



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards

(AM2016/4)

BROADCASTING AND RECORDED ENTERTAINMENT AWARD 2010

[MA000091]

SENIOR DEPUTY PRESIDENT HAMBERGER
DEPUTY PRESIDENT SAMS
COMMISSIONER BOOTH

SYDNEY, XX MONTH YEAR

*4 yearly review of modern awards – Broadcasting and Recorded Entertainment Award 2010
– substantive issues – amended coverage terms – consultation on draft determination.*

A. Further to the decision issued on 27 September 2017 [[2017] FWCFB 3803], the above award is varied as follows:

1. By deleting clause 1 and inserting the following:

This award is the *Broadcasting, Recorded Entertainment and Cinemas Award 2010*.

2. By deleting the definition for **broadcasting and recorded entertainment industry** appearing in clause 3.1 and inserting the following:

broadcasting, recorded entertainment and cinema industry means the production (including pre-production and post-production), broadcasting, distribution, showing, making available, and/or sale of audio and audio/visual content including but not limited to feature films, television programs (including series, serials, telemovies and mini-series), news, current affairs, sport, documentaries, video clips, digital video discs, television commercials, training films and the like whether for television exhibition, theatrical exhibition, sale to the public, digital media release or release in any other medium

3. By deleting clause 4.1 and inserting the following:

4.1 This award covers employers throughout Australia in the broadcasting, recorded entertainment and cinema industry and their employees in the classifications set out in this award to the exclusion of any other modern award.

4. By inserting the words “; and Trainee Captioner/Audio Describer” after the words “Production Employee Level 3” in clause 14.2(d).
5. By inserting the words “; and Trainee Subtitler/Subtitling Editor” after the words “Motion Picture Production Employee Level 4” in clause 14.2(e).
6. By inserting the words “, and Captioner/Audio Describer” after the words “Cinema Worker Level 5” in clause 14.2(h).
7. By inserting the words “; and Multi-skilled Captioner/Audio Describer” after the words “Chief Engineer—Radio” in clause 14.2(k).
8. By deleting the words “and Director Major Production/Specialist—Television Broadcasting.” appearing in clause 14.2(n) and inserting the words “, Director Major Production/Specialist—Television Broadcasting, and Advanced Multi-skilled Captioner/Audio Describer.”
9. By deleting the words “and Specialist ENG Camera Operator—Television Broadcasting.” appearing in clause 14.2(o) and inserting the words “, Specialist ENG Camera Operator—Television Broadcasting, and Subtitler/Subtitling Editor.”
10. By deleting the heading “Actors” and inserting the heading “Artists” in clause 14.7.
11. By deleting clause 14.8(d) and inserting the following:
 - (d) Minimum rates of pay for any other audition and/or screen test will be 3.76% of the standard rate per hour or part thereof with a minimum payment of one hour. For the purpose of calculating payment under this provision the performer will be deemed to have commenced the audition or screen test at the time of the performer’s call or the performer’s arrival time whichever is the later.
12. By deleting clause 14.8(e) and inserting the following:
 - (e) Performers will be given the specific times of attendance required for an audition, screen test or interview.
13. By deleting clause 14.9(b) and inserting the following:
 - (b) A performer revoicing another performer’s voice, engaged by the hour for a minimum of two and a half hours will be paid per hour 6.3% of the relevant minimum weekly actor’s rate set out in clause 14.7(c).
14. By inserting the following after Part 6—Television Broadcasting and before clause 27:

"**This** Part 6 applies to those employees classified as Captioners/Audio Describers and Subtitlers/Subtitling Editors contained in Schedule B"
15. By inserting a new clause 28.6 as follows:

28.6 No employee performing work as a Captioners/Audio Describers and Subtitlers/Subtitling Editors **shall will** be required to work on a visual display terminal for more than two hours without a break. Each employee is entitled to a ten minute break in respect of each such two hour period worked. (This time shall count as time worked).

