



DETERMINATION

Fair Work Act 2009

s 158—Application to vary or revoke a modern award

Australian Entertainment Industry Association T/A Live Performance

Australia

(AM2024/10)

LIVE PERFORMANCE AWARD 2020

[MA000081]

Live performance industry

JUSTICE HATCHER, PRESIDENT

SYDNEY, 16 JULY 2024

Application to vary Live Performance Award 2020 in relation to fixed term contracts – clauses 27 and 28 varied – clause 28A inserted.

A. Further to the decision issued by the Fair Work Commission on 16 July 2024 [2024] FWC 1859, the above award is varied as follows:

1. By inserting the following definition in clause 2 in alphabetical order:

fixed term contract means a contract that includes a term that provides the contract will terminate at the end of an identifiable period (whether or not the contract also includes other terms that provide for circumstances in which it may be terminated before the end of that period).

2. By deleting clause 27 and inserting the following:

27. Types of employment

27.1 An employee may be engaged:

- (a) on a weekly basis under clauses 28—Weekly employees and 28A—Weekly employees under fixed term contracts—additional provisions;
- (b) on a weekly part-time basis under clause 29—Weekly part-time employees; or
- (c) as a casual under clause 30—Casual employees.

3. By deleting clause 28.3 and inserting the following:

28.3 A weekly performer or company dancer may be engaged:

- (a) On an ongoing weekly basis;
- (b) Weekly for the run of play or plays; or
- (c) Weekly under fixed term contract(s) in accordance with clause 28A.

NOTE: Section 333E of the Act prohibits the engagement of employees under fixed term contracts in the circumstances described in subsections (2) to (4). Clause 28.3(c) permits the use of fixed term contracts in these circumstances subject to clause 28A. Nothing in clauses 28.3(c) and 28A prohibits or restricts the use of fixed term contracts where any of the exceptions in sections 333F(1)(a)-(g) and (i) of the Act applies and the engagement is otherwise permitted by the Act and this award.

4. By inserting clause 28A as follows:

28A. Weekly employees under fixed term contracts—additional provisions

28A.1 A weekly performer may be engaged on a series of fixed term contracts, other than for the run of play or plays, if:

- (a) the engagement of the performer under the series of fixed term contracts is for the purpose of a single production; or
- (b) the total period of service under the series of fixed term contracts does not exceed two years.

28A.2 A weekly company dancer may be engaged under a fixed term contract, or a series of consecutive fixed term contracts, if:

- (a) the company dancer is classified on engagement as a Company Dancer Level 1 (Level 7); and
- (b) the total period of operation of the contract or series of contracts does not exceed 3 years.

NOTE: A company dancer may progress to a higher classification in accordance with Schedule A – Classification Definitions during their engagement.

28A.3 Despite clause 28A.