.1 Consultation regarding major workplace change

##### (a) Employer to notify

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

##### (b) Employer to discuss change

- (i) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1(a).
- (iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

**LPA COMMENTARY**

**CLAUSE 9 – DISPUTE RESOLUTION**

Where a dispute is being resolved, work should continue as usual so long as it does not breach work health and safety provisions. The parties must try to resolve the matter with discussions between the employee/s and their supervisor. An employer and employee may have a representative in these discussions. If the matter cannot be resolved, discussions should be held between the employee/s and more senior levels of management.

If the dispute is still unresolved, a party may refer it to Fair Work Commission (FWC). The parties may agree to the process to be used by FWC such as mediation, conciliation or consent arbitration. If the dispute still remains unresolved, FWC may use any method of dispute resolution permitted by the Act.

The FWO has developed a Best Practice Guide for dispute resolution, which can be downloaded here: <http://www.fairwork.gov.au/resources/best-practice-guides/Pages/effective-dispute-resolution.aspx>

*Date of effect: 1 January 2010*

*Updated: July 2014*

## **8.2 Consultation about changes to rosters or hours of work**

- (a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b) The employer must:
  - (i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
  - (ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
  - (iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (c) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (d) These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

## **9. Dispute resolution**

- 9.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

## Live Performance Award 2010

## Live Performance Award 2010

- 9.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 9.4** Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

## Live Performance Award 2010



**PART 3:**  
**GENERAL EMPLOYMENT**  
**CONDITIONS**

**LPA COMMENTARY**

**CLAUSE 10.2 – FULL-TIME EMPLOYMENT**

All full-time employees should be issued a contract which states their classification, rate of pay and the terms of engagement. LPA has template contracts for the engagement of full-time Performers, Company Dancers and Production & Support Staff available for Members to download on the LPA Members website as a member-only resource. Musicians are generally employed on a per call basis and a template contract for Musicians is also available for LPA Members to download. Any variation to the contract should be recorded in writing.

**CLAUSE 10.3 – PART-TIME EMPLOYMENT**

As with full-time employees, part-time employees should be issued a contract. Part-time employees are weekly employees who work less than full-time hours (ie. less than 38 hours a week) but receive all the entitlements of a full-time employee on a pro-rata basis according to the number of hours they work.

The requirement in clause 10.3(f) for an employer to pay a part-time employee for all hours worked over those agreed upon does **not** apply to Production & Support Staff. It is overridden by clause 42.2(d) of the Award, which retains the provision from the old Live Theatre & Concert Award that overtime is not payable to a part-time employee unless they work more than 38 hours a week.

*Date of effect: 1 January 2010*

## **Part 3—General Employment Conditions**

### **10. Types of employment**

**10.1** At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, part-time, weekly or casual.

### **10.2 Full-time employment**

Except as provided in clause 29.2:

- (a) A full-time employee is an employee who is engaged to work 38 hours per week.
- (b) A full-time employee must be provided with a written statement setting out their classification, applicable pay scale and terms of engagement.
- (c) At the time of engagement the employer and the full-time employee will agree in writing on the arrangement of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.
- (d) Any agreed variation to the arrangement of work will be recorded in writing.

### **10.3 Part-time employment**

- (a) A part-time employee is an employee who is engaged to perform less than the full-time hours; has reasonably predictable hours of work; and receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) An employee who does not meet the definition of a part-time employee in clause 10.3(a) and who is not a full-time employee will be paid as a casual employee in accordance with clause 10.4.
- (c) At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work, and the actual starting and finishing times each day. A copy of the agreement must be provided to the employee.
- (d) Changes in hours may only be made by agreement in writing between the employer and employee. Any agreed variation to the regular pattern of work will be recorded in writing and a copy given to the employee.
- (e) An employer is required to roster a part-time employee for a minimum of four hours on any shift.

**LPA COMMENTARY**

**CLAUSE 10.4 – CASUAL EMPLOYMENT**

Employers should provide casual employees with a letter of engagement that states that they are casual, who their employer is, their classification and their rate of pay. Because the Award states that casual employees must be paid at the end of each shift except by agreement, the letter of engagement should state whether they will be paid weekly or fortnightly, which will be according to the employer's pay role period, otherwise the presumption is that they be paid at the end of their shift.

The Award provides for casual loading of 25%.

The Award also provides for a **minimum call** of 3 hours for casual employees except for work on a Sunday or Public Holiday where the minimum call will be 4 hours.

**CLAUSE 11 – TERMINATION OF EMPLOYMENT**

In accordance with the provisions of the National Employment Standards (NES) an employer who terminates an employee's employment must give the employee notice of termination. The amount of notice will be based on the employee's continuous service as follows:

- not more than 1 year – 1 week notice;
- more than 1 year but less than 3 years – 2 weeks' notice;
- more than 3 years but less than 5 years – 3 weeks' notice; or
- more than 5 years – 4 weeks' notice.

Employees over 45 years old who have completed at least 2 years of continuous service with the employer are entitled to an additional week's notice.

Notice of termination must be written, must specify the date of termination and must state the reason for the employee's termination. An employer can make payment in lieu of notice, which should be based on the **full rate of pay** for hours the employee would have worked, including penalty rates, bonuses etc. during the period of notice. Notice is not required if the employee is being terminated for serious misconduct.

The Award also provides that an employee is required to give the employer the same amount of notice based on the employee's continuous service with the employer as provided above. However there is no requirement for the employee to give additional notice based on the employee's age.

*Date of effect: 1 January 2010*

## LPA COMMENTARY

### **CLAUSE 11 – TERMINATION OF EMPLOYMENT (CONTINUED)**

#### **Unfair Dismissal**

If an employee is terminated then they may make a claim for unfair dismissal under the Fair Work Act 2009. A dismissal is unfair if it was harsh, unjust or unreasonable. However, in order to make an unfair dismissal claim the employee must first be an “eligible employee”. Eligible employees are those that are:

- covered by an award, enterprise agreement or are award-free but not a high income earner (earns less than **\$145,400** per annum as of 1 July 2018); and
- are full-time, part-time or a regular casual employee.

Irregular casual employees, seasonal or specific period/task employees are not eligible to make an unfair dismissal claim, nor are those who have been made genuinely redundant (see clause 12).

The employee must also have completed the minimum period of continuous service, as follows:

- if the employer is “small business”, then the employee must have been employed for at least 12 months to be eligible;
- if the employer is a larger employer (ie. not a small business), then the employee must have been employed for at least 6 months to be eligible.

From 1 January, 2011 a national system employer will be a **small business employer** if the employer’s number of employees is less than 15. This is based on a simple headcount and includes casual employees.

There is a **Small Business Fair Dismissal Code**, which is a set of procedures a small business must comply with when terminating an employee, whether it be summary dismissal or other types of dismissal. It contains a checklist that small business employers should complete before dismissing an employee. The checklist would be used as evidence before Fair Work Australia if the employee were to make a claim for unfair dismissal. The Code and checklist can be downloaded at: <https://www.fwc.gov.au/about-us/legislation-regulations/small-business-fair-dismissal-code>

A small business employer can only dismiss an employee without notice or warning (ie. summarily) “fairly” if the employer believes on reasonable grounds that an employee’s conduct is sufficiently serious to justify immediate dismissal, and would include conduct such as theft, fraud, violence or serious breaches of occupational health and safety.

In all other cases, a small business employer must give one warning (preferably written) of poor performance. The warning should provide a valid reason for the warning, eg. diminished work performance, unsatisfactory conduct and provide an opportunity for the employee to rectify the situation. A Best Practice Guide for Small Businesses is available via the Fair Work Ombudsman’s website here: <http://www.fairwork.gov.au/about-us/policies-and-guides/best-practice-guides/small-business-and-the-fair-work-act>

*Continued...*

**LPA COMMENTARY**

**CLAUSE 11 – TERMINATION OF EMPLOYMENT (CONTINUED)**

If a larger employer is dismissing an employee other than summarily, they will need to do so via a disciplinary procedure. This requires a process of 2 or more (but a maximum of 3) written warnings and:

- gives the employee a reasonable opportunity to respond to the warning and a reasonable chance to rectify the problem;
- the ability for the employee to be represented in discussions; and
- the employee must be advised that any further indiscretions could lead to the termination of their employment.

There is a Best Practice Guide for Managing Underperformance published by the Fair Work Ombudsman: <http://www.fairwork.gov.au/about-us/policies-and-guides/best-practice-guides/managing-underperformance>

**Casual employees** are not treated any differently from permanent employees unless they are engaged on an irregular and non-systematic basis. If a casual employee had an expectation that work would be available then they cannot be terminated without due process. Casual employees who are regularly employed for a specific number of shifts (or even 1 shift) per week and there is a continuing expectation that such work will be provided will have to be treated as though they are a weekly employee. Therefore, casual employees will need to go through the disciplinary procedure process should you wish to terminate their services. They cannot just be left off the roster.

*Date of effect: 1 January 2010*

*Updated: July 2015*

- (f) All time worked in excess of the hours mutually arranged will be overtime and paid for at the appropriate overtime rate.
- (g) A part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.

#### **10.4 Casual employment**

- (a) A casual employee is an employee engaged as such and paid by the hour. An employer when engaging a casual must inform the employee that they are employed as a casual, stating by whom the employee is employed, their hours of work, their classification level and their rate of pay.
- (b) A casual will be paid both the actual hourly rate paid to a full-time employee and an additional 25% of the ordinary hourly rate for a full-time employee.
- (c) The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.
- (d) Casual employees must be paid at the termination of each engagement, but may agree to be paid weekly or fortnightly.
- (e) On each occasion a casual employee is required to attend for work they are entitled to a minimum payment of three hours at the appropriate rate.

#### **10.5 Weekly employment**

A weekly employee is an employee who is engaged and paid by the week.

### **11. Termination of employment**

**11.1** Notice of termination is provided for in the NES.

#### **11.2 Notice of termination by an employee**

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause less any period of notice actually given by the employee.

#### **11.3 Job search entitlement**

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

**LPA COMMENTARY**

**CLAUSE 11.4 – SPECIAL NOTICE REQUIRED FOR PERFORMERS & COMPANY DANCERS**

The term **run of play** is not defined, but relates to a specific period, ie. the run of the show.

- (b) Where the season or contract is 5 weeks or less, 2 weeks notice is required. Where the season or contract is more than 5 weeks, 3 weeks notice is required.
- (c) In the case of employees engaged for the run of the play or for a specific period, the contract of employment may be terminated by either party by giving 4 weeks notice **ONLY** 14 consecutive months after the employee's opening performance. The **employee's opening performance** is the employee's first public performance, which may be the first preview for an original cast member.
- (d) Unless the contract of engagement is for a period less than 4 weeks, the minimum run of the play payment to an employee must be 4 weeks pay. If an employee has been definitely engaged for a production, and such production fails to be produced, the employee is entitled to not less than 4 weeks termination pay.
- (e) During the rehearsal period or in the first 2 weeks of the employee playing the part in performances for which s/he was engaged, the employer can make an artistic decision to replace such an employee on the grounds of **miscasting**. The miscasting usually relates to the performer not attaining the minimum artistic standard required for the part or role and can be used as a probationary period. If it is not possible to employ the employee in an alternative role in the production, the employee is to be given 3 weeks' notice of termination in writing.

*Date of effect: 1 January 2010*



**11.4 Special notice required for performers and company dancers**

- (a) Except in the case of an employee engaged for a run or a casual, a minimum of two weeks' notice of termination is required.
- (b) In the case of an employee engaged for the run of the play or plays, the employer must give the employee not less than three weeks' notice in writing of the conclusion of the tour, season or run except in a case where the tour, season or run has occupied five weeks or less at the time of the giving of the notice when the period of the notice will be not less than two weeks.
- (c) If the employee has been employed by the employer for a consecutive period of 14 months from the date of the employee's opening performance, the engagement may be terminated by either party giving four weeks' notice of such termination in writing to the other party. Such notice must not be given so as to take effect while the company in which the employee is performing is in New Zealand, Tasmania, Perth or Newcastle or is in direct transit between any such places.

**(d) Failure to produce or present production**

If the employer fails to produce or present the production for which the employee is definitely engaged or if the run of the play for which the employee is definitely engaged is less than four weeks, the employer will pay to the employee in satisfaction of all claims, excepting claims in relation to any money due to the employee for travel and rehearsal, a sum of money not less than four weeks wages at the employee's prescribed rate of pay unless the engagement of the employee was originally for a lesser period than four weeks, in which case the employer will pay to the employee in satisfaction of all claims, excepting claims in relation to any money due for travel and rehearsal, a sum of money equivalent to the wages for that period of engagement.

**(e) Employee no longer required for specific part**

Should the employer deem it necessary or desirable that the employee should not play the part for which they were engaged, the employer may during the rehearsal period or within two weeks from the date on which the employee has first played the said part and notwithstanding anything hereinafter contained, either give the employee notice in writing terminating their engagement and replace the employee in that part within three weeks from the date on which the said notice is given, or where possible, employ them in an alternative role.

**LPA COMMENTARY**

**CLAUSE 12 - REDUNDANCY**

A redundancy is where the employer does not want the job to be done by the employee anymore and does not want the job to be done by anyone else because of the operational requirements of the workplace. This may be due to a downturn in business, the implementation of machinery to perform the employee’s job, or the position is over-resourced and too many people are performing the same function.

Under the Fair Work Act 2009, a “genuine redundancy” makes an employee ineligible for a claim of unfair dismissal. A “genuine redundancy” is where:

- 1) the employer no longer requires the employee’s job to be performed by anyone because of the operational requirements of the employer’s enterprise; and
- 2) the employer has complied with any obligations in a modern award or enterprise agreement that applied to the employment to consult about the redundancy.

The employer must consult with and to notify the affected employees (and their representative, which may be the union) of coming terminations once the decision has been made. The employer may have to discuss the changes with their employees and provide written information to them about the changes, although they do not have to reveal confidential information. There is a Best Practice Guide for consultation and co-operation in the workplace that has been published by the Fair Work Ombudsman:<http://www.fairwork.gov.au/about-us/policies-and-guides/best-practice-guides/consultation-and-cooperation-in-the-workplace>

A redundancy is not genuine if it would have been reasonable in all the circumstances for the person to be redeployed within the employer’s enterprise or the enterprise of an associated entity of the employer. This requires a consideration of the employee’s skills and the available positions with the employer’s enterprise or an associated enterprise.

Certain situations are not terminations or redundancies, such as the expiry of a specified period or task or the demotion of an employee.

Employees including high income earners are entitled to redundancy pay except for casuals, seasonal, trainees, specific task/period employees or employees of a small business. To be eligible, the employee must have at least 12 months service, which excludes periods of unpaid leave. Where an employee is made redundant, the employee is entitled to:

- 1) notice of termination (or payment in lieu thereof); and
- 2) an amount of redundancy pay based on the employee’s period of continuous service with the employer using the following table. Redundancy pay is paid at the employee’s base rate of pay.

Period of Service	Amount of Redundancy Pay
At least 1 year but less than 2 years	4 weeks’ pay
At least 2 years but less than 3 years	6 weeks’ pay
At least 3 years but less than 4 years	7 weeks’ pay
At least 4 years but less than 5 years	8 weeks’ pay
At least 5 years but less than 6 years	10 weeks’ pay
At least 6 years but less than 7 years	11 weeks’ pay
At least 7 years but less than 8 years	13 weeks’ pay
At least 8 years but less than 9 years	14 weeks’ pay
At least 9 years but less than 10 years	16 weeks’ pay
At least 10 years	12 weeks’ pay

Redundancy pay does not need to be paid for the transmission of a business or if FWC makes an order exempting the employer due to the employer’s incapacity to pay or if acceptable alternative employment has been obtained for the employee.

## **12. Redundancy**

**12.1** Redundancy pay is provided for in the NES.

### **12.2 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

### **12.3 Employee leaving during notice period**

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

### **12.4 Job search entitlement**

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 11.3.

