

**Annexure I**

**MOTION PICTURE PRODUCTION CERTIFIED AGREEMENT  
BETWEEN**

.....  
**AND  
MEDIA ENTERTAINMENT AND ARTS ALLIANCE  
2010**

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## **PART 1: APPLICATION AND OPERATION OF AGREEMENT**

### **1. TITLE**

This Agreement shall be known as the Motion Picture Production Certified Agreement between ..... and MEAA, 2010 (the Agreement).

### **2. APPLICATION AND PARTIES BOUND**

(a) This Agreement is binding on ..... (the Employer) in respect of all employees covered by Schedule H of the Broadcasting and Recorded Entertainment Award 2010 and engaged during pre-production, production and post production and eligible to be members of MEAA, whether members of MEAA or not, and upon MEAA, its officers and members.

(b) The Employer will not enter into any contractual arrangements by which the work of any employee classified in this Agreement will be performed at rates of pay or under conditions of employment overall less favourable than those contained herein.

(c) The Employer undertakes that the Agreement will apply to any separate, associated or affiliated company set up by the Employer for the purposes of motion picture production. The Employer undertakes to take any practical steps that may be necessary to ensure that this occurs.

### **3. DATE AND PERIOD OF OPERATION**

(a) This Agreement shall operate from the beginning of the first completed pay period commencing on or after ....., 20.. until ..... 20...

(b) At the expiration of this period, a party may terminate the Agreement by giving a period of 4 weeks notice in writing. Should no such notice be given, the terms and conditions of this Agreement will continue in force until replaced by a new agreement.

(c) The rates of pay set out in Clause 14 of this Agreement provide a total increase of 10%, over the life of the Agreement, on the equivalent rates set out in the now superseded Motion Picture Production Agreement 2007. The increase has been applied in three stages, viz:

- 3% from the beginning of the first pay period to commence on or after 1 January, 2010;
- 3% from the beginning of the first pay period to commence on or after 1 January, 2011; and
- 4% from the beginning of the first pay period to commence on or after 1 January, 2012.

(d) All allowances under this Agreement will be increased annually, from the beginning of the first pay period commencing on or after 1 January of each year, in line with movements in the relevant component of the Consumer Price Index up to the end of the preceding September Quarter. The quantum of such increases to be agreed between SPAA and MEAA.

#### **4. LOCALITY**

This Agreement shall apply within the Commonwealth of Australia and its Territories (collectively Australia)

#### **5. DEFINITIONS**

For the purposes of this Agreement the following definitions shall apply:

**Agreement Rate** Minimum rate of pay provided in Clause 14 Classification Levels and Rates of Pay.

**Assistant** A person employed in any classification who assists under supervision. For the purposes of this definition, "supervision" means working in the immediate proximity and in the same area.

**Employer** .....

**Gross agreed remuneration** In any week, gross wages payable to the employee (including over-agreement payments) for the number of hours that the employee has agreed to work in that week for the Employer. It does not include payment for irregular or unexpected overtime, but it does include amounts paid for time which the employee had agreed to work, but was not actually required to perform duties by the Employer. It does not include allowances or "per diems" payable as reimbursement for expenses or amounts paid for hire of equipment. Amounts paid in respect of annual leave taken shall be regarded as part of "gross agreed remuneration". Amounts paid at the end of an engagement by way of pro rata annual leave shall not be regarded as part of "gross agreed remuneration".

**Motion Picture Production** The production of a work that is an aggregate of images, or of images and sounds, embodied in any material and includes multimedia and all new media.

**"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.

**SPAA** Screen Producers Association of Australia

**Union** Media Entertainment and Arts Alliance (MEAA)

## **6. PRODUCTION FLEXIBILITY PROVISIONS**

- a) The Employer and an employee may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- (i) the agreement deals with any one or more of the matters dealt with in the Agreement;
  - (ii) the arrangement meets the genuine needs of the employer and employee in relation to one or more of such matters; and
  - (iii) the arrangement is genuinely agreed to by the Employer and employee.
- (b) The Employer must ensure that the terms of the individual flexibility arrangement:
- (i) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
  - (ii) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
  - (iii) result in the employee being better off overall than the employee would be if no arrangement was made.
- (c) The Employer must ensure that the individual flexibility arrangement:
- (i) is in writing; and
  - (ii) includes the name of the Employer and employee; and
  - (iii) is signed by the Employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - (iv) includes details of:
    - A. the terms of the Agreement that will be varied by the arrangement; and
    - B. how the arrangement will vary the effect of the terms; and
    - C. how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - (v) states the day on which the arrangement commences.
- (d) The Employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (e) The Employer or employee may terminate the individual flexibility arrangement:
- (i) by giving no more than 28 days written notice to the other party to the arrangement; or
  - (ii) if the employer and employee agree in writing — at any time.

## **7. INTERPRETATION**

In this Agreement:

- (a) Words importing the masculine gender shall include the feminine and vice versa;
- (b) Unless the contrary intention appears, words in the singular shall include the

plural and words in the plural shall include the singular.

## ***PART 2: EMPLOYER AND EMPLOYEES DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED MATTERS***

### **8. FULL-TIME EMPLOYMENT**

(a) Employment shall be by the week. Any employee not specifically engaged as a part-time employee under clause 9 or a casual employee under clause 10 shall be deemed to be employed as a full-time employee.

(b) Employment may be terminated by the Employer in accordance with the relevant terms of the National Employment Standard, Division 10 (reproduced in Schedule A).

(c) The notice of termination required to be given by an employee is the same as that required of the 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 Agreement an amount not exceeding the amount the employee would have been paid under this Agreement in respect of the period of notice required by this clause less any period of notice actually given by the employee.

(d) Except when living away from home and working on location, hours of work shall commence and finish at a nominated place of call. A nominated place of call for the purposes of this Agreement shall mean, in the case of a capital city, a place nominated by the Employer within 20km of the GPO of such capital city.

(e) Employees who do not commence and finish work at the nominated place of call shall receive an allowance as provided in sub-clauses 30(l) or 30(m) of this Agreement unless suitable transportation is made available to such employees by the Employer.

(f) When living away from home and working on location, hours of work shall commence and finish at the place where the employee is provided with accommodation.

(g) The Employer shall provide each employee with schedules in accordance with industry practice.

(h)

(i) Where employees cannot be gainfully or economically employed due to circumstances beyond the Employer's control, they may be stood down without

pay for periods that are not to exceed six weeks in aggregate in any calendar year. Such circumstances are limited to:

- (1) exigencies of network scheduling;
  - (2) postponement or cancellation of filming due to unavailability of locations or studios;
- (ii) The Employer shall provide the employee with adequate notice, to be not less than 14 days, of the commencement of the layoff and the recommencement of work after the layoff.
- (iii) During the period of lay off the employee will have the right to access and anticipate annual leave accruals in accordance with Clause 34 - Annual Leave.
- (iv) During periods of lay off the employee shall be regarded as having continuous unbroken employment for the purposes of Long Service Leave and Personal Leave.
- (v) Employees will be permitted to seek temporary employment during periods of lay off without prejudice to their ongoing contract of employment.
- (vi) Where the lay off period commenced at a time when the employee was located away from their home base, the Employer shall be obliged to return the employee to their home, and on the recommencement of the engagement after the lay off, return the employee to the nominated place of call.

## **9. PART-TIME EMPLOYMENT**

(a) An employee may be engaged by the week to work on a part-time basis for a constant number of hours which, having regard to the various ways of arranging ordinary hours, shall average not fewer than 8 ordinary hours per week and not more than 32 ordinary hours per week, provided that the minimum number of ordinary hours which shall be worked by the employee on any day shall be 4 hours.

(b) Subject to sub-clause (a) hereof, the ordinary hours of work and days on which such work is to be performed shall be specified in writing by the Employer to the employee before the employee begins part-time employment. Such agreed hours and days may be varied by agreement in writing between the employee and the Employer.

(c) The Agreement rate for an employee so engaged shall be the rate which is that proportion of the Agreement rate for a full-time employee of the relevant classification level which the ordinary weekly hours of the part-time employee bears to 40.

(d) Subject to the provisions of this clause and the matters agreed to in accordance with sub-clause (b) hereof, part-time employment shall be in accordance with the provisions of this Agreement which shall apply pro rata.

## **10. CASUAL EMPLOYEES**

(a) A casual employee is one engaged and paid as such (that is a person not

engaged by the week). A casual employee shall be paid for a minimum of one day at a rate no less than the Agreement rate applied on a daily basis for the relevant classification level, including penalties prescribed by this Agreement, plus a loading of 20 per cent. For any hours worked in excess of eight hours in any one day the appropriate overtime rate based on the appropriate casual daily rate shall be paid. The daily rate shall be obtained by dividing the weekly rate by five.

(b) Except when hired for one day, should a casual employee not be required to work on a second or subsequent day he or she shall receive notice of cancellation prior to cessation of ordinary hours of work on the day prior to the next starting time. If such notice is not given the employee shall be paid for a minimum of one day at the appropriate casual rate.

(c) Where on location, locals are hired as casuals, the minimum call shall be 4 hours at the appropriate Agreement hourly rate in accordance with sub-clause (a) hereof. The casual hourly rate shall be obtained by dividing the Agreement rate for the relevant classification by 40 and adding a loading of 20%.

## **11. CONTRACT OF EMPLOYMENT**

(a) All employees will be engaged under one of the Standard Employment Contracts attached to the Agreement as Schedule E. Nothing in this Agreement shall prevent the Employer attaching additional provisions to such contracts providing they are not inconsistent with the terms and conditions of this Agreement. As far as practicable and having regard for the nature and form of the production, the contract shall be provided by the Employer to the employee as soon as possible and not less than 7 days before the commencement of the engagement and shall be returned by the employee to the Employer within 3 days of receipt of same. Providing that where the employee receives the contract while on location she or he shall not be required to return the contract until she or he has been given a reasonable opportunity to consult with her or his advisers.

(b) Training Attachments, which are not contracts of employment, may be entered into in accordance with the provisions of Schedule H.

## **12. TRANSFERS AND HIGHER DUTIES**

(a) An employee may be transferred to perform work other than the work for which she or he was engaged, provided that such an employee shall not suffer any reduction in his or her ordinary rate of pay by reason of such transfer.

(b) An employee transferred to perform work for which a rate of pay higher than his or her own ordinary rate is prescribed by this Agreement, shall be paid at such higher rate during the period of transfer. Provided that if such period is four hours or less, such employee shall be paid at the higher rate for four hours and if so employed for more than four hours and less than one day shall be paid as for one day. Provided that this sub-clause shall not apply in cases where an employee is



temporarily relieving another employee engaged in a continuous process during a period of absence not exceeding one hour in any day.

### 13. DOCUMENTARY PRODUCTIONS

(a) Where an employee is engaged for a documentary production and the Employer and employee so agree the provisions of sub-clauses 21(a), 22(d) and clauses 23 and 26 (f) (only while actually engaged in filming) of this Agreement shall not apply provided that such employee is paid at an hourly loading of at least 25% of the ordinary hours Agreement rate and MEAA is advised by the Employer at least two weeks in advance of the commencement of principal photography.

(b) For the purposes of this sub-clause "documentary production" shall mean a production which does not utilise actors, and in which there is no alternative to the working of irregular hours because of the geographic location involved and/or the subject matter of the production, and in which the number of persons engaged under the Agreement does not exceed six.

(c) Notwithstanding any of the provisions of this sub-clause no employee engaged under the provisions of this sub-clause shall be required to work more than thirteen consecutive days without a break of 34 clear hours off duty.

## ***PART 3: WAGES, CLASSIFICATIONS AND RELATED MATTERS***

### 14. CLASSIFICATION LEVELS AND RATES OF PAY

(a) This clause sets out the rates of pay operative from the beginning of the first pay period to commence on or after 1 January, 2010. These rates are subject to increase from the beginning of the first pay period to commence on or after 1 January of each year in accordance with the provisions of sub-clause 3(c). The rates for each particular year apply insofar as that year falls wholly or partially within the life of this Agreement.

(b)  
 (i) The Agreement rate to be paid for a week of 40 ordinary hours, exclusive of payments for penalty rates and overtime, to an employee employed in each of the classifications described in Schedule F shall be as follows:

Level	Production	Post-Production	Animation	Rate (\$ per week) from start of first pay period beginning on or after 1 January		
				2010	2011	2012
1	Brush Hand Construction Assistant Driver/Runner Labourer	Assistant Tape Operator	Animation Runner Art Room Assistant Xerox Operator	665	684	710

	Stable Hand Unit Assistant					
2	Casting Assistant Occupational First Aider Production Assistant /Runner SFX Assistant Wardrobe Assistant	Assistant Tape Operator 2 Edge Numberer Post Production Assistant 2nd Assistant Sound Editor	Animator 3 Assistant Background Artist 3 Assistant Cel Painter Layout Artist 3 Production Assistant/ Digital Scanner	714	735	763
3	Clapper Loader Camera Assistant Assistant Floor Manager Assistant Grip Assistant Hairdresser Assistant Make-up Lighting Assistant Location Scout (TVC) Production Secretary Third AD 3rd / 4th Electrics Wrangler	Assistant Tape Operator 1 2nd Assistant Picture Editor Visual Effects Assistant 2	Animation Library Assistant Assistant Checker Assistant Digital Animation Compositor Assistant Digital Camera Operator Digital Colour Grader Digital Painter 1st Assistant Layout Artist Storyboard Assistant	750	772	801
4	Assistant Animal Trainer/Pick- up Rider Armourer Carpenter Chaperone Draftsperson (Art Department) Electrician Enrolled Nurse Extras Casting Generator Operator Lighting Technician Pattern Cutter Production Accounts Assistant Set Dresser Set Maker Sign Writer Standby Props Standby Wardrobe Transport Manager Tutor	Assistant Sound Editor Broadcast Tape Operator Visual Effects 1	Checker Assistant Animator Assistant Animation (Rostrum) Camera Operator Assistant Background Artist Assistant Layout Artist Colour Stylist Digital Animation Compositor Digital Camera Operator Digital Painter (HoD) In-betweener/Clean-up Artist Tracer /Painter (HoD) Track Reader	803	826	857
5	Art Department Co-ordinator Assistant Art Director Best Boy Boom Operator Director's Assistant Floor Manager Grip Hairdresser Props Buyer/Master Make-up Artist Mechanic Model Maker Production Co-ordinator Registered Nurse Second AD Scenic Artist SFX Technician Unit Manager	1st Assistant Picture Editor Foley Artist 2 On-Line Editor 3 Neg Cutter 2 Supervising Tape Operator Telecine 3	Animation Production Co- ordinator Animator 3 Digital Camera (HoD) Layout Co-ordinator	855	880	913
6	Construction Manager Continuity Person Focus Puller Gaffer Hairdressing Supervisor Head Wrangler/ Horse Master / Animal Trainer Key Grip Location Manager Make-up Supervisor Production Accountant	Dialogue Editor Digital Compositor 1 Effects/sound Editor Foley Artist 1 Foley Engineer Neg Cutter 1 On-Line Editor 2 Telecine 2	Animation (Rostrum) Camera Operator (Film) Animator 2 Assistant Animator (HoD) Assistant Character Designer Assistant Storyboard Artist Background Artist Layout Artist Senior In- betweening/	924	951	987

	Safety Supervisor Set Designer SFX Co-ordinator Stills Photographer Story Editor Technical Director Wardrobe Supervisor		Clean-up			
7	Art Director Camera Operator Casting Director Continuity (HoD) Costume Designer First AD Gaffer (HoD) Key Grip (HoD) Lighting Designer Production Manager SFX Make-up Supervisor SFX Designer Sound Recordist	Mixer Music Editor On-Line Editor 1 Post Production Supervisor Sound Designer Supervising Sound Editor Telecine 1 Visual Effects Designer Visual Effects Supervisor	Animation (HoD) Animator 1 Assistant Animation Director Digital Production Supervisor Digital Systems Manager Layout Artist (HoD) Production/Character Designer Storyboard Artist Studio/Production Manager	1,009	1,038	1,077
8	Director of Photography Production Designer Second Unit Director	Picture Editor		1,104	1,136	1,179
9	Director (series & serial)*		Animation Director	1,150	1,184	1,229
10	Director (features & mini-series)*			1,216	1,251	1,298

\* The distinction between the Director at Level 9 and at Level 10 is to be determined having regard to the differences between (level 10) features and mini-series (6 episodes or less), and (level 9) series and serials, considering such matters as the Director's script rights, principal casting rights, fine cut rights and mix rights.

