

**SUMMARY OF PROPOSED SUBSTANTIVE VARIATIONS**

MA000091

This table is a summary of proposed variations lodged for this award – updated 6 June 2017. Updated following [Report](#) of 14 September, [Decision](#) of 27 September 2017 and [Determination](#) of 9 November 2017.

*Broadcasting, Recorded Entertainment and Cinemas Award 2010*

Some of the items contained in this summary may be determined by the Group 4 Award Stage—Technical and Drafting Full Bench while others may be referred to a separately constituted Full Bench (to be discussed at a conference before an individual Member of the Commission).

| ITEM | PARTY       | DOCUMENT                     | CLAUSE<br>(current award) | SUMMARY OF ISSUE   | THEIR<br>REFERENCE | NOTES   |
|------|-------------|------------------------------|---------------------------|--|--------------------|---|
| 3.   | BCC and ors | <a href="#">Sub-21/01/15</a> | 14.2(d)                   | <b>Classifications and minimum wages—Common salary structure—Grade 4</b><br>Insert additional classification of team leader to be designated ‘Cinema Worker Level 3, with the higher classifications being redesignated ‘Cinema Worker Level 4’ to Cinema Worker Level 7’, respectively. | Page 4<br>Issue 3  | RESOLVED<br><br>Change as agreed incorporated in exposure draft published on 25 November 2016 |
| 10.  | BCC and ors | <a href="#">Sub-21/01/15</a> | 14.4(a)                   | <b>Junior employees</b><br>Insert a new paragraph (aa):<br><del>‘Provided that a junior employee in a cinemas shall be paid the percentage in clause 14.4(a) of the adult minimum wage for the appropriate classification’</del>   | Page 4<br>Issue 2  | WITHDRAWN<br><br>Claim withdrawn – see <a href="#">submission 22/09/16</a>                    |
| 24.  | BCC and ors | <a href="#">Sub-21/01/15</a> | 54.3(a)                   | <b>Types of employment-part-time</b><br>Insert the words ‘within the terms of this clause and clause 55.1(c)’ after ‘continuous employment’.   | Page 3<br>Issue 1  | RESOLVED<br><br>Change as agreed incorporated in exposure draft published on                  |

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|      |             |                              |                           |   |                    | 25 November 2016<br><br>Moved to technical and drafting summary  |
| 25.  | BCC and ors | <a href="#">Sub-21/01/15</a> | 55.1(e)                   | <b>Ordinary hours of work and rostering</b><br>Amend second sentence to read:<br>‘The agreement about <i>the number of ordinary hours to be worked</i> will be in writing...’ | Page 3<br>Issue 1  | REFERRED<br><br>Change as agreed incorporated in exposure draft published on 25 November 2016<br><br>Moved to technical and drafting summary   |
| 38.  | BCC and ors | <a href="#">Sub-21/01/15</a> | E.1.3                     | <b>Schedule E-Cinema Worker Level 3</b><br>Insert new E.1.3 clause and redesignate E.1.3 to E.1.7 to E.1.4 to E.1.8 , respectively.   | Page 5<br>Issue 3  | RESOLVED<br><br>Change as agreed incorporated in exposure draft published on 25 November 2016<br><br>Parties agreed that Schedule E should be deleted in its entirety as the rates are not used for all purposes. <a href="#">Sub-22/03/17</a> |
| 15.  | BusSA       | <a href="#">Sub-02/03/15</a> | 26.3(b)                   | <b>Public holidays – special provisions for employees in cinemas</b><br>Current wording is confusing. Party seeks to simplify language or include a definition.               | Page 8             | Withdrawn <a href="#">29 September 2016</a>  |

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| 21.  | BusSA | <a href="#">Sub-02/03/15</a>                                 | 36.2                      | <b>Rosters – technical staff</b><br>Party has raised concerns with clause and is consulting further with its members  | Page 8          | Withdrawn <a href="#">29 September 2016</a>   |
| 22.  | BusSA | <a href="#">Sub-02/03/15</a>                                 | 41.4                      | <b>Penalty rates – announcers and broadcaster/journalists – shift penalties</b><br>Interchange of the terms ‘penalty’ and ‘allowances’ may lead to confusion. | Page 8          | Withdrawn <a href="#">29 September 2016</a>   |
| 23.  | BusSA | <a href="#">Sub-02/03/15</a>                                 | 42.1(d)                   | <b>Penalty rates – technical staff – shift penalties</b><br>Interchange of the terms ‘penalty’ and ‘allowances’ may lead to confusion.                        | Page 8          | Withdrawn <a href="#">29 September 2016</a>   |
| 4.   | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | 14.2(d)                   | <b>Classifications and minimum wages–Common salary structure–Grade 4</b><br>Insert additional classification of Trainee Captioner/Audio Describer.            | Paragraph 2     | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 5.   | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | 14.2(e)                   | <b>Classifications and minimum wages–Common salary structure–Grade 5</b><br>Insert additional classification of   | Paragraph 3     | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a>   |