### **12.5 Transitional provisions – NAPSA employees**

*Deleted 15 March 2015*

### **12.6 Transitional provisions – Division 2B State employees**

*Deleted 15 March 2015*

**Live Performance Award 2010**

**LPA COMMENTARY**

**CLAUSE 13 – CLASSIFICATIONS AND MINIMUM WAGES**

<b>Old Award</b>	<b>Live Performance Employee</b>	<b>New Classification</b>
Live Theatre & Concert Award (LTC) – Level 1	Level 1	Production & Support Staff Level 1
Entertainment & Presentation Services Award (E&PS) – First Year Sound and/or Lighting Trainee		
Ticketing Agencies Award – Level 1		
Live Theatre & Concert Award – Level 2	Level 2	Production & Support Staff Level 2
Crewing Services Employee		
E&PS – Second Year Sound and/or Lighting Trainee		
Performing Arts Centres' Award (PAC) – Program Seller, Usher, Stage Hand etc. Stage Door Attendant		
Ticketing Agencies Award – Level 2		
LTC Award – Level 3	Level 3	Production & Support Staff Level 3
E&PS – Assistant Sound and/or Lighting Technician		
PAC - Assistant Scenic Artists, Mechanist, Sound and/or Lighting Technician Booking Clerk		
Ticketing Agencies Award – Level 3		
PAC – Scenic Artists, Assistant Projectionist, Tradesperson	Level 4	Production & Support Staff Level 4
E&PS – Qualified Tradesperson		
LTC – Level 4	Level 5	Production & Support Staff Level 5
E&PS – Sound and/or Lighting Technician		
PAC – Trade Qualified Tradesperson, Assistant Stage Manager, Head Fly Operator		
LTC Award – Level 5	Level 6	Production & Support Staff Level 6
Ticketing Agencies Award – Level 5		
Actors (Theatrical) Award – Performer Category 1 Grade 1	Level 7	Performer Category 1 Grade 1 Company Dancer Level 1
Dance (Company) Award – Level 1		
LTC Award – Level 6	Level 8	Production & Support Staff Level 7  Company Dancer Level 1
E&PS – Supervisor		
PAC – Head of Department, Technical Supervisor, Costume (Wardrobe) Supervisor		
Ticketing Agencies Award – Level 6		
Dance (Company) Award – Level 2		
Actors (Theatrical) Award – Performer Category 1 Grade 2, Performer Grade 2		
Musicians' General Award – Musician	Level 9	Performer Category 1 Grade 1, Performer Grade 2 Musician
LTC – Level 7		
PAC – Stage Manager		
Ticketing – Level 7		
Dance (Company) Award – Level 3	Level 10	Production & Support Staff Level 8  Company Dancer Level 3
Actors (Theatrical) Award – Opera Principal		
Dance (Company) Award – Level 4		
Musicians' General Award - Musician required to accompany artists	Level 11	Opera Principal Company Dancer Level 4 Musician required to accompany artists
Dance (Company) Award – Level 5		
E&PS – Technical Manager	Level 12	Company Dancer Level 5 Technical Manager
Dance (Company) Award – Level 6		
Dance (Company) Award – Level 7	Level 13	Company Dancer Level 6 Company Dancer Level 7
Musicians' General Award - Principal Musician, Vocalist		
Musicians' General Award - Conductor-Leader	Level 14	Principal Musician, Vocalist
	Level 15	Conductor-Leader

*Date of effect: 1 January 2010*

**13. Classifications and minimum wages**

**13.1** The classifications in which employees may be employed are set out in Schedule B—Classifications.

**13.2 Minimum wages**

<b>Live Performance Employee</b>	<b>Category</b>	<b>Weekly rate</b>
		<b>\$</b>
Level 1	Production and Support Staff Level 1 (Induction/ Training)	719.20
Level 2	Production and Support Staff Level 2	782.00
Level 3	Production and Support Staff Level 3	821.60
Level 4	Production and Support Staff Level 4	837.40
Level 5	Production and Support Staff Level 5	863.50
Level 6	Production and Support Staff Level 6	889.90
Level 7	Company Dancer Level 1, Performer Category 1 Grade 1	913.70
Level 8	Company Dancer Level 2, Production and Support Staff Level 7	946.90
Level 9	Musician, Performer Category 1 Grade 2, Performer Category 2	960.00
Level 10	Company Dancer Level 3, Production and Support Staff Level 8	979.50
Level 11	Company Dancer Level 4, Musician required to accompany artists, Opera Principal	1010.60
Level 12	Company Dancer Level 5	1044.50
Level 13	Company Dancer Level 6, Technical Manager	1082.40
Level 14	Company Dancer Level 7, Principal Musician, Vocalist	1127.50
Level 15	Conductor-Leader	1223.30

**13.3** Further minimum wages for Performers and Company Dancers and Striptease Artists are set out in clauses 24 and 37 respectively.

**LPA COMMENTARY**

**CLAUSE 13 – CLASSIFICATIONS AND MINIMUM WAGES (continued)**

The classification structure of the Live Performance Award 2010 (LPA) reflects the classification and salary structure of approximately 15 pre-reform Awards. Under the new Modern Award and the provisions of the *Fair Work Act 2009*, the majority of employees will be covered by the LPA or another Modern Award. As a general rule, positions with the title “Manager” will be exempt from Award coverage, except those positions listed in Schedule B. Wages and Allowances will be increased by the Fair Work Commission (FWC) on 1 July each year.

It has been common practice in the industry to make **over-award payments** in addition to the minimum rate. The amount of over-award payments have varied according to the particular sector of the industry, from employer to employer, and from employee to employee.

Those employers who are paying over-awards can absorb minimum wage increases granted by FWC in their over-award payments. Employers can also buy-out a certain number of hours of overtime in over-award payments (which should be documented), but if more hours are worked than has been bought out then the employee should be paid for the additional hours.

**CLAUSE 14 – GENERAL ALLOWANCES**

Additional allowances are provided in clauses 25, 31, 38 and 44 according to the type of work the employee is performing. Where allowances are expressed as a % of the standard rate (Live Performance Employee Level 4), they will automatically increase when wage rates increase.

*Date of effect: 1 January 2010*

*Updated July 2018*

**14. General allowances**

**14.1 Reimbursement of expenses**

Where an employer authorises an employee to incur expenses in the course of the employee's employment, the expense will be reimbursed by the employer upon provision by the employee of a tax invoice and receipt.

**14.2 Use of vehicle allowance**

Where an employer requests an employee to use their own motor vehicle in the performance of their duties, such employee will be paid an allowance of \$0.78 per kilometre.

**14.3 Late night transport**

Where an employee is detained at work until it is too late to travel home by the last train, tram or other regular public conveyance, the employer will provide proper conveyance to the employee's home for the employee so detained.

**LPA COMMENTARY**

**CLAUSE 14.5 – TRAVEL ALLOWANCES**

**1) EMPLOYER PROVIDES ACCOMMODATION**

Where the Employer provides accommodation to an Employee required to travel away from their place of residence, only the meals and incidentals allowances need to be paid:

Meals: \$56.68 per day up to a maximum of \$283.33 per week

Incidentals: \$15.65 per day up to a maximum of \$78.38 per week

If the employee is travelling for 4 days or less, it is cheaper to pay the daily rate.

**2) EMPLOYER OFFERS TO PROVIDE ACCOMMODATION BUT EMPLOYEE ELECTS TO FIND OWN ACCOMMODATION**

If the Employer offers to provide accommodation to the Employee, but the Employee wants to find their own accommodation, then in addition to the meals and incidentals allowances, the Employee is also entitled to receive the cash allowance for the accommodation. Therefore, they should be paid:

Meals: \$56.68 per day up to a maximum of \$283.33 per week

Incidentals: \$15.65 per day up to a maximum of \$78.38 per week

Accommodation cash allowance: \$126.40 per day up to a maximum of \$632.08 per week

TOTAL: \$198.73 per day up to a maximum of \$993.79 per week

**3) EMPLOYER DOES NOT OFFER TO PROVIDE ACCOMMODATION**

If the Employer does not offer to provide accommodation to the Employee, then the Employee can be reimbursed for the cost of their accommodation up to the maximum limits prescribed in clause 14.5(c)(ii) plus meals and incidentals allowances.

*Amended: July 2018*



**14.4 Laundry allowance**

Where an employee is employed weekly or full-time, an allowance of \$3.60 per week for blouses and shirts and \$9.36 per week for other garments will be paid where uniforms are not laundered by the employer. For employees other than weekly and full-time employees, a laundry allowance of \$2.89 per day will be paid up to a maximum of \$13.03 per week.

**14.5 Travel allowances**

**(a) Travel**

An employee required by the employer to travel away from their place of residence will be reimbursed up to the actual cost of an economy class fare or equivalent to their destination. This provision will not apply where the employer provides and arranges transport.

**(b) Travel to and from airports**

An employee required to travel to or from an airport will be reimbursed the cost of such transport to a maximum of \$39.51 provided that such reimbursement is not payable where the employer provides such transport.

**(c) Accommodation**

**(i)** Where the employee does not accept employer provided accommodation, the employee will be paid an allowance of \$126.40 per night up to a maximum of \$632.08 per week.

**(ii)** Where the employer does not provide accommodation the employee will be reimbursed the cost of such accommodation up to the maximum weekly limits as follows:

<b>Destination</b>	<b>Weekly amount</b>
	\$
Sydney and Melbourne	1265.00
Adelaide, Hobart, Perth and Brisbane	892.89
Canberra	1087.00
Other places	832.33

**(iii)** Where an employer and an employee agree in writing, shared accommodation may be provided by the employer. The employer will retain a copy of any such agreement.

**(d) Meals while travelling**

An employee required to travel must be paid an allowance of \$56.68 per day to a maximum of \$283.33 per week.

**Live Performance Award 2010**

**(e) Incidentals allowance while travelling**

An employee required to travel must be paid an allowance for incidentals of \$15.65 per day to a maximum of \$78.38 per week.

**(f) Eligibility**

- (i) The provisions of clauses 14.5(c), (d) and (e) will not apply:
- with respect to an employee who is engaged to work at a single location away from their place of residence for a specific period of 12 months or more; or
  - where an employee is engaged for a local show.
- (ii) The provisions in this clause will be applicable as though the place of residence of the employee had been correctly stated, where an employer:
- avoids or seeks to avoid the operation of this clause by inducing any employee or prospective employee to misrepresent their place of residence; or
  - engages an employee where they know that the place of residence of an employee or prospective employees has been misrepresented.

**(g) Transportation of luggage and instruments**

- (i) The employer will reimburse an employee for the transportation of an employee's luggage when travelling up to a maximum weight of 40 kilograms and any bulky instrument required for employment.
- (ii) The employer will reimburse the employee for the cost of insurance of the employee's luggage and instruments for loss, theft or damage when travelling.
- (iii) Provided that such reimbursement will not be payable where the employer provides transport of luggage and instruments.

**14.6 Adjustment of expense related allowances**

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Meal allowances	Take away and fast foods sub-group

**LPA COMMENTARY**

**CLAUSE 17 – PAYMENT OF WAGES**

The employee's letter of engagement or contract should state whether they are being paid weekly or fortnightly. This will be determined by the employer's payroll cycle. In particular, casual employees need to be informed when they are engaged that they will be paid weekly or fortnightly, otherwise they have to be paid within 15 minutes of the end of their shift.

*Date of effect: 1 January 2010*

Laundry allowance	All groups
Accommodation allowance	Domestic holiday travel and accommodation sub-group
Incidentals allowance	Domestic holiday travel and accommodation sub-group
Vehicle allowance	Private motoring sub-group

## **15. Accident pay**

This clause was deleted on 05 March 2015

## **16. Higher duties**

- 16.1** An employee who is required to do work for which a higher rate is payable than that provided for in their ordinary duties must, if such work exceeds a total of four hours on any day, be paid at the higher rate for all work done on such day.
- 16.2** In all other cases the employee must be paid the higher rate for the actual time worked.

## **17. Payment of wages**

- 17.1** Wages will be paid weekly or fortnightly according to the actual hours worked for each week or fortnight.
- 17.2** Casual employees will be paid within 15 minutes of the conclusion of the employee's work but may agree to be paid weekly or fortnightly.

## **18. Superannuation**

### **18.1 Superannuation legislation**

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

**LPA COMMENTARY**

**CLAUSE 18.1 – SUPERANNUATION LEGISLATION**

The Superannuation Guarantee legislation requires that all employers contribute 9.5% from July 2014 where employees are earning more than \$450.00 a month.

*Amended: July 2014*

**CLAUSE 18.3 – EMPLOYER CONTRIBUTIONS**

The Award now extends to apply employer superannuation contributions to juveniles. However, there are certain restrictions. The provision does not apply to juvenile extras, doubles or stand-ins. In order to be eligible, the juvenile must:

- (a) be engaged on a contract of at least 12 weeks;
- (b) have been employed for at least 6 paid engagements in the entertainment industry; OR
- (c) have been employed for a minimum of 30 days in the entertainment industry.

*Date of effect: 1 January 2010*

**CLAUSE 18.5 – SUPERANNUATION FUND**

Employers must only pay default superannuation contributions to an authorised MySuper product. All default superannuation funds under Modern Awards are now required to offer MySuper products. Both Media Super and Australian Super have been authorised to offer MySuper. If an employee has designated their own choice of fund, the employer is not required to ensure they offer MySuper products.

*Date of effect: 1 January 2014*

**18.2** Employer contributions

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

**18.3** Despite the provisions of clause 18.1(a), an employer must also make superannuation contributions to a superannuation fund on behalf of a performer younger than 18 years of age as if the performer were 18 (excluding extras, doubles and stand-ins) if:

- (a) the juvenile is engaged on a 12 week contract or longer;
- (b) the juvenile has been employed in the entertainment industry for a minimum of six professional engagements; or
- (c) the juvenile has been employed in the entertainment industry for a minimum of 30 days.

**18.4** **Voluntary employee contributions**

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 18.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 18.4(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 18.4(a) or (b) was made.

**LPA COMMENTARY**

**CLAUSE 19 – ANNUAL LEAVE**

All employees except casual employees accrue 4 weeks annual leave “progressively” (1.667 days per month) per annum under the National Employment Standards. Annual leave is to be re-credited if the employee takes any other type of leave during their period of annual leave. Therefore, if an employee provides a medical certificate to state that they were ill for 2 days during their period of annual leave, those 2 days are deducted from the employee’s personal/carer’s leave instead of their annual leave.

Since annual leave accrues progressively, any period of service that is less than 12 months is paid out in accordance with the amount of leave that has accrued. However, no annual leave loading applies to periods of service that are less than 12 months. If annual leave is taken before the completion of 12 months (ie. in advance of the entitlement accruing) then no annual leave loading is paid until the employee completes that period of 12 months.

**Changes to Annual Leave Provisions as part of 4-yearly review**

As part of the 4 yearly review of the modern awards, a Full Bench of the Fair Work Commission has handed down a decision replacing or inserting new annual leave provisions in many of the modern awards.

The changes provide for taking annual leave in advance and cashing out of some annual leave accruals. Further commentary will be provided at the completion of the 4 year review.

*Date of effect: 1 January 2010*

*Updated: July 2018*



## **18.5 Superannuation fund**

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 18.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 18.2 and pay the amount authorised under clauses 18.4(a) or (b) to one of the following superannuation funds or its successor:

- (a) Media Super;
- (b) AustralianSuper;
- (c) CareSuper;
- (d) Sunsuper;
- (e) HOSTPLUS;
- (f) Tasplan;
- (g) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector scheme; or
- (h) a superannuation fund or scheme which the employee is a defined benefit member of.

## **19. Annual leave**

**19.1** Annual leave is provided for in the NES.

### **19.2 Annual leave in advance**

- (a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:
  - (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
  - (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

Note: An example of the type of agreement required by clause 19.2 is set out at 0. There is no requirement to use the form of agreement set out at 0.

- (c) The employer must keep a copy of any agreement under clause 19.2 as an employee record.

## Live Performance Award 2010

## Live Performance Award 2010

- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 19.2, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

### 19.3 Annual leave loading

- (a) Each weekly employee before going on any period of annual leave will for each week of such leave be paid a loading at the rate of 17.5% of the ordinary weekly wage prescribed for such employees. Such loading will be in addition to the amount paid to the employee under this clause.
- (b) No loading is payable to an employee who takes annual leave wholly or partly in advance; provided that, if the employment of such an employee continues until the day when they would have become entitled to annual leave, the loading then becomes payable in respect of the period of such leave and is to be calculated by applying the ordinary rate of pay applicable on that day.
- (c) No loading is payable for periods of service of less than 12 months.

- 19.4** When the employment of an employee is terminated by their employer for a cause other than misconduct, and at the time of the termination the employee has not taken the whole of the annual leave to which they became entitled, they must be paid the loading for the period of leave not taken.

### 19.5 Electronic funds transfer (EFT) payment of annual leave

Despite anything else in this clause, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave.

### 19.6 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 19.6.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 19.6.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 19.6 must state:
  - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 19.6 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.

## Live Performance Award 2010

- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 19.6 as an employee record.

Note 1: Under section 344 of the Fair Work Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 19.6.

Note 2: Under section 345(1) of the Fair Work Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 19.6.

Note 3: An example of the type of agreement required by clause 19.6 is set out at 0. There is no requirement to use the form of agreement set out at 0.

#### **19.7 Excessive leave accruals: general provision**

Note: Clauses 19.7 to 19.9 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave.
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 19.8 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 19.9 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

#### **19.8 Excessive leave accruals: direction by employer that leave be taken**

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 19.7(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
  - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 19.7, 19.8 or 19.9 or otherwise agreed by the employer and employee) are taken into account; and

## Live Performance Award 2010

- (ii) must not require the employee to take any period of paid annual leave of less than one week; and
  - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
  - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 19.8(b)(i).

Note 2: Under section 88(2) of the Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

#### **19.9 Excessive leave accruals: request by employee for leave**

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 19.7(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under paragraph (a) if:
- (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 19.8(a) that, when any other paid annual leave arrangements (whether made under clause 19.7, 19.8 or 19.9 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under paragraph (a) must not:
- (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 19.7, 19.8 or 19.9 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or

## Live Performance Award 2010



## Live Performance Award 2010

- (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
- (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under paragraph (a).

**LPA COMMENTARY**

**CLAUSE 20 – PERSONAL/CARER’S LEAVE**

All employees other than casuals (including Performers, Company Dancers & Musicians) are entitled to 10 days paid personal/carer’s (sick) leave per year and 2 days paid compassionate leave for each permissible occasion. There is no 10 day cap on the amount of carer’s leave that can be taken at one time, so if an employee has accrued 20 days of personal/carer’s leave and are required to look after an immediate family member, they can take those 20 days all at once.

