



Fair Work
Commission

Modern Awards Review 2023-24 (AM2023/21)

Submission cover sheet

Name

(Please provide the name of the person lodging the submission)

Louise Dunn

Organisation

(If this submission is completed on behalf of an organisation or group of individuals, please provide details)

Contemporary SA Inc, trading as Adelaide Contemporary Experimental (ACE)

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Modern Award Review Stream:

Arts and Culture:

Job Security:

Work and Care:

Usability of awards:

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How to prepare a submission

Submissions should be emailed to awards@fwc.gov.au. Directions set out the due dates for submissions. Directions are issued by a Member of the Commission and will be published on the [Commission website](#).

Make sure you use numbered paragraphs and sign and date your submission.

Your submission. Provide a summary of your experience and any relevant issues. You may wish to refer to one or more of the issues outlined in the relevant discussion paper.

Issues

1. [Using numbered paragraphs, outline the main issues you want the Fair Work Commission to consider as part of the Modern Award Review 2023-34 including your responses to any questions set out in Commission discussion papers. Include, if possible, references to any relevant sections of the *Fair Work Act 2009*, or other legislation or specific clauses in modern awards that apply].

Proposals

2. [Tell us your proposals to the address the issues you have raised in the submission. If you are proposing that the Commission should consider varying an award, you should include draft wording for the proposed variation]

Signature:



Name:

Louise Dunn

Date:

02/12/2023

Arts and Culture Sector: Modern Awards Review 2023 – 2024

Submission from Adelaide Contemporary Experimental (ACE)

Introduction

Adelaide Contemporary Experimental (ACE) is South Australia's leading independent contemporary visual arts organisation. ACE employs artists and arts workers in permanent and casual positions.

ACE is contributing this submission to address the need for of a dedicated award for the Visual Arts, Craft and Design sector and highlight the inadequacies of adapting different awards designed for other industries and cultural sectors.

Responses to discussion questions

Chapter 2, Question 1: Are there particular industries or occupations that should form the focus of the Commission's consideration of the arts and culture sector in this Review? If so, why?

Focus of Consideration: Visual Arts, Craft and Design industries

Why:

- Existing awards lack specific and relevant coverage for the visual arts.
- ACE attempts to adapt existing awards for roles where possible but adapting existing awards designed for different industries, even within the arts and cultural sector, is often insufficient as they lack the specific references to the roles we cover.
- When trying to adapt existing awards in the past we have found that ordinary hours and meal breaks mostly don't apply, the roles do not match across all categories, and qualifications of staff don't align to the award qualifications so selecting the award level is almost impossible. The salary rates for the visual arts sector also don't align with most comparable award rates so it can be difficult to establish pay rates that are fair and equitable and relevant to the specific role an employee is undertaking.

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Chapter 2, Question 2: Are there any industries or occupations that should be added to or removed from our consideration of the arts and culture sector for the purpose of the Review more broadly?

The Visual Arts, Craft and Design sector is missing from the industry list.

Occupations that could be included are:

- Access Coordinator/Officer
- Arts Educator
- Curator
- Public Programs Coordinator/Manager
- First Nations (identified roles)
- Invigilator / Front of House / Audience guide
- Gallery Assistant
- Gallery Technician / Preparator / Art Handler / Installer
- Marketing / Communications / Publicity (specific to the visual arts)
- Studio Assistant / Coordinator / Manager
- Volunteer Coordinator

Chapter 4, Question 5: Are there employees working in the arts and culture sector that may be covered by an award that has not been included in this chapter?

- Miscellaneous Award
- Amusement, Events and Recreation Award
- Broadcasting, Recorded Entertainment and Cinemas Award
- Graphic Arts, Printing and Publishing Award
- Live Performance Award
- Local Government Industry Award
- Professional Employees Award
- Travelling Shows Award

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Chapter 4, Question 6: Are there employees performing work of a similar nature to the work performed in the arts and culture sector that are not currently covered by an award but should be?

Yes.

Most occupations in the Visual Arts, Craft and Design sector, including artists, are not covered by an award but should be.

The Live Performance Award provides an example of the depth of specialisation, breadth of practice and types of work that should be included in a fit-for-purpose award for the Visual Arts, Craft and Design.

Chapter 5, Question 9: Do parties agree that the Miscellaneous Award may not cover certain workers, such as artistic directors or media producers?

The Miscellaneous Award is not relevant to the Visual Arts, Craft and Design sector and doesn't align with the type of work undertaken by artists and arts workers in the way that it should.

For example, ordinary hours or meal breaks don't apply to most roles, roles do not match the Miscellaneous Award so it is almost impossible to pick the appropriate salary rate, and specialised expertise of artists and arts workers are not factored in.

Chapter 5, Question 10: To what extent are workers in the sector who are not currently covered by an award likely to be employees capable of being covered by modern awards?

ACE applies the National Association of Visual Arts (NAVA) Code of Practice for the Visual Arts, Craft and Design sector to all positions as it sets national benchmarks for best practice and lists specific roles. We either use it as a stand-alone guide or to interpret other awards to identify the appropriate salary.

This is however a voluntary code and not all Visual Arts, Craft and Design organisations use it. As a result a number pay under the recommended pay rates. This leaves artists and arts workers at risk of exploitation as there is no specific award that they can reference in advocating for better pay and conditions.

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Chapter 5, Question 11: Do the parties have a view about the potential impact of the Closing Loopholes Bill on the arts and culture sector?

There is no digital platform in the visual arts for hiring workers despite the government recognising arts workers as the original gig workers in Revive. A large cohort of arts practitioners are on short-term contracts based around project funding and specific project deliverables. ACE relies on contractors and casual staff for short-term projects or peaks in program deliverables.

The Fair Work Commission's new powers concerning 'employee-like forms of work' should be inclusive of artists and arts workers who are employed as ongoing contractors for businesses. For example, many of ACE's casual exhibition installers make up their employment by working for multiple gallery spaces across the year.

The Fair Work Commission should be able to set minimum standards for artists and arts workers who engage in employee-like types of work and help resolve disputes for artists and arts workers regarding unfair contract terms including:

- Rates of pay
- Disputes about whether an employee or contractor
- Not being able to negotiate a contract
- Not having a contract

The Fair Work Commission must consider factors such as:

- Maximum hours worked per week
- Minimum hourly pay rate (based on minimum wage or award)
- Protections at work

Chapter 5, Question 12: Is digital platform work common within the arts and culture sector?

Not in the Visual Arts, Craft and Design sector.

Signature:



Name: Louise Dunn

Date: 02/12/2023

ACE