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|      |       |  |                           | Trainee Subtitler/Subtitling Editor.  |                    | Referred to AM2016/4 – substantive issues Full Bench  |
| 6.   | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | 14.2(h)                   | <b>Classifications and minimum wages–Common salary structure–Grade 8</b><br>Insert additional classification of Captioner/Audio Describer                         | Paragraph 4        | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 7.   | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | 14.2(k)                   | <b>Classifications and minimum wages–Common salary structure–Grade 11</b><br>Insert additional classification of Multi-skilled Captioner/Audio Describer          | Paragraph 5        | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 8.   | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | 14.2(n)                   | <b>Classifications and minimum wages–Common salary structure–Grade 14</b><br>Insert additional classification of Advanced Multi-skilled Captioner/Audio Describer | Paragraph 6        | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 9.   | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | 14.2(o)                   | <b>Classifications and minimum wages–Common salary structure–</b>   | Paragraphs 7, 8    | RESOLVED  |

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|      |       |  |                           | <b>Grade 15</b><br>Insert additional classifications of Subtiter/Subtitling Editor and Captioner/Audio Describer Shift Leader or Trainer   |                    | See: <a href="#">[2017] FWCFCB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench                 |
| 16.  | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | 27                        | <b>Ordinary hours of work and rostering</b><br>Insert the following above clause 27:<br>‘This Part 6 applies to those employees classified as Captioners/Audio Describers and Subtitlers/Subtitling Editors contained in Schedule B’ | Paragraph 9        | RESOLVED<br><br>See: <a href="#">[2017] FWCFCB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 19.  | CPSU  | <a href="#">Sub-04/02/15</a>                                 | 28                        | <b>Meal breaks</b><br>Insert new clause 28.6.  | Paragraph 10       | RESOLVED<br><br>See: <a href="#">[2017] FWCFCB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |

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| 20.  | CPSU  | <a href="#">Sub-04/02/15</a>                                 | 30                        | <b>Shift and weekend penalties</b><br>Insert new clause 30.9.  | Paragraph 11       | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 36.  | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | B.1                       | <b>Schedule B - Television Broadcasting - Classifications</b><br>Insert new clause B.1.23.   | Paragraph 11       | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 37.  | CPSU  | <a href="#">Sub-04/02/15</a><br><a href="#">Sub-30-09-16</a> | B.1.1                     | <b>Schedule B- Television Broadcasting - Definitions</b><br>Insert new clauses B.1.1(e), B.1.1(f), B.1.1(g) and B.1.1(h).  | Paragraph 12       | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 47.  | FWO   | <a href="#">Corro-02/03/15</a>                               | 27.3                      | <b>Ordinary hours of work and rostering</b><br>Unclear whether a ‘rostered day off’ has the same or different meaning to an ‘accrued day off’ as references in clauses 27.6, 39.6, 52.2 and K.1 of | Page 13<br>Issue 3 | REFERRED<br><br>Moved to technical and drafting summary   |