(ii) The Agreement rate to be paid for a 50 hour week, including 10 hours of overtime (calculated on the basis of 2 hours overtime per day for five consecutive days, Monday to Friday, at time and one half of the ordinary hourly rate for each overtime hour and exclusive of any other payments for penalties) and where Saturday is worked as a part of ordinary hours the additional rates applicable under Clause 21 Penalties shall apply contracted in accordance with the terms of the Agreement to an employee employed in each of the classifications described in Schedule F shall be as follows:

Classification Level	Rate(\$ per week) from start of first pay period beginning on or after 1 January		
	2010	2011	2012
Level 1	914	941	977
Level 2	982	1,011	1,049
Level 3	1,032	1,062	1,102
Level 4	1,104	1,136	1,179
Level 5	1,176	1,210	1,256
Level 6	1,271	1,308	1,357
Level 7	1,388	1,428	1,482
Level 8	1,518	1563	1622
Level 9	1,581	1628	1689
Level 10	1671	1720	1785

(iii) The Base Hourly Rate is calculated by dividing the above rates by 55.

(c) Employees engaged under the terms of this Agreement shall be classified in accordance with the classification descriptions set out in Schedule F.

**Note:** SPAA and MEAA acknowledge that the environment in which the industry currently operates is undergoing a period of change in relation to technological, organisational and other developments. Accordingly, the classification structure set out in Schedule F is likely to require a degree of modification during the life of the Agreement. SPAA and MEAA have agreed to establish an industry working group to advise them on the impact of such change. Where the working group recommends a variation of the classification structure, and where the parties agree that such variation is appropriate to properly serve the interests of the industry, the classification structure set out in this Schedule F may be varied.

(d) Junior Rates - The rates of payment for junior employees shall be the under-mentioned percentages of the applicable Agreement rate in the respective classifications.

17 years of age or under .....	60%
18 years of age .....	70%
19 years of age .....	80%

Provided however, that should a junior be employed in any classification carrying a rate of pay at Level 6 or more, the junior shall be paid the full adult rate.

## 15. UNCLASSIFIED EMPLOYEES

All employees engaged in production including those not referred to in Clause 14 or Schedule F shall be entitled to the benefits of this Agreement.

## 16. EXCEPTIONS TO CERTAIN CLAUSES

The provisions of clauses 20, 21, 22, 26(f) and 27 of this Agreement shall not apply to employees engaged in the classifications and the specific positions listed below who are contracted to receive weekly remuneration in excess of:

(A) All Australian Productions other than Australian Feature Films with budgets \$AUS 5M and over:

- (i) where the production is scheduled as a five day - 50 hour week: 3 times the 40 hour Agreement rate for the relevant classification;
- (ii) where the production is scheduled as a six day - 60 hour week: 4 times the 40 hour Agreement rate for the relevant classification.

(B) All overseas productions and Australian feature films with budgets more than \$AUS 5M

- (i) where the production is scheduled as a five day - 50 hour week: 4 times the 40 hour Agreement rate for the relevant classification;
- (ii) where the production is scheduled as a six day - 60 hour week: 5 times the 40 hour Agreement rate for the relevant classification.

## **Classification**

<b><u>Level</u></b>	<b><u>Positions</u></b>
Level 10	All positions
Level 9	All positions
Level 8	All positions
Level 7	First Assistant Director, Casting Director, Production Manager, Costume Designer, SFX Designer, Art Director Level 6 Set Designer, Location Manager*, Wardrobe Supervisor*, Production Accountant, Story Editor.

\* except on any engagement where the personnel are required to work hours determined and controlled by the Employer.

## **17. SUPERANNUATION**

(a) In this clause:

(i) "the Act" means the Superannuation Guarantee (Administration) Act 1992;

(ii) "remuneration" means the employee's gross agreed remuneration as defined in this Agreement;

(iii) "quarter" means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

(iv) "contribution period" means the six-monthly period from 1 January to 30 June or 1 July to 31 December;

(v) "maximum contribution assessment amount" shall be equal to the sum of twice the maximum contribution base calculated pursuant to the Act for any quarter;

(vi) "the fund" means MEDIA Super, Australian Super, or any complying superannuation fund nominated by the employee and agreed by the Employer;

(vii) "superannuation contributions" means payments made by the Employer calculated pursuant to sub-clauses (b) and (c) below.

(b) In respect of each employee engaged under the terms of the Agreement, in addition to all other amounts payable under this Agreement the Employer shall pay into the employee's account with the fund an additional amount equal to 9% of the employee's remuneration up to the maximum contribution assessment amount for the contribution period. (The maximum quarterly contribution base amount for the financial year 2009/2010 is \$40,170 therefore the maximum contribution assessment amount for any contribution period for the financial year 2009/2010 is \$80,340.)

(c) Superannuation contributions must be made on the basis of each employee's remuneration regardless of any minimum threshold prescribed by the Act.

(d) Superannuation contributions must be paid into the fund each month.

(e) It is the responsibility of the Employer to advise employees upon engagement of their entitlements in accordance with this clause. It is the responsibility of employees to provide details of their fund registration to the Employer or to

complete fund registration documents as the case may be.

(f) Where a dispute arises as to the amount of superannuation contributions to be paid and such dispute cannot be resolved between the individual employee and the Employer then this dispute must be referred to authorised representatives of SPAA and MEAA who must endeavour to reach agreement. Should agreement not be reached the matter may be referred to Fair Work Australia in accordance with the terms of clause 39.

(g) Nothing in this clause will reduce any statutory obligation on the Employer to pay superannuation contributions on behalf of an employee under Superannuation Guarantee Legislation.

## **18. EXISTING RATES OF PAY**

An employee who, on the date of coming into force of this Agreement is receiving a higher rate of pay than the minimum fixed by this Agreement for an employee of his or her classification, shall not have such rate of pay reduced as a consequence of the coming into operation of this Agreement.

## **19. PAYMENT OF WAGES**

(a) Subject to sub-clause (b) hereof, wages shall be paid fortnightly unless the Employer elects to pay on a weekly basis.

(b) All wages payment may be made by electronic funds transfer or by direct deposit to a bank or similar account nominated by the employee, or as otherwise agreed between the Employer and employee, and shall be made no later than the Thursday following the week or fortnight in respect of which payment is made.

(c) For the purpose of this clause, "week" shall mean the period Monday to Sunday inclusive.

(d) Notwithstanding any provision of this clause, where an employee is engaged in work at a remote location, a reasonable proportion of the employee's wages must be made available to that employee in cash on the day on which payment is made.

(e) Should an employee be incorrectly paid in any fortnight or week as the case may be, the necessary adjustment shall:

- (i) in the case of overpayment, be made on the next pay day following discovery of the overpayment, or in accordance with arrangements agreed between the Employer and the employee; and
- (ii) in the case of short payment, be made within the next two working days after details have been supplied to the Employer or in accordance with arrangements agreed between the Employer and the employee.

## ***PART 4: HOURS OF WORK AND RELATED MATTERS***

## 20. HOURS OF WORK

(a) The normal hours of work for persons employed under the terms of the Agreement shall be 40 per week (made up of 38 ordinary hours and 2 hours scheduled overtime), to be worked in five consecutive days of eight hours per day, exclusive of meal breaks. Subject to the payment of additional rates provided for by the Agreement, normal hours may be worked on any five consecutive days between Monday and Saturday inclusive. In circumstances where an employee agrees and is engaged to work a 40 hour week, a divisor of 40 shall be applied to each such employee's agreed rate for a 40 hour week utilised to calculate the ordinary hourly rate of pay for all purposes under the Agreement.

(b) An employee under the terms of the Agreement may be engaged to work 50 hours per week (made up of 38 ordinary hours and 12 hours scheduled overtime), which shall be worked as five consecutive days of ten hours per day, exclusive of meal breaks, which, subject to the payment of additional rates provided for by the Agreement may be worked on any five consecutive days between Monday and Saturday inclusive. Notwithstanding that an employee agrees and is engaged to work a 50 hour week, all hours in excess of eight hours per day shall be overtime and shall be paid in accordance with the relevant provisions of the Agreement. In circumstances where an employee agrees and is engaged to work a 50 hour week, a divisor of 55 shall be applied to each such employee's agreed rate for a 50 hour week utilised to calculate the ordinary hourly rate of pay for all purposes under the Agreement.

(c) Subject to the terms of clause 23 of the Agreement, an employee may be engaged to work 60 hours per week (made up of 38 ordinary hours and 22 hours scheduled overtime), which shall be worked as six consecutive days of ten hours per day exclusive of meal breaks, which, subject to the payment of additional rates provided for by the Agreement may be worked between Monday and Saturday inclusive. Notwithstanding that an employee agrees and is engaged to work a 60 hour week, all hours in excess of eight hours per day shall be overtime and shall be paid in accordance with the relevant provisions of the Agreement. In circumstances where an employee agrees and is engaged to work a 60 hour week, a divisor of 74 shall be applied to each such employee's agreed rate for a 60 hour week utilised to calculate the ordinary hourly rate of pay for all purposes under the Agreement.

(d) All time worked on Sunday shall be overtime and shall be paid in accordance with the relevant provisions of the Agreement.

(e) Work week on productions creatively controlled by citizens or residents of the United States America:

(i) An employee may be engaged to work 56.25 hours per week (made up of 38 ordinary hours and 18.25 hours scheduled overtime), which shall be worked

as five consecutive days of 11.25 hours per day, exclusive of meal breaks on television series, television serials, telemovies, mini-series and feature film productions creatively controlled by citizens or residents of the United States of America excluding employees engaged during pre-production, post-production and employees engaged in the construction and manufacturing departments.

(ii) In the application of these provisions the parties will balance the reasonable and legitimate needs of the production with the health and welfare considerations of employees.

(iii) The Employer will ensure that a meal break is provided no later than 6 hours from the commencement of work time. In the event this does not occur the normal delayed meal break penalty will apply.

(iv) The Employer will provide craft services in accordance with industry standard but including as a minimum fruit, bread, spreads, juices, tea and coffee for the duration of the working day in addition to any meal which it is obliged to provide pursuant to this Agreement.

(v) An employee contracted pursuant to these provisions may only work a sixth day in a nominated week to meet extenuating circumstances and provided there is majority consent of the employees affected as determined by secret ballot such ballot to be conducted in a fair and reasonable manner as may be agreed between MEAA and the Employer.

(vi) When an employee is engaged to work a 56.25 hour week or 11.25 hour day pursuant to this clause, a divisor of 67.5 per week or 13.5 per day will be applied to each employee's agreed rate of pay for a week or a day to calculate the ordinary hourly rate of pay for all purposes under this Agreement.

(vii) The use of this provision for offshore productions other than those under the creative control of citizens or residents of the United States Of America to be determined by agreement between the Employer and MEAA or by following the procedures under Clause 6 Production Flexibility Provisions.

## 21. PENALTIES

(a) For the purposes of applying penalties under this Agreement, the loadings indicated shall be payable in addition to all other payments including overtime for work performed during the times indicated below.

<b>Time</b>	<b>Day of Week</b>	<b>Loading</b>
6:00 a.m. to 8:00 p.m.	Monday to Friday	Nil
8:00 p.m. to Midnight	Monday to Friday	25%
12.01 a.m. to 6:00 a.m.	Monday to Friday	
6:00 a.m. to 8:00 p.m.*	Saturday	50%
12.01 a.m. to 6:00 a.m.	Saturday	
8:00 p.m. to Midnight	Saturday	100%
12.01 a.m. to 6:00 a.m.**	Monday	

\* Save that where an employee contracts to work a six day week as provided for in clause 23 of this Agreement no penalty under this sub-clause shall be payable for work between 6:00 a.m. and 8:00 p.m. on a Saturday.



\*\* Applicable only where work commenced on the Sunday preceding. Where work does not commence on Sunday but commences before 6:00 am Monday the loading payable shall be 25%.

(b) Penalty rates shall be based on hourly rates calculated from the ordinary time rate (including over-agreement payments) on which the employee's gross agreed remuneration (as defined in clause 5 of this Agreement) is based. Clause 20 of this Agreement sets out the manner of calculating the ordinary time rate for an employee engaged to work a 40, 50 or 60 hour week.

(c) Calculations shall be made per quarter hour and work in excess of five minutes shall be taken to the next quarter hour.

## 22. OVERTIME

(a) Overtime shall be classified as scheduled or unscheduled in accordance with the provisions of this clause.

(b) Scheduled overtime is overtime which an employee has agreed to work and for which the Employer has agreed to pay (whether worked or not) at the commencement of an engagement.

(c) Scheduled overtime may be contracted as follows:

(i) Where a five-day week is worked scheduled overtime up to a maximum of two hours per day may be contracted for.

(ii) Where a six-day week is worked, scheduled overtime up to a maximum of two hours per day for each day between Monday and Friday inclusive and up to a maximum of ten hours on Saturday may be contracted for.

(iii) Where an employee engaged in one of the following nominated categories and the Employer agree such an employee may be contracted to work extra scheduled overtime at the appropriate rate as stipulated in sub-clause (d) hereof up to a maximum of two hours per day for purposes as specified hereunder in addition to any other scheduled overtime and where such work is performed during hours determined at the employee's discretion the limits referred to in paragraphs (c)(i) and (ii) hereof shall not apply to such employees in respect of any time worked in excess of those limits. Such additional hours to stand alone and not to be aggregated with unscheduled overtime.

<b><u>Nominated categories</u></b>	<b><u>Contracted purpose</u></b>
Unit Manager	Dismantling unit and rubbish removal
2nd Assistant Director	Daily reports and accident reports
Hairdresser	Laundering or styling of wigs
Continuity	Script mark up and daily reports
Wardrobe Standby	Laundering wardrobe

(d) The Employer may require an employee to work reasonable overtime at

overtime rates. An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours that are unreasonable. For the purposes of this clause any consideration of whether overtime is reasonable or not in any circumstances will have regard to:

- (i) any risk to employee health and safety;
- (ii) the employee's personal circumstances including any family responsibilities;
- (iii) the needs of the Employer's workplace or enterprise;
- (iv) the notice (if any) given by the Employer of the overtime and by the employee of his or her intention to refuse it; and
- (v) any other relevant matter.

(e) Subject to the penalties prescribed in clauses 21 and 24 of this Agreement, payment for all overtime shall be made as follows:

- (i) Monday to Saturday - Time and a half for the first two hours and double time thereafter.
- (ii) Sunday - Double time
- (iii) Any time worked on any day in excess of 12 hours - Triple time; provided that where an employee is accommodated overnight on location on both the night before and the night on which work is performed, and is thus deemed to commence and conclude work at the place of accommodation, triple time shall be payable for hours worked in excess of 13 hours.

(f) Where overtime is worked on a day on which ordinary hours are not worked, payment shall be made as for a minimum of four hours worked.

### **23. FIVE/SIX DAY WEEK**

(a) The normal scheduled working week shall consist of 5 consecutive days of up to 10 hours between Monday and Saturday inclusive. Working weeks of 6 consecutive days of up to 10 hours may be scheduled in the following circumstances:

- (i) in the case of:
  - (1) work performed on a bona fide location away from home; or
  - (2) extenuating circumstances; or
  - (3) productions where the total engagement is of a duration of 4 weeks or less; or
- (ii) where work is performed in a Capital City, but only to the extent of 1 week in 6; or
- (iii) where the Employer and a simple majority of the employees concerned agree, as evidenced by a majority vote by way of a secret ballot; such ballot to be conducted in a fair and reasonable manner.

(b) In the case of extenuating circumstances the Employer shall provide MEAA with evidence of such extenuating circumstances, the Employer and MEAA shall enter into negotiations in order to determine the scheduling requirement occasioned by such extenuating circumstances, and MEAA may agree to the scheduling of working weeks of six consecutive days of up to ten hours for the

whole or part of any production affected by such extenuating circumstances.

(c) Where the Employer proposes to schedule a working week or weeks in excess of five consecutive days of ten hours the Employer shall advise MEAA of such intention as soon as possible and in any event at least six weeks prior to the commencement of principal photography for the production. MEAA shall advise the Employer within fourteen days of the receipt of such advice from the Employer of its agreement or otherwise with the proposed schedule.

(d) Where scheduling is amended so as to provide for the scheduling of any additional six day week or weeks MEAA shall be advised of such changed schedules within seven days prior to the change and shall indicate its agreement or otherwise as soon as possible.

(e) Where MEAA advises the Employer that it is not in agreement with a proposed schedule on the grounds that a location is not a bona fide location (see paragraph (a)(i) hereof) or that the circumstances of the production are not extenuating (see sub-clause (b) hereof) MEAA shall advise the Employer accordingly and the parties shall enter into negotiations with a view to reaching agreement.