All employees, including casuals, are entitled to 2 days unpaid carer’s leave and 2 days unpaid compassionate leave for each permissible occasion. However, an employee cannot take unpaid leave if they have paid leave available.

**CLAUSE 21 – COMMUNITY SERVICE LEAVE**

Eligible community service activities include jury service & voluntary emergency service duties. Community service leave may be taken for these activities and includes reasonable travelling & rest time. However, only jury service taken by weekly employees is paid upon the presentation of sufficient evidence. The entitlement requires the employer to make up the difference between the employee’s base rate for ordinary hours for up to 10 days.

**CLAUSE 22 – PUBLIC HOLIDAYS**

Employees are entitled to be paid and have the day off for Public Holidays, however “reasonable” requests to work can be made. Considerations include if the employee would receive a penalty, the nature of the work/workplace, the amount of notice given to the employee and whether the employee could reasonably expect to be asked to work. The employee can refuse if the request is not reasonable or if refusal is reasonable with regard to such factors as family obligations.

The National Employment Standards prescribe the following Public Holidays:

- 1 January (New Year’s Day);
- 26 January (Australia Day);
- Good Friday;
- Easter Monday;
- 25 April (Anzac Day);
- The Queen’s birthday holiday (on the day on which it is celebrated in a State/Territory);
- 25 December (Christmas Day);
- 26 December (Boxing Day);
- Days declared by a State/Territory law, eg. Easter Saturday; and
- Days substituted by a State/Territory law or award, eg. if the holiday falls on a weekend.

*Date of effect: 1 January 2010*

## **20. Personal/carer's leave and compassionate leave**

Personal/carer's leave and compassionate leave are provided for in the NES.

## **21. Community service leave**

Community service leave is provided for in the NES.

## **22. Public holidays**

**22.1** Public holidays are provided for in the NES.

**22.2** An employee whose rostered time off falls on a public holiday as provided for in this clause will be allowed an additional day off at a time to be agreed between the employer and the employee, or be paid an additional day's pay instead within seven days of the holiday.

### **22.3 An employee engaged by the week as a performer or a company dancer**

- (a)** For work on Good Friday, Christmas Day and Labour Day or its equivalent in any State or Territory, or on any day substituted for any of those holidays, the employee will be entitled to payment of an amount equivalent to 25% of the employee's weekly wage in addition to the employee's weekly wage for the week.
- (b)** For work on other public holidays the employee will be entitled to payment of an amount equivalent to 16.7% of the employee's weekly wage in addition to the employee's weekly wage for the week.

## Live Performance Award 2010

## Live Performance Award 2010

- (c) In the event that work is not performed on a public holiday such day will be regarded for the purposes of clause 26.4 and all other purposes under this award as a day on which had occurred one of the eight or two of the 12 performances per week provided for in clause 26.4 as the case may be.
- (d) A performer required to travel on a public holiday or any other day on which the employee would otherwise be rostered off work, will, unless paid according to the provisions of this clause for work on that day, be entitled to payment of an amount equivalent to 8.3% of the employee's weekly wage in addition to the employee's weekly wage for the week.
- (e) If a company dancer is required by the employer to travel on a public holiday, the employee will be given a day off in the following week, provided that if a day off instead is not provided, the employee will be paid 8.3% of the weekly wage in addition to the wage for the week for travel of up to three hours duration, and 1/38th of the weekly wage for each half hour or part thereof for travel in excess of three hours.
- (f) A performer whose rostered time off falls on a public holiday as provided for in this clause will be allowed an additional day off at a time to be agreed
- (g) between the employer and the employee, or be paid an additional day's pay instead within seven days of the holiday.
- (h) Employees engaged as casuals will be entitled to payment for work on public holidays of double the performance rate per performance or double the hourly rate for rehearsals with a minimum payment as for four consecutive hours.

**22.4** All work done by a musician on a public holiday must be paid for at double ordinary time rates. This condition applies to full-time, part-time and casual employees.

### **22.5 Production and Support staff**

- (a) All employees who work on a public holiday, whether part of an ordinary roster or work cycle or not, will be paid at the rate of double time, with a minimum payment as for four hours.
- (b) An employer and their employees may agree to substitute another day for any prescribed by the NES. For this purpose, the consent of the majority of affected employees will constitute agreement. An agreement will be recorded in writing and be available to every affected employee.

## Live Performance Award 2010

**PART 4:  
PERFORMERS & COMPANY  
DANCERS**

**LPA COMMENTARY**

**PERFORMERS & COMPANY DANCERS**

NOTE:

- There is no longer an upper salary limit for Performers in the Award. Under the Act, all federal employees that are high income earners (earning over **\$145,400** per annum as of 1 July 2018, which is indexed annually) are award-free. Only the National Employment Standards apply to these employees.
- There is no longer a standard contract in the Award. Members can use the standard contract in the Performers Agreement or one of LPA's standard contracts which can be accessed through the LPA Members website.

*Amended: June 2014*

**CLAUSE 23.1 – TYPES OF EMPLOYMENT**

There are no longer specific engagement provisions for Performers and Casual Performers are no longer restricted to being employed for less than a week. Performers and Company Dancers can now be employed on a weekly part-time basis.

**CLAUSE 24 – MINIMUM WAGES**

Supernumeraries are now considered to be weekly part-time employees or casual employees under the Award. The minimum wages rate includes up to 19 hours of work for the part-time or casual hourly rate.

The classification structure of the Live Performance Award 2010 (LPA) reflects the classification and salary structure of approximately 15 pre-reform Awards. Under the new Modern Award and the provisions of the *Fair Work Act 2009*, the majority of employees will be covered by the LPA or another Modern Award. As a general rule, positions with the title "Manager" will be exempt from Award coverage, except those positions listed in Schedule B. Wages and Allowances will be increased by the Fair Work Commission (FWC) on 1 July each year.

*Date of effect: 1 January 2010*

*Amended July 2015*



## **Part 4—Performers and Company Dancers**

### **23. Types of employment**

**23.1** An employee may be engaged:

- (a) weekly for the run of the play or plays;
- (b) on an ongoing weekly basis;
- (c) on a weekly part-time basis; or
- (d) as a casual.

### **23.2 Engagement by the week**

To become entitled to be treated as being engaged by the week, employees will perform such work as is agreed upon in writing or, in the event that no such agreement has been entered into, such work as the employer will from time to time require on the days and during the hours usually worked by the class of employees affected.

### **23.3 Contract of engagement**

An employee may only be engaged for a run of the play if such engagement is confirmed in writing.

## **24. Minimum wages**

**24.1** Minimum wages for Performers and Company Dancers are set out in clause 13—Classifications and minimum wages.

**24.2** Classification descriptors are set out in Schedule B—Classifications.

**24.3** Performers engaged in school tours are to be paid the minimum rates set out as follows:

- (a) Rehearsals—the performer rate as set out in clause 13.
- (b) Performances—the performer rate as set out in clause 13 plus 10%.

### **24.4 Weekly part-time employees (supernumeraries)**

- (a) Supernumeraries engaged by the week will be paid an hourly rate of \$26.75 or a weekly part-time rate of \$508.20 for up to 19 hours work.
- (b) Supernumeraries on tour will be paid the Performer Category 1 Grade 1 rate of pay together with the applicable allowances as prescribed by clause 14.5—Travel allowances.

**LPA COMMENTARY**

**CLAUSE 24.6 - CASUALS**

Casual employees receive a casual loading of 25%

Amended July 2014

**CLAUSES 24.6(b) - REHEARSALS**

This rate is expressed as a % of the standard rate. The standard rate is defined in clause 3 – Definitions as a Live Performance Employee Level 4. Please refer to the Wages and Allowances Summaries for the current rates of pay.

*Date of effect: 2 March 2011*

**24.5 Juveniles**

**(a) 14 years of age and under**

- (i) Not on tour—45% of the total minimum weekly rate for a Performer Category 1, Grade 1 or Grade 2.
- (ii) On tour—applicable adult rate.

**(b) Over 14 years of age and under 16 years of age**

- (i) Not on tour—55% of the total minimum weekly rate for a Performer Category 1, Grade 1 or Grade 2.
- (ii) On tour—applicable adult rate.

**24.6 Casuals**

**(a) Performance**

Casual employees who are aged 16 years or over will for each performance be paid 16.7% of the appropriate per week adult rate, plus 25%. The maximum length of such of performance will be three hours (2.5 hours for Company Dancers) exclusive of any making up or taking off.

**(b) Rehearsals**

- (i) An employee aged 16 years or over who is required by the employer to rehearse will be paid at the rate set out below for one hour (minimum) and over one hour at the rate set out below per half hour or part thereof:

	<b>% of</b> <b><u>standard rate</u></b>
Total minimum hourly rate	4.8

- (ii) Provided however that if the employee desires to leave the rehearsal before the completion of one hour's rehearsal, payment will be at the rate set out below per half hour or part thereof for the time actually worked:

	<b>% of</b> <b><u>standard rate</u></b>
Total minimum half hourly rate	2.4

**(c) Casual employees on tour**

Casual employees on tour will be paid the applicable allowances in clause 14.5—Travel allowances of this award.

**LPA COMMENTARY**

**CLAUSE 24.6(d) –CASUAL SUPERNUMERARIES**

This rate is expressed as a % of the standard rate. The standard rate is defined in clause 3 – Definitions as a Live Performance Employee Level 4. Please refer to the Wages and Allowances Summaries for the current rates of pay.

**CLAUSE 24.6(e) – CANCELLATION OF ENGAGEMENT**

A casual Performer or Company Dancer has to be given at least 10 days notice of the cancellation of a performance, otherwise the employee will receive payment in full.

**CLAUSE 24.8 – SPECIAL PROVISIONS FOR COMPANY DANCERS**

LPA sought to introduce a new clause (c) Progression into this clause from the old Dance (Company) Award that would provide that an employer has the discretion not to progress a Company Dancer to the next level under certain circumstances. The Commissioner asserted that the existing classification descriptors in Schedule B of the Award provide the employer with the discretion to promote, or not promote, Company Dancers based on professional experience and artistic competence. Therefore, no variation to the Award is necessary.

*Date of effect: 1 January 2010*

**(d) Supernumeraries**

Casual supernumeraries will be paid as set out below per hour with a minimum call for performance of three hours and for rehearsals of two hours:

	<b>% of <u>standard rate</u></b>
Total minimum hourly rate	3.4

**(e) Cancellation of engagement**

If an engagement that has been made is cancelled by the employer at a time which is less than 10 days prior to the date of the performance for which the employee was engaged, the employee will receive payment in full. If an open air performance is postponed because of rain the employee will receive half the fee if such an employee is re-engaged for subsequent presentation not later than three weeks after the date of the postponement, otherwise the employee will receive full payment.

**24.7 Auditions**

If the number of auditions requested by an employer exceeds three in a 28 day period, the potential employee will be paid for each audition at the casual rate as prescribed in clause 24.6(b) of this award.

**24.8 Special provisions for Company Dancers**

**(a) Training level**

- (i)** Engagement of dancers at the training level will be subject to agreement between the employer concerned and the prospective employee. Such agreement will include all aspects of the traineeship including the wage to apply. In reaching agreement on specific traineeships it is envisaged that the standard principles applying to traineeships will apply.
- (ii)** An employee engaged at the Training Level will be paid in the range of \$703.10 to \$824.80 per week.
- (iii)** Provided that Company Dancer who is aged less than 16 years and who is engaged as a full-time member of the company will be paid no less than the relevant adult minimum wage.

**(b) Auditions**

An employee required to participate on an audition panel must be paid for their participation at the appropriate call rate.

**LPA COMMENTARY**

**CLAUSE 25.2 – NUDE ALLOWANCE**

The nude allowance has been extended to cover Performers. This allowance is expressed as a % of the standard rate. The standard rate is defined in clause 3 – Definitions as a Live Performance Employee Level 4. Please refer to the Wages and Allowances Summaries for the current rates.

**CLAUSE 25.5(a) – SPECIAL ATTENDANCES – OTHER THAN TELEVISION OR RADIO**

Prospective employees may be required to attend wardrobe fittings, photography etc. prior to starting employment. For such engagements, the prospective employee is paid at the casual rehearsal rate pro rata including travelling time for a minimum of 3 hours. Travel costs (if required) are also paid.

*Date of effect: 1 January 2010*

## **25. Special allowances**

### **25.1 Wardrobe and make-up**

- (a) The employer will reimburse employees for the cost of:
- (i) special body make-up other than facial make-up if required by the employer;
  - (ii) make-up for supernumeraries; and
  - (iii) shoes of suitable physical requirement as required by a performance.

Provided that where the employer provides special body make-up, make-up for supernumeraries or required shoes, such reimbursement will not apply.

- (b) An employee required by the employer to provide any suit, frock, costume, stockings, leotards and fleshings, wigs and appurtenances and haberdashery or other article, not in the employee's possession will be reimbursed their actual cost. Provided that where these articles are already in the employee's possession, the employer will pay the employee an allowance of \$8.20 per week for each suit, frock, costume, stockings, leotards and fleshings, wigs and appurtenances and haberdashery or other article supplied by that employee with a minimum payment of \$10.50 per week plus a sum of \$4.15 per week for each pair of shoes, where such articles are required by the employer to be used in performance or rehearsal.

### **25.2 Nude allowance**

An employee who agrees to appear nude or semi-nude will be paid no less than an additional 2.75% of the [standard rate](#) per week.

### **25.3 Assistant Stage Manager**

An employee who as part of their duties is required by the employer to act as an Assistant Stage Manager will be paid 5.4% of the [standard rate](#) per week in addition to the applicable weekly.

### **25.4 Driver**

An employee who is required to perform work as driver or a person in charge whilst on tour will be paid not less than 7% of the [standard rate](#) per week in addition to the per week rate.

**LPA COMMENTARY**

**CLAUSE 25.5(b) – SPECIAL ATTENDANCES – OTHER THAN TELEVISION OR RADIO**

Employees required to attend publicity calls, wardrobe fittings etc. during employment will attend such calls with the time being counted as time worked with a minimum of 2 hours to be credited to the employee. However, if such attendances are during or immediately before or following a rehearsal or performance call, such time will be counted as continuous time worked and no additional minimum call shall be credited to the employee.

**CLAUSE 25.7 – RECORDING A LIVE PRODUCTION**

If a production is to be recorded for commercial use, agreement is to be reached with employees on any payments to be made, and such agreement is to be recorded in writing. Where employees are union members, the union is to be notified which in effect means the union will negotiate fees on behalf of their members.

Contact LPA if you would like a template recording agreement.

*Date of effect: 1 January 2010*

*Updated July 2014*



## **25.5 Special attendances—other than television or radio**

### **(a) Attendance prior to commencement of employment**

- (i)** A prospective employee may be required by the employer for the purposes of wardrobe, fitting, publicity, public relations, still photography or any matter connected with an employer's business (except radio or television appearances and/or interviews), to attend at the employer's place of business, a still photographic studio or in another location agreed between the employer and the prospective employee.
- (ii)** The employer will pay the prospective employee for the time of such attendance, including travel time, pro rata at the casual rehearsal rate prescribed by clause 24.6—Casuals of this award, with a minimum payment for three hours.
- (iii)** The employer will pay the prospective employee for the cost of travel to any venue or location. Such attendance will be within the ordinary hours of work prescribed in clause 26—Ordinary hours of work and rostering.

### **(b) Attendance during period of employment**

- (i)** If, for the purpose of wardrobe, fitting, publicity, public relations, still photography or any other matter connected with the employer's business the employer directs an employee to attend for that purpose, the time of such attendance will be counted as time worked with a minimum time to be credited to an employee of two hours for each attendance. However, should such a special attendance be required before, during or after a rehearsal or performance call, the time so spent will be counted as time worked.

## **25.6 Making of an advertisement—television or radio**

Where a segment of a production in which an employee is performing is filmed or otherwise recorded for publicity purposes and is made up to an advertisement for the production for the purposes of being transmitted by television or radio as paid advertisement the employee will be paid 4.9% of the [standard rate](#) per hour with a minimum payment as for four hours.

## **25.7 Recording of a live production**

- (a)** Engagement under the terms of this award is for live performance. Except as provided for in clause 25.6, recording of a live production will be subject to the following:

## Live Performance Award 2010

- (i) the terms and conditions for a recording of a live production will be agreed between the employer and the employee and such agreement will be made in writing prior to the commencement of such recording; and
- (ii) reasonable written notice by the employer of the intention to record a live production in accordance with this clause will be given prior to the proposed recording to employees.

**25.8 Special allowances applicable to Performers**

**(a) Understudy allowances**

- (i) The following definitions apply:

**star role** is a role where the salary of the employee concerned exceeds the upper salary limit figure prescribed in clause 3—Definitions and interpretation

**leading role** is a role where the salary of the employee concerned exceeds double the Performer Category 1 Grade 1 rate prescribed in Level 7 of clause 13—Classifications and minimum wages but is less than the upper salary limit figure as set out in the preceding provision

**supporting role** is a role where the employee is required to speak more than 40 words or sing solo more than 40 bars of music in the aggregate, or dance solo more than 40 bars of music in the aggregate. A supporting role includes a situation where an employee performs such a role as part of a duo, trio or quartet.