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|      |       |  |                           | Schedule K  |                    |  |
| 1.   | MEAA  | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-21-10-16</a> | 3.1 & 4.1                 | <b>Definitions and Coverage</b><br>Proposes to amend definition to refer to ‘cinemas’ and amend title of the Award to ‘Broadcasting, Recorded Entertainment and Cinemas Award’. | Paragraph 6        | RESOLVED<br><br>See: <a href="#">[2017] FWCFCB 3803</a> and <a href="#">PR597597</a>   |
|      | AEIA  | <a href="#">ReplySub-22/02/17</a>                            |                           | Partly agrees with MEAA’s submission. Submits it is more appropriate to make a new modern award for cinema industry.  | Para 5             | Referred to AM2016/4 – substantive issues Full Bench   |
| 26.  | MEAA  | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-21-10-16</a> | 59                        | <b>Special definitions - artist</b><br>Amend Part 10 to include dancers within the definition of artist. Also amend definition by deleting words ‘the production of the film’.  | Paragraphs 5, 10   | RESOLVED<br><br>See: <a href="#">[2017] FWCFCB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 27.  | MEAA  | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-21-10-16</a> | 59                        | <b>Special definitions - performance</b><br>Amend definition of ‘performance’ for consistency across film and non film settings.  | Paragraph 12       | RESOLVED<br><br>See: <a href="#">[2017] FWCFCB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 29.  | MEAA  | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-21-10-16</a> | 73.1(a)                   | <b>Hours of work</b><br>Amend clause to clarify ‘days of up to 10 hours each’ includes 7.6 ordinary hours and 2.4 hours of  | Paragraph 22       | RESOLVED<br><br>See: <a href="#">[2017] FWCFCB 3803</a> and <a href="#">PR597597</a>   |

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|-------------|--------------|--|-----------------------------------|---|----------------------------|--|
|             |              |  |                                   | schedule overtime, calculated in accordance with clause 76.4.   |                            | Referred to AM2016/4 – substantive issues Full Bench   |
| 30.         | MEAA         | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-21-10-16</a> | 74.2                              | <b>Breaks between shifts</b><br>Amend term ‘single time additional’ to ‘double time’.   | Paragraph 16               | RESOLVED<br><br>See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench  |
| 33.         | MEAA         | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-21-10-16</a> | 76.2                              | <b>Overtime</b><br>Insert definition of ‘unscheduled overtime’.   | Paragraph 18               | WITHDRAWN<br><br>Referred to AM2016/4 – substantive issues Full Bench  |
| 34.         | MEAA         | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-21-10-16</a> | 76.3                              | <b>Overtime</b><br>Amend clause to clarify ‘days of up to 10 hours each’ includes 7.6 ordinary hours and 2.4 hours of schedule overtime, calculated in accordance with clause 76.4. | Paragraph 22               | REFERRED<br><br>Referred to AM2016/4 – substantive issues Full Bench. Not considered as part of the proceedings.<br><br>Parties agreed that clause is not reflective of industry practice but no agreement as to variation to be made. |
| 39          | MEAA         | <a href="#">Sub-02/03/15</a>                                 | F.1                               | <b>Schedule</b>   | Paragraphs 6, 7            | RESOLVED   |



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|      |               | <a href="#">Sub-21-10-16</a> |                           | <b>F - Actors - Classifications</b><br>Insert classification descriptors for dancers at clauses F.1.4 and F.1.5. Amend provisions as reference to 'number of lines of dialogue' is not applicable to mime or dance. |                    | See: <a href="#">[2017] FWCFB 3803</a> and <a href="#">PR597597</a><br><br>Referred to AM2016/4 – substantive issues Full Bench |
| 11.  | Seven and ors | <a href="#">Sub-02/03/15</a> | 15.2                      | <b>Payment of wages</b><br>Amend to provision to provide for wages to be paid monthly.  | Issue 2            | REFERRED<br><br>See: <a href="#">AM2016/8</a> –Payment of wages   |
| 12.  | Seven and ors | <a href="#">Sub-02/03/15</a> | 21                        | <b>Higher duties</b><br>Amend clause to provide more flexibility for employees to work higher duties.   | Issue 3            | OUTSTANDING   |
| 13.  | Seven and ors | <a href="#">Sub-02/03/15</a> | 23                        | <b>Annual leave - cashing out</b><br>Amend award to provide for cash out of annual leave.   | Issue 1            | RESOLVED<br><br>See decision in AM2014/47 - Full Bench Decision - <a href="#">[2015] FWCFB 5771</a>                             |
| 18.  | Seven and ors | <a href="#">Sub-02/03/15</a> | 27.6                      | <b>Ordinary hours of work and rostering - rostering</b><br>Amend clause to provide greater flexibility in relation to rostering arrangements and roster changes.  | Issue 4            | OUTSTANDING   |

