



Associate to Vice President Hatcher
Fair Work Commission
80 William Street
East Sydney NSW 2000

22 August 2019

By email: chambers.hatcher.vp@fwc.gov.au

Dear Associate,

AM2018/17 – Broadcasting Recorded Entertainment and Cinemas Award 2010

Further to proceedings before the Full Bench on 15 August 2019, the Media Entertainment and Arts Alliance (MEAA) now proposes (overleaf) a variation to the Broadcasting Recorded Entertainment and Cinemas Award 2010 (the award) with respect to the calculation of casual loading for cinema workers covered by the award.

MEAA submits that it has drafted the proposed variations to clauses 14.12 and 54.4 of the award in a way that both clarifies the proper 'compound' method of calculating casual loadings and quarantines this methodology to cinema workers.

Vice President Hatcher posed a question in proceedings regarding the calculation of allowances. MEAA has been unable to identify a binding principle with respect to this question.

Yours sincerely,

Matthew Chesher
MEAA Director, Legal and Policy

Current BRECA Clauses

14.12 Employees in cinemas

All employees in cinemas will receive an 8% penalty averaging component instead of Sunday penalty payments and reduced public holiday penalties.

54.4 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, of their hours of work, classification level and rate of pay.

(b) A casual employee must be paid at the relevant minimum hourly wage plus a loading of 25%. Such loading is paid instead of all paid leave including annual leave, personal/carers leave and public holidays not worked whether prescribed in this award or the NES.

(c) Casual employees must be paid at the termination of each engagement but may agree to be paid weekly or fortnightly.

(d) Casual employees are entitled to a minimum payment of three hours' pay on each occasion they are required to attend for work.

Proposed Variation

14.12 Employees in cinemas

All employees in cinemas will receive an 8% penalty averaging payment for all hours worked regardless of the day(s) of the week on which work is performed. This payment is in lieu of Sunday penalty payments and reduced public holiday penalties.¹ This payment is to be added to the minimum hourly wage in clause 14.3² to form the relevant minimum hourly cinema wage. ~~instead of Sunday penalty payments and reduced public holiday penalties.~~

54.4 Casual employment

(b) A casual employee must be paid a loading of 25% calculated upon ~~at~~ the relevant minimum hourly cinema wage ~~plus a loading of 25%.~~ Such loading is paid instead of all paid leave including annual leave, personal/carers leave and public holidays not worked whether prescribed in this award or the NES.

¹ MEAA believe that the text highlighted in yellow was agreed between the parties during earlier modern award proceedings in 2018.

² Clause 14.3 is entitled 'Adult wages'. It sets out classifications, minimum weekly wages and minimum hourly wages.