

MODERN AWARDS REVIEW 2023-24

(AM2023/21)

SUBMISSION COVER SHEET

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

Kate Larsen

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

N/A

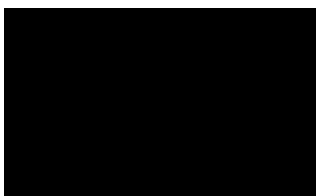
Contact details

Street Address 1



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Suburb/City



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Modern Award Review Stream:

Arts and Culture: X

How to prepare a submission

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

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

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

INTRODUCTION

1. Many thanks for this opportunity to contribute to the Modern Award Review 2023-34 for Arts and Culture. I am a Tarntanya/Adelaide-based writer, arts manager and non-profit and cultural consultant with more than 25 years' experience as a leader and senior executive in the non-profit, government and cultural sectors in Australia, Asia and the UK. I currently support arts and cultural organisations across the country as a freelance consultant (www.larsenkeys.com.au).

ISSUES

2. Response to Question 1. Are there particular industries or occupations that should form the focus of the Commission's consideration of the arts and culture sector in this Review?
 - Arts and cultural administration/management. Why: Lack of guidance as to which Awards are applicable for arts and cultural sector administrators and managers has led to significant discrepancies in which Awards are applied at different levels and geographic locations, or whether they are applied at all.
 - Visual Arts, Craft and Design. Why: Existing awards lack meaningful coverage for the visual arts in comparison with Live Performance Award.
3. Response to Question 2. Are there any industries or occupations that should be added to or removed from our consideration of the arts and culture sector for the purpose of the Review more broadly?
 - Arts and cultural administrators/managers (all levels, with variations for regional and remote locations).
 - Writers that don't define as authors or journalists (such as poets, copy writers, op-ed writers, critics, etc).
 - Editors that don't edit books or newspapers (such as editors of journals or websites).
 - Script writers and editors.
 - First Nations identified positions across all categories (with variations for regional and remote locations).
 - The visual arts, craft and design sector is missing from the industry list (see submission from NAVA for details).
4. Response to Question 5. Are there employees working in the arts and culture sector that may be covered by an award that has not been included in this chapter? For want of a more specific alternative, several of my clients have appointed early and mid-career arts and cultural administrators/managers according to the terms of the Clerks-Private Sector Award 2020.
5. Response to Question 6. Are there employees performing work of a similar nature to the work performed in the arts and culture sector that are not currently covered by an award but should be? The Live Performance Award is an example of the depth of specialisation, breadth of practice and types of work that is required across all arts and cultural industries. The majority of occupations, including artists, are not currently covered by an Award.
6. Response to Question 9. Do parties agree that the Miscellaneous Award may not cover certain workers, such as artistic directors or media producers? Agreed. The Miscellaneous Award is not fit for purpose and does not align with the arts and cultural sector roles, salary rates and specialised expertise.
7. Response to Question 10. To what extent are workers in the sector who are not currently covered by an award likely to be employees capable of being covered by modern awards? As modern awards are limited to employees, a significant portion of the arts and cultural sector are not

covered (as identified in the new National Cultural Policy, Revive, which emphasised the need to improve conditions for all arts workers, regardless of their employment status). As a result, the arts and cultural sector is currently built and reliant on precarious, short-term, often-unfair and often-unsafe, short-term and freelance contracts with the artists and creatives it relies upon for its work. In part, this is addressed by terms, pay rates and other non-enforceable standards recommended by sector peak bodies (of which the sector has many, though not one collective national body). However, the industry both needs new models that transition freelance artists into employees (such as the HOTA ArtKeeper program, for example, or independent artists incorporating as one-party limited companies) and new Awards to employ them under.

8. Response to Question 11. Do the parties have a view about the potential impact of the Closing Loopholes Bill on the arts and culture sector? The Fair Work Legislation Amendment (Closing Loopholes) Bill 2023 stipulates changes for gig economy or 'employee-like workers' for those who work through a digital platform, which leaves out a significant cohort of artists and arts workers who are not employed via digital platform. This is the case despite Revive recognising arts workers as 'the original gig workers', which noted a significant proportion of practitioners are 'employed' on short-term contracts based around project funding. The Fair Work Commission's new powers concerning 'employee-like forms of work' should be inclusive of artists and arts workers who are employed as contractors. The Fair Work Commission should be able to set minimum standards for artists and arts workers who engage in employee-like types of work and help resolve disputes for artists and arts workers regarding unfair contract terms including:
 - Rates of pay.
 - Disputes about whether an employee or contractor.
 - Not being able to negotiate a contract.
 - Not having a contract.
 - Maximum hours worked per week.
 - Minimum hourly pay rate (including higher rates for short-term engagements).
 - Protections at work.
9. Response to Question 12: Is digital platform work common within the arts and culture sector. No, the Closing Loopholes Bill unfortunately conflates gig economy or 'employee-like workers' (which the arts and culture sector relies on) with digital platform work (which is not its primary mechanism for employing those workers).

PROPOSALS

10. Publish benchmarking and guidelines on sector remuneration and conditions, including how Modern Awards are being or can be applied to the arts and cultural sector (including different roles, levels and geographic locations).
11. Establish a new Award/s that improve conditions for all arts workers, regardless of their employment status, including:
 - New models that transition freelance artists into employees; and
 - New Award conditions to employ them under (such as NAVA's Code of Practice for Visual Arts, Craft and Design, expanded to be applicable for all arts and cultural industries – in consultation with peak bodies).
12. Review the Closing Loopholes Bill and expand its applicability to gig economy and 'employee-like workers' beyond digital platform work.

Signature:



Name:

Kate Larsen

Date:

4/12/2023