16. By inserting a new clause 30.9 as follows:

30.9 **Employees** performing work as a Captioners/Audio Describers and Subtitlers/Subtitling Editors will receive a penalty for all work on a shift commencing after 12.00 pm (noon) and before 6.00 pm and of at least seven hours duration of 17%.

17 By deleting the heading “Part 10—Actors” and inserting the heading “Part 10—Artists” in Part 10.

18. By deleting the word “film” and inserting the word “production” in the definition of **ancillary rights** in clause 59.

19. By deleting the definition of **artist** in clause 59 and inserting the following:

artist means each and all of those persons engaged by the producer to take part audibly and/or visually in the production including performers, dancers, doubles, extras, stand-ins and stunt artists

20. By deleting the word “film” and inserting the word “production” in the definition of **call** in clause 59.

21. By deleting the word “film” and inserting the word “production” after the word “training” in the definition of **one-off productions** in clause 59.

22. By deleting the definition of **performance** in clause 59 and inserting the following:

performance means the work done by an artist in a in a production including but not limited to short films, feature films, advertising and promotional films, television commercials, television programs and any performance of an artist which is recorded, captured, simulcast and/or broadcast in any media or format, including but not limited to digital media platforms, mediums and services

23. By deleting the word “films” and inserting the word “productions” in clause 60.2(a).

24. By deleting the word “films” and inserting the word “productions” in clause 60.2(b).

25. By deleting the word “films” and inserting the word “productions” in the heading of clause 60.3(a).

26. By deleting the word “films” and inserting the word “productions” in clause 60.3(a)(i).

27. By deleting the word “films” and inserting the word “productions” wherever it appears in clause 60.3(a)(ii).

28. By deleting the word “films” and inserting the word “productions” in the heading of clause 61.4(a).

29. By deleting the words “a performer” and inserting the words “an actor” in clause 62.11(a).

30. By deleting the word “film” and inserting the word “production” in clause 63.2(b).

31. By deleting the word “films” and inserting the word “productions” in the heading of clause 65.2(a).

32. By inserting new clauses B.1.1(e)–(h) as follows:

(e) Captioner

- (i)** Captioners perform captioning work as part of a television broadcast or for the release of content on other digital platforms as part of the broadcasting and recorded entertainment industry.
- (ii)** Captions are the transcription of speech, sound effects and other pertinent information which features as part of a soundtrack and would not otherwise be accessible to Deaf or hearing impaired viewers. Captions are either transmitted live-to-air or are prepared in advance and are timecoded to keep in synch with the soundtrack. Captions can also include colouring and positioning to help identify speakers.
- (iii)** Captioning may involve the use of a range of computer technology (e.g. keyboard text entry, voice recognition or stenography short-hand keyboards) across a range of program types, prepared for live or file delivery. It requires maintaining accuracy and productivity standards and the use of computer equipment and software programs to achieve this.

(f) Audio Describer

- (i)** Audio describers perform visual script work as part of a television broadcast or for the release of content on other digital platforms as part of the broadcasting and recorded entertainment industry.
- (ii)** Audio description is an additional soundtrack that provides vision impaired viewers with a description of what is happening on screen. Audio description is carefully timed and must be included in the gaps between on-screen dialogue.
- (iii)** Audio Describers use a range of computer technology (e.g. keyboard text entry and specific Audio Description software) that allows them to create timed scripts and pinpoint the exact moment where the narration needs to be recorded so as not to overlap with the original soundtrack. It requires maintaining accuracy and productivity standards and the use of computer equipment and software programs to achieve this.