**minor supporting role** is a role of lesser requirements than those that apply for a supporting role

**swing performer** is an employee who is engaged to understudy multiple roles in a production and who does not normally appear costumed on stage before an audience during the performance

- (ii) **Weekly allowance**

If an employee is required by the employer to act as understudy, the employee will be paid an additional amount for each part as follows:

<b>Part understudied</b>	<b>% of <u>standard rate</u> per week</b>
Star role	6.78
Leading role	4.84
Supporting role	2.91
Minor supporting role	2.32

## Live Performance Award 2010

**(iii) Per performance allowance**

If an employee is required to perform in a part in which they are acting as understudy, the employee will be paid an additional amount per performance as follows:

<b>Part performed</b>	<b>% of <u>standard rate</u> per performance</b>
Star role	14.54
Leading role	9.68
Supporting role	5.82
Minor supporting role	4.64

- (iv) Agreement may be reached between a swing performer and the employer that the employee can appear costumed on stage once during the performance for the duration of one musical number. Such appearance will not exceed 10 minutes duration.

**(b) Dance Captain allowance**

A member of the ensemble of performers who acts as Dance Captain or who under the direction of the employer or the employer's representative supervises the work of the ensemble of performers will be paid not less than 5.18% of the standard rate per week in addition to the per week rate.

**25.9 Special allowances applicable to Company Dancers**

**(a) Shoe allowance**

The employer will reimburse employees the cost of:

- (i) pointe shoes as required;
- (ii) at least eight pairs of flat ballet shoes per year; and
- (iii) appropriate footwear for use on non-dance surfaces where a work is specifically choreographed for such a surface.

Provided that where the employer provides the above shoes/footwear, such reimbursement will not apply.

**(b) Deputy Ballet Master/Mistress**

- (i) A member of the company of dancers who acts on a regular basis as Deputy Ballet Master/Mistress and who, under the direction of the Artistic Director, supervises classes and performs other related additional duties, will be paid not less than 12.19% of the standard rate per week in addition to the per week rate.

## Live Performance Award 2010

## Live Performance Award 2010

- (ii) A member of the company of dancers who, on the direction of the Artistic Director supervises classes on an irregular basis will be paid a fee of not less than 6.09% of the [standard rate](#) per class in addition to the per week rate.

**LPA COMMENTARY**

**CLAUSE 26.2(a) – ORDINARY HOURS OF WORK & ROSTERING (PERFORMERS)**

- (i) The ordinary hours of work have reduced from 40 hours a week to **38 hours a week**, and there is no longer provision for a 48 hour week in the week prior to the opening of a production. However, clause 28.1(c) of the Award provides for the averaging of hours over the life of the production or 12 months, whichever is less. Therefore, if a production runs for 4 months, the employer can average the hours the employees work over that period of 4 months.
- (ii) Any days from Monday to Sunday are ordinary days of work in the week. Work can be performed on a Sunday however penalties must be paid for such work. Work should not be worked on more than 6 days in a week, otherwise a penalty must be paid for work on the 7<sup>th</sup> day.
- (iii) No more than 8 ordinary hours can be worked in a day, otherwise penalties must be paid.
- (iv) The ordinary hours of work for Performers are from 9.00 am until 11.15 pm. Time worked outside this spread of hours attract penalty payments.
- (v) The minimum time credited for a **whole time performance** is 2.5 hours, with an additional 45 minutes for dressing up and dressing down. Therefore, the total minimum time credited is at least 3.15 hours.
- (vi) The minimum time credited for a **performance up to 1 hour** is now 1 hour and 45 minutes under the Award. The old Actors (Theatrical) Award did not specifically provide for such a performance.

*Date of effect: 1 January 2010*



## 25.10 Adjustment of expense related allowances

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Wardrobe and make-up allowance	Clothing and footwear group

## 26. Ordinary hours of work and rostering

**26.1** A prospective employee may be required by the employer to attend for the purposes of wardrobe, fitting, publicity, public relations, still photography or any matter connected with an employer's business (except radio or television appearances and/or interviews) and will be paid for such attendance, including travel time, pro rata at the casual rehearsal rate prescribed by clause 24.6 of this award, with a minimum payment for three hours.

### 26.2 Performers

#### (a) General conditions

- (i) The ordinary hours of work are 38 in any one week.
- (ii) Such hours will be worked on not more than six days in any one week.
- (iii) Such hours will not exceed eight in any one day.
- (iv) Such hours of work will be worked between the hours of 9.00 am and 11.15 pm.
- (v) The minimum time to be credited to an employee for each whole time performance or dress rehearsal given will be 2.5 hours plus 30 minutes prior to the commencement of the performance for dressing and making up, and 15 minutes at the conclusion of the performance for dressing down.
- (vi) The minimum time to be credited to an employee for each performance up to one hour in duration or dress rehearsal will be one hour plus 30 minutes prior to the commencement of the performance for dressing and making up, and 15 minutes at the conclusion of the performance for dressing down.

**LPA COMMENTARY**

**CLAUSE 26.2 – PERFORMERS**

**(b) Country tour**

When a Performer is on a country tour (ie. touring to regional venues), they can travel between 9.00 am and 7.00 pm. If they have a performance on the same day that they are required to travel, they can only travel between the hours of 9.00 am to 4.00 pm.

**(c) Travel time to be counted as time worked**

Time that is spent travelling is counted as though it were time worked for the purposes of the Award. This includes time that is taken for breaks during travel. The time that is counted as “work” commences when the employee leaves their residence/accommodation and finishes when they arrive at their destination accommodation/residence.

**(d) Organisation of work**

- During rehearsals the hours are continuous apart from a 1 hour (or 1.5 hours if taken after 4.00pm) unpaid meal break. Therefore, an employer cannot call an employee to work in the morning and then in the evening without going into overtime.
- An 11 hour break must be given between completion of one day’s work and the commencement of another day’s work.

*Date of effect: 1 January 2010*

## Live Performance Award 2010

- (vii) The minimum time to be credited to an employee for each rehearsal or any extra session such as wardrobe and photo calls, will be two hours provided that where extra calls are held either immediately before or after a rehearsal or performance call they will only be counted as time worked.
- (viii) The employer will have the right to lay off an employee at the applicable award rate for not more than three weeks during such period of 26 weeks (pro rata for any period of less than 26 weeks), provided that:
  - lay-off time may be accumulated to a total of three weeks; and
  - a lay-off will only be applied on movement of a production from one theatre to another, excepting by mutual agreement between the employer and the employee.
- (ix) Payments made in a broken week or where a production is transferred from one location to another and where layoff time is not applicable will be on the following basis:
  - rehearsal days at the beginning of the engagement will be paid at one sixth of the employee's salary;
  - performances at the conclusion of the engagement will be paid at one eighth of the employee's salary; and
  - where a production is transferred from one location to another and where layoff time is not applicable and where a mix of performing and non-performing days occur, the employee will receive their ordinary performance salary in full.

### (b) Country tour

- (i) If engaged on a country tour, travel on any day on which a performance or rehearsal is to be held will occur between the hours of 9.00 am and 4.00 pm.
- (ii) On any other day between 9.00 am and 7.00 pm.

### (c) Travel time to be counted as time worked

Should the employer during the course of a normal day's work require the employee to travel, the travelling time inclusive of regular stops for comfort and refreshment will be counted as time worked.

### (d) Organisation of work

- (i) A break of 11 clear hours between completion of one day's work and the commencement of another will be given to the employee.
- (ii) On a day on which no performance is worked, the hours worked will be continuous except for breaks prescribed.

**LPA COMMENTARY**

**CLAUSE 26.2(f)(vii)-(viii) – PERFORMERS**

The Award provides that school tour performers can work up to 10 performances of 1.5 hours each, or 2 hours taking into account discussion after a performance. However, 3 hours and 15 minutes will still need to be credited for each performance.

*Date of effect: 2 March 2011*

## Live Performance Award 2010

- (iii) Within the ordinary daily hours of work employees may be required to undertake:
- vocal and physical warm up immediately prior to a performance or dress rehearsal sufficient to minimise injury; and
  - classes and/or notes reasonably required to be completed by the employer.

- (e) No rehearsal may be held on a day when more than one performance of a substantially whole time nature is given, except in the case of an emergency and with the agreement of the majority of the cast.

**(f) School tours**

- (i) The ordinary hours during which a school performance may be held will be within the usual school hours in that school and up to one hour after such usual school hours, provided that an employee is not required to be at any central pick-up point more than one hour before the usual school starting time.
- (ii) There will be a break of at least 40 minutes clear of any dressing, undressing, making up or taking-off make-up provided for lunch.
- (iii) There will be a break of at least 15 minutes between the conclusion of one performance and the commencement of another performance in the same school.
- (iv) An employee will not, on any one day, be required to make more than one move from one school to another.
- (v) An employee will travel as directed by the employer by mutual agreement between the employee and the employer.
- (vi) Where an employee requests to make their own way to the next working venue and the employer agrees, the employee will be paid an allowance equal to the money that would have been paid by the employer on their travelling by the form of transport by which the employer did or would have transported the employee or the remainder of the company.
- (vii) The number of performances constituting a week's work will not exceed 10 when such performances are each of no longer duration than 1.5 hours (or two hours inclusive of discussion subsequent to performance); or
- (viii) The number of performances constituting a week's work will not exceed 15 when such performances are each of no longer than one hour.
- (ix) Each performance in excess of 10 or 15 (as the case may be) will be paid for at the rate of 1/10th of the employee's weekly wage extra.

**LPA COMMENTARY**

**CLAUSE 26.3 – COMPANY DANCERS**

**(a) Organisation of work**

- (i) The ordinary hours of work for Company Dancers are 38 hours per week. This includes 5 dance classes per week. The maximum number of hours that can be worked on any one day without going into daily overtime is 7 hours and 36 minutes.
- (v) The minimum time to be credited to a Company Dancer for any performance or dress rehearsal is 3 hours and 45 minutes. This includes time for warming up, making up, dressing and taking make-up off etc.
- (viii) Company Dancers must be given a 12 hour break between finishing work on one day and starting work the next day. This break can be reduced to 11 hours, but only if they are travelling or if they are doing work in schools.

**(b) Times of Rehearsal**

Where no performances are given during the week, rehearsals will be held Monday to Friday. Ordinary hours will be 38 hours per week and 7 hours and 36 minutes per day. The hours of work will not commence before 9.30am and will conclude by 6.30pm. If the employer and employees agree, rehearsals may be conducted in the afternoon and evening, commencing no earlier than 1.30pm and concluding by 10.30pm except in the week prior to the commencement of a new production when rehearsal will conclude by 11.00 pm. A lunch break of at least 1 hour will be given to employees between 12.00 pm and 2.00pm.

*Date of effect: 1 January 2010*

## 26.3 Company Dancers

### (a) General conditions

- (i) The ordinary hours of duty will not exceed 38 in any one week. No more than seven hours and 36 minutes on any one day will be worked.
- (ii) The employer will use their best endeavours to schedule five classes a week that will be compulsory and counted as time worked.
- (iii) In circumstances where the performance and rehearsal schedule of an individual employee is onerous or where some other special circumstance exists, the employer may provide by prior arrangement that an employee need not attend a scheduled class. Such non-attendance is to be without loss of pay.
- (iv) Any non-attendance at a class (without reasonable explanation) other than in accordance with the provisions of this subclause, or as elsewhere prescribed in this award, will be subject to loss of pay.
- (v) The minimum time to be credited to an employee for a whole time performance or dress rehearsal will be 3.75 hours (inclusive of warm-up, dressing and making up, and warm-down, undressing and removing make-up). An employee will be credited with 3.75 hours of working time for each performance in which the employee takes part.
- (vi) Thirty minutes will be allowed for a warm-up/class before the employee will be required to perform or rehearse.
- (vii) The preparation time referred to herein and the warm-up time provided under clause 26.3(a)(vi) will be regarded in total and it will be at the discretion of the employee as to the order in which preparation and warm up are carried out.
- (viii) A break of 12 hours clear of warm-up, dressing, making up, warm-down, undressing and removing make-up will be given to an employee between completion of one day's work and the commencement of another, provided that in the case of travelling and/or schools work on the following day the break may be reduced to 11 hours if necessary.

### (b) Times of rehearsal

During a week in which rehearsals only are held and during which no performance is given, the following provisions will apply:

- (i) The maximum number of hours worked per week will be 38.

**LPA COMMENTARY**

**CLAUSE 26.3 – COMPANY DANCERS**

**(b) Times of Rehearsal**

- (viii)** The 44 hour production week is still available for Dance Companies to use in the week before a new production opens, which may be worked over 6 days from Monday through to and including Saturday.

*Date of effect: 1 January 2010*



## Live Performance Award 2010

- (ii) Rehearsals will be held on Monday to Friday provided that a rehearsal may be held on a Saturday if the employee is given a day off instead on the following Monday or on some other day as is mutually agreed. As far as possible such other day off will be in the week following the Saturday rehearsal.
- (iii) A maximum of seven hours and 36 minutes will be worked on any one day.
- (iv) Rehearsals will not commence before 9.30 am and will be concluded by 6.30 pm provided that by mutual agreement between the employer and employee rehearsals may be held in the afternoon and evening and in such cases will commence not earlier than 1.30 pm and will conclude by 10.30 pm, except in the week prior to commencement of a new production where rehearsals will end by 11.00 pm.
- (v) There will be a break of at least one hour for lunch to be given between the hours of 12 noon and 2.00 pm.
- (vi) Where afternoon and evening rehearsals are agreed upon under clause 26.3(b)(iv) there will be a dinner break of 1.5 hours to be given between the hours of 5.00 pm and 7.30 pm provided that the length of such break may be varied by mutual agreement between the employer and the employee. However, in no case will the dinner break be less than one hour.
- (vii) When more than one rehearsal call or call for other work is made on one day, an interval of one hour will be given to employees after each four hour period of work. The said interval will be clear of any dressing, undressing, redressing, make-up or other work.
- (viii) There will be a 15 minute rest/tea break given in the morning following class and a 15 minute break given during the afternoon or evening rehearsal session.
- (ix) In the period of one week prior to commencement of a new production, a maximum of 44 hours may be worked in the six days, Monday to Saturday inclusive.
- (x) No rehearsal may be required on Christmas Day or Good Friday.
- (xi) All rehearsals will be regarded as continuous from the starting time to the finishing time each day, except by mutual agreement.

### (c) Rehearsal and performance

- (i) The maximum number of ordinary hours worked in any week in which performances and rehearsals take place will not exceed 38 hours.
- (ii) A maximum of seven hours and 36 minutes will be worked on any one day.

## Live Performance Award 2010

## Live Performance Award 2010

- (iii) No rehearsal may be held on a day when more than one whole time performance is held except in the case of an emergency cast replacement.
- (iv) On any day in which one performance only is given, one rehearsal/session of four hours may be given by the employer except as otherwise provided in this award. Such rehearsal/class will not commence before 10.30 am unless otherwise agreed the employee's rehearsal on any such day will end no later than four hours prior to the call for the next performance of the employer's production in which the employee will appear.

### (d) Performance

- (i) The ordinary hours during which a performance may be held will be from 10.00 am (commencement of a performance) to 11.30 pm (conclusion of a performance) on any six days Monday to Saturday. Should a performance extend beyond 11.30 pm the employee will receive a rate of double time for all time worked after 11.30 pm.
- (ii) There will be a break of not less than 45 minutes clear of warm-up, dressing, undressing, make-up or taking off make-up between the conclusion of one performance and the commencement of another performance on the same day except if the parties agree otherwise.
- (iii) If there is a break of less than two hours between the conclusion of one performance and the beginning of the next performance on the same day, the employer will provide the employee with a satisfactory meal. Alternatively, the employer may pay to the employee an amount of \$17.97 instead of the said meal.
- (iv) A performance will not exceed 3.75 hours in duration, provided that in the case of a performance with two intervals, the maximum performance time will be four hours. Such 3.75 or four hours will include warm-up, dressing and making up time and taking off make-up and undressing time as specified in clause 26.3(a).
- (v) An employee will be credited with at least 3.75 hours of working time for each performance.

## Live Performance Award 2010

**26.4 Number of performances**

- (a) The maximum number of performances for which the ordinary weekly rate is paid will be:

	<b>Performance length</b>	<b>Maximum number of performances</b>
Performers	A substantially whole time production or pantomime	8
	Up to one hour in duration	12
Company Dancers	A substantially whole time production or pantomime	7
	Up to one hour in duration	10

- (b) Where additional performances are undertaken as part of the ordinary hours of work the following provisions will apply:

- (i) in the case of additional performances of a substantially whole time production (excepting pantomimes), the employee will be paid 12.5% of their ordinary weekly wage for each additional performance above eight;
- (ii) in the case of additional performances of pantomime exceeding eight but not exceeding 12, the employee will be paid an additional 12.5% of their ordinary weekly wage for the first performance exceeding eight and then an additional 6.25% of their ordinary weekly wage for each performance in excess of the ninth performance in any such week; and
- (iii) in the case of performances up to one hour in duration, an additional payment of 10% of their weekly wage for each performance above 12.

- (c) If an employee is engaged by the weekly engagement to appear in two or more different contemporaneous productions for the same employer, each production will be deemed to be a separate week's engagement for the purpose of this clause, but this will not apply when one of the productions is a pantomime, in which case the employee will be paid 12.5% of their weekly wage additional for each performance exceeding eight in a week.