(f) Where MEAA and the Employer are unable to reach agreement as to the bona fides of a location as provided for in paragraph (a)(i) hereof or as to the nature or extent of extenuating circumstances as provided for in sub-clause (b) hereof and a period of fourteen days has elapsed since a notification under sub-clause (c) hereof either party may invoke the dispute resolution procedure set out at clause 39 of the Agreement, which shall be utilised in conjunction with the guidelines agreed between SPAA and MEAA and appended to this Agreement as Schedule G.

(g) The agreement of MEAA shall be deemed to have been provided where written advice of same is forwarded to the Employer over the signature of the Federal Secretary of MEAA or where the time limits for response by MEAA as specified in sub-clause (c) hereof have passed.

## **24. BREAKS BETWEEN WORK PERIODS**

(a) Whenever practicable the following breaks shall be given. Whenever the breaks are not provided the penalties prescribed in this sub-clause or in sub-clause (c) shall be paid.

(i) In the case of 2 consecutive days worked - 10 clear hours between the finish of one day's work and the commencement of the next day's work.

(ii) In the case of a single day off - 34 clear hours between the finish of work prior to the day off and the commencement of work following the day off.

(iii) Where a five day week is contracted and subject to paragraph (iv) hereof, in the case of 2 or more consecutive days off - 34 clear hours for the first day and 24 hours for each subsequent day between the finish of work prior to the day off and the commencement of work following the day off.

- (iv) In the case of 2 or more consecutive days off, a break of no less than 54 clear hours may be given where:
- (1) a majority of employees affected agree; or
  - (2) this occurs not more than once in every four weeks.
- (b) The breaks prescribed in sub-clause (a) hereof shall be calculated on the basis set out below:
- (i) When an employee is living away from home and working on location, from and to the place where the employee is provided with accommodation, as prescribed in sub-clause 8 (f) of this Agreement;
  - (ii) Otherwise, from and to the nominated place of call if it is within the 20km radius prescribed in sub-clause 30 (c) of this Agreement;
  - (iii) If the nominated place of call is outside the 20km radius, from and to the 20km radius, as prescribed in sub-clause 30 (c) of this Agreement.
- (c) Except as provided in sub-clause (a)(iv) hereof, any employee required to commence work at such time that he or she does not receive the breaks prescribed in sub-clause (a) hereof, shall be paid single time additional for all time actually worked thereafter until such time as he or she receives a break as set out in sub-clause (a).
- (d) Provided that the employee has obtained authorisation from the Employer or the Employer's authorised representative, prior to any of the actions being taken:
- (i) An employee who commences work later than his or her scheduled starting time for the purpose of taking the breaks prescribed in sub-clause (a) shall not be paid less than the contracted daily rate.
  - (ii) An employee who finishes work earlier than his or her scheduled finishing time for the purpose of taking breaks or minimising penalties prescribed by this clause shall not be paid less than the contracted daily rate.
  - (iii) An employee shall not recommence work unless he or she has a ten hour break; however the Employer may authorise an employee to do so, provided the employee is paid the prescribed penalty.

## **25. PUBLIC HOLIDAYS**

- (a) Subject to the provisions of this clause, employees shall be entitled to public holidays as set out in this clause without loss of pay.
- (b) An employee required to work on any of the public holidays provided for in this clause shall be paid at the rate of double time and one half for all work performed on that day, subject to the payment of any overtime as set out in sub-clause 22(e)(iii), and to clauses 21 and 24 of this Agreement, with a minimum of four hours.
- (c) The following shall be public holidays for the purposes of this Agreement:

- (i) New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and
  - (ii) The following days, as prescribed in the relevant States, Territories or localities: Australia Day;
  - (iii) In the Australian Capital Territory, Canberra Day; in New South Wales, the first Monday in August; in Victoria, Melbourne Cup Day unless a substitute day is otherwise prescribed in a locality; in South Australia, the third Monday in May; in Western Australia, Foundation Day; in the Northern Territory, Picnic Day; in Queensland, Show Day; in Tasmania, Regatta Day in Southern Tasmania, and Recreation Day in Northern Tasmania.
- (d) When Christmas Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on 27 December.
- (e) When Boxing Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on 28 December.
- (f) When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.
- (g) Where in a State, Territory or locality, public holidays are declared or prescribed on days other than those set out in this clause, those days shall constitute additional holidays for the purpose of this Agreement.
- (h)
- (i) By agreement between a majority of employees and the Employer, or where no employees have yet been engaged, between MEAA and the Employer, a public holiday may be moved to another agreed day on which the employee had been scheduled to work ordinary hours. Where this occurs all work on the public holiday will be paid at ordinary time.
  - (ii) The general condition upon which consideration of the moving of a public holiday will be given is where the employee will receive the benefit of an extended period free of work.
  - (iii) However, in relation to major public holidays listed below, these will not be moved:
    - New Years Day
    - Good Friday
    - Easter Saturday
    - Christmas Day
    - Boxing Day
- (i) Except in relation to substituted public holidays, if the Employer does require an employee engaged to work on any of the public holidays referred to in this clause the Employer will pay the employee for all hours so worked at the rate of double time and a half, with a minimum payment as for four hours.
- (j) If by reason of any of the public holidays referred to in this clause to which an

employee is entitled being a weekday on which no work is done, an employee engaged by the week shall be credited with eight hours work for each such holiday and his or her wage for the week paid without deduction.

## **26. MEAL BREAKS AND REST PERIODS**

(a) If duty commences before 5.00a.m. the Employer shall allow a half hour break between the hours of 6.30a.m. and 8.00a.m. This break shall be considered as time on duty and breakfast shall be provided by the Employer or an allowance of \$15.68 paid. Where the Employer provides a catered breakfast to employees whose duty does not commence before 5.00a.m., a half hour break shall be allowed for breakfast of which 15 minutes shall be paid time on duty.

(b) The Employer shall provide meals upon location as required, or shall pay an allowance to each employee of \$17.53 in respect of the first meal break after breakfast and an allowance of \$26.86 for subsequent meal breaks.

(c) Except as provided for in sub-clause (a) of this clause, meal breaks shall be not less than half an hour and not more than one hour. Meal breaks shall not be considered as time on duty, other than as provided for by this clause.

(d) Meal breaks shall commence not later than 5 hours from the start of the work session or the end of the last meal break, whichever is the later.

(e) Employees shall be entitled to paid rest periods of ten minutes during the morning and afternoon of each day, which shall be taken at times agreed between the Employer and the employee(s) so as not to interfere with the production, but generally after two hours work and before the completion of three hours work. Where a catered breakfast is provided to an employee who commences work after 5:00a.m., the employee shall not be entitled to a morning rest period.

(f) If a meal break is not allowed as provided for in this clause, a delayed meal break ("DMB") penalty shall be paid at the rate of single time additional for all time worked from the time the meal break became due until the actual meal break commences. Payments for DMB penalties shall be calculated to the nearest 15 minutes.

(g) A DMB penalty shall not be payable after 5 hours work where:

- (i) it is not reasonably practicable for all employees to take a meal break (e.g. when finishing a scene, or because of time constraints on a particular location) and the Employer and the individual employee(s) affected agree, or
  - (ii) the Employer and the majority of affected employees agree;
- provided that at the time the Employer seeks the agreement of the individual employee or the majority of the affected employees the Employer will indicate the reason for the extension and the likely delay before the break will be taken.

In these circumstances the meal break must be taken after 6 hours from the start

of the work session or end of the last meal break, whichever is the later, or a DMB penalty will apply.

(h) A DMB penalty shall not be payable in circumstances where the Employer provides a catered rest period of not less than 20 minutes between the first and second meal break, and the employee works more than five but not more than six hours between those meal breaks. Such a catered rest period shall be regarded for all purposes as paid time on duty. In these circumstances the Meal Break must be taken at the 6 hour point or a DMB penalty will apply.

(i) Notwithstanding the above where any employee is required to work beyond the time of their second meal break such meal shall be provided by the Employer or the appropriate allowance shall be paid to the employee by the Employer.

(j) When overtime duty is performed beyond 12.00 midnight a supper break of half an hour must be allowed and taken as time on duty. The Employer must provide supper or reimburse the employee at the rate of \$17.53 per supper.

## **27. CALL BACK**

Any employee recalled to work after leaving the Employer's premises at the completion of contracted hours shall be paid for a minimum of three hours work at the appropriate overtime rate set out in Clause 22 of this Agreement.

## **28. WEATHER CHECKS**

When weather conditions result in a delay of production no employee shall suffer a loss of pay as a result thereof.

## **29. CANCELLATION AND POSTPONEMENT - CASUAL EMPLOYEES** *FOR GENERAL APPLICATION IN THE EMPLOYMENT OF CASUAL EMPLOYEES ON PRODUCTIONS OTHER THAN TELEVISION COMMERCIALS*

(a) If a booking is confirmed seven days or more prior to the commencement of the engagement and is subsequently cancelled or postponed by the Employer prior to seven days of the commencement of the engagement, no penalty shall apply.

(b) If a booking is confirmed seven days or more prior to the commencement of the engagement and is subsequently cancelled or postponed by the Employer with less than seven days notice of the confirmed engagement then the employee will be entitled to be paid a cancellation or postponement fee equivalent to only one day of the agreed daily rate regardless of the number of days booked. (If the original booking was for 4 hours then the cancellation or postponement fee would be 4 hours only). However if the employee subsequently gains other equivalent employment then the Employer will not be charged a cancellation or postponement fee.

(c) If a booking is confirmed less than seven days prior to the commencement of the engagement and is subsequently cancelled or postponed by the Employer giving the employee less than 24 hours notice of such cancellation or postponement the employee is to be paid the full daily rate for the days not worked up to a maximum of 3 days. (If the original booking was for 4 hours then the cancellation or postponement fee would be 4 hours only). However if the employee subsequently gains other equivalent employment then the Employer will not be charged for the days the employee works elsewhere.

## ***PART 5: TRAVEL, WORKING ON LOCATION, ACCOMMODATION, TRANSPORT AND RELATED MATTERS***

### **30. TRAVELLING**

(a) All travel required between the daily commencement of work and the daily conclusion of work including all travel to and from location shall be the responsibility of the Employer, subject to the provisions of this clause.

(b) All time spent in travelling shall be counted as time worked, subject to the provisions of this clause and of clause 8 of this Agreement.

(c) Where an employee elects, with the written agreement of the Employer, to provide her or his own transport to a location which is at a distance of more than 20 km from the capital city in which the Employer's usual place of business is located, time spent in travel shall be regarded as time worked and shall be calculated as between a radius of 20 km from the GPO and the place of location, such distance to be measured on the basis of the shortest practicable route by road between the Employer's usual place of business and the location, and the time taken shall be calculated on the basis of 1 minute for each kilometre of distance between the 20 km radius and the location. If the location is within the 20 km radius the location may be considered the place of call and the employee's time worked may be calculated from her or his call time at such location.

(d) Where prior to the operation of this Agreement the Employer had established its usual place of business within a 25 km radius of the GPO of a capital city and is recognised as carrying on its normal business or production activity from that place, no paid travel time shall be paid for such work. Where any production has its filming based at the Global Nunawading studios, if the location is within a 5 km radius of the studio in the direction of the 25 km radius, then the location is deemed to be within the 20 km radius.

(e) Where time spent travelling to a location beyond the radius prescribed in sub-clauses 30 (c) and (d) hereof, is counted as time worked, it will be paid at the appropriate overtime rate if it brings the total time worked by an employee on the particular day within the scope of the overtime provisions of clause 22 of this



## Agreement

### **Mode of transport**

(e) Where rail transport is utilised for travel to and from location, first class tickets (including, where applicable, sleeping berth accommodation) shall be provided. Where air or sea transport is utilised, economy class tickets shall be provided. Charter aircraft may be utilised where no regular commercial service is available at the time of travel. Transport from terminus, airport or landing place to the final destination and return shall be the responsibility of the Employer.

(f) The Employer shall provide transport from the Employer's usual place of business and from the place of call to and from any place of location including a place of location within a radius of 20 km of the GPO of the Capital City in which the Employer's usual place of business is located, provided that where an employee receives the minimum rate of pay as per this Agreement and at the Employer's request it is agreed that the employee arranges his or her own transport, within the 20 km radius, an allowance of \$7.07 per day shall be payable to each such employee.

(g) The Employer shall not require an employee to undertake a duty if it necessitates the employee travelling by a conveyance to which the employee has a reasonable objection. However should no alternative conveyance at similar cost be available to the Employer, the employee may be stood down with pay for the duration of that particular assignment.

(h) Vehicles in which employees are required to travel shall comply with all relevant safety requirements of the Commonwealth or State or Territory in which they are in use.

### **Allowances and loadings**

(i) Employees travelling during meal time for whom a meal is not provided shall be paid an allowance as set out in clause 26 of this Agreement.

(j) Subject to the Employer's or the Employer's authorised representative's prior approval, where an employee incurs additional travel costs as a consequence of working late at the Employer's request or being called early as the case may be, the Employer shall reimburse him or her for the increased travel cost.

(k) When an employee is required to drive a vehicle of more than two tonnes tare and the employee is in receipt of a rate of pay no more than the Agreement rate he or she shall be paid a loading of \$5.10 per day.

(l) Where an employee agrees to use his or her own motor car or motor cycle at the request of the Employer he or she shall be paid allowances as set out hereunder, or where an employee agrees to use his or her own motor car or motor cycle to travel to or from location at the request of the Employer, he or she shall be paid minimum allowances as set out hereunder: provided that where fuel is

provided by the Employer the cost of such fuel shall be deducted from the amount provided as allowance for the use of the motor vehicle:

- (i) Motor car: 81 cents per kilometre
- (ii) Motor cycle: 40 cents per kilometre.

(m) Provided that where an employee's vehicle is hired by the Employer a flat rate may be contracted which includes a hiring fee and an amount to compensate for kilometres travelled.

### **Accommodation**

(n) Employees required to stay away overnight from their place of residence shall be provided with unshared modern motel-type accommodation or similar. Where this is impossible and an employee is accommodated other than in such accommodation, the following allowances shall be paid to each employee so accommodated:

- (i) Where accommodation is provided at the standard of a private home, homestead, or hotel with shared facilities or where unshared accommodation is not provided - \$10.92 per day.
- (ii) Where accommodation is provided at the standard of air-conditioned caravans or air-conditioned and sewered mining camps - \$21.84 per day.
- (iii) Where accommodation is provided at the standard of shearer's quarters, rough mining camps, or by camping - \$43.37 per day.

Provided further that where an employee is offered accommodation at a particular standard, but elects to stay in accommodation of a lower standard, only the allowance, if any, applicable to the standard offered is payable.

(o) Where the employee is on a bona fide location and the employee has elected to stay at a place of accommodation further from the place of work than where the majority of employees are staying, the travel time for that employee will be deemed to be the time taken to and from the place of accommodation where the majority of employees are staying to and from the place of work

(p) Where on a bona fide location the employees are provided with a standard of accommodation which is superior to the accommodation which is available closer to the place of work, and MEAA agrees, the travel time for the employee will be deemed to be the time taken to and from the closer accommodation.

## **31. CLOTHING**

(a) Compensation to the extent of the damage sustained shall be made where in the course of work an employee's clothing is damaged or destroyed provided that this sub-clause shall not apply in cases where such damage or destruction occurs due to the negligence or default of the employee.

(b) Where any employee is required to wear a uniform, coat, overall, or any special dress, the same shall be provided and laundered by the Employer.

(c) When living away from home on location a laundry/dry cleaning allowance of \$12.61 per day shall be provided unless agreement is reached between the Employer and the employee that the Employer shall arrange for the laundering of the employee's clothes in lieu of payment of the said allowance.

(d) The Employer shall provide free of cost to employees all adequate protective clothing required in the performance of their duties.

### **32. EMPLOYEE FACILITIES**

(a) The Employer shall provide proper and sufficient washing and sanitary conveniences.

(b) The Employer shall make available a securable facility (eg a trunk, large box or locker) for the storage of the personal effects of all employees.

(c) The Employer shall nominate one or more persons to be responsible for locking and unlocking the facility for the purpose of storing personal effects therein.

(d) Neither the Employer nor any person responsible for unlocking/locking the facility shall be held responsible or liable for the safekeeping of the personal effects stored within the facility referred to in this clause.

### **33. MINIMUM STAFFING**

In the event of MEAA objecting to the staffing complement of a unit prior to commencement of production negotiations shall be conducted with the Employer and in the event of no agreement being reached leave is reserved to refer the dispute to Fair Work Australia in accordance with the terms of clause 39.