(g) Subtitler

- (i) Subtitlers translate foreign languages into English (or visa-versa) to be used as subtitles for a television broadcast or for the release of content on other digital platforms as part of the broadcasting and recorded entertainment industry.
- (ii) Subtitling may involve the use of a range of computer technology (e.g. keyboard text entry, voice recognition or automatic translation) across a range of program types including general translations for recorded narrations for documentaries. It requires the use of computer equipment and software programs to achieve this. It requires high level English and foreign language skills, bilingualism and high level aural and written comprehension. It requires qualifications and accreditation in translation. It may require research skills in preparing **subtitles** including research into the social, cultural, scientific and historic background of program content.

(h) Subtitling Editor

- (i) Subtitling Editors edit, check and prepare subtitles created by a Subtitler for a television broadcast or for the release of content on other digital platforms as part of the broadcasting, recorded entertainment and cinema industry.
- (ii) Subtitling may involve the use of a range of computer technology (e.g. keyboard text entry, voice recognition or automatic translation) across a range of program types including general translations for recorded narrations for documentaries. It requires the use of computer equipment and software programs to achieve this. It requires high level English language skills and familiarity with a wide range of idiomatic English. A broad general knowledge is essential. The role of a subtitling editor is to make subtitles accessible to the reader and through the manipulation of syntax and the deployment of linguistic and cultural sensitivity, suitable for broadcast. It may require research skills in preparing subtitles including research into the social, cultural, scientific and historic background of program content. A graduate degree may be required.

33. By inserting a new clause B.1.23 as follows:

B.1.23 Captioner / Audio Describer

(a) Trainee Captioner / Audio Describer

Skills, competencies, duties and responsibilities held and exercised

- (i) Less than 6 months' service
- (ii) In the course of training
- (iii) Implements captioning standards across a range of limited program types
- (iv) Subject to close supervision with supervisor/ trainer

- (v) Strives to consistently meet minimum accuracy and productivity standards

Duties include file captioning, live captioning or audio description.

(b) Subtitler and subtitling editor in training

Skills, competencies, duties and responsibilities held and exercised

- (i) Less than 12 months continuous service
- (ii) In the course of being trained as a subtitler or subtitling editor
- (iii) Subject to close supervision
- (iv) If a subtitler, has relevant qualifications and accreditation as a translator in at least one LOTE language
- (v) Advanced translation skills or advanced editing skills
- (vi) Utilises knowledge of both formal and idiomatic English
- (vii) Conducts background research into programs

Upon successful completion of approximately 1 years continuous service training the employee is to be progressed to subtitler or subtitling editor

(c) Captioner / Audio Describer

Skills, competencies, duties and responsibilities held and exercised

- (i) Performs the duties of the lower classification
- (ii) Qualified Captioner / Audio Describer
- (iii) Consistently meets minimum accuracy and productivity requirements
- (iv) Works across a range of programs and to full captioning standards
- (v) Works under broad supervision and applies appropriate discretion and judgment
- (vi) May be undertaking additional training or gaining experience across different program types and methods

Duties may include contributing to captioning or audio describing resources, some simple editing of their own and colleagues work, audio describing television programs and other shorter content, routine administrative tasks.

(d) Multi-Skilled Captioner / Audio Describer

Skills, competencies, duties and responsibilities held and exercised

- (i) Performs the duties of the lower classification
- (ii) Experienced in audio description, live or file captioning
- (iii) Meets a high standard of accuracy and productivity across a range of programs and output types to the required levels
- (iv) Capable of working independently without direct supervision and applies appropriate discretion and judgment in carrying out work
- (v) Provides support and guidance to other Captioners/ Audio Describers
Duties may include specialised editing of own and others work, audio describing for movies and other longer more complex content and live output on a range of programs including sports and news and current affairs.

(e) Advanced Multi-Skilled and Specialised Captioner / Audio Describer

Skills, competencies, duties and responsibilities held and exercised

- (i) Performs the duties of the lower classification
- (ii) Has in-depth knowledge of equipment, software and procedures
- (iii) Takes responsibility for a high level of troubleshooting
- (iv) Exercises discretion and judgment for self and others with low level supervision
- (v) Assists in training of other Captioners/ Audio describers and provides ongoing support for work colleagues
- (vi) Demonstrates superior technique and consistent application of higher accuracy and productivity to the required level
- (vii) An employee at this level may perform a specialised role such as stenocaptioner.