**LPA COMMENTARY**

**CLAUSE 27 - BREAKS**

1. The maximum number of hours an employee can work continuously without a break is 4 hours, or 5 hours if the employer and a majority of employees agree. If agreement is reached, it should be recorded in writing.
2. The break should be at least 1 hour, but if it is taken after 4.00 pm the break must be at least 1.5 hours.
3. This is a meal break and as such it is unpaid and not counted as time worked.
4. "Reasonable refreshment breaks" would typically be 10 or 15 minutes and would be allowed after approximately 2 hours of continuous (unbroken) rehearsal. The break may be given to a group of employees or individually at the discretion of the employer. Therefore, an employer has some discretion to give refreshment breaks to groups of employees at different times.
7. The minimum break between travel and work is now 2 hours (not 4) before working for both Performers and Company Dancers, except for travel to Perth where there will be no work on that day.

*Date of effect: 1 January 2010*

**26.5 Rosters**

**(a) Performers**

An employee will be given at least 24 hours' notice of any change in their rehearsal and/or performance scheduled hours except during the seven day period prior to the opening performance in which case 12 hours' notice will be given.

**(b) Company Dancers**

(i) A roster of performance and rehearsal hours will be provided by the employer weekly, giving the employee at least three days' notice of their forthcoming schedule. A copy of such roster will be made available to each employee and a master copy will be prominently displayed on a noticeboard.

(ii) An employee will be given at least 48 hours' notice of any change in their rehearsal and/or performance hours except in the case of emergency, or during the seven day period prior to the opening performance, in which case 12 hours' notice will be given.

**27. Breaks**

**27.1** No employee will be required to work continuously in excess of four hours, or by agreement with a majority of the cast involved five hours, without a substantial break for a meal, recuperation and/or refreshment.

**27.2** A break will be of a minimum duration of one hour if taken before 4.00 pm or 1.5 hours if taken after that time.

**27.3** Such breaks will be unpaid.

**27.4** During rehearsals a reasonable refreshment break will be provided to employees to be counted as time worked.

**27.5** There will be a break of not less than 45 minutes clear of dressing, undressing, making up or taking off make-up between the conclusion of one performance and the commencement of another performance on the same day. If there is a break of less than two hours between the conclusion of one performance and the beginning of the next performance the employer will provide an employee with a satisfactory meal, including tea and coffee. Alternatively, the employer may pay to the employee an amount of \$27.93 instead of the said meal.

**27.6** There will be a clear break between the conclusion of a full rehearsal and the commencement of another full rehearsal or performance of one and a half hours.

**27.7 Breaks for travel**

The minimum breaks for travel will be as set out below, except where the employer and the employee agree otherwise:

**LPA COMMENTARY**

**CLAUSE 28.1 – OVERTIME & PENALTY RATES (PERFORMERS)**

(c) Although there is no longer a provision for a 48 hour week in the week prior to the first public performance of a production, this provision can be used instead. It allows an employer to average the number of weekly hours over 12 months or the life of the production, whichever is less. Therefore, if there is a production that rehearses for 1 week and has 2 weeks of performances, it may be that:

Week 1 – 45 hours

Week 2 – 32 hours

Week 3 – 32 hours

TOTAL WEEKLY HOURS = 109 hours

AVERAGE HOURS = 36.333 hours (no weekly overtime payable)

If an employee is paid for an extra performance under clause 26.4(b), no further overtime is payable for that work.

*Date of effect: 1 January 2010*



## Live Performance Award 2010

- (a) There will be no work done by an employee on a day in which travel to and from the following places occurs:
  - (i) Sydney/Perth;
  - (ii) Brisbane/Perth;
  - (iii) Melbourne/Perth.
- (b) Where an employee is required to travel other than as specified above, a two hour break will be given between arrival at the destination point and any rehearsal call or performance.

### 27.8 Adjustment of expense related allowances

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Meal allowance	Take away and fast foods sub-group

## 28. Overtime and penalty rates

### 28.1 Performers engaged by the week or for a longer period

- (a) All time worked in excess of eight hours on any one day will be paid for at the rate of time and a half for the first two hours and double time thereafter.
- (b) Subject to 28.1(c) all time worked in excess of 38 hours in any one week will be paid at the rate of time and a half for the first two hours and double time thereafter.
- (c) All hours worked during an engagement, or each 12 month period from the first date of engagement whichever is the earlier, (including rehearsals and performances) in excess of an average of 38 hours per week will be paid at the rate of time and a half at the completion of the engagement or the completion of each 12 month period from the first date of engagement, whichever is the earlier.

**Live Performance Award 2010**

**28.2 Performers engaged casually other than supernumeraries**

- (a) An employee required to work beyond the hour of 11.30 pm or who is detained for work or any other reason beyond the hour of 11.30 pm by the employer will be paid at the rate of 1/12th of the appropriate casual rate for such employee for each half hour or part thereof beyond 11.30 pm that the employee is required to work or is detained, in addition to any other payments for overtime, etc. and the ordinary fee applicable to such employee.
- (b) If a performance is longer than three hours or if the employee is detained by the employer during an engagement for a performance for more than three hours (excluding dressing/making up and dressing/removing make-up etc.) the employee will be paid at the rate of one sixth of the casual rate for each half hour or part thereof in excess of three hours that the employee is detained by the employer.

**28.3 General—applicable to weekly or casual engagements**

Where any of the intervals or breaks due to an employee as set out in this award are curtailed or extended beyond the hours specified, overtime at the rate of time and a half will be paid for each 15 minutes or part thereof of such curtailment or extension.

**28.4 Company Dancers**

**(a) Engaged by the week or for a longer period**

- (i) The employee's hourly rate of pay will be calculated by dividing the weekly rate by 38.
- (ii) For the purposes of calculating overtime, each day's overtime will stand alone. Overtime will be calculated strictly on the basis of actual time worked.
- (iii) Where an employee is paid for an extra performance pursuant to clause 26.4(b)(i) and (iii), the hours paid for in relation to such extra performance will not be taken into account when calculating the weekly total of hours.
- (iv) All work performed in excess of the prescribed weekly total of hours or outside the prescribed spread or range of hours or as the result of a prescribed break or interval having been curtailed or extended beyond the hours specified will be paid for at the rate of time and a half for the first two hours and double time thereafter.
- (v) In the case of an emergency cast replacement where a rehearsal is held on a day when two performances are given, overtime will be paid at the rate of time and a half for the first two hours and double time thereafter for the duration of the rehearsal period.

**LPA COMMENTARY**

**CLAUSE 28.5 - SUNDAYS**

Where a Performer or Company Dancer is employed on a weekly basis and **works on a Sunday which is in addition to the weekly hours of work** (ie. their ordinary days of work are Monday to Saturday, with Sunday normally being the rostered day off), a penalty payment of one third of the employees' weekly wage will be paid in addition to the week's wage.

**Where Sunday is part of the working week** (ie. the employees are working Tuesday to Sunday, with Monday as their rostered day off), the weekly employee is paid a penalty of one sixth of the weekly wage in addition to the week's wage.

**Casual employees** who work on a Sunday are to be paid double the rate prescribed for performance or rehearsal as the case may be.

*Date of effect: 1 January 2010*

**(b) Engaged casually**

An employee required to work beyond the hour of 11.30 pm or who is detained for work or any other reason beyond the hour of 11.30 pm by the employer will be paid at the rate of 1/12th of the appropriate casual rate for such employee for each half hour or part thereof in addition to any other payments for overtime, etc. and the ordinary fee applicable to such employee.

**28.5 Sundays**

For any work done on Sundays, including rehearsal, the minimum rates per performance or three hour rehearsal session will be as follows:

**(a) Payment for employees engaged by the week or for a longer period**

- (i)** Where the time worked is in addition to the employee's prescribed weekly hours of work, the employee will be entitled to payment of an amount equivalent to one third of the employee's weekly wage in addition to the employee's wage for the week.
- (ii)** Where the time worked is part of the employee's prescribed weekly hours of work, the employee will be entitled to payment of an amount equivalent to one sixth of the employee's wage for the week in addition to the employee's wage for the week, provided also that the employee's hours of work in that week will be arranged to provide the employee with one complete day off duty in that week.

- (b)** If an employee is required by the employer to travel on a Sunday, the employee will be given a day off instead in the following week, provided that if a day off is not provided, the employee will be paid 8.3% of the employee's weekly wage in addition to the wage for the week for travel of up to three hours duration, and 1/38th of the weekly wage for each half hour or part thereof for travel in excess of three hours.

**(c) Payment for employees engaged casually**

Employees engaged casually will be entitled to payment for work on Sundays as follows:

- (i)** for a performance, double the prescribed minimum rate per performance;  
or
- (ii)** for a rehearsal, double the prescribed casual hourly rate rehearsal rate with a minimum payment as for four consecutive hours.

**Live Performance Award 2010**

# **PART 5: MUSICIANS**

**LPA COMMENTARY**

**MUSICIANS**

NOTE:

- There is no longer a distinction between Orchestral Musicians and Musician – both are covered by this Award. This Part is based on the provisions of the Musicians' General Award 1998.

**CLAUSE 29.2 – WEEKLY EMPLOYEES**

The minimum number of calls for a weekly employee in a week is 6. Musicians can work up to 2 calls of 3 hours each a day without incurring overtime (provided that the required breaks are given) on any days from Monday to Saturday. Any work on a Sunday is to be paid at the appropriate penalty rate under clause 34 (double time).

**CLAUSE 29.3 – PART-TIME EMPLOYEES**

A part-time employee can work between 2 and 6 calls per week for a minimum of 4 weeks. Any such engagement must have a contract outlining the conditions of employment. A part-time employee receives the same entitlements as a weekly employee pro rata according to the average number of hours worked per week over the period of the engagement. They can work up to 2 calls of 3 hours each a day without incurring overtime (provided that the required breaks are given) on any days from Monday to Saturday. Any work on a Sunday is to be paid at the appropriate penalty rate under clause 34 (double time).

*Date of effect: 1 January 2010*



## **Part 5—Musicians**

### **29. Types of employment**

#### **29.1** A musician may be engaged:

- (a) weekly for the run of the play or plays in a particular place or places;
- (b) on an ongoing weekly basis;
- (c) on a weekly part-time basis; or
- (d) casually.

#### **29.2** Weekly employees

- (a) A musician will be engaged for a minimum of six calls per week and paid as a weekly employee for at least one week and where the employee so requires, the employer will confirm the engagement in writing.
- (b) The weekly wage prescribed by this award will be paid to each weekly employee who is ready and willing to perform the work provided by the award during any week, whether the employee is required to perform such work or not. This provision will apply to all engagements whether for open air performances or otherwise.
- (c) Where a musician is engaged as a weekly employee for any fixed number of calls per week, the number of calls will not be reduced, except by notice of not less than one week.
- (d) Where a musician is required by an employer to go on tour, such employee will be deemed to be in the employment of the employer for at least from the time at which the employee begins to travel on the tour and to remain in such employment at least until they finish travelling on the return from the tour.

#### **29.3** Part-time weekly employee

- (a) A part-time weekly employee will be an employee engaged for a minimum of two calls per week and a maximum of six calls per week for a period of not less than four consecutive weeks. Where the employee so requires, the employer will confirm the engagement in writing.
- (b) A part-time weekly employee will be entitled to the same conditions of employment as a weekly employee is entitled to under this award. Such entitlement will be proportionate to the average hours worked per week by the employee.

**LPA COMMENTARY**

**CLAUSE 29.4 – CASUAL EMPLOYEES**

A casual employee is engaged by the call with a minimum call of 3 hours. If the employer is cancelling the engagement, notification must be given to the employee at least 48 hours before the engagement is to take place. The notice should be given in person or sent to an address nominated by the employee to the employer. If such notice is not given, then payment for the engagement must be paid in full. Any work on a Sunday is to be paid at the appropriate penalty rate under clause 34 (double time).

**CLAUSE 30 – MINIMUM WAGES**

Where the Award refers to the “appropriate rate”, this is the hourly rate for either a Musician, a Musician required to accompany artists, a Principal Musician, or a Conductor-Leader, whichever is relevant.

**CLAUSE 30.3 – CASUAL EMPLOYEES**

The casual loading is 25% as of 1 July 2014.

**CLAUSE 30.4 – CONDUCTOR-LEADER**

The Conductor-Leader allowances are less than was provided for in the Musicians’ General Award 1998 because there is now a new standard rate for this position in the Classifications that includes a 20% loading. The other allowances have accordingly been reduced to take this into account.

*Date of effect: 1 January 2010*

*Updated July 2014*

**29.4 Casual employees**

- (a) Where an employee is not engaged as a weekly employee or part-time weekly employee, such employee will be engaged as a casual employee.
- (b) At least 48 hours' notice will be given of cancellation of a casual engagement either personally or to an address to be notified to the employer by the employee at the time of engagement, failing which, full payment will be made.

**30. Minimum wages**

**30.1** Minimum wages for Musicians are set out in clause 13—Classifications and minimum wages.

**30.2 Weekly employees**

Musicians will be engaged by the call. The call rate is calculated by dividing the appropriate minimum weekly wage by 24 with a minimum payment as for three hours. The minimum weekly wage for musicians is the hourly wage below multiplied by the number of hours worked.

<b>Minimum hourly wage</b>	<b>\$</b>
Musicians	40.00
Musicians accompanying artists	42.11
Principal Musicians	46.98
Conductor—Leader	50.97

**30.3 Casual employees**

The minimum rate of pay for all casual employees as defined will be the total minimum hourly rate prescribed in clause 30.2 of this award plus 25% with a minimum of three hours for each engagement.

**30.4 Conductor-Leader**

A Conductor-Leader will receive the following allowances:

- (a) Where there are three or more musicians, the allowance will be the appropriate rate plus 13.3%.
- (b) A Conductor-Leader employed in grand opera, grand ballet, concerts or religious performance will receive the appropriate rate plus 10%.

**30.5 Instrumentalist playing alone**

The rate for an instrumentalist playing alone will be the appropriate rate plus 17.5%.

**LPA COMMENTARY**

**CLAUSE 31 – SPECIAL ALLOWANCES**

Some allowances are expressed as a percentage of the standard rate, which is defined in clause 3 – Definitions as Live Performance Employee Level 4. This means that when minimum rates are increased on 1 July each year, the allowances will increase automatically.

Please refer to the Musicians Allowances Summary sheet for the current calculation of these allowances.

*Date of effect: 1 January 2010*

**30.6 Repetiteur rate**

The rate for a repetiteur will be the appropriate rate plus 12.5%.

**31. Special allowances**

**31.1** Where an employee is required to double on one or more additional instruments, (provided that a percussionist will receive such allowance in respect of each of the xylophone, vibraphone, tympani, and either (but not both) marimba and glockenspiel), the following doubling allowance will apply:

- (a) For each instrument supplied by the musician, the rate will be 1.8% of the [standard rate](#) per additional instrument per call or 14.5% of the total minimum call rate, whichever is the greater.
- (b) For each instrument supplied by the employer, the rate will be 1.3% of the [standard rate](#) per additional instrument per call or 9.5% of the total minimum call rate, whichever is the greater.

**31.2 Supply of music**

An employee required to supply their own music will receive the following allowance:

- (a) weekly employee—1.3% of the [standard rate](#) per week; or
- (b) casual employee—4% of the [standard rate](#) per call.

**31.3 Soloists**

An employee performing solo in an orchestra will receive 0.7% of the [standard rate](#) per instrument per call.

**31.4 Setting up time**

Where a drummer or electronic instrumentalist is required by the employer to move their equipment to and from their place of employment, they will receive in addition to their normal rate an allowance equal to 15 minutes of work at the ordinary time rate of pay.

**31.5 Employee playing in specialty entertainments**

Where an engagement customarily accepted as speciality is for more than six days, the rate will be the appropriate rate plus 66.7%.

**31.6 Broadcast, telecast, filmed or recorded**

Where an employee is broadcast, telecast, filmed or recorded from a theatre or other place of entertainment during the course of such entertainment, in addition to the appropriate rate of pay the employee will receive:

**LPA COMMENTARY**

**CLAUSE 31.6 – BROADCAST, TELECAST, FILMED OR RECORDED**

Following the Application to Vary the Award by the Musicians' Union of Australia (MUA), Fair Work Australia (FWA) approved variations to the broadcast allowances payable to musicians. The variations reinstate a number of broadcast allowances that were payable under the pre-reform Musicians' General Award. The variations also clarify the payments to be made to musicians when doubling and provide for the payment of 25% extra per instrument per call.

In addition the clause clarifies LPA's previous position that there is no payment for an archival and/or reference recording.

However, in order to utilise this clause, employers must include in the Musician's employment contract a clause stating that the employer intends to record the performance for archival and/or reference purposes and that the Musician will not receive any additional payment for the making of this recording.