## ***PART 6: LEAVE PROVISIONS***

### **34. ANNUAL LEAVE**

(a) A full time employee under this Agreement is entitled to 152 hours of annual leave per year in accordance with the National Employment Standard, Division 5 (reproduced in Schedule B of this Agreement), calculated on gross agreed remuneration as defined in clause 5 of this Agreement.

(b) A part time employee under this Agreement accrues annual leave on a pro rata basis in accordance with the National Employment Standard, Division 5.

(c) Casual employees are not entitled to annual leave.

(d) During a period of annual leave taken by an employee after he or she has

completed twelve months service with the Employer, the employee will receive a loading of 17.5% calculated on gross agreed remuneration as defined in clause 5 of this Agreement. The loading prescribed by this clause does not apply to proportionate leave payable on termination.

(e) An employee once sent on annual leave shall not be recalled for duty before two thirds of the period of his or her annual leave has expired.

(f) An employee is entitled to take an amount of annual leave during a particular period if:

- (i) at least that amount of annual leave is credited to the employee; and
- (ii) the Employer has authorised the employee to take the annual leave during that period.

(g) Any authorisation by the Employer enabling an employee to take annual leave during a particular period is subject to the operational requirements of the business. MEAA acknowledges that due to the unique nature of film production and the operational requirements of the business, it is reasonable that annual leave not be taken during the course of production (other than during a production hiatus).

(h) An employee must take an amount of annual leave during a particular period if:

- (i) the employee is directed to do so by the Employer because during the period the Employer shuts down the business or any part of the business, in which the employee works; and
- (ii) at least that amount of annual leave is credited to the employee.

(i) If an employee does not have an amount of annual leave credited to the employee equal to the period of the shut down the employee may be stood down without pay during the shut down.

(j) On termination of employment, the Employer will pay the employee an amount in lieu of any accrued but untaken annual leave, calculated on gross agreed remuneration as defined in clause 5 of this Agreement.

### **35 PERSONAL LEAVE**

*(Includes Sick, Carer's and Compassionate (Bereavement) Leave)*

(a) Full time and part time employees are entitled to Personal/Carer's and Compassionate Leave in accordance with the National Employment Standards, Division 6 (reproduced in Schedule C) as modified by this clause.

(b) A full time or part time employee is entitled to accrue for each completed 4 week period of continuous service (as defined in the NES), an amount of paid Personal/Carer's Leave equal to the greater of:

- (i) 1/26th of the number of nominal hours worked (as defined in the NES) by the employee during that 4 week period. Therefore, a full time employee

working 38 hours per week will accrue 76 hours or 10 days of paid Personal/Carer's Leave per annum; and

(ii) 1 day for that 4 week period provided that the first 2 days taken by an employee as compassionate leave shall also be deemed to be taken as Personal/Carer's leave and debited to the employee's entitlement to Personal/Carer's Leave under this clause.

(c) Personal/Carer's Leave includes:

(i) Paid leave taken by an employee because of an illness or injury (Sick Leave); or

(ii) Paid leave taken by an employee to provide care or support to a member of their immediate family or household, who requires care and support because of a personal illness or injury, or an unexpected emergency affecting the member (Carer's Leave).

(d) Paid Personal/Carer's Leave accrued under sub-clause (b) will be credited to an employee each month. Subject to this clause, an employee is entitled to take an amount of paid Personal/Carer's Leave if, under this Clause, that amount of leave is credited to the employee.

(e) Any unused paid Personal/Carer's Leave is cumulative from year to year.

(f) If an employee takes paid Personal/Carer's Leave during a period, the Employer must pay the employee for that period the amount the employee would reasonable have expected to be paid by the Employer if the employee had worked during that period.

### **Sick Leave**

(g) An employee, other than a casual, who is absent from work on account of personal illness or injury is entitled to paid Personal/Carer's leave subject to the terms of this Clause.

(h) An employee who is absent from work on account of personal illness or injury is not entitled to paid leave of absence:

(i) As a result of sickness or incapacity arising from misbehaviour, wilful contribution or lack of reasonable care;

(ii) As a result of an injury received from a specific form of recreation, hobby or exercise if the Employer has given specific individual notification in writing to an employee that if he or she further indulges in that particular form of recreation, hobby or exercise, no liability in the case of injury arising there from will attach to the Employer. A general notification by circular or otherwise will not exempt the Employer from liability under this clause.

### **Paid Carer's Leave**

(i) An employee, other than a casual, who is absent from work to provide care or support to a member of their immediate family or household, who required care and support because of a personal illness or injury or an unexpected emergency

affecting the member is entitled to paid Personal/Carer's Leave subject to the terms of this clause.

(j) An employee is not entitled to take more than 1/26th of the nominal hours worked (as defined in the NES) of their Personal/Carer's Leave as paid Carer's Leave in a year. An employee is not entitled to take paid Carer's Leave where another person has taken leave to care for the same person.

### **Unpaid Carer's Leave**

(k) An employee (including a casual employee) will be entitled to up to 2 days' unpaid Carer's Leave for each occasion when a member of their immediate family or household requires their care or support for personal illness, or injury or an unexpected emergency affecting the member. This leave is only available when any other paid Personal/Carer's Leave entitlement has been exhausted. This leave can be taken in a single unbroken period of two days, or if the Employer and the employee agree, in separate periods.

### **Eligibility Requirements**

(l) An employee is only entitled to paid Personal/Carer's Leave (including paid Sick Leave and Carer's Leave) or unpaid Carer's Leave if they comply with the requirements of this clause.

(m) An employee must as soon as reasonably practicable, inform the Employer of his or her inability to attend for duty and as far as reasonably practicable state the nature of the injury, illness or emergency and the estimated duration of the absence.

(n) When taking Carer's Leave, the notice must include:

- (i) the name of the person requiring care and support and the relationship to the employee;
- (ii) the reasons for taking such leave; and
- (iii) the estimated length of absence.

(o) When taking leave for personal illness or injury, the employee must, if required by the Employer, establish by production of a medical certificate from a medical practitioner or statutory declaration, that the employee was unable to work because of injury or personal illness. The employee must, if required by the Employer, be examined by a medical practitioner nominated by the Employer at the Employer's expense. An employee who refuses to be examined by the medical practitioner will not be entitled to the benefits of this clause.

(p) When taking leave to care for members of their immediate family or household who are sick and require care and support, the employee must, if required by the Employer, establish by production of a medical certificate from a medical practitioner or a statutory declaration, the illness of the person concerned and that such illness requires care by the employee.

(q) When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the Employer, establish by production of documentation acceptable to the Employer, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

(r) An employee is not entitled to take paid sick leave for a period during which the employee is absent from work because of a personal illness or injury for which the employee is receiving workers compensation.

### **Compassionate (bereavement) Leave**

(s) A full time employee is entitled to two days' paid compassionate leave per occasion:

- (i) For the purpose of spending time with a member of their immediate family or household who contracts or develops a personal illness that poses a serious threat to his or her life or who sustains a personal injury that poses a serious threat to his or her life; or
- (ii) After the death of a member of the employee's immediate family or household.

(t) This leave can be taken in two consecutive days, two single days or other periods agreed between the Employer and the employee. The Employer may require reasonable evidence of such an event.

(u) An employee who is entitled to a period of paid compassionate leave because a member of their immediate family or household who contracts or develops a personal illness that poses a serious threat to his or her life or who sustains a personal injury that poses a serious threat to his or her life is entitled to start to take the compassionate leave at any time while the illness or injury persists.

(v) A part time employee is entitled to compassionate leave on the same basis as prescribed for full time employees except that leave is only available where a part time employee would normally work on either or both of the two working days following the death or other occasion described in sub-clause (s) giving rise to the entitlement to compassionate leave.

(w) If an employee takes paid compassionate leave during a period, the Employer must pay the employee for that period the amount the employee would reasonably have expected to be paid by the Employer if the employee had worked during that period.

### **Definitions**

(x) For the purposes of this clause:

- (i) 'Immediate family' includes:
  - A. spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex who lives with the employee as his or her husband or wife on a

- bona fide domestic basis; and
- B. child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild, or sibling of the employee or spouse of the employee;
- (ii) 'household' includes a family group living in the same dwelling.

### **36. PARENTAL LEAVE**

Employees are entitled to Parental Leave in accordance with the National Employment Standards, Division 4 (reproduced in Schedule D).

## ***PART 7: OCCUPATIONAL HEALTH AND SAFETY***

### **37. SAFETY CODE**

All work performed under this Agreement shall be in accordance with the provisions of the applicable national and/or state or territory legislation. In ensuring its compliance, the Employer will take into account the Film Industry Safety Code (available on the SPAA and MEAA websites), including the Film and Television Industry Safety Guidance Notes as agreed from time to time between SPAA and MEAA (or such other Codes or Guidance Notes replacing the said documents).

Safety reports prepared in accordance with the Film Industry Safety Code shall identify all hazardous duties for the purposes of clause 38 of this Agreement.

**Note:** The Screen Production Safety Review Committee is currently engaged in a review of the industry code of practice and guidance notes. SPAA and MEAA are represented on that Committee and it is expected that a new National Guidance Note will be published to replace the existing code and guidance notes.

### **38. HAZARDOUS DUTY**

(a) If an employee is requested to undertake an assignment the performance of which would invalidate the employee's personal insurance policy or policies, the employee shall immediately inform the Employer and unless the Employer has given written notice to such employee prior to the employee undertaking the assignment that the Employer declines to indemnify the employee and/or the employee's dependants against such invalidation the Employer shall be bound to indemnify the employee and/or the employee's dependants against any loss so arising. Upon receipt of any such written notice aforesaid the employee may decline the assignment.

(b) Where an employee is requested to perform a duty on location within Australia or overseas that is designated as hazardous in a Safety Report prepared in accordance with Clause 37, or if an additional scene or shot not originally in the shooting schedule is declared by the Safety Supervisor on set following



consultation with the Producer, Production Manager, Director or 1st Assistant Director to be hazardous, the Employer shall insure the employee in respect of death, partial and total incapacity and injury, as per sub-clause (d) hereof, arising out of the performance of the hazardous duty, for the sums shown.

(c) If the Employer does not insure the employee in respect of the circumstances as outlined in sub-clause (b) hereof the Employer shall be liable to pay the employee (or in the event of death of the employee, the personal representative of the employee) the amount or amounts that would have been payable to the employee or the employee's personal representative in the event of the employee's death, if the employee had died or sustained personal injury while performing such duty as defined in sub-clause (b) hereof and the Employer had taken out an insurance policy, in respect of such death or personal injury.

(d) **Schedule of insurance payments**

<b>The events*</b>	<b>The compensation</b>
Death	\$275,500
Permanent total disablement	\$275,500
Permanent total loss of sight of one eye and loss or permanent total loss of use of one limb	\$275,500
Permanent total loss of sight of both eyes	\$275,500
Permanent total loss of sight of one eye	\$137,500
Permanent total loss of sight of one eye – employees in Camera Department only	\$275,500
Loss of or the permanent total loss of use of two limbs	\$275,500
Loss of or the permanent total loss of the use of one limb	\$137,500

\*Occurring within twelve months of sustaining such injury.

## ***PART 8: CONSULTATION AND DISPUTE SETTLEMENT***

### **39. DISPUTE SETTLEMENT PROCEDURE**

(a) The parties to this Agreement are committed to promoting good industrial relations based upon goodwill, consultation and discussion.

(b) If a dispute relates to:

- (i) a matter arising under the agreement; or
- (ii) the National Employment Standards;

this term sets out procedures to settle the dispute.

(c) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

(d) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level:

- (i) in the case of any grievance, claim or dispute, except a safety dispute, which arises at the workplace in respect of a local matter, the resolution of which is not likely to have a repercussive impact at any other location in the industry, by observing Stages 1 to 5 of the procedure set out in sub-clause (e);
- (ii) in the case of any grievance, claim or dispute other than a grievance, claim or dispute referred to in paragraph (i) hereof or a safety dispute, by observing Stages 4 and 5 of the procedure set out in sub-clause (e).

**(e) Procedure**

- Stage 1 The grievance, claim or dispute shall be discussed between the employee(s) concerned and his/her/their immediate supervisor(s). A MEAA or other accredited representative of the employees may be requested to join the discussion.
- Stage 2 If not resolved, the grievance, claim or dispute shall be discussed between an accredited representative of the employees and a delegated officer of the Employer.
- Stage 3 If agreement has not been reached the grievance, claim or dispute shall be discussed between an accredited representative of the employees and the Employer (or its/his/her nominee).
- Stage 4 If the grievance, claim or dispute is still not resolved it shall be discussed between MEAA and SPAA.
- Stage 5 If the matter remains unresolved, then, without prejudice to the right of any party, including those under the Fair Work Act 2009, the matter may be referred to Fair Work Australia.

(f) Fair Work Australia may deal with the dispute in 2 stages:

- (i) Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- (ii) if Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:
  - A. arbitrate the dispute; and
  - B. make a determination that is binding on the parties.

**Note:** If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

(g) While the parties are trying to resolve the dispute using the procedures in this term:

- (i) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and

- (ii) an employee must comply with a direction given by the Employer to perform other available work at the same workplace, or at another workplace, unless:
  - A. the work is not safe; or
  - B. applicable occupational health and safety legislation would not permit the work to be performed; or
  - C. the work is not appropriate for the employee to perform; or
  - D. there are other reasonable grounds for the employee to refuse to comply with the direction.

(h) The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this clause.

(i) Subject to paragraph (d)(ii) hereof, nothing contained herein shall preclude the Employer and/or SPAA and MEAA from entering into direct negotiations on any matter. While the dispute is being resolved the parties agree to respect the status quo.

#### **40. CONSULTATION**

(a) This term applies if:

- (i) the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
- (ii) the change is likely to have a significant effect on employees of the enterprise.

(b) The Employer must notify the relevant employees of the decision to introduce the major change.

(c) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(d) If:

- (i) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (ii) the employee or employees advise the Employer of the identity of the representative;

the Employer must recognise the representative.

(e) As soon as practicable after making its decision, the Employer must:

- (i) discuss with the relevant employees:
  - A. the introduction of the change; and
  - B. the effect the change is likely to have on the employees; and
  - C. measures the Employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (ii) for the purposes of the discussion — provide, in writing, to the relevant employees:

- A. all relevant information about the change including the nature of the change proposed; and
- B. information about the expected effects of the change on the employees; and
- C. any other matters likely to affect the employees.

(f) However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(g) The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

(h) If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in sub-clauses (b), (c) and (e) are taken not to apply.

(i) In this term, a major change is ***likely to have a significant effect on employees*** if it results in:

- (i) the termination of the employment of employees; or
- (ii) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- (iii) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (iv) the alteration of hours of work; or
- (v) the need to retrain employees; or
- (vi) the need to relocate employees to another workplace; or
- (vii) the restructuring of jobs.

**(j) In this term, *relevant employees* means the employees who may be affected by the major change.**

#### **41. INDIVIDUAL FLEXIBILITY ARRANGEMENT**

41.1 Notwithstanding any other provision of this agreement, the employer and an individual employee may agree to vary the application of certain terms of this agreement 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.

41.2 The employer and the individual employee must have genuinely made the Individual Flexibility Arrangement (the agreement) without coercion or duress.

41.3 The arrangement 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 41.1; and
- (b) result in the employee being better off overall than the employee would have been if no arrangement had been agreed to.

41.4 The arrangement between the employer and the individual employee must also:

- (a) be in writing in a form agreed between the employer and the Union, name the parties to the arrangement 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 agreement that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by the arrangement between the employer and the individual employee;
- (d) detail the monetary value of each term that has been varied by the arrangement between the employer and the individual employee;
- (e) detail how the arrangement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (f) state the date the arrangement commences to operate.

41.5 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.41.6 Except as provided in clause 41.4(a) the arrangement must not require the approval or consent of a person other than the employer and the individual employee.

41.7 An employer seeking to enter into an arrangement 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.

41.8 The arrangement may be terminated:

- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the arrangement 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.

41.9 The right to make an arrangement 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 agreement.

#### 42. UNION MEMBERSHIP

The parties agree that union membership shall be facilitated by all reasonable means having regard for the rights of the employee and employer, including reasonable access to workplaces by union officers or employees where this does not impede or obstruct the performance of work.

**PART 9: EXECUTION OF AGREEMENT**

SIGNED for and on behalf of the Media Entertainment and Arts Alliance

.....

.

..... (Title)

..... Witness

..... Date

SIGNED for and on behalf of the Employer

.....