Duties may include development of new captioning or audio describing standards, training colleagues and live output on high profile and difficult programs including sport, entertainment and news and current affairs.

(f) Subtitler

Skills, competencies, duties and responsibilities held and exercised

- (i) Has more than 12 months continuous service
- (ii) Has relevant qualifications and accreditation as a translator in at least one LOTE language
- (iii) Excellent translation skills
- (iv) Has a good knowledge of both formal and idiomatic English
- (v) Provides assistance and mentorship to other subtitlers
- (vi) Has discretion and judgment over own work
- (vii) High levels of accuracy and productivity
- (viii) Conducts background research into programs

(g) Subtitling editor

Skills, competencies, duties and responsibilities held and exercised

- (i) Has relevant qualifications
- (ii) May have experience as a subtitler
- (iii) Has an excellent English language skills and knowledge of idiomatic English
- (iv) Has high level skills and an editor of English
- (v) Exercises discretion and judgment over own work
- (vi) Conducts background research into programs
- (vii) Provides assistance and mentorship to other subtitling editors

(h) Captioning/ Audio Describing Supervisor or Trainer

Skills, competencies, duties and responsibilities held and exercised

- (i) Considerable experience in captioning or audio describing

- (ii) Is responsible for supervising a group of **Captioners/ Audio Describers** or conducting initial training of **Captioners/Audio Describers**
- (iii) Manages the performance of employees
- (iv) Assists in the assessment, recruitment and selection of staff
- (v) Involved in planning and organising work
- (vi) Regularly communicates and coordinates work with clients

Duties may include setting training courses, reviewing and managing accuracy and productivity of **Captioners/ Audio Describers**, allocating appropriate resources, answering client queries, identifying training needs of employees, testing new equipment and managing workflows.

34. By deleting the heading “Schedule F—Actors” and inserting the heading “Schedule F—Artists”.

35. By deleting clause F.1.4 and inserting the following:

F.1.4 Performer Class 1 means an artist who takes part in a performance and/or is engaged to take part in a rehearsal for a performance who is required to speak more than two lines of dialogue (except in the case of a dancer, mime artist or puppeteer, who may not be required to speak any lines of dialogue but who is engaged to take part in a performance in that capacity) and who has the necessary skills to the required standard to effectively audition, prepare, rehearse and perform the role required.

36. By inserting a new clause F.1.4(a)(v) as follows:

- (v) In relation to the indicative tasks of dancers that are classified as Performers Class 1, a dancer is able to:
 - demonstrate a sound dance technique;
 - demonstrate appropriate skills and knowledge for learning, rehearsing and performing dance roles;
 - demonstrate an ability to perform in public;
 - demonstrate screen craft skills;
 - undertake all responsibilities associated with make-up and costume as required;
 - demonstrate musicality as appropriate to performing as a dancer; and
 - interpret physically and emotionally the choreographic content of a production.

37. By deleting the definition of **Performer Class 2** in clause F.1.5 and inserting the following:

F.1.5 Performer Class 2 means an artist who takes part in a performance and/or is engaged to take part in a rehearsal for a performance, who is required to speak more than six lines of dialogue or more than fifty words (except in the case of a dancer, mime artist or puppeteer, who may not be required to speak any lines of dialogue but who is engaged to take part in a performance in that capacity) and:

- (a) possesses the skills of a Performer Class 1;
- (b) has worked professionally for a minimum of five years as a performer;
and
- (c) has gained 150 points under the Experienced Points Structure set below.

38. By updating the Table of Contents and cross-references accordingly.

B. This order commences on XX MONTH YEAR.

SENIOR DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

<Price code {?} >