*Date of effect: 14 January 2011*

## Live Performance Award 2010

- (a) for a televised performance:
  - (i) 14.02% of the [standard rate](#);
  - (ii) if a Principal, the payment in clause 31.6(a)(i) and an additional 25%;
  - (iii) for doubling, 25% extra per additional instrument per call; and
  - (iv) for overdubbing, an additional minimum call fee,
- (b) for a radio broadcast:
  - (i) as a minimum payment for a call up to three hours in which there can be 21 minutes of finished material, 15.12% of the [standard rate](#);
  - (ii) if a Principal, the payment in 31.6(b)(i) and an additional 25%;
  - (iii) for doubling, 25% extra per additional instrument per call;
  - (iv) for overdubbing, an additional minimum call fee; and
  - (v) for any time worked in excess of the initial three hour call in respect of completion of the initial 21 minutes of finished recording, payment at the rate of time and a half, with a minimum payment of one hour,
- (c) for simulcast (radio and television, single use within Australia):
  - (i) 28.82% of the [standard rate](#) extra; and
  - (ii) if a Principal, the payment in clause 31.6(c)(i) and an additional 25%.
- (d) for an audio-visual or visual recording of a performance:
  - (i) 20.70% of the [standard rate](#);
  - (ii) if a Principal, the payment in clause 31.6(d)(i) and an additional 25%; and
  - (iii) for doubling, 25% extra per additional instrument per call;
  - (iv) for overdubbing, an additional minimum call fee,
- (e) for an audio recording of a performance:
  - (i) 15.12% of the [standard rate](#) for which there can be 21 minutes of finished material;
  - (ii) if a principal, the payment in clause 31.6(e)(i) and an additional 25%; and
  - (iii) for doubling, 25% extra per additional minimum call fee;
  - (iv) for overdubbing, an additional minimum call fee;

**Live Performance Award 2010**



## Live Performance Award 2010

- (v) to record more than 21 minutes of finished material, the employee will be paid at time and a half for a minimum of one hour,
- (f) the provisions of clause 31.6 of this Award will not apply to an archival and/or reference recording as defined. Subject to an agreement between an employer and an employee who participated in an archival and/or reference recording the employer will pay those employees no less than the applicable rate set out in paragraphs (a) to (e) above.

### 31.7 Upkeep allowances

- (a) Each employee (including a casual employee) who supplies one or more instruments must be paid an instrument upkeep allowance of \$13.21 per instrument per week for weekly employees and \$1.66 per instrument per call for casual employees.
- (b) A harpist employed on a weekly basis must be paid an instrument upkeep allowance of \$29.28 per week and a casual employee must be paid an allowance of \$4.36 per call.
- (c) Where a percussionist provides the complete percussion kit, or a substantial part of the percussion kit, as defined in clause 3—Definitions and interpretation, they must be paid in addition to their ordinary rate of pay an allowance of \$10.56 per week.

### 31.8 Adjustment of expense related allowances

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Upkeep allowance	Tools and equipment for house and garden component of the household appliances, utensils and tools sub-group

## 32. Ordinary hours of work and rostering

- 32.1 Subject to the overtime provisions of this award, the duration of a call will not exceed three hours and will include all intervals and breaks as time worked.

**LPA COMMENTARY**

**CLAUSE 33 – BREAKS**

If the call is for more than 2 hours, a 15 minute rest break must be given within the call.

There must be at least a 1 hour break between each show per day.

**CLAUSE 34 – OVERTIME & PENALTY RATES**

Overtime includes (i) where a call is in excess of 3 hours, (ii) where a call extends beyond 11.45 pm or (iii) any call in excess of two in one day.

The term '**ordinary rate**' in relation to rates of pay refers to the hours of work which an employee may be required to work without incurring overtime penalties, and the wage rate payable for those hours (weekly, hourly, per call).

Any Musician working on a **Sunday** is paid at the appropriate rate at double time. They are also paid a penalty for travelling on a Sunday unless they are paid a minimum call of 3 hours at double time (ie. as if they were working that day). Please refer to the Wages and Allowances Summaries for the current rates.

*Date of effect: 1 January 2010*

**33. Breaks**

- 33.1 All employees will be entitled to a break of not less than 15 minutes in each call of more than two hours.
- 33.2 For the purposes of clause 33.1, break will mean and include a period in which an employee will not be required to perform musical services and will count as time worked.
- 33.3 At least one hour's break will be observed between two or more calls per day. For the purposes of this clause, the break will not count as time worked.

**34. Overtime and penalty rates**

- 34.1 All time worked on Monday to Saturday inclusive over or outside the prescribed time of any call will be paid for at time and a half the appropriate ordinary rate, provided that work performed after 12 midnight and before 7.00 am will be paid at double the appropriate ordinary rate.
- 34.2 Any call in excess of two worked on any one day will be paid for at the rate of time and a half.
- 34.3 Overtime payments will be made in respect of each quarter hour or part thereof, provided that where the time limit of a call is exceeded by five minutes or less, such time will not be counted for the purposes of this clause.
- 34.4 If an employee is directed to appear at a call which commences within one hour of the conclusion of a call at which such employee has appeared, the employee will be paid for such second call at the overtime rate prescribed herein unless there has been a complete change of audience between such two calls.

**34.5 Sundays**

- (a) Except as otherwise provided in this award, all work performed on Sundays will be paid for at the following rates:
  - (i) For weekly employees, at double the appropriate rate payable for work performed on ordinary days with a minimum payment as for three hours.
  - (ii) For casual employees, at double the appropriate rate payable for work performed on an ordinary day.
- (b) If an employee is required by their employer to travel on a Sunday, such employee will, unless paid in pursuance of the provisions of this award for working on the said Sunday, be paid \$11.30 in addition to the allowance elsewhere prescribed by this award.

## Live Performance Award 2010

**34.6 Adjustment of expense related allowances**

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Travel allowance	Transport group

## Live Performance Award 2010

**PART 7:  
PRODUCTION & SUPPORT  
STAFF**

**LPA COMMENTARY**

**PRODUCTION & SUPPORT STAFF**

**NOTE:**

- The terms and conditions of employment for Production & Support Staff are based on the old Live Theatre & Concert Award 1998. This Part covers all other employees in the live performance industry, and contains specific provisions for employees of “**crewing service employers**” and “**sound and/or lighting companies**” with regard to overtime and penalty rates.

**CLAUSE 42 – TYPES OF EMPLOYMENT**

**1. Full-time employees**

Full-time employees are engaged on the basis of an on-going employment relationship for a maximum of 38 hours a week (which may be averaged according to an agreement to implement a cyclic roster) before overtime rates apply. They can work between 4 and 12 hours a day, but receive double time for work on a Sunday.

**2. Part-time employees**

Part-time employees are engaged on the basis of an on-going employment relationship for a maximum of 38 hours a week before overtime rates apply. This clause overrides clause 10.3 which provides that a part-time employee incurs overtime for working more than the agreed number of hours in a week. They receive equivalent pay and conditions as a full-time employee pro rata.

**3. Casual employees**

Casual employees are engaged by the hour for a minimum of 3 hours. This is a reduction in the minimum call for those employees that were previously engaged under the Live Theatre and Concert Award of one hour. However, this is not a reduction in their take-home pay. LPA has advised Members to use a common sense approach in implementing the 3 hour call; for instance, if there is a production running from 2009 and into 2010 and beyond, then it is recommended that the 4 hour call be maintained. However, new productions can use the 3 hour call. This will be a matter for each individual employer to decide based on their requirements. Please refer to the Production and Support Staff Wages Summary for the current casual rates. On Sundays, casuals are paid at double time for a minimum of 4 hours.

**4. Seasonal employees**

Seasonal employees (both full-time and part-time) are employees engaged for a specific period which should be determined in advance by agreement. If a seasonal employee is offered concurrent contracts of employment with the same employer, the period of employment shall be treated as continuous for entitlement purposes. When engaging seasonal employees, the contract of employment should state that the engagement is a seasonal contract for specific period. Seasonal employees do not receive the casual loading and are engaged on the same terms and conditions of employment as for full-time and part-time employees.

*Date of effect: 1 January 2010*



## **Part 7—Production and Support Staff**

### **42. Types of employment**

#### **42.1 Full-time employees**

A full-time employee will be engaged by the week and subject to the provisions of clause 45—Ordinary hours of work and rostering.

#### **42.2 Part-time employees**

- (a) A part-time employee is an employee engaged by the week and who works an agreed usual number of ordinary hours less than 38 each week.
- (b) A part-time employee working ordinary time will be paid per hour 1/38th of the weekly wage prescribed by this award for the level of work performed.
- (c) A part-time employee who by agreement works more than the agreed usual number of ordinary hours in any week will be paid at their ordinary rate of pay, subject always to any payment prescribed in clause 47—Overtime and penalty rates.
- (d) A part-time employee who performs work in excess of the ordinary hours for a full-time employee as prescribed in clause 45—Ordinary hours of work and rostering will be paid at overtime rates in accordance with the provisions in clause 47—Overtime and penalty rates.
- (e) The minimum time worked for each period of work will be not less than four consecutive hours for which a weekly employee is rostered.
- (f) In addition to other award entitlements, a part-time employee will receive pro rata annual leave, personal/carer's leave and public holiday entitlements.

#### **42.3 Casual employees**

- (a) A casual employee is engaged by the hour for a minimum of three consecutive hours. The employment of a casual employee may be terminated without notice by either the employee or employer subject to the payment of the minimum amount of wages and subject to the employee working the time covered by the payment of such wages.
- (b) The appropriate per hour rate for casual employees is calculated by dividing the rate per week, as specified in clause 43—Minimum wages, for the relevant classification level by 38 and adding a 25% loading on such hourly rates so calculated.

#### **42.4 Seasonal employees**

- (a) A seasonal employee will mean a weekly employee engaged either as full-time or part-time on a fixed term contract.

**LPA COMMENTARY**

**CLAUSE 44 – SPECIAL ALLOWANCES**

Some allowances are expressed as a % of the standard rate (Live Performance Employee Level 4). This means that when minimum rates are increased, the allowances will increase automatically.

**CLAUSE 44.1 – TOOLS AND EQUIPMENT ALLOWANCE**

The Award was varied to reinstate the tool allowance for employees other than heads of departments who are required to supply basic tools.

*Date of effect: 15 April 2011*

**CLAUSE 44.2 – TRANSMISSION OR RECORDING ALLOWANCE**

**Production employees** are those employees employed on the production whose skills are required to successfully record or broadcast the performance. Employees whose work is ancillary to the production are not entitled to the allowance, for example, front of house employees. Where the compilation of a single final product is the result of recordings taken over several performances, only one payment is made.

The presumption is that the transmission or recording allowance is payable. In order to be exempt from paying the transmission or recording allowance under clause 44.2(iv), then the Employer is required to give at least 7 days' notice that the allowance will not be payable because the recording is for publicity purposes. Ideally this should be a written notice (dated) displayed on the notice board.

The Award was varied to clarify that only one transmission or recording allowance is payable for a recording, even if the recording occurs over a number of performances.

*Date of effect: 15 April 2011*

- (b) The duration of a seasonal contract will be determined in advance by agreement and the following provisions will apply:
  - (i) the contract may be renewed as often and for such time periods as agreed between the employer and employee;
  - (ii) conditions of employment will be those applying to weekly employees covered by this award; and
  - (iii) where a new contract is offered and taken up immediately after the expiry of a previous contract, employment is treated as if it was continuous for entitlement purposes.

### **43. Minimum wages**

Minimum wages for Production and Support Staff are set out in clause 13—Classifications and minimum wages.

### **44. Special allowances**

#### **44.1 Tools and equipment allowance**

- (a) The employer will pay an allowance of \$9.05 per week to heads of departments required to supply their own tools. Other employees required to supply basic tools (limited to a hammer, brace/punch driver and wrench) will be paid an allowance of \$0.93 per day.
- (b) Employees will be reimbursed the cost of all mechanical property or light requirements including torches. Provided that such reimbursement will not be payable where the employer provides all mechanical property or light requirements including torches.

#### **44.2 Transmission or recording allowance**

- (a) Where a performance is to be recorded or transmitted by any means, including but not limited to radio or television transmission or film, video or audio recording, and whether transmitted live or recorded for later transmission, exhibition, distribution or sale, all production employees who perform work on that performance will receive a recording allowance of 15.9% of the [standard rate](#) in addition to the rate they would otherwise have received for that performance, provided that:
  - (i) The recording allowance will only be paid when the recording transmission takes place during a performance;
  - (ii) One payment will only be made under the provisions of clause 44.2(a) even though recording of a production may take place over a series of performances;

**Live Performance Award 2010**

## Live Performance Award 2010

- (iii) where a performance is recorded for sound only or transmitted by radio only, the provisions of clause 44.2(a) will apply to sound technicians only;
- (iv) the provisions of clause 44.2(a) will not apply to:
  - extracts of a performance or performances which are recorded or transmitted for news, publicity or promotional purposes, including paid television or radio commercials for that performance or season of performances;
  - a performance or performances which are recorded for training, educational or archival purposes, provided that the hirer undertakes in writing to the employer that such recordings will not be used for public broadcast, exhibition, distribution or sale; and
  - occasions when the only purpose of the hiring is the recording or transmission of a performance, even though a non-paying audience may be present;
- (v) the recording allowance is not to be recorded as ordinary pay for the purpose of this award insofar as the calculation of overtime, penalty, shift and annual leave loading payments are concerned; or
- (vi) where the employer proposes an exclusion from payment of the recording allowance as provided for in clause 44.2(a)(iv), the employer will provide all production employees with seven days' notice of any such performance provided that where such recording or transmission is arranged with less than seven days' notice, all production employees will be provided with notice as soon as arrangements for the relevant recording or transmission are made.

### 44.3 Adjustment of expense related allowances

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Tools and equipment allowance	Tools and equipment for house and garden component of the household appliances, utensils and tools sub-group

**LPA COMMENTARY**

**CLAUSE 45 – ORDINARY HOURS OF WORK & ROSTERING**

**1. Weekly employees**

The **ordinary hours of work for weekly employees** are 38 hours per week and can be worked on any day Monday through to and including Sunday (although a Sunday loading applies) between the hours of 7.00am and 12 midnight. The minimum number of ordinary hours which may be worked shall be 4 hours and the maximum 12 hours on any day, to be worked in no more than 2 periods.

Weekly employees are entitled to 2 rostered days off for every period of 7 days. If a weekly employee is working Monday to Saturday, they will receive a penalty according to clause 47.1(b) for work on a rostered day off in addition to their weekly rate. If a weekly employee is working Tuesday to Sunday, they will be paid at the rate of double time for a minimum of 4 hours for work on the Sunday in addition to their weekly rate.

**2. Weekly employees (cyclic rostering)**

If you decide that you wish to roster employees over a period greater than 1 week and up to 4 weeks, you have to get agreement with the majority of your employees. Ordinary hours may be rostered on the basis of an average of 38 per week over 14 days, 21 days or 28 days. If you get agreement with your employees, you may work different arrangements of the 38 hour week in different areas of your operations.

**3. Casual employees**

The minimum call for a casual employee is 3 hours and the maximum number of ordinary hours to be worked on any day shall be 8 hours. Casual employees are not paid per performance. Short performances are defined as those performances which have a duration of 60 minutes or less. Where there are at least 3 short performances to be worked by casual employees on the same day, and the break between any 2 of those performances is at least 2 hours, those employees are paid a minimum call of 2 hours for each such performance.

*Date of effect: 1 January 2010*

## **45. Ordinary hours of work and rostering**

### **45.1 Weekly employees**

- (a) The ordinary hours of work for weekly employees will be 38 per week.
- (b) Ordinary hours may be worked on any of the days Monday through to and including Sunday between the hours of 7.00 am and 12 midnight. Provided that a Production & Support Staff employee engaged specifically as a cleaner may be rostered to work ordinary hours between 12 midnight and 7.00 am and will receive an additional loading of 20% of their ordinary hourly rate for such work.
- (c) The number of ordinary hours to be worked on any day will be a minimum of four hours and a maximum of 12 hours to be worked in no more than two periods, each period to be continuous except as to meal hours occurring therein.
- (d) Full-time employees will be entitled to two rostered days off work for every period of seven days, which will be consecutive wherever reasonably possible, provided that such rostered days off may by agreement accumulate up to a maximum of six days.
- (e) Weekly employees must be notified seven days in advance by the employer of their working shifts by means of a roster placed in the staff room for each employee's perusal. At least seven days' notice must be given to the employee should any alteration of the working hours be intended, except in the case of emergency.
- (f) **Cyclic rostering**
  - (i) The implementation of cyclic rostering (that is, working hours other than as provided for in clauses 45.1(a) to (e)) will be determined at the enterprise where the employer and the majority of employees concerned agree. The ordinary hours of work will be an average of 38 per week and will not exceed 152 hours over 28 consecutive days.
  - (ii) Different arrangements may apply to different areas of operation within the enterprise.
  - (iii) An agreement pursuant to clause 45.1(f)(i) will be recorded in writing and be available to all employees.

### **45.2 Casual employees**

- (a) The ordinary hours of work for casual employees will be a minimum of three consecutive hours per day. Ordinary hours may be worked on any of the days Monday through to and including Sunday between the hours of 7.00 am and 12 midnight.
- (b) Casual employees are not paid per performance. Employees may be required to work on a number of performances during an engagement.
- (c) Where casual employees are required to work on the same day on at least three short performances (as defined), and there is a break between any two of the

**LPA COMMENTARY**

**CLAUSE 46 – BREAKS**

The Award was varied to clarify that if an employee (whether casual or weekly) works more than 5 hours straight without a meal break, the missed meal break is paid at double time. Therefore, weekly employees would be paid a missed meal break penalty of double time for one hour whereas casual employees would be paid a missed meal break penalty of double time for half an hour. After that, they return to ordinary time. This provision does not apply to continuous shift workers who work 24 hours over 7 days a week.

*Date of effect: 15 April 2011*



short performances of at least two hours, those employees will be paid a minimum call for each such performance of two hours.