..... (Title)

..... Witness

..... Date

**SCHEDULE A:**

**RELEVANT NATIONAL EMPLOYMENT STANDARD (NES) PROVISIONS**

**– NOTICE OF TERMINATION AND REDUNDANCY PAY**

***Subdivision A—Notice of termination or payment in lieu of notice***

**117 Requirement for notice of termination or payment in lieu**

*Notice specifying day of termination*

(1) An employer must not terminate an employee's employment unless the employer has given the employee written notice of the day of the termination (which cannot be before the day the notice is given).

**Note 1:** Section 123 describes situations in which this section does not apply.

**Note 2:** Sections 28A and 29 of the *Acts Interpretation Act 1901* provide how a notice may be given. In particular, the notice may be given to an employee by:

- (a) delivering it personally; or
- (b) leaving it at the employee's last known address; or
- (c) sending it by pre-paid post to the employee's last known address.

*Amount of notice or payment in lieu of notice*

(2) The employer must not terminate the employee's employment unless:

- (a) the time between giving the notice and the day of the termination is at least the period (the **minimum period of notice**) worked out under subsection (3); or
- (b) the employer has paid to the employee (or to another person on the employee's behalf) payment in lieu of notice of at least the amount the employer would have been liable to pay to the employee (or to another person on the employee's behalf) at the full rate of pay for the hours the employee would have worked had the employment continued until the end of the minimum period of notice.

(3) Work out the minimum period of notice as follows:

(a) first, work out the period using the following table:

	<b>Employee's period of continuous service with the employer at the end of the day the notice is given</b>	<b>Period</b>
1	Not more than 1 year	1 week
2	More than 1 year but not more than 3 years	2 weeks
3	More than 3 years but not more than 5 years	3 weeks
4	More than 5 years	4 weeks



(b) then increase the period by 1 week if the employee is over 45 years old and has completed at least 2 years of continuous service with the employer at the end of the day the notice is given.

### **118 Modern awards and enterprise agreements may provide for notice of termination by employees**

A modern award or enterprise agreement may include terms specifying the period of notice an employee must give in order to terminate his or her employment.

#### ***Subdivision B—Redundancy pay***

### **119 Redundancy pay**

#### *Entitlement to redundancy pay*

- (1) An employee is entitled to be paid redundancy pay by the employer if the employee's employment is terminated:
- (a) at the employer's initiative because the employer no longer requires the job done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour; or
  - (b) because of the insolvency or bankruptcy of the employer.

**Note:** Sections 121, 122 and 123 describe situations in which the employee does not have this entitlement.

#### *Amount of redundancy pay*

- (2) The amount of the redundancy pay equals the total amount payable to the employee for the redundancy pay period worked out using the following table at the employee's base rate of pay for his or her ordinary hours of work:

<b>Employee's period of continuous service with the employer on termination</b>	<b>Redundancy pay period</b>
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	12 weeks

## **120 Variation of redundancy pay for other employment or incapacity to pay**

(1) This section applies if:

- (a) an employee is entitled to be paid an amount of redundancy pay by the employer because of section 119; and
- b) the employer:
  - (i) obtains other acceptable employment for the employee; or
  - (ii) cannot pay the amount.

(2) On application by the employer, FWA may determine that the amount of redundancy pay is reduced to a specified amount (which may be nil) that FWA considers appropriate.

(3) The amount of redundancy pay to which the employee is entitled under section 119 is the reduced amount specified in the determination.

## **121 Exclusions from obligation to pay redundancy pay**

(1) Section 119 does not apply to the termination of an employee's employment if, immediately before the time of the termination, or at the time when the person was given notice of the termination as described in subsection 117(1) (whichever happened first):

- (a) the employee's period of continuous service with the employer is less than 12 months; or
- (b) the employer is a small business employer.

(2) A modern award may include a term specifying other situations in which section 119 does not apply to the termination of an employee's employment.

(3) If a modern award that is in operation includes such a term (the **award term**), an enterprise agreement may:

- (a) incorporate the award term by reference (and as in force from time to time) into the enterprise agreement; and
- (b) provide that the incorporated term covers some or all of the employees who are also covered by the award term.

## **122 Transfer of employment situations that affect the obligation to pay redundancy pay**

*Transfer of employment situation in which employer may decide not to recognise employee's service with first employer*

(1) Subsection 22(5) does not apply (for the purpose of this Subdivision) to a transfer of employment between non-associated entities in relation to an employee if the second employer decides not to recognise the employee's service with the first employer (for the purpose of this Subdivision).

*Employee is not entitled to redundancy pay if service with first employer counts as service with second employer*

(2) If subsection 22(5) applies (for the purpose of this Subdivision) to a transfer of employment in relation to an employee, the employee is not entitled to redundancy pay under section 119 in relation to the termination of his or her employment with the first employer.

**Note:** Subsection 22(5) provides that, generally, if there is a transfer of employment, service with the first employer counts as service with the second employer.

*Employee not entitled to redundancy pay if refuses employment in certain circumstances*

(3) An employee is not entitled to redundancy pay under section 119 in relation to the termination of his or her employment with an employer (the **first employer**) if:

(a) the employee rejects an offer of employment made by another employer (the **second employer**) that:

(i) is on terms and conditions substantially similar to, and, considered on an overall basis, no less favourable than, the employee's terms and conditions of employment with the first employer immediately before the termination; and

(ii) recognises the employee's service with the first employer, for the purpose of this Subdivision; and

(b) had the employee accepted the offer, there would have been a transfer of employment in relation to the employee.

(4) If FWA is satisfied that subsection (3) operates unfairly to the employee, FWA may order the first employer to pay the employee a specified amount of redundancy pay (not exceeding the amount that would be payable but for subsection (3)) that FWA considers appropriate. The first employer must pay the employee that amount of redundancy pay.

### ***Subdivision C—Limits on scope of this Division***

#### **123 Limits on scope of this Division**

*Employees not covered by this Division*

(1) This Division does not apply to any of the following employees:

(a) an employee employed for a specified period of time, for a specified task, or for the duration of a specified season;

(b) an employee whose employment is terminated because of serious misconduct;

(c) a casual employee;

(d) an employee (other than an apprentice) to whom a training arrangement applies and whose employment is for a specified period of time or is, for any reason, limited to the duration of the training arrangement;

(e) an employee prescribed by the regulations as an employee to whom this Division does not apply.

(2) Paragraph (1)(a) does not prevent this Division from applying to an employee if a substantial reason for employing the employee as described in that paragraph was to avoid the application of this Division.

*Other employees not covered by notice of termination provisions*

- (3) Subdivision A does not apply to:
- (b)a daily hire employee working in the building and construction industry (including working in connection with the erection, repair, renovation, maintenance, ornamentation or demolition of buildings or structures); or
  - (c)a daily hire employee working in the meat industry in connection with the slaughter of livestock; or
  - (d)a weekly hire employee working in connection with the meat industry and whose termination of employment is determined solely by seasonal factors; or
  - (e)an employee prescribed by the regulations as an employee to whom that Subdivision does not apply.

*Other employees not covered by redundancy pay provisions*

- (4) Subdivision B does not apply to:
- (a)an employee who is an apprentice; or
  - (b)an employee to whom an industry-specific redundancy scheme in a modern award applies; or
  - (c)an employee to whom a redundancy scheme in an enterprise agreement applies if:
    - (i)the scheme is an industry-specific redundancy scheme that is incorporated by reference (and as in force from time to time) into the enterprise agreement from a modern award that is in operation; and
    - (ii)the employee is covered by the industry-specific redundancy scheme in the modern award; or
  - (d)an employee prescribed by the regulations as an employee to whom that Subdivision does not apply.

## **SCHEDULE B:**

### **RELEVANT NATIONAL EMPLOYMENT STANDARD (NES) PROVISIONS**

#### **– ANNUAL LEAVE**

##### **86 Division applies to employees other than casual employees**

This Division applies to employees, other than casual employees.

##### **87 Entitlement to annual leave**

###### *Amount of leave*

- (1) For each year of service with his or her employer, an employee is entitled to:
- (a) 4 weeks of paid annual leave; or
  - (b) 5 weeks of paid annual leave, if:
    - (i) a modern award applies to the employee and defines or describes the employee as a shiftworker for the purposes of the National Employment Standards; or
    - (ii) an enterprise agreement applies to the employee and defines or describes the employee as a shiftworker for the purposes of the National Employment Standards;
    - or
    - (iii) the employee qualifies for the shiftworker annual leave entitlement under subsection (3) (this relates to award/agreement free employees).

**Note:** Section 196 affects whether FWA may approve an enterprise agreement covering an employee, if the employee is covered by a modern award that is in operation and defines or describes the employee as a shiftworker for the purposes of the National Employment Standards.

###### *Accrual of leave*

- (2) An employee's entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

**Note:** If an employee's employment ends during what would otherwise have been a year of service, the employee accrues paid annual leave up to when the employment ends.

###### *Award/agreement free employees who qualify for the shiftworker entitlement*

- (3) An award/agreement free employee qualifies for the shiftworker annual leave entitlement if:
- (a) the employee:
    - (i) is employed in an enterprise in which shifts are continuously rostered 24 hours a day for 7 days a week; and
    - (ii) is regularly rostered to work those shifts; and

(iii) regularly works on Sundays and public holidays; or

(b) the employee is in a class of employees prescribed by the regulations as shiftworkers for the purposes of the National Employment Standards.

(4) However, an employee referred to in subsection (3) does not qualify for the shiftworker annual leave entitlement if the employee is in a class of employees prescribed by the regulations as not being qualified for that entitlement.

(5) Without limiting the way in which a class may be described for the purposes of paragraph (3)(b) or subsection (4), the class may be described by reference to one or more of the following:

(a) a particular industry or part of an industry;

(b) a particular kind of work;

(c) a particular type of employment.

## **88 Taking paid annual leave**

(1) Paid annual leave may be taken for a period agreed between an employee and his or her employer.

(2) The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

## **89 Employee not taken to be on paid annual leave at certain times**

### *Public holidays*

(1) If the period during which an employee takes paid annual leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid annual leave on that public holiday.

### *Other periods of leave*

(2) If the period during which an employee takes paid annual leave includes a period of any other leave (other than unpaid parental leave) under this Part, or a period of absence from employment under Division 8 (which deals with community service leave), the employee is taken not to be on paid annual leave for the period of that other leave or absence.

## **90 Payment for annual leave**

(1) If, in accordance with this Division, an employee takes a period of paid annual leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

(2) If, when the employment of an employee ends, the employee has a period of untaken paid annual leave, the employer must pay the employee the amount that would have been payable

to the employee had the employee taken that period of leave.

### **91 Transfer of employment situations that affect entitlement to payment for period of untaken paid annual leave**

*Transfer of employment situation in which employer may decide not to recognise employee's service with first employer*

(1) Subsection 22(5) does not apply (for the purpose of this Division) to a transfer of employment between non-associated entities in relation to an employee, if the second employer decides not to recognise the employee's service with the first employer (for the purpose of this Division).

*Employee is not entitled to payment for untaken annual leave if service with first employer counts as service with second employer*

(2) If subsection 22(5) applies (for the purpose of this Division) to a transfer of employment in relation to an employee, the employee is not entitled to be paid an amount under subsection 90(2) for a period of untaken paid annual leave.

**Note:** Subsection 22(5) provides that, generally, if there is a transfer of employment, service with the first employer counts as service with the second employer.

### **92 Paid annual leave must not be cashed out except in accordance with permitted cashing out terms**

Paid annual leave must not be cashed out, except in accordance with:

- (a) cashing out terms included in a modern award or enterprise agreement under section 93, or
- (b) an agreement between an employer and an award/agreement free employee under subsection 94(1).

### **93 Modern awards and enterprise agreements may include terms relating to cashing out and taking paid annual leave**

*Terms about cashing out paid annual leave*

(1) A modern award or enterprise agreement may include terms providing for the cashing out of paid annual leave by an employee.

(2) The terms must require that:

- (a) paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; and
- (b) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the employer and the employee; and

(c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.

*Terms about requirements to take paid annual leave*

(3) A modern award or enterprise agreement may include terms requiring an employee, or allowing for an employee to be required, to take paid annual leave in particular circumstances, but only if the requirement is reasonable.

*Terms about taking paid annual leave*

(4) A modern award or enterprise agreement may include terms otherwise dealing with the taking of paid annual leave.



**SCHEDULE C:**

**RELEVANT NATIONAL EMPLOYMENT STANDARD (NES) PROVISIONS**

**– PERSONAL/CARER'S AND COMPASSIONATE LEAVE**

***Subdivision A—Paid personal/carer's leave***

**95 Subdivision applies to employees other than casual employees**

This Subdivision applies to employees, other than casual employees.

**96 Entitlement to paid personal/carer's leave**

*Amount of leave*

(1) For each year of service with his or her employer, an employee is entitled to 10 days of paid personal/carer's leave.

*Accrual of leave*

(2) An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

**97 Taking paid personal/carer's leave**

An employee may take paid personal/carer's leave if the leave is taken:

- (a) because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or
- (b) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
  - (i) a personal illness, or personal injury, affecting the member; or
  - (ii) an unexpected emergency affecting the member.

**Note:** The notice and evidence requirements of section 107 must be complied with.

**98 Employee taken not to be on paid personal/carer's leave on public holiday**

If the period during which an employee takes paid personal/carer's leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal/carer's leave on that public holiday.

## **99 Payment for paid personal/carer's leave**

If, in accordance with this Subdivision, an employee takes a period of paid personal/carer's leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

## **100 Paid personal/carer's leave must not be cashed out except in accordance with permitted cashing out terms**

Paid personal/carer's leave must not be cashed out, except in accordance with cashing out terms included in a modern award or enterprise agreement under section 101.

## **101 Modern awards and enterprise agreements may include terms relating to cashing out paid personal/carer's leave**

(1) A modern award or enterprise agreement may include terms providing for the cashing out of paid personal/carer's leave by an employee.

(2) The terms must require that:

- (a) paid personal/carer's leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid personal/carer's leave being less than 15 days; and
- (b) each cashing out of a particular amount of paid personal/carer's leave must be by a separate agreement in writing between the employer and the employee; and
- (c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.

### ***Subdivision B—Unpaid carer's leave***

## **102 Entitlement to unpaid carer's leave**

An employee is entitled to 2 days of unpaid carer's leave for each occasion (a ***permissible occasion***) when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:

- (a) a personal illness, or personal injury, affecting the member; or
- (b) an unexpected emergency affecting the member.

## **103 Taking unpaid carer's leave**

(1) An employee may take unpaid carer's leave for a particular permissible occasion if the leave is taken to provide care or support as referred to in section 102.

(2) An employee may take unpaid carer's leave for a particular permissible occasion as:

- (a) a single continuous period of up to 2 days; or
- (b) any separate periods to which the employee and his or her employer agree.

(3) An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave.

**Note:** The notice and evidence requirements of section 107 must be complied with.

### ***Subdivision C—Compassionate leave***

#### **104 Entitlement to compassionate leave**

An employee is entitled to 2 days of compassionate leave for each occasion (a ***permissible occasion***) when a member of the employee's immediate family, or a member of the employee's household:

- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
- (b) sustains a personal injury that poses a serious threat to his or her life; or
- (c) dies.

#### **105 Taking compassionate leave**

(1) An employee may take compassionate leave for a particular permissible occasion if the leave is taken:

- (a) to spend time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in section 104; or
- (b) after the death of the member of the employee's immediate family or household referred to in section 104.

(2) An employee may take compassionate leave for a particular permissible occasion as:

- (a) a single continuous 2 day period; or
- (b) 2 separate periods of 1 day each; or
- (c) any separate periods to which the employee and his or her employer agree.

(3) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

**Note:** The notice and evidence requirements of section 107 must be complied with.

#### **106 Payment for compassionate leave (other than for casual employees)**

If, in accordance with this Subdivision, an employee, other than a casual employee, takes a period of compassionate leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

**Note:** For casual employees, compassionate leave is unpaid leave.

### ***Subdivision D—Notice and evidence requirements***

#### **107 Notice and evidence requirements**

##### *Notice*

- (1) An employee must give his or her employer notice of the taking of leave under this Division by the employee.
- (2) The notice:
- (a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
  - (b) must advise the employer of the period, or expected period, of the leave.

##### *Evidence*

- (3) An employee who has given his or her employer notice of the taking of leave under this Division must, if required by the employer, give the employer evidence that would satisfy a reasonable person that:
- (a) if it is paid personal/carer's leave—the leave is taken for a reason specified in section 97; or
  - (b) if it is unpaid carer's leave—the leave is taken for a permissible occasion in circumstances specified in subsection 103(1); or
  - (c) if it is compassionate leave—the leave is taken for a permissible occasion in circumstances specified in subsection 105(1).