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| 2.   | SPA   | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-10-11-16</a> | 10.5(b)                   | <b>Casual loading</b><br>Proposes to reduce casual loading from 25%. Rate is not in line with the benefits afforded to contract or full time employees. | Issue 3            | WITHDRAWN<br><br>SPA withdrew its substantive variations to BREA in its <a href="#">submissions</a> dated 11 May 2017 and also confirmed in <a href="#">Transcript</a> of 6 June 2017 at PN173. |
| 14.  | SPA   | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-10-11-16</a> | 23.7(b)                   | <b>Annual leave loading</b><br>Loading should only be payable after an employee had completed 12 months' service not as pro rata.                       | Issue 3            | WITHDRAWN<br><br>SPA withdrew its substantive variations to BREA in its <a href="#">submissions</a> dated 11 May 2017 and also confirmed in <a href="#">Transcript</a> of 6 June 2017 at PN173. |
| 28.  | SPA   | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-10-11-16</a> | 62.11                     | <b>Release allowances payable to performers – feature films only</b><br>Provision for the purchase of 'additional allowances' should be removed.        | Issue 1            | WITHDRAWN<br><br>SPA withdrew its substantive variations to BREA in its <a href="#">submissions</a> dated 11 May 2017 and also confirmed in <a href="#">Transcript</a> of 6 June 2017 at PN173. |
| 31.  | SPA   | <a href="#">Sub-02/03/15</a><br><a href="#">Sub-10-11-16</a> | 74.2                      | <b>Break between shifts</b><br>Penalty should apply to affected hours and not entire shift. Party also  | Issue 2            | WITHDRAWN<br><br>SPA withdrew its   |

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|                |               |  |                           | proposes inserting clause to address the case of 2 consecutive days off (54 clear hours between finish of work prior to days off and the start of work following the days off). |                    | substantive variations to BREA in its <a href="#">submissions</a> dated 11 May 2017 and also confirmed in <a href="#">Transcript</a> of 6 June 2017 at PN173.  |
| <del>32.</del> | SPA           | <del><a href="#">Sub-02/03/15</a><br/><a href="#">Sub-10-11-16</a></del> | <del>75.1</del>           | <del><b>Meal breaks</b><br/>Delay meal break to commence up to 6 hours from the start of the work period or last break.</del>   | <del>Issue 2</del> | <del>WITHDRAWN</del><br><br>SPA withdrew its substantive variations to BREA in its <a href="#">submissions</a> dated 11 May 2017 and also confirmed in <a href="#">Transcript</a> of 6 June 2017 at PN173. |
| <del>35.</del> | SPA           | <del><a href="#">Sub-02/03/15</a><br/><a href="#">Sub-10-11-16</a></del> | <del>77.1</del>           | <del><b>Calculations of penalties and provision of rosters</b><br/>Revert to pre-reform entitlement with no penalty payable after 6am.</del>                                    | <del>Issue 2</del> | <del>WITHDRAWN</del><br><br>SPA withdrew its substantive variations to BREA in its <a href="#">submissions</a> dated 11 May 2017 and also confirmed in <a href="#">Transcript</a> of 6 June 2017 at PN173. |
| 40.            | ICAA and MEAA | <a href="#">Sub-22/03/17</a>   | Clause 2 in ED            | <b>Definitions</b><br>"loaded minimum hourly rate" should be deleted  | Para 2             | REFERRED<br><br>Moved to technical and drafting issues   |
| 41.            | ICAA and MEAA | <a href="#">Sub-22/03/17</a>   | Part 10 in ED             | <b>Cinemas</b><br>Word "loaded" at various parts in   | Para 2             | REFERRED   |

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|-------------|--------------|-----------------|-----------------------------------|---|----------------------------|--|
|             |              |                 |                                   | <del>this clause should be deleted.</del> |                            | Moved to technical and drafting issues |

NOTE: Issues in this award (Nos 3, 10, 24 and 38 re cinemas) have been the subject of conferences before SDP Hamberger

**List of abbreviations (in alphabetical order)**

- AEIA            Australian Entertainment Industry Association
- BCC and ors    Birch Carroll & Coyle Limited, Greater Union Organisation Pty Ltd, Hoyts Corporations Pty Ltd and Village Roadshow Limited
- BusSA           Business SA
- CPSU            Community and Public Sector Union
- FWO             Fair Work Ombudsman
- ICAA             Independent Cinemas Association of Australia
- MEAA            Media, Entertainment and Arts Alliance
- Seven and ors    Seven Network (Operations) Limited, Network Ten Pty Ltd, Nine Network Pty Limited and Prime Media Group
- SPA              Screen Producers Australia