## **46. Breaks**

### **46.1 Weekly employees**

- (a) Weekly employees, in the ordinary course of work, will be entitled to meal intervals as follows:
  - (i) Lunch—one hour continuous between 12.00 noon and 3.00 pm;
  - (ii) Dinner—one hour continuous between 5.00 pm and 8.00 pm;
  - (iii) Supper—half an hour between 10.00 pm and 12.00 midnight.; and
  - (iv) Breakfast—one hour continuous between 7.00 am and 9.00 am but for cleaners, half an hour between 8.00 am and 9.00 am.
- (b) The span of hours during which meal breaks may be taken may be varied where specific work requirements necessitate it.
- (c) Provided that those employees working during the preparation of a stage production for the period of seven days preceding the opening of the production will be paid at the rate of time and a half instead of the aforesaid double time except on Sundays when double time and a half will be paid.
- (d) No part of the time that should be allowed as a meal interval will be counted as part of the ordinary hours of work within the meaning of clause 45—Ordinary hours of work and rostering.

### **46.2 Casual employees**

Casual employees who work for more than four hours will be entitled to a minimum meal break of 30 minutes.

### **46.3 All employees**

- (a) In the event an employee is required to work more than five continuous hours without a suitable meal interval, the employee will be paid for the period which should be allowed as the meal interval at the rate of double time. This clause will not apply to employees engaged to work on a continuous shift roster.
- (b) Provided that those employees working during the preparation of a stage production for the period of seven days preceding the opening of the production will be paid at the rate of time and a half in lieu of the aforesaid double time except on Sundays when double time and a half will be paid.
- (c) No part of the time that should be allowed as a meal interval shall be counted as part of ordinary hours of work within the meaning of Clause 45—Ordinary hours of work and rostering.

**LPA COMMENTARY**

**CLAUSE 47.1 – OVERTIME & PENALTY RATES (WEEKLY EMPLOYEES)**

- (a) Weekly employees can be rostered between 4 – 12 hours per day. If an employee is rostered to work for more than 12 hours or are required for work for more than their rostered number of hours (if less than 12) then overtime is payable. For instance, if an employee is rostered to work 8 ordinary hours on a day, any time over this will be overtime and any time less than this will still be paid.
- (b) Should an employee work on a rostered day off, the employee shall be paid time and a half for the first 4 hours and double time thereafter.
- (c) If an employee completes the number of ordinary hours in a workcycle (38, 76, 114 or 152) and is required to work overtime within the workcycle and it is not work on the employees' rostered day off, overtime is paid at the rate of time and a half.
- (d) A 10 hour break is required where an employee works overtime following an ordinary shift. Whilst this clause when read implies working an overtime shift in addition to an ordinary time shift the intention is that where any overtime is worked following an ordinary time shift, a ten hour break is required before the next day's work commences.

*Date of effect: 1 January 2010*

**46.4 Meal allowance**

- (a) The employer will pay an employee (other than a cleaner) a meal allowance of \$17.97 for each meal interval occurring before the employee’s finishing time where the employee has worked between 12 midnight and 8.00 am and who continues to work beyond 8.00 am. Provided that such meal allowance will not be payable where the employee commences work at or after 5.00 am.
- (b) The employer will pay an employee a meal allowance of \$17.97 where the employee is required to work two performances back to back. Provided that such meal allowance will not be payable where the employer provides a suitable meal.

**46.5 Adjustment of expense related allowances**

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Meal allowance	Take away and fast foods sub-group

**47. Overtime and penalty rates**

**47.1 Weekly employees**

Weekly employees will receive overtime calculated to the nearest quarter of an hour as follows:

- (a) for all work performed in excess of the rostered daily hours—at the rate of time and a half for the first two hours and double time thereafter;
- (b) for all work performed on a rostered day off—at the rate of time and a half for the first four hours and double time thereafter;
- (c) for all the work performed in excess of the weekly total of hours—at the rate of time and a half; and
- (d) for part-time employees who perform work in excess of 38 ordinary hours per week—time and one half for the first two hours and double time thereafter.

**LPA COMMENTARY**

**CLAUSE 47.4 – SUNDAYS**

Ordinary hours or overtime may be worked on a Sunday. All work performed on a Sunday shall be paid at double time, with a minimum payment of 4 hours.

If work commences on a Saturday and continues into the Sunday, the 4 hour minimum call for Sunday work does not apply. ONLY work which commences on a Sunday requires a minimum 4 hour call to be paid.

Clause 47.4(c) as it currently stands does not account for the situation where an employee is required to travel on their rostered day off. As such, LPA is applying to vary the provision as follows:

“If an employee engaged by the week is required by the employer to travel on a Sunday or any other rostered day off, the employee will, unless paid in pursuance of clause 47.4(a) for working on a Sunday, be paid for travelling, 10% of the prescribed per week rate in addition to the travelling allowance payable in respect of the Sunday or rostered day off.”

**CLAUSE 47.5 – SOUND AND/OR LIGHTING COMPANIES**

Touring sound and/or lighting company employees are those that carry out work either at the factory or away from the factory directly in connection with the presentation of live performance and is designated by the employer as a tour employee. The only overtime penalty that such employees are entitled to under this Award is a 17.5% penalty averaging component for all purposes in the Award. This overrides clause 47 in relation to these employees.

Factory sound and/or lighting company employees carry out work at the employer’s usual place of business, where sound, lighting, audio visual or other equipment of the employer is located, or who works away from the employer’s usual place of business not directly in connection with the presentation of live performance. Such employees accrue time of in lieu instead of overtime at the rate of one hour for each hour worked in excess of the 152 hour work cycle (over a period of 4 weeks).

*Date of effect: 1 January 2010*

**47.2 Casual employees**

- (a) A casual employee will receive overtime calculated to the nearest quarter of an hour.
- (b) A casual employee who works in excess of eight hours per day will be paid overtime at the rate of time and a half for the first two hours and double time thereafter.
- (c) A casual employee who works more than 38 hours (excluding overtime worked and paid on a daily basis) in any one week will be paid for all hours in excess of 38, time and a half for the first four hours and double time thereafter.

**47.3 All employees**

- (a) Where an employee is detained at work until it is too late to travel home by the last train, tram or other regular public conveyance, the employer will provide proper conveyance to the employee's home for the employee so detained.
- (b) An employee will, wherever possible, be given 24 hours' notice that the employee is required to work all night after an evening performance.
- (c) For all work performed between 12 midnight and 7.00 am except as provided in clause 45.1(b) – employees will be paid at the rate of double time.
- (d) An employee who works overtime on any day will be entitled to a break of 10 hours before resumption of work on the following day. Should such employee be required to resume work before the expiration of 10 hours the employee will be paid at the rate of double time until the employee is released from duty for such period.

**47.4 Sundays**

- (a) All employees who are required to commence work on a Sunday, whether part of an ordinary roster or work cycle, or not part of a roster cycle, or overtime, will be paid at the rate of double time, with a minimum payment for four hours.
- (b) Where an employee commences work on a Saturday and continues to work without a break on Sunday, the minimum four hour call for work performed on a Sunday as prescribed in clause 47.4(a) will not apply.
- (c) If an employee engaged by the week is required by the employer to travel on a Sunday, the employee will, unless paid in pursuance of clause 47.4(a) for working on a Sunday, be paid for travelling, 1/10th of the prescribed per week rate in addition to the travelling allowance payable in respect of the Sunday.

**47.5 Special overtime and penalty provisions for sound and/or lighting companies**

- (a) Touring sound and/or lighting employees will receive a 17.5% penalty averaging component instead of overtime and penalty provisions for all purposes of this award.
- (b) Full-time factory sound and/or lighting employees will accrue time off instead of overtime at the rate of one hour for each hour worked in excess of the 152 hour work cycle.

**LPA COMMENTARY**

**CLAUSE 47.6 – CREWING SERVICES EMPLOYEES**

The definition of a “crewing services employer” can be found in clause 3 of the Award. Employees of such an employer receive a penalty payment of 52.5% for all purposes of this Award for working between 11.00pm and 6.00am.

*Date of effect: 1 January 2010*

**47.6 Special overtime and penalty provision for crewing services employees**

A crewing services employee will receive a 52.5% penalty payment instead of overtime and penalty provisions for all purposes of this award for work between 11.00 pm and 6.00 am.

## Live Performance Award 2010



# **PART 8: SCHEDULES**

**SCHEDULE A – DELETED**

**SCHEDULE B – CLASSIFICATIONS**

**SCHEDULE C – SUPPORTED WAGE SYSTEM**

**SCHEDULE D – SCHOOL-BASED APPRENTICES**

**SCHEDULE E – DELETED**

**SCHEDULE F – 2017 PART-DAY PUBLIC HOLIDAYS**

**SCHEDULE G – AGREEMENT TO TAKE ANNUAL LEAVE IN  
ADVANCE**

**SCHEDULE H – AGREEMENT TO CASH OUT ANNUAL  
LEAVE**

**LPA COMMENTARY**

**SCHEDULE B - CLASSIFICATIONS**

The Award may now cover positions that may have been award-free in the past. In particular, clerical and administrative employees in the live performance industry are now covered by this Award. For example:

- Administrative employees – Level 2 to Level 6
- Marketing/publicity assistant – Level 3 or 4
- Accounts clerk – Level 4 or 5
- Marketing/publicity officer – Level 6
- Technical Manager – Level 13

*Date of effect: 1 January 2010*

*Updated July 2014*

## Schedule B—Classifications

### B.1 Live Performance Employee Level 1

#### B.1.1 Production and Support Staff Level 1

- (a) A Production and Support Staff Level 1 employee is a trainee employee who is undertaking:
  - (i) six weeks induction training in the case of a full-time or part-time employee; or
  - (ii) 228 hours induction training in the case of a casual employee.
- (b) The induction training may include information on the enterprise or production, conditions of employment, introduction of supervisors and fellow workers, training and career path opportunities, venue/workshop/plant layout, work and documentation procedures, basic theatre terminology and etiquette, occupational health and safety, equal employment opportunity and quality control/assurance.
- (c) An employee at this level performs routine duties to the level of the employees training:
  - (i) works under direct supervision either individually or in a team environment;
  - (ii) understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviations/faults; and
  - (iii) understands and utilises basic literacy (English) and numeracy skills.
- (d) An employee at this level will undertake training in the following indicative tasks:
  - (i) safely lift and handle scenery and props and/or equipment;
  - (ii) uses selected hand tools;
  - (iii) basic packing and storing techniques;
  - (iv) repetition work on automatic, semiautomatic or single purpose machines or equipment;
  - (v) maintains simple records;
  - (vi) uses hand trolleys and pallet trucks;
  - (vii) apply and comprehend basic theatre terminology and etiquette;
  - (viii) performs general labouring and cleaning duties;
  - (ix) communicate and interact effectively with staff; and
  - (x) effective customer/client service.

## **B.2 Live Performance Employee Level 2**

### **B.2.1 Production and Support Staff Level 2**

- (a)** A Production and Support Staff Level 2 is an employee who has completed the Level 1 induction training or possesses other equivalent experience so as to enable them to perform work within the scope of this level.
- (b)** An employee at this level performs work above and beyond the skills of a Level 1 employee and to the level of the employee's training:
  - (i)** is responsible for the quality of the work allocated to the employee subject to routine supervision;
  - (ii)** works under routine supervision either individually or in a team environment on a limited range of tasks;
  - (iii)** exercises discretion within the employees' level of skills and training; and
  - (iv)** makes decisions in regard to routine matters.
- (c)** Indicative of the tasks which an employee at this level may perform, are the following:
  - (i)** operates flexibly between work areas;
  - (ii)** operates machinery and equipment within the employee's level of skill and training;
  - (iii)** operates mobile equipment including fork-lifts, overhead cranes, tallescopes and winch operation;
  - (iv)** ability to measure accurately;
  - (v)** safely lift and handle scenery and props and/or equipment;
  - (vi)** receive, dispatch, distribute, sort, check, pack, document and record goods, materials and components;
  - (vii)** basic keyboard skills;
  - (viii)** telephonist, receptionist, cashier, administration and information services duties;
  - (ix)** laundry and/or dry-cleaning duties;
  - (x)** intermediate sewing skills and fabric knowledge, whether machine or non-machine, and knowledge of dyeing fabrics;
  - (xi)** cleaning duties using specialised equipment and chemicals;
  - (xii)** ushering, ticket taking, program/concession selling and food and beverage sales;
  - (xiii)** applies theatre terminology and etiquette;

## Live Performance Award 2010

- (xiv) painting and art finishing;
- (xv) dressing; and
- (xvi) costume decoration.

(d) Indicative positions of this level include:

- (i) Basic Crowd Control
- (ii) Car Park Attendant
- (iii) Crewing Employee
- (iv) Mail Room Attendant
- (v) Program Seller
- (vi) Stage Door Attendant
- (vii) Stage Hand
- (viii) Theatre Attendant/Usher
- (ix) Ticket Seller (i.e. an employee required to deal with customer enquiries, sell tickets, handle and balance cash)
- (x) Turnstile Attendant
- (xi) Tour Guide

### **B.3 Live Performance Employee Level 3**

#### **B.3.1 Production and Support Staff Level 3**

- (a) A Production and Support Staff Level 3 employee is an employee who applies knowledge and skills so as to enable that employee to perform work within the scope of this level, and may possess a sub-trade certificate.
- (b) An employee at this level performs work above and beyond the skills of an employee at Level 2 and to the level of the employees' training:
  - (i) solves straightforward problems using readily available information;
  - (ii) works to complex instructions and procedures;
  - (iii) as a team member organises allocated materials and equipment in an efficient and effective manner or works individually under general supervision;
  - (iv) is responsible for the work undertaken; and
  - (v) assists in the provision of on-the-job training to a limited degree.
- (c) Indicative of the tasks which an employee at this level may perform are as follows:
  - (i) uses precision measuring instruments;
  - (ii) machine setting, loading and operation;

## Live Performance Award 2010

- (iii) rigging (certificated);
  - (iv) pyrotechnics (certificated and licensed);
  - (v) welding which requires the exercise of knowledge and skills above Level 2;
  - (vi) inventory and store control;
  - (vii) licensed operation of all appropriate materials/handling equipment;
  - (viii) use of tools and equipment within the scope (basic non-trades) maintenance;
  - (ix) computer operation at a higher level than that of an employee at Level 2;
  - (x) intermediate keyboard and administrative skills;
  - (xi) performs basic quality checks on the work of others;
  - (xii) licensed and certificated for fork-lift, engine driving and crane driving operations to a higher level than Level 2;
  - (xiii) stage door duties;
  - (xiv) sewing and cutting skills and fabric knowledge, whether machine or non-machine at a level higher than Level 2;
  - (xv) advanced lifting and scene/props handling skills;
  - (xvi) scenery, building and prop construction techniques above Level 2;
  - (xvii) identifies and meets customer needs in a prompt and courteous manner;
  - (xviii) the ability to work under limited supervision;
  - (xix) reconciling and balancing cash and cash equivalents; and
  - (xx) following all identified security procedures of all the employer's clients.
- (d) Indicative positions of this level include:
- (i) Accounts Clerk
  - (ii) Assistant Scenic Artist
  - (iii) Booking Clerk
  - (iv) Box Office Customer Service Representatives (CSR)
  - (v) Call Centre CSR
  - (vi) Dispatch Clerk
  - (vii) Group Party Organiser
  - (viii) Marketing Assistant
  - (ix) Mechanist

## Live Performance Award 2010

- (x) Publicity Assistant
- (xi) Specialty Ticketing CSR
- (xii) Stage Door Supervisor
- (xiii) Unqualified Sound and/or Lighting Technician

### **B.4 Live Performance Employee Level 4**

#### **B.4.1 Production and Support Staff Level 4**

- (a) A Production and Support Staff Level 4 employee is an employee who applies knowledge and skills so as to enable that employee to perform work within the scope of this level, and may possess a trade certificate.
- (b) An employee at this level performs work above and beyond the skills of an employee at Level 4 and to the level of the employees' training:
  - (i) solves problems using readily available information;
  - (ii) works to complex instructions and procedures;
  - (iii) as a team member, organises allocated materials and equipment in an efficient and effective manner or works individually under general supervision;
  - (iv) is responsible for the work undertaken;
  - (v) assists in the provision of on-the-job training to a limited degree;
  - (vi) the ability to work with minimum supervision;
  - (vii) an ability to identify and resolve complex service issues; and
  - (viii) well developed verbal communication skills.
- (c) Indicative of the tasks which an employee at this level may perform are as follows:
  - (i) uses precision measuring instruments;
  - (ii) machine setting, loading and operation;
  - (iii) rigging (certificated);
  - (iv) pyrotechnics (certificated and licensed);
  - (v) welding which requires the exercise of knowledge and skills above Level 3;
  - (vi) inventory and store control;
  - (vii) licensed operation of all appropriate materials/handling equipment;
  - (viii) use of tools and equipment within the scope;
  - (ix) computer operation at a higher level than that of an employee at Level 3;
  - (x) superior keyboard and administrative skills;

## Live Performance Award 2010

- (xi) in depth knowledge of ticketing systems and ticketing processes and procedures;
  - (xii) the ability to use customer feedback on products and services to improve service by recommending change to systems and processes;
  - (xiii) assisting with the day to day supervision of other team members; and
  - (xiv) performs basic quality checks on the work of others.
- (d) Indicative positions of this level include:
- (i) Accounts Clerks
  - (ii) Assistant Projectionist
  - (iii) Scenic Artist
  - (iv) Scheduling/Rostering Clerk
  - (v) Sound and/or Lighting Technician

### **B.5 Live Performance Employee Level 5**

#### **B.5.1 Production and Support Staff Level 5/ Production & Support Staff Level 4 (Theatre)**

- (a) A Production and Support Staff Level 5 employee is an employee who holds a trade certificate in a relevant discipline and is able to exercise the skill and knowledge of that trade or an employee who has acquired and can demonstrate the equivalent experience from on-the-job training in relevant theatrical discipline/s.
- (b) An employee at this level works above and beyond an employee at Level 4 and to the level of the employee's training:
- (i) understands and applies quality control techniques;
  - (ii) exercises good interpersonal and communications skills;
  - (iii) exercises keyboard and administrative skills at a higher level than Level 4;
  - (iv) exercises discretion within the scope of this grade;
  - (v) performs work under limited supervision either individually or in a team environment;
  - (vi) able to inspect products and/or materials for conformity with established operational standards; and
  - (vii) operates all lifting equipment incidental to the employees' work.