##### *Compliance*

- (4) An employee is not entitled to take leave under this Division unless the employee complies with this section.

##### *Modern awards and enterprise agreements may include evidence requirements*

- (5) A modern award or enterprise agreement may include terms relating to the kind of evidence that an employee must provide in order to be entitled to paid personal/carer's leave, unpaid carer's leave or compassionate leave.

**Note:** Personal information given to an employer under this section may be regulated under the *Privacy Act 1988*.

## **SCHEDULE D**

### **RELEVANT NATIONAL EMPLOYMENT STANDARD (NES) PROVISIONS**

#### **- PARENTAL LEAVE AND RELATED ENTITLEMENTS**

##### ***Subdivision A—General***

#### **67 General rule—employee must have completed at least 12 months of service**

##### ***Employees other than casual employees***

(1) An employee, other than a casual employee, is not entitled to leave under this Division (other than unpaid pre-adoption leave) unless the employee has, or will have, completed at least 12 months of continuous service with the employer immediately before the date that applies under subsection (3).

##### ***Casual employees***

(2) A casual employee, is not entitled to leave (other than unpaid pre-adoption leave) under this Division unless:

(a) the employee is, or will be, a long term casual employee of the employer immediately before the date that applies under subsection (3); and

(b) but for:

(i) the birth or expected birth of the child; or

(ii) the placement or the expected placement of the child; or

(iii) if the employee is taking a period of unpaid parental leave that starts under subsection 71(6) or paragraph 72(3)(b) or 72(4)(b)—the taking of the leave;

the employee would have a reasonable expectation of continuing employment by the employer on a regular and systematic basis.

##### ***Date at which employee must have completed 12 months of service***

(3) For the purpose of subsections (1) and (2), the date that applies is:

(a) unless paragraph (b) or (c) applies:

(i) if the leave is birth-related leave—the date of birth, or the expected date of birth, of the child; or

(ii) if the leave is adoption-related leave—the day of placement, or the expected day of placement, of the child; or

(b) for an employee taking a period of unpaid parental leave that is to start within 12 months after the birth or placement of the child under subsection 71(6)—the date on which the employee's period of leave is to start; or

(c) for a member of an employee couple taking a period of unpaid parental leave that is to start under paragraph 72(3)(b) or 72(4)(b) after the period of unpaid

parental leave of the other member of the employee couple—the date on which the employee’s period of leave is to start.

*Meaning of **birth-related leave***

- (4) **Birth-related leave** means leave of either of the following kinds:
- (a) unpaid parental leave taken in association with the birth of a child (see section 70);
  - (b) unpaid special maternity leave (see section 80).

*Meaning of **adoption-related leave***

- (5) **Adoption-related leave** means leave of either of the following kinds:
- (a) unpaid parental leave taken in association with the placement of a child for adoption (see section 70);
  - (b) unpaid pre-adoption leave (see section 85).

*Meaning of **day of placement***

- (6) The **day of placement**, in relation to the adoption of a child by an employee, means the earlier of the following days:
- (a) the day on which the employee first takes custody of the child for the adoption;
  - (b) the day on which the employee starts any travel that is reasonably necessary to take custody of the child for the adoption.

**68 General rule for adoption-related leave—child must be under 16 etc.**

An employee is not entitled to adoption-related leave unless the child that is, or is to be, placed with the employee for adoption:

- (a) is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child; and
- (b) has not, or will not have, lived continuously with the employee for a period of 6 months or more as at the day of placement, or the expected day of placement, of the child; and
- (c) is not (otherwise than because of the adoption) a child of the employee or the employee’s spouse or de facto partner.

**69 Transfer of employment situations in which employee is entitled to continue on leave etc.**

- (1) If:
- (a) there is a transfer of employment in relation to an employee; and
  - (b) the employee has already started a period of leave under this Division when his or her employment with the first employer ends;
- the employee is entitled to continue on that leave for the rest of that period.
- (2) If:

- (a) there is a transfer of employment in relation to an employee; and
- (b) the employee has, in relation to the first employer, already taken a step that is required or permitted by a provision of this Division in relation to taking a period of leave;

the employee is taken to have taken the step in relation to the second employer.

**Note:** Steps covered by this subsection include (for example) giving the first employer notice under subsection 74(1), confirmation or advice under subsection 74(4) or evidence under subsection 74(5).

### ***Subdivision B—Parental leave***

#### **70 Entitlement to unpaid parental leave**

An employee is entitled to 12 months of unpaid parental leave if:

- (a) the leave is associated with:
  - (i) the birth of a child of the employee or the employee's spouse or de facto partner; or
  - (ii) the placement of a child with the employee for adoption; and
- (b) the employee has or will have a responsibility for the care of the child.

**Note 1:** Entitlement is also affected by section 67 (which deals with length of the employee's service) and, for adoption, section 68 (which deals with the age etc. of the adopted child).

**Note 2:** The 12 months is reduced by the amount of any unpaid special maternity leave the employee has taken (see subsection 80(7)).

#### **71 The period of leave—other than for members of an employee couple who each intend to take leave**

##### *Application of this section*

- (1) This section applies to an employee who intends to take unpaid parental leave if:
  - (a) the employee is not a member of an employee couple; or
  - (b) the employee is a member of an employee couple, but the other member of the couple does not intend to take unpaid parental leave.

##### *Leave must be taken in single continuous period*

- (2) The employee must take the leave in a single continuous period.

**Note:** An employee may take a form of paid leave at the same time as he or she is on unpaid parental leave (see section 79).

##### *When birth-related leave must start*

- (3) If the leave is birth-related leave for a female employee who is pregnant with, or gives birth to, the child, the period of leave may start up to 6 weeks before the expected date of birth of the child, but must not start later than the date of birth of the child.
- (4) If the leave is birth-related leave but subsection (3) does not apply, the period of leave must start on the date of birth of the child.

*When adoption-related leave must start*

(5) If the leave is adoption-related leave, the period of leave must start on the day of placement of the child.

*Leave may start later for employees whose spouse or de facto partner is not an employee*

(6) Despite subsections (3) to (5), the period of leave may start at any time within 12 months after the date of birth or day of placement of the child if:

- (a) the employee has a spouse or de facto partner who is not an employee; and
- (b) the spouse or de facto partner has a responsibility for the care of the child for the period between the date of birth or day of placement of the child and the start date of the leave.

**Note:** An employee whose leave starts under subsection (6) is still entitled under section 76 to request an extension of the period of leave beyond his or her available parental leave period. However, the period of leave may not be extended beyond 24 months after the date of birth or day of placement of the child (see subsection 76(7)).

## **72 The period of leave—members of an employee couple who each intend to take leave**

*Application of this section*

(1) This section applies to an employee couple if each of the employees intends to take unpaid parental leave.

*Leave must be taken in single continuous period*

(2) Each employee must take the leave in a single continuous period.

**Note:** An employee may take a form of paid leave at the same time as he or she is on unpaid parental leave (see section 79).

*When birth-related leave must start*

(3) If the leave is birth-related leave:

(a) one employee's period of leave must start first, in accordance with the following rules:

(i) if the member of the employee couple whose period of leave starts first is a female employee who is pregnant with, or gives birth to, the child—the period of leave may start up to 6 weeks before the expected date of birth of the child, but must not start later than the date of birth of the child;

(ii) if subparagraph (i) does not apply—the period of leave must start on the date of birth of the child; and

(b) the other employee's period of leave must start immediately after the end of the first employee's period of leave (or that period as extended under section 75 or 76).



*When adoption-related leave must start*

(4) If the leave is adoption-related leave:

- (a) one employee's period of leave must start on the day of placement of the child; and
- (b) the other employee's period of leave must start immediately after the end of the first employee's period of leave (or that period as extended under section 75 or 76).

*Limited entitlement to take concurrent leave*

(5) If one of the employees takes a period (the **first employee's period of leave**) of unpaid parental leave in accordance with paragraph (3)(a) or (4)(a), the other employee may take a period of unpaid parental leave (the **concurrent leave**) during the first employee's period of leave, if the concurrent leave complies with the following requirements:

- (a) the concurrent leave must be for a period of 3 weeks or less;
- (b) unless the employer agrees as referred to in paragraph (c), the concurrent leave must not start before, and must not end more than 3 weeks after:
  - (i) if the leave is birth-related leave—the date of birth of the child; or
  - (ii) if the leave is adoption-related leave—the day of placement of the child;
- (c) if the employer agrees, the concurrent leave may (subject to paragraph (a)):
  - (i) start earlier than is permitted by paragraph (b); or
  - (ii) end up to 3 weeks later than is permitted by paragraph (b).

(6) Concurrent leave taken by an employee:

- (a) is an exception to the rule that the employee must take his or her leave in a single continuous period (see subsection (2)); and
- (b) is an exception to the rules about when the employee's period of unpaid parental leave must start (see subsection (3) or (4)).

**Note:** The concurrent leave is unpaid parental leave and so comes out of the employee's entitlement to 12 months of unpaid parental leave under section 70.

**73 Pregnant employee may be required to take unpaid parental leave within 6 weeks before the birth**

*Employer may ask employee to provide a medical certificate*

(1) If a pregnant employee who is entitled to unpaid parental leave (whether or not she has complied with section 74) continues to work during the 6 week period before the expected date of birth of the child, the employer may ask the employee to give the employer a medical certificate containing the following statements (as applicable):

- (a) a statement of whether the employee is fit for work;
- (b) if the employee is fit for work—a statement of whether it is inadvisable for the employee to continue in her present position during a stated period because of:
  - (i) illness, or risks, arising out of the employee's pregnancy; or

(ii) hazards connected with the position.

**Note:** Personal information given to an employer under this subsection may be regulated under the *Privacy Act 1988*.

*Employer may require employee to take unpaid parental leave*

(2) The employer may require the employee to take a period of unpaid parental leave (the **period of leave**) as soon as practicable if:

(a) the employee does not give the employer the requested certificate within 7 days after the request; or

(b) within 7 days after the request, the employee gives the employer a medical certificate stating that the employee is not fit for work; or

(c) the following subparagraphs are satisfied:

(i) within 7 days after the request, the employee gives the employer a medical certificate stating that the employee is fit for work, but that it is inadvisable for the employee to continue in her present position for a stated period for a reason referred to in subparagraph (1)(b)(i) or (ii);

(ii) section 81 does not apply to the employee.

**Note:** If the medical certificate contains a statement as referred to in subparagraph (c)(i) and section 81 applies to the employee, the employee is entitled under that section to be transferred to a safe job, or to paid no safe job leave.

*When the period of leave must end*

(3) The period of leave must not end later than the earlier of the following:

(a) the end of the pregnancy;

(b) if the employee has given the employer notice of the taking of a period of leave connected with the birth of the child (whether it is unpaid parental leave or some other kind of leave)—the start date of that leave.

*Special rules about the period of leave*

(4) The period of leave:

(a) is an exception to the rule that the employee must take her unpaid parental leave in a single continuous period (see subsection 71(2) or 72(2)); and

(b) is an exception to the rules about when the employee's period of unpaid parental leave must start (see subsections 71(3) and (6), or subsection 72(3)).

**Note:** The period of leave is unpaid parental leave and so comes out of the employee's entitlement to 12 months of unpaid parental leave under section 70.

(5) The employee is not required to comply with section 74 in relation to the period of leave.

## 74 Notice and evidence requirements

### *Notice*

- (1) An employee must give his or her employer written notice of the taking of unpaid parental leave under section 71 or 72 by the employee.
- (2) The notice must be given to the employer:
  - (a) at least 10 weeks before starting the leave; or
  - (b) if that is not practicable—as soon as practicable (which may be a time after the leave has started).
- (3) The notice must specify the intended start and end dates of the leave.

### *Confirmation or change of intended start and end dates*

- (4) At least 4 weeks before the intended start date specified in the notice given under subsection (1), the employee must:
  - (a) confirm the intended start and end dates of the leave; or
  - (b) advise the employer of any changes to the intended start and end dates of the leave;unless it is not practicable to do so.

### *Evidence*

- (5) An employee who has given his or her employer notice of the taking of unpaid parental leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person:
  - (a) if the leave is birth-related leave—of the date of birth, or the expected date of birth, of the child; or
  - (b) if the leave is adoption-related leave:
    - (i) of the day of placement, or the expected day of placement, of the child; and
    - (ii) that the child is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child.
- (6) Without limiting subsection (5), an employer may require the evidence referred to in paragraph (5)(a) to be a medical certificate.

### *Compliance*

- (7) An employee is not entitled to take unpaid parental leave under section 71 or 72 unless the employee complies with this section.

**Note:** Personal information given to an employer under this section may be regulated under the *Privacy Act 1988*.

## **75 Extending period of unpaid parental leave—extending to use more of available parental leave period**

### *Application of this section*

(1) This section applies if:

- (a) an employee has, in accordance with section 74, given notice of the taking of a period of unpaid parental leave (the **original leave period**); and
- (b) the original leave period is less than the employee's available parental leave period; and
- (c) the original leave period has started.

(2) The employee's **available parental leave period** is 12 months, less any periods of the following kinds:

- (a) a period of concurrent leave that the employee has taken in accordance with subsection 72(5);
- (b) a period of unpaid parental leave that the employee has been required to take under subsection 73(2) or 82(2);
- (c) a period by which the employee's entitlement to unpaid parental leave is reduced under paragraph 76(6)(c);
- (d) a period of special maternity leave that the employee has taken.

### *First extension by giving notice to employer*

(3) The employee may extend the period of unpaid parental leave by giving his or her employer written notice of the extension at least 4 weeks before the end date of the original leave period. The notice must specify the new end date for the leave.

(4) Only one extension is permitted under subsection (3).

### *Further extensions by agreement with employer*

(5) If the employer agrees, the employee may further extend the period of unpaid parental leave one or more times.

### *No entitlement to extension beyond available parental leave period*

(6) The employee is not entitled under this section to extend the period of unpaid parental leave beyond the employee's available parental leave period.

## **76 Extending period of unpaid parental leave—extending for up to 12 months beyond available parental leave period**

### *Employee may request further period of leave*

(1) An employee who takes unpaid parental leave for his or her available parental leave period may request his or her employer to agree to an extension of unpaid

parental leave for the employee for a further period of up to 12 months immediately following the end of the available parental leave period.

*Making the request*

(2) The request must be in writing, and must be given to the employer at least 4 weeks before the end of the available parental leave period.

*Agreeing to the requested extension*

(3) The employer must give the employee a written response to the request stating whether the employer grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made.

(4) The employer may refuse the request only on reasonable business grounds.

(5) If the employer refuses the request, the written response under subsection (3) must include details of the reasons for the refusal.

*Special rules for employee couples*

(6) The following paragraphs apply in relation to a member of an employee couple extending a period of unpaid parental leave in relation to a child under this section:

(a) the request must specify any amount of unpaid parental leave and unpaid special maternity leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts;

(b) the period of the extension cannot exceed 12 months, less any period of unpaid parental leave or unpaid special maternity leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts;

(c) the amount of unpaid parental leave to which the other member of the employee couple is entitled under section 70 in relation to the child is reduced by the period of the extension.

*No extension beyond 24 months after birth or placement*

(7) Despite any other provision of this Division, the employee is not entitled to extend the period of unpaid parental leave beyond 24 months after the date of birth or day of placement of the child.

**77 Reducing period of unpaid parental leave**

If the employer agrees, an employee whose period of unpaid parental leave has started may reduce the period of unpaid parental leave he or she takes.

## **78 Employee who ceases to have responsibility for care of child**

- (1) This section applies to an employee who has taken unpaid parental leave in relation to a child if the employee ceases to have any responsibility for the care of the child.
- (2) The employer may give the employee written notice requiring the employee to return to work on a specified day.
- (3) The specified day:
  - (a) must be at least 4 weeks after the notice is given to the employee; and
  - (b) if the leave is birth-related leave taken by a female employee who has given birth—must not be earlier than 6 weeks after the date of birth of the child.
- (4) The employee's entitlement to unpaid parental leave in relation to the child ends immediately before the specified day.

## **79 Interaction with paid leave**

- (1) This Subdivision (except for subsections (2) and (3)) does not prevent an employee from taking any other kind of paid leave while he or she is taking unpaid parental leave. If the employee does so, the taking of that other paid leave does not break the continuity of the period of unpaid parental leave.

**Note:** For example, if the employee has paid annual leave available, he or she may (with the employer's agreement) take some or all of that paid annual leave at the same time as the unpaid parental leave.

- (2) An employee is not entitled to take paid personal/carer's leave or compassionate leave while he or she is taking unpaid parental leave.
- (3) An employee is not entitled to any payment under Division 8 (which deals with community service leave) in relation to activities the employee engages in while taking unpaid parental leave.

### ***Subdivision C—Other entitlements***

## **80 Unpaid special maternity leave**

### ***Entitlement to unpaid special maternity leave***

- (1) A female employee is entitled to a period of unpaid special maternity leave if she is not fit for work during that period because:
  - (a) she has a pregnancy-related illness; or
  - (b) she has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by the birth of a living child.

**Note:** Entitlement is also affected by section 67 (which deals with the length of the employee's service).

### *Notice and evidence*

- (2) An employee must give her employer notice of the taking of unpaid special maternity leave by the employee.
- (3) The notice:
  - (a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
  - (b) must advise the employer of the period, or expected period, of the leave.
- (4) An employee who has given her employer notice of the taking of unpaid special maternity leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason specified in subsection (1).
- (5) Without limiting subsection (4), an employer may require the evidence referred to in that subsection to be a medical certificate.
- (6) An employee is not entitled to take unpaid special maternity leave unless the employee complies with subsections (2) to (4).

### *Taking of special maternity leave reduces entitlement to unpaid parental leave*

- (7) A female employee's entitlement to 12 months of unpaid parental leave associated with the birth of a child (see section 70) is reduced by the amount of any unpaid special maternity leave taken by the employee while she was pregnant.

**Note:** Personal information given to an employer under this section may be regulated under the *Privacy Act 1988*.

## **81 Transfer to a safe job**

### *Application of this section*

- (1) This section applies to a pregnant employee if:
  - (a) she is entitled to unpaid parental leave; and
  - (b) she has already complied with the notice and evidence requirements of section 74 for taking unpaid parental leave; and
  - (c) she gives her employer evidence that would satisfy a reasonable person that she is fit for work, but that it is inadvisable for her to continue in her present position during a stated period (the **risk period**) because of:
    - (i) illness, or risks, arising out of her pregnancy; or
    - (ii) hazards connected with that position.

**Note:** Personal information given to an employer under this subsection may be regulated under the *Privacy Act 1988*.

- (2) Without limiting paragraph (1)(c), an employer may require the evidence referred to in that paragraph to be a medical certificate.

*Employee entitled to appropriate safe job or paid no safe job leave during risk period*

(3) If this section applies to an employee:

- (a) if there is an appropriate safe job available—the employer must transfer the employee to that job for the risk period, with no other change to the employee's terms and conditions of employment; or
- (b) if there is no appropriate safe job available—the employee is entitled to take paid no safe job leave for the risk period.

(4) An **appropriate safe job** is a safe job that has:

- (a) the same ordinary hours of work as the employee's present position; or
- (b) a different number of ordinary hours agreed to by the employee.

*Payment to employee if transferred to appropriate safe job*

(5) Without limiting paragraph (3)(a), if the employee is transferred to an appropriate safe job for the risk period, the employer must pay the employee for the safe job at the employee's full rate of pay (for the position she was in before the transfer) for the hours that she works in the risk period.

*Payment to employee if on paid no safe job leave*

(6) If the employee takes paid no safe job leave for the risk period, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the risk period.

*Risk period ends if pregnancy ends*

(7) If the employee's pregnancy ends before the end of the risk period, the risk period ends when the pregnancy ends.

## **82 Employee on paid no safe job leave may be asked to provide a further medical certificate**

*Employer may ask employee to provide a medical certificate*

(1) If an employee is on paid no safe job leave during the 6 week period before the expected date of birth of the child, the employer may ask the employee to give the employer a medical certificate stating whether the employee is fit for work.

**Note:** Personal information given to an employer under this subsection may be regulated under the *Privacy Act 1988*.

*Employer may require employee to take unpaid parental leave*

(2) The employer may require the employee to take a period of unpaid parental leave (the **period of leave**) as soon as practicable if:

- (a) the employee does not give the employer the requested certificate within 7 days after the request; or



(b) within 7 days after the request, the employee gives the employer a certificate stating that the employee is not fit for work.

*Entitlement to paid no safe job leave ends*

(3) When the period of leave starts, the employee's entitlement to paid no safe job leave ends.

*When the period of leave must end etc.*

(4) Subsections 73(3), (4) and (5) apply to the period of leave.

### **83 Consultation with employee on unpaid parental leave**

(1) If:

(a) an employee is on unpaid parental leave; and

(b) the employee's employer makes a decision that will have a significant effect on the status, pay or location of the employee's pre-parental leave position;

the employer must take all reasonable steps to give the employee information about, and an opportunity to discuss, the effect of the decision on that position.

(2) The employee's ***pre-parental leave position*** is:

(a) unless paragraph (b) applies, the position the employee held before starting the unpaid parental leave; or

(b) if, before starting the unpaid parental leave, the employee:

(i) was transferred to a safe job because of her pregnancy; or

(ii) reduced her working hours due to her pregnancy;

the position the employee held immediately before that transfer or reduction.

### **84 Return to work guarantee**

On ending unpaid parental leave, an employee is entitled to return to:

(a) the employee's pre-parental leave position; or

(b) if that position no longer exists—an available position for which the employee is qualified and suited nearest in status and pay to the pre-parental leave position.

### **85 Unpaid pre-adoption leave**

*Entitlement to unpaid pre-adoption leave*

(1) An employee is entitled to up to 2 days of unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption of a child.

**Note:** Entitlement is also affected by section 68 (which deals with the age etc. of the adopted child).

(2) However, an employee is not entitled to take a period of unpaid pre-adoption leave if:

(a) the employee could instead take some other form of leave; and

(b) the employer directs the employee to take that other form of leave.

- (3) An employee who is entitled to a period of unpaid pre-adoption leave is entitled to take the leave as:
- (a) a single continuous period of up to 2 days; or
  - (b) any separate periods to which the employee and the employer agree.

*Notice and evidence*

- (4) An employee must give his or her employer notice of the taking of unpaid pre-adoption leave by the employee.
- (5) The notice:
- (a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
  - (b) must advise the employer of the period, or expected period, of the leave.
- (6) An employee who has given his or her employer notice of the taking of unpaid pre-adoption leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken to attend an interview or examination as referred to in subsection (1).
- (7) An employee is not entitled to take unpaid pre-adoption leave unless the employee complies with subsections (4) to (6).

**Note:** Personal information given to an employer under this section may be regulated under the *Privacy Act 1988*.

**SCHEDULE E:**

**STANDARD EMPLOYMENT CONTRACTS**

**1. STANDARD WEEKLY EMPLOYMENT CONTRACT**

PRODUCTION: \_\_\_\_\_  
PRODUCTION COMPANY: \_\_\_\_\_ A.B.N.: \_\_\_\_\_  
PRODUCTION COMPANY ADDRESS: \_\_\_\_\_  
PRODUCTION OFFICE: \_\_\_\_\_  
*(if different to Production Company address)*

EMPLOYEE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE No.: \_\_\_\_\_ FACSIMILE No.: \_\_\_\_\_ MOBILE No.: \_\_\_\_\_

SUPER FUND: \_\_\_\_\_ SUPER FUND NUMBER: \_\_\_\_\_

TAX FILE NUMBER: \_\_\_\_\_  
NATIONALITY: \_\_\_\_\_

**This Contract dated \_\_\_\_\_ is between the abovementioned Production Company (the “Employer”) of the one part and the Employee of the other part.**

A. This Contract incorporates the provisions of the *Motion Picture Production Certified Agreement between ..... and the Media Entertainment and Arts Alliance 2010* (the “Agreement”) except to the extent that the terms of this Agreement are more favourable to the Employee. A copy of the Agreement is available at the Production Office.

B. The Employer a current and fully paid member of the Screen Producers Association of Australia (SPAA) has agreed to engage the Employee to undertake the specific tasks of ..... for the abovenamed Production.

**1. PERIOD OF ENGAGEMENT:**

No. of weeks: \_\_\_\_\_ No. of days: \_\_\_\_\_  
Commencing on: \_\_\_\_\_ Commencing on: \_\_\_\_\_  
Finishing on: \_\_\_\_\_ Finishing on: \_\_\_\_\_  
Subject to Clause 8 (b) and Schedule A of the Agreement.

**2. REMUNERATION:**

A week comprises 5, 10 hour days worked consecutively between Monday and Saturday. Should the Employee be required to work a sixth day in any week, the sixth day shall be paid in accordance with the Agreement. Night loadings, unscheduled overtime and penalties shall be paid in accordance with the Agreement.

40 hour base rate: \$.....  
10 hours scheduled overtime – 10 hours @ 1.5T \$.....  
**Total 5 day/ 50 hour Gross Agreed Weekly Wage** (the “Wage”) \$.....

Base Hourly Rate for purposes of calculating overtime & penalties \$..... *(calculated by dividing the Wage by 55)*  
*[Delete if not applicable. In accordance with Clause 16 (Exceptions to Certain Clauses) of the Agreement, the level of remuneration for the Wage means that the Employee is not entitled to payment for unscheduled overtime, and other such penalties as detailed in Clause 16.]*

**3. ADDITIONAL DAYS TO CONTRACT:**

In addition to the Period of Engagement, the Employee will be available, if required, for up to one extra week ("Extra Period") providing such Extra Period immediately follows the expiration of the Period of Engagement. The amount to be paid in respect of any such Extra Period shall be paid on a pro rata basis. The Employer shall give no less than 5 working days notice to the Employee that the Extra Period shall be required to be worked. If such notice is not given, the Employee shall be deemed to be automatically released from the need to be available for the Extra Period. The terms and conditions of this Contract shall apply if the Extra Period or part thereof is worked by the Employee.

**4. METHOD OF PAYMENT:**

The Wage and other monies due to the Employee will be paid weekly in arrears by cheque or by direct debit to the Employee's bank account as agreed between the Employer and Employee unless special arrangements are approved by the Employer. The Employee shall be responsible for handing Overtime Sheets to the Production Office. All overtime must be approved by the authorised officer of the Employer. The Employer will notify the Employee of the identity of this individual. The Employer may deduct from the Wage any amounts that is required to deduct by law.

Bank: \_\_\_\_\_  
Branch: \_\_\_\_\_  
BSB Number: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
Account Name: \_\_\_\_\_

Taxation payable to the Australian Taxation Office pursuant to the P.A.Y.G. scheme will be deducted from the Wage. If the Employee wishes to claim the general exemption rebate or dependent rebate for taxation purposes an A.T.O. Employment Declaration Form must be completed. The Employer is required to deduct tax at the full rate unless notified of the Employee's Tax File Number and an Employment Declaration Form is completed.

**5. CREDIT:**

If applicable the Employee shall be credited as follows:

Name: \_\_\_\_\_ Position: \_\_\_\_\_

**6. SPECIAL CONDITIONS:**

(If any, see attached Schedule G)

SIGNED FOR AND ON BEHALF OF  
THE EMPLOYER

\_\_\_\_\_

in the presence of:

\_\_\_\_\_

SIGNED BY THE EMPLOYEE

\_\_\_\_\_

in the presence of:

\_\_\_\_\_

Dated:

\_\_\_\_\_

## 2. STANDARD CASUAL EMPLOYMENT CONTRACT

PRODUCTION TITLE: \_\_\_\_\_  
PRODUCTION COMPANY: \_\_\_\_\_ A.B.N.: \_\_\_\_\_  
PRODUCTION OFFICE: \_\_\_\_\_  
PRODUCTION COMPANY ADDRESS: \_\_\_\_\_  
(if different to production office address)

EMPLOYEE: \_\_\_\_\_ NATIONALITY: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE NO.: \_\_\_\_\_ FACSIMILE NO.: \_\_\_\_\_ MOBILE NO.: \_\_\_\_\_  
SUPER FUND: \_\_\_\_\_ SUPER FUND NO.: \_\_\_\_\_  
TAX FILE NO.: \_\_\_\_\_

**This Contract dated \_\_\_\_\_ is between the abovementioned Production Company (“the Employer”) of the one part and the Employee of the other part.**

- A. This Contract incorporates the provisions of the Motion Picture Production Certified Agreement between \_\_\_\_\_ and the Media, Entertainment and Arts Alliance 2010 (the “Agreement”) except to the extent that the terms of this Contract are more favourable to the Employee. A copy of the Certified Agreement is available at the Production Office.
- B. The Employer a current and fully paid member of the Screen Producers Association of Australia (SPAA) has agreed to engage the Employee to undertake the specific tasks of \_\_\_\_\_ for the abovenamed Production.

1. PERIOD OF ENGAGEMENT: (delete whichever inapplicable)  
No. of days: \_\_\_\_\_ No. of 4 hour calls (on location only): \_\_\_\_\_  
Dates: \_\_\_\_\_ Dates: \_\_\_\_\_

2. REMUNERATION: (delete whichever inapplicable)  
8 hour base rate (inclusive of 20% casual loading): \$..... 4 hourly rate (inclusive of 20% casual loading) \$.....  
2 hours scheduled overtime @ 1.5 T \$.....  
Total 10 hour day - Gross Agreed Daily Wage (“The Wage”) \$..... Base Hourly Rate (For purposes of calculating overtime & penalties) \$.....  
Base Hourly Rate (For purposes of calculating overtime & penalties) \$.....  
(Calculated by dividing the Gross Agreed Daily Wage by 11) (Calculated by dividing the 4 hourly rate by 4)  
Night loadings, unscheduled overtime and penalties shall be paid in accordance with the Agreement.

3 METHOD OF PAYMENT:  
The Wage and other monies due to the employee will be paid within 14 days of the completion of each days engagement by cheque or by direct debit to the Employee’s bank account as agreed between the Employer and the Employee unless special arrangements are approved by the Employer. The Employee shall be responsible for handing Overtime Sheets to the Production Office. All overtime must be approved by the authorised officer of the Employer. The Employer will notify the Employee of the identity of this individual. The Employer may deduct from the Wage any amounts that it is required to deduct by law.

Details for Direct Bank Transfer if Required:  
Bank: \_\_\_\_\_ Branch: \_\_\_\_\_  
BSB Number: \_\_\_\_\_ Account Number: \_\_\_\_\_  
Account Name: \_\_\_\_\_ Other Info: \_\_\_\_\_

4. CREDIT (delete if inapplicable) If applicable the Employee shall be credited as follows:  
Name: \_\_\_\_\_ Position: \_\_\_\_\_

5. SPECIAL CONDITIONS (if space provided is insufficient a separate page may be attached)

SIGNED FOR AN ON BEHALF OF THE EMPLOYER \_\_\_\_\_  
In the presence of: \_\_\_\_\_  
SIGNED BY THE EMPLOYEE \_\_\_\_\_  
In the presence of \_\_\_\_\_  
DATED: \_\_\_\_\_

## 3. MEDICAL QUESTIONNAIRE

Please fill in this questionnaire and return it to the employer. All information will be treated as confidential and will be

destroyed at the end of the Production. The information requested will enable the employer to take better care of all employees.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELE. NO.: \_\_\_\_\_ MOBILE NO.: \_\_\_\_\_

AGE: \_\_\_\_\_ BLOOD TYPE: \_\_\_\_\_

NEXT OF KIN: \_\_\_\_\_ DOCTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

TELE. NO.: \_\_\_\_\_ TELE. NO.: \_\_\_\_\_

ANY ALLERGIES? YES / NO

If yes, please detail any allergies to drugs including drugs such as penicillin, sedatives, antihistamines, aspirin, etc.

Please detail any allergies to other substances including food allergies, allergies to stings (eg, bees, wasps), animals (eg, cats) and environmental allergies (eg, dust mites, pollens, grass seeds). Please note symptoms and preferred method of treatment.

ANY PHYSICAL DISABILITIES OR PRE-EXISTING MEDICAL CONDITIONS? YES / NO

If yes, please provide details (eg, diabetes, asthma, back problems, epilepsy, history of heart problems, pregnancy)

EYESIGHT/HEARING - Please provide details if you have impaired eyesight and/or hearing:

Do you wear glasses/contact lenses/hearing aid?

Do you have specific eyesight problems (eg night blindness, colour blindness, history of recurrent conjunctivitis)?

SPECIAL DIETARY REQUIREMENTS? eg, vegetarian, no milk products or other.

HAVE YOU HAD A TETANUS INJECTION IN THE LAST FIVE YEARS? YES / NO

ARE YOU ON ANY REGULAR MEDICATION AT THIS TIME? YES / NO

If yes, please detail

Signed by the employee .....

Date .....