## Live Performance Award 2010

- (c) Indicative of the tasks which an employee at this level may perform, are as follows:
- (i) works from production drawings, prints or plans;
  - (ii) operates, maintains, sets-up and adjusts all facility and production equipment, including trade construction processes such as set/prop/electrical making;
  - (iii) operate and maintain lifting equipment;
  - (iv) assists in the provision of on-the-job training;
  - (v) a fully multiskilled cutter/tailor/milliner/wigmaker who is required to perform any of the operations involved in the making of a complex whole garment to specifications;
  - (vi) has an advanced understanding of theatre terminology, etiquette and theatre craft;
  - (vii) perform a range of engineering maintenance functions;
  - (viii) operates a console; and
  - (ix) performs a range of administrative duties including production and publicity assistance.
- (d) Indicative positions of this level include:
- (i) Assistant Stage Manager
  - (ii) Board Operator
  - (iii) Experienced Mechanist
  - (iv) Experienced Sound and/or Lighting Technician
  - (v) Experienced Technician
  - (vi) Food and Beverage Manager
  - (vii) Head Fly Operator
  - (viii) Prop Maker
  - (ix) Tailor
  - (x) Wig Maker

## **B.6 Live Performance Employee Level 6**

### **B.6.1 Production and Support Staff Level 6/Production & Support Staff Level 5 (Theatre)**

- (a) A Production and Support Staff Level 6 employee is an employee who holds a trade certificate or equivalent experience and has acquired and can demonstrate specialist knowledge of a variety of procedures and/or techniques gained by additional training or experience in the theatre industry.

## Live Performance Award 2010

- (b) A Production and Support Staff Level 6 employee is required to work above and beyond a tradesperson at Level 5 and to the level of the employee's training:
  - (i) exercises discretion within the scope of this grade;
  - (ii) works under minimal supervision either as an individual or part of a team or as a team leader;
  - (iii) understands and implements quality control techniques;
  - (iv) provides trade guidance and assistance as part of a work team;
  - (v) responsible for providing training in conjunction with trainers;
  - (vi) exercises keyboard and administrative skill at a higher level than Level 5.
- (c) Indicative of the tasks which an employee at this level may perform, are as follows:
  - (i) interprets detailed instructions and procedures for others;
  - (ii) ensures quality standards are met through consistency, timeliness, correctly following procedures, and responsiveness to the client's needs;
  - (iii) readily adapts to change in work procedures and associated technologies;
  - (iv) may use innovation to resolve issues which impact on own work area.
- (d) Indicative positions of this level include:
  - (i) Deputy Heads of Department
  - (ii) Deputy Stage Manager
  - (iii) Front of House Manager
  - (iv) Publicity/Marketing Officer

### **B.7 Live Performance Employee Level 7**

#### **B.7.1 Company Dancer Level 1**

An employee in their first year as a professional dancer who has the appropriate training or equivalent experience and who is engaged to perform as a company member.

#### **B.7.2 Performer Category 1 Grade 1**

- (a) A performer with less than three years experience in the entertainment industry who is employed in theatrical productions performing as directed to an existing script or score choreography and who is required to exercise their artistic skills to a professional standard as required. An employee at this level will have appropriate qualifications or be able to demonstrate they possess skills of an equivalent standard.
- (b) Indicative tasks:

## Live Performance Award 2010

- (i) acting;
- (ii) singing;
- (iii) dancing;
- (iv) skating;
- (v) aquatic performing;
- (vi) understudying; and
- (vii) any other type of performing.

### **B.8 Live Performance Employee Level 8**

#### **B.8.1 Company Dancer Level 2**

A Level 2 employee is a dancer in their second year of professional experience, provided that:

- (a) in addition to professional experience or further training progression from one level to the next is also on the basis of evident competence on artistic grounds; and
- (b) in assessing experience the following will be taken into account:
  - (i) The previous professional experience of the employee in Australia and overseas with subsidised and commercial companies and/or any further study or training undertaken since entry into the dance profession.
  - (ii) The minimum period of time of employment in the year concerned is 36 weeks on a full-time basis or substantially equivalent.

#### **B.8.2 Production and Support Staff Level 7/Production & Support Staff Level 6 (Theatre)**

- (a) A Production and Support Staff Level 7 employee is an employee who holds a trade certificate or equivalent experience together with a relevant Post Trade Certificate or the equivalent skill and competence acquired through a significant period of professional experience in the theatre industry.
- (b) A Production and Support Staff Level 7 employee is required to work above and beyond a Level 6 employee and to the level of the employee's training:
  - (i) understands and implements quality control techniques;
  - (ii) exercises discretion within the scope of this grade;
  - (iii) provides overall supervision and co-ordination of resources and individuals and/or work teams within areas of responsibility;
  - (iv) plans for and arranges training in procedural, technological change and systems for staff in the area of responsibility;
  - (v) effectively handles work that is characterised by occasional peak periods and simultaneous handling of a variety of tasks, usually within one discipline, and with significant interruptions;

## Live Performance Award 2010

- (vi) determines priorities and monitors performance for own and teams work, to ensure the efficient and effective use of allocated resources; and
  - (vii) demonstrates accountability and responsibility for enabling the achievement of business goals within budgetary guidelines.
- (c) The following indicative tasks which an employee at this level may perform are subject to the employee having appropriate trade and post trade training or equivalent experience to enable that employee to perform the particular indicative tasks:
- (i) demonstrates sound communication and/or liaison skills;
  - (ii) demonstrates a good knowledge of relevant terminology;
  - (iii) interprets and conveys instructions and procedures;
  - (iv) reliably represents the work unit;
  - (v) required to use innovation to resolve issues which impact on own work area;
  - (vi) accountable for ensuring overall quality standards are met through the importance of consistency, timeliness, correctly following procedures, and responsiveness to the needs of the client;
  - (vii) accountable for the selection and recruitment of staff;
  - (viii) assesses work performance of staff; and
  - (ix) responsible for occupational, health and safety.
- (d) Indicative positions of this level include:
- (i) Box Office Manager
  - (ii) Event/Marketing Co-ordinator
  - (iii) Heads of Departments
  - (iv) Props Master
  - (v) Scenic Artist
  - (vi) Technical Supervisor
  - (vii) Wardrobe Supervisor

### **B.9 Live Performance Employee Level 9**

#### **B.9.1 Musician**

Musician not required to accompany artists.

### **B.9.2 Performer Category 1 Grade 2**

A performer with more than three years experience in the entertainment industry provided that the performer's theatrical engagements over the three year period amount to 18 weeks employment or an equivalent amount of work in other areas, who is employed in theatrical productions and performs the same duties as set out above but at a standard above and beyond that of a Performer Category 1 Grade 1.

### **B.9.3 Performer Category 2**

- (a) A performer who is employed as an act or part of an act in theatrical/live entertainment performances and who is responsible for the primary development of the work to be performed.
- (b) Indicative tasks are:
  - (i) as per Category 1; and
  - (ii) tasks relating to the development of the work to be performed, such as but not limited to:
    - developing the script and concept for the performance;
    - selecting the music; and
    - generally determining the content and presentation of the performance.

## **B.10 Live Performance Employee Level 10**

### **B.10.1 Company Dancer Level 3**

A Level 3 employee is a dancer in their third year of professional experience, provided that:

- (a) in addition to professional experience or further training progression from one level to the next is also on the basis of evident competence on artistic grounds; and
- (b) in assessing experience the following will be taken into account:
  - (i) The previous professional experience of the employee in Australia and overseas with subsidised and commercial companies and/or any further study or training undertaken since entry into the dance profession.
  - (ii) The minimum period of time of employment in the year concerned is 36 weeks on a full-time basis or substantially equivalent.

### **B.10.2 Production and Support Staff Level 8**

- (a) A Production and Support Staff Level 8 employee is an employee who has obtained a relevant tertiary qualification together with extensive theatrical experience or equivalent skill and competence acquired through extensive theatrical experience.
- (b) In addition to the competencies and tasks performed by a Level 7 employee, a Production and Support Staff Level 8 employee works to the level of the employee's training:

## Live Performance Award 2010

- (i) demonstrates effective and efficient use of production and/or organisational resources, by planning, implementing and monitoring achievement of objectives;
  - (ii) responsible for the creating and maintaining of a high level of team work and co-operation and contributes to the overall good management of a production; and
  - (iii) co-ordinates and controls either the overall performance activities or a variety of related disciplines.
- (c) The following indicative tasks which an employee at this level may perform are subject to the employee having appropriate trade and post trade training or equivalent experience to enable the employee to perform the particular indicative tasks:
- (i) provides advice and guidance to staff, management and clients;
  - (ii) prepares correspondence, guidelines and reports;
  - (iii) demonstrates superior communication and/or liaison skills;
  - (iv) demonstrates superior knowledge of relevant terminology;
  - (v) reliably represents the work unit;
  - (vi) responsible for creative planning and the achievement of design standards;
  - (vii) recognises the importance of consistency, timeliness, correctly following procedures, and responsiveness to the client's needs; and
  - (viii) demonstrates accountability and responsibility for enabling the achievement of business goals within budgetary guidelines.
- (d) Indicative positions of this level include:
- (i) Publicity/Marketing Supervisor
  - (ii) Stage Manager
  - (iii) Team Leaders—Call Centre

### **B.11 Live Performance Employee Level 11**

#### **B.11.1 Company Dancer Level 4**

- (a) A Level 4 employee is a dancer in their fourth year of professional experience, provided that:
- (i) in addition to professional experience or further training progression from one level to the next is also on the basis of evident competence on artistic grounds; and
  - (ii) in assessing experience the following will be taken into account:

## Live Performance Award 2010

- The previous professional experience of the employee in Australia and overseas with subsidised and commercial companies and/or any further study or training undertaken since entry into the dance profession.
- The minimum period of time of employment in the year concerned is 36 weeks on a full-time basis or substantially equivalent.

### **B.11.2 Musician required to accompany artists**

### **B.11.3 Opera Principal**

A performer who is employed to undertake lead roles in opera and operetta.

## **B.12 Live Performance Employee Level 12**

### **B.12.1 Company Dancer Level 5**

- (a) A Level 5 employee is a dancer in their fifth and sixth years of professional experience.
- (b) In addition to professional experience or further training progression from one level to the next is also on the basis of evident competence on artistic grounds.
- (c) In assessing experience the following will be taken into account:
  - (i) The previous professional experience of the employee in Australia and overseas with subsidised and commercial companies and/or any further study or training undertaken since entry into the dance profession.
  - (ii) The minimum period of time of employment in the year concerned is 36 weeks on a full-time basis or substantially equivalent.

## **B.13 Live Performance Employee Level 13**

### **B.13.1 Company Dancer Level 6**

A dancer who is in their seventh and eighth year of professional work and who demonstrates highly developed dance skills, interpretative skills, dramatic and presentational skills.

### **B.13.2 Technical Manager**

## **B.14 Live Performance Employee Level 14**

### **B.14.1 Company Dancer Level 7**

A dancer will progress from Level 6 to Level 7 when they fulfil the following criteria:

- (a) A minimum of eight years full-time professional experience or substantially equivalent, as defined, with advanced dance skills, interpretative skills and dramatic and presentational skills.
- (b) Ability to understudy and perform major roles and/or character roles on a regular basis or in the case of contemporary companies performing ensemble based repertoire, to perform solo or perform with a high degree of artistry as a member of the ensemble.

## **Live Performance Award 2010**

- (c) As required, demonstrate excellent partnering skills (either sex).
- (d) Demonstrate a high degree of professionalism in all that they do and at least one of the following as agreed between the employer and the employee:
  - (i) Recognition that they possess a special quality of performance and interpretation of roles, such recognition to come from two of the following sources—industry peers, colleagues, media;
  - (ii) Demonstrate and provide leadership;
  - (iii) Ability to assist management with promotion of the company, either through personal appearances or by advice to management, upon reasonable request.

### **B.14.2 Principal Musician**

### **B.14.3 Vocalist**

## **B.15 Live Performance Employee Level 14**

### **B.15.1 Conductor-Leader**



**Schedule C—Supported Wage System** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

**C.2** In this schedule:

**approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

**assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme

**relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged

**supported wage system** (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au)

**SWS wage assessment agreement** means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate

### **C.3 Eligibility criteria**

**C.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

**C.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

## **C.4 Supported wage rates**

**C.4.1** Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

<b>Assessed capacity (clause C.5)</b>	<b>Relevant minimum wage</b>
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

**C.4.2** Provided that the minimum amount payable must be not less than \$86 per week.

**C.4.3** Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

## **C.5 Assessment of capacity**

**C.5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

**C.5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

## **C.6 Lodgement of SWS wage assessment agreement**

**C.6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

**C.6.2** All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

## **C.7 Review of assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

## **C.8 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

## **C.9 Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

## **C.10 Trial period**

- C.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- C.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- C.10.3** The minimum amount payable to the employee during the trial period must be no less than \$86 per week.
- C.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- C.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

**Live Performance Award 2010**

## Schedule D—School-based Apprentices

- D.1** This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
- D.2** A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.
- D.3** The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- D.4** For the purposes of clause D3, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is 25% of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.
- D.5** A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- D.6** For the purposes of this schedule, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
- D.7** The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.
- D.8** School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice.
- D.9** The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- D.10** If an apprentice converts from school-based to full-time, all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- D.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.

**LPA COMMENTARY**

**SCHEDULE F – 2017 PART DAY PUBLIC HOLIDAYS**

This is an interim Schedule inserted as a result of legislative changes in South Australia. **It only affects Members operating in South Australia and will not affect any employee covered by an Enterprise Agreement unless that Agreement specifically provides for part-day public holidays.**

The new Schedule provides that where a part-day public holiday is declared or prescribed between 7.00pm and midnight on Christmas Eve (24 December 2017) or New Year's Eve (31 December 2017), those hours on those days are to be observed as any other Public Holiday.

Therefore:

- An employee has a right to refuse work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable (as per the National Employment Standards).
- Part-time or full-time employees who are *usually rostered to work ordinary hours during one or both of those periods* are entitled to:
  - paid time off during one or both of those periods;
  - if they are on annual leave, they are taken to not be on annual leave for those hours;
  - if they have a rostered day off, are entitled to paid time off.
- An employee who works any hours between 7.00pm and midnight on Christmas Eve or New Year's Eve will be entitled to the appropriate public holiday penalty rate for those hours worked.

*Date of effect: 21 December 2013*

## Schedule F—2017 Part-day Public Holidays

This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the NES.

- F.1** Where a part-day public holiday is declared or prescribed between 7.00pm and midnight on Christmas Eve (24 December 2017) or New Year's Eve (31 December 2017) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
  - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
  - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
  - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
  - (e) Excluding annualised salaried employees to whom clause Schedule DD.11(f) applies, where an employee works any hours between 7.00pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
  - (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00pm and midnight.

**Live Performance Award 2010**

- (g) An employee not rostered to work between 7.00pm and midnight, other than an employee who has exercised their right in accordance with clause Schedule DD.11(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

This schedule is not intended to detract from or supplement the NES.

This schedule is an interim provision and subject to further review.



## Schedule G —Agreement to Take Annual Leave in Advance

Link to PDF copy of [Agreement to Take Annual Leave in Advance](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree that the employee will take a period of paid annual leave before the employee has accrued an entitlement to the leave:**

The amount of leave to be taken in advance is: \_\_\_\_ hours/days

The leave in advance will commence on: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

*[If the employee is under 18 years of age - include:]*

**I agree that:**

**if, on termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken under this agreement, then the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.**

Name of parent/guardian: \_\_\_\_\_

Signature of parent/guardian: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

## Schedule H—Agreement to Cash Out Annual Leave

Link to PDF copy of [Agreement to Cash Out Annual Leave](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree to the employee cashing out a particular amount of the employee's accrued paid annual leave:**

The amount of leave to be cashed out is: \_\_\_\_\_ hours/days

The payment to be made to the employee for the leave is: \$\_\_\_\_\_ subject to deduction of income tax/after deduction of income tax (strike out where not applicable)

The payment will be made to the employee on: \_\_\_/\_\_\_/20\_\_\_

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

*Include if the employee is under 18 years of age:*

Name of parent/guardian: \_\_\_\_\_

Signature of parent/guardian: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_