## **SCHEDULE F**

### **CLASSIFICATION DESCRIPTIONS**

The classification descriptions to be utilised in the process of classifying employees for the purposes of this Agreement shall be as follows:

#### **Level 1**

Entry/base level for an inexperienced employee.

At this level an employee will have no prior experience or training in the industry<sup>1</sup> and will work under direct supervision on general duties of a basic nature requiring only limited discretion.

An employee at level 1 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

#### **Indicative standards and tasks at level 1:**

- Under supervision, perform basic duties related to the maintenance of animals, equipment, vehicles etc used in the film production process;
- Light cleaning or preparation of location, studio and/or unit base;
- Lift and handle scenery, props or equipment under direct instruction;
- Pack and store simple objects under direct instruction;
- Apply general safety procedures;
- Develop an understanding of basic industry terminology and processes;
- Work effectively in a team environment;
- Undertake courier or driver duties;
- Develop an understanding of basic industry production process;
- Basic maintenance of relevant tools and equipment.

#### **Level 2**

A level 2 employee will have limited previous experience or training in the industry and will act as an assistant to production personnel engaged in non-trade technical and creative duties. A level 2 employee may work without direct supervision as required.

An employee at level 2 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

#### **Indicative standards and tasks at level 2:**

- Assist in supervision of employees at level 1
- Competently perform all relevant tasks undertaken at level 1
- Demonstrate an understanding of production terminology and processes
- Undertake basic duties as assistant in relevant departments, including supervised maintenance, cleaning and storage of basic tools and equipment including costumes
- Demonstrate appropriate interpersonal skills, including problem solving with co-employees, performers and/or contractors or suppliers
- Undertake liaison and/or courier duties
- Provide basic assistance in production office and with the casting of extras

#### **Level 3**

A level 3 employee may hold a relevant trade certificate or its equivalent in a discipline or trade relevant to the industry, may have prior working experience in the industry and will have a good knowledge of technical and creative aspects of the industry. A level 3 employee will carry out duties under limited supervision.

An employee at level 3 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

Indicative standards and tasks at level 3:

- Exercise technical and/or creative skills in required skill areas at a basic trade equivalent or better
- Assist in supervision of employees at level 1 or 2
- Understand and apply quality and safety control techniques
- Exercise good interpersonal and communication skills, particularly in consultation with performers, production personnel, etc.
- Have a basic capacity to innovate and fault find using a broad range of materials, tools and/or technologies for installation, maintenance and/or repair and/or fabrication and/or construction and/or operation
- Perform duties under the pressure of production deadlines
- Have a sound understanding of industry terminology and craft, and an understanding of industry aesthetics and production processes
- Carry out repairs to equipment, props, costumes etc
- Provide organisational assistance to a head of department or other senior employee
- Exercise discretion within the scope of his/her department and classification
- Undertake production office, secretarial and executive management support duties as required
- Assist in organisation or supervision of loading/unloading props, scenery and equipment
- Undertake duties as an assistant in relevant departments

**Level 4**

A level 4 employee will be an experienced industry employee, who will work competently and with minimal supervision within her/his department, or may manage a discrete part of the production process.

An employee at level 4 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

Indicative standards and tasks at level 4:

- Undertake creative and/or technical tasks in relevant departments
- Exercise technical and/or creative skills
- Understand and apply quality and safety control techniques
- Demonstrate a well developed understanding of industry craft and a developed understanding of industry aesthetics which is applied to the work performed
- Assist in the development and provision of training
- Carry out equipment maintenance, and carry out repairs to complex equipment as required
- Organise work and allocate work priorities



- Accurately generate and interpret reports and/or plans or designs
- Exercise discretion within the scope of the classification
- Supervise a work team or assist in the co-ordination of work across a number of departments
- Cast extras and liaise with agents in the casting process
- Assist in liaison with, and assist, performers
- Undertake supervision of some production office duties
- Provide specialist advice and/or equipment to the production
- Co-ordinate the provision of facilities for cast and crew on location/set
- Program and operate control systems, including software related to sound, lighting etc, or the mechanical operation of equipment or special effects
- Assist in the post production process
- Assist the Sound Editor

### **Level 5**

A level 5 employee will be an experienced industry employee who may have undertaken advanced training. A level 5 employee will work competently at a high skill level without supervision as primary assistant to key technical and creative personnel.

An employee at level 5 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

#### Indicative standards and tasks at level 5:

- Exercise technical and/or creative skills at a high level
- Provide and develop training in association with other skilled technicians and production management
- Have a complex understanding of production industry craft and a well developed sense of production industry aesthetics which is applied to work performed
- Develop work programs and allocate priorities for a work team
- Well developed capacity to develop solutions to relevant problems using a wide variety of materials, tools and techniques including specialised technologies for fabrication and/or construction, repair, maintenance and installation of advanced equipment, etc.
- Apply a range of specialist knowledge and provide specialised skills
- Develop and generate reports/plans/designs/drawings as required and assist in co-ordinating production schedules and timelines as required to meet deadlines
- Capable of unsupervised solo work
- Undertakes production co-ordination duties at the level of assistant to Production Manager
- Organise and manage the use of locations and liaison with local authorities as required
- Assist first AD, liaise with production office and location/set, monitor schedule, supervise extras
- Operate and perform SFX sequences
- Exercise advanced trade skills in the art and props departments
- Assist the Art Director
- Assist the Picture Editor

### **Level 6**

A level 6 employee shall be an experienced industry employee who is capable of unsupervised

work of a complex technical or creative nature. A level 6 employee may supervise a department on small scale productions or be deputy HoD on a large scale production.

An employee at level 6 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

Indicative standards and tasks at level 6:

- Provide technical guidance to other employees
- Exercise high level skills in key technical and production support departments
- Prepare detailed reports as required in her/his area
- Assist in the development and provision of on the job training
- Operate, maintain and repair as required sophisticated/advanced equipment
- Design of sets, floor plans, construction plans etc.
- Undertake all aspects of still photography
- Co-ordinate SFX sequences and sequences requiring animals
- Responsible for production accounting processes
- Supervision of make-up, hair and wardrobe departments
- Supervise cast and crew safety on set and location
- Compositing of post production and visual effects
- Preparation and editing of sound tracks – dialogue and effects

**Level 7**

A level 7 employee shall be an experienced industry employee with considerable advanced training or its equivalent.

An employee at level 7 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

Indicative standards and tasks at level 7:

- Provide, develop and may supervise on the job training
- Provide a major contribution to the development of work plans, timelines and budgets for major productions
- Co-ordinate the activities of a number of departments within a production environment and assists in the solution of budgetary and other complex difficulties which arise in the development of work plans and production schedules, etc.
- Undertake duties of first assistant director
- Prepare complex integrated multi-department reports and plans/plots/drawings as required
- Work closely with designers and other senior creative staff in the development of concepts and plans etc.
- Exercise considerable discretion within the classification
- Responsible with heads of department for ensuring satisfactory quality of work at department level
- Advanced understanding of production industry craft processes and aesthetics and applies that to the work performed
- Liaise with and assist performers, and plan and provide all necessary co-ordination for effective location or studio management
- Undertake key technical responsibilities including maintenance, set-up and operation of complex camera, lighting, construction and electrical equipment

- Oversee the satisfactory co-ordination of technical services
- Oversee the recruitment of staff in co-operation with heads of department
- Supervise and design SFX and SFX make-up
- Supervise business and technical arrangements and monitor budget adherence
- Control and operate complex audio-visual production and post-production equipment
- Control and direct all aspects of continuity
- Supervise post-production
- Design costumes
- Supervise visual effects and sound design in post production

### **Level 8**

A level 8 employee will work at a level above and beyond an employee at level 7 and exercise advanced skill, judgement and control in key production, technical, or creative management.

An employee at level 8 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

#### Indicative standards and tasks at level 8:

- Exercise key creative control of photography, editing and production design
- Direct second unit filming
- Perform duties as a senior department head or as senior creative personnel such as DoP, Production Designer or Editor
- Supervise, design and direct complex creative processes as required
- Supervise the co-ordination of training

### **Level 9**

A level 9 employee will demonstrate advanced industry skills as a Director working in series or serials, documentaries, animated productions, or similar productions.

An employee at level 9 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

#### Indicative standards and tasks at level 9:

- Undertake all duties of Director or Animation Director
- Integrate the work of performers and senior creative personnel to develop complex integrated work
- plans for major productions
- Exercise creative control of a production
- Develop complex plans as required

### **Level 10**

A level 10 employee will demonstrate advanced industry skills as a Director working in feature film, mini-series and one shot drama/telemovie productions.

An employee at level 10 will be expected to satisfactorily fulfil or perform relevant indicative standards and tasks set out below.

#### Indicative standards and tasks at level 10:

- Undertake all duties of Director

- Integrate the work of performers and senior creative personnel to develop complex integrated work plans for major productions
- Exercise creative control of all aspects of a production including script rights, principal casting rights, fine cut rights and mix rights
- Develop complex plans as required

## **SCHEDULE G**

### **GUIDELINES – FIVE/SIX DAY WEEK**

#### **1. BONA FIDE LOCATIONS - SIX DAY WEEK AREA**

(a) Location where accommodation is provided

(b) Where by surface transport travel time of more than two and a half hours is taken to reach the 20 km zone from the location by a reasonably practical route. (Two and a half hours by family sedan observing all traffic restrictions).

(c) That the location is a requirement of the script.

In such areas a six day week of not more than 60 hours can be scheduled and worked. Approval is not required from MEAA, but employers are required by the Agreement to notify MEAA six weeks in advance of shooting.

#### **2. INTERMEDIATE ZONE (I.E. GREY AREA)**

(a) Location where accommodation is provided.

(b) Where surface transport travel time of more than one hour but less than two and a half hours is taken to reach the 20 km zone under similar circumstances as defined in sub-clause 1(b) of this Schedule.

(c) That the location is a requirement of the script.

In such areas every alternate week can be scheduled and worked as a six day week of not more than 60 hours. (i.e. one six day and one five day week back to back). Approval is not required from the MEAA, but employers are required by the Agreement to notify MEAA six weeks in advance of shooting.

#### **3. CAPITAL CITY – SYDNEY OR MELBOURNE**

Up to a distance of the one hour driving distance from the 20 km zone, i.e. the commencement of the Intermediate Zone, unless extenuating circumstances are accepted by the Union, five day weeks only may be scheduled. The parties acknowledge there may be scope for negotiation of regular six day weeks on feature film production schedules within this zone.

#### **4. CAPITAL CITY OTHER THAN MELBOURNE AND/OR SYDNEY**

Where less than 70% of the crew (i.e. employees employed under this Agreement) are imported (i.e. residential address outside of capital city and environs) the same rules as for Sydney and Melbourne shall apply.

Where 70% or more of the crew are imported a six day week of 60 hours is automatically permitted.

Extenuating circumstances relating to five/six day week:

(a) Scheduling a six day week solely for the purpose of containing budget shall not be regarded as extenuating circumstances save for a project under the control of a completion guarantor.

(b) Rescheduling during shooting owing to the unavailability of lead actors or other key elements will constitute extenuating circumstances.

(c) Sickness or delays occasioned by natural causes, of established key actors and crew, will be considered as extenuating circumstances.

(d) MEAA will consider cases for exemption on the grounds of extenuating circumstances as advanced by employers prior to commencement of shooting or when rescheduling is required as soon as possible after the perceived need arises.

(e) Consideration will be given by MEAA for children's productions of more than four weeks shoot, to shoot one five day week followed by one six day week of 60 hours followed by one five day week, i.e. five and six day weeks alternating back to back up to a maximum of six consecutive weeks.

(f) Consideration will be given by MEAA for the working of six day Schedules of 60 hours in order to meet a genuine urgent presale deadline date.

**Note:** Approval has to be obtained from MEAA to work a sixth day in Capital City areas as defined. Approval does not have to be obtained from MEAA for the working of an alternate six day week in "Grey Area". Neither does approval have to be obtained from MEAA to work a six day week in bona fide locations. Where approval has to be sought from MEAA, MEAA will consult the Union representative on the film prior to giving their decision to the Employer.

## **SCHEDULE H:**

### **TRAINING ATTACHMENTS**

In recognition of the need to provide practical training opportunities for persons wanting to access career opportunities within the film and television industry MEAA and SPAA have agreed on an attachment program. Attachment will provide persons with entry level on the job training. To this end the Employer may provide a system of structured and supervised work situations designed to provide exposure to the film environment without imposing pressure on the person to perform to normal industry work standards. It is agreed that attachments shall not displace or replace normal employment arrangements. Attachments shall always be engaged in addition to the requisite number of persons required to be employed on a production. Except in the circumstances referred to in sub-clause (k) all activities performed by the trainees under this scheme shall be without pay.

- (a) Feature films, mini series (less than 13 episodes in total), one shot drama and documentaries: A maximum of one attachment per department per production.
- (b) Series and Serials: A maximum of one attachment per department at any one time.
- (c) Numbers of attachments shall include attachments whether from training institutions (AFTRS, VCA, etc) or otherwise, excluding only those on high school work experience programs and government assisted/ financed/ subsidised positions such as TEAME Group Training positions.
- (d) Attachments shall be engaged for no longer than the duration of principal photography or six weeks whichever is the lesser (or for equivalent periods during pre production or post production).
- (e) Attachments may be engaged for any number of 6 week attachments to different productions in any year.
- (f) An attachment may not be engaged on the one production more than once.
- (g) Attachments are to be engaged only with the agreement of the relevant Head of Department. The relevant Head of Department will supervise the attachment.
- (h) Attachments shall be monitored by the crew delegate. In the event that the crew delegate believes that the attachment is being required to undertake work that should rightly be undertaken by a person hired for the production or is in any way being exploited or has any other difficulties, the delegate shall discuss those concerns with, in the first instance, the production manager. In the event that the matter cannot be resolved the crew delegate shall then refer the matter to MEAA.
- (i) Attachments may not substitute for a crew position nor undertake duties that would otherwise require the engagement of a salaried crew member (either on a casual/daily/weekly basis or for the duration of the production) unless they are taken on to the production payroll

- (j) Attachments shall be entitled to all conditions of the relevant Certified Agreement other than those that are remunerative. When engaged on productions that involve location filming away from the capital city of their residence they shall be entitled to per diems, the provision of accommodation and travel in accordance with that Agreement.
- (k) Attachments shall not be required to work hours in excess of fifty per five day week. In the event that they are required to be present for hours in excess of fifty, such hours shall be paid for as overtime in accordance with the relevant Certified Agreement minimum rate of pay for an equivalent position.
- (l) Production companies shall provide the attachments with personal accident insurance cover.
- (m) Attachments shall not be required to do anything that because of lack of training or experience will compromise their own safety or the safety of any other person.
- (n) Attachments may be employed on the minimum rates set out in the relevant Certified Agreement at the conclusion of their attachment.



## **SCHEDULE I:**

### **ALLOWANCE SUMMARY**

#### MEAL BREAK ALLOWANCES (Clause 26)

Breakfast	\$14.50
Lunch	\$16.30
Dinner	\$24.90
Supper	\$16.30

#### TRAVELLING ALLOWANCES (Clause 30) Per day

Where an employee receives the minimum rate of pay and agrees to provide their own transport between the Employer's usual place of business and a location within the 20 km radius: \$7.00

Where an employee receives the minimum rate of pay and is required to drive a vehicle more than two tonnes tare: \$4.90

Mileage Allowance	Per km
Motor Car	\$0.80
Motor Cycle	\$0.40

#### ACCOMMODATION ALLOWANCES (Clause 30) Per day

Private home or shared	\$ 9.60
Caravans or seweraged mining camps	\$19.30
Shearer's quarters, rough mining camps, camping	\$38.30

#### CLOTHING ALLOWANCE (Clause 31) Per day

Laundry/cleaning	\$11.60
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#### INSURANCES - HAZARDOUS DUTY (Clause 38)

<u>Event*</u>	<u>Compensation</u>
Death	\$275,500
Permanent Total Disablement	\$275,500
Permanent Total loss of Sight of one eye and loss or permanent total loss of use of one limb	\$275,500
Permanent Total Loss of Sight of both eyes	\$275,500
Permanent Total Loss of Sight of one eye	\$137,500
Permanent Total Loss of Sight of one eye (Camera Dept. only)	\$275,500
Loss of or permanent total loss of use of Two Limbs	\$275,500
Loss of or the Permanent Total Loss of the use of One Limb	\$137,500

\*Occurring with twelve months of sustaining such injury

#### SUPERANUATION (Clause 17)

Levy	9%
Threshold	Nil

Cap above which no further payment required in the periods 1 January to 30 June and 1 July to 31 December each calendar year (increases each financial year): \$80,340 for financial year 2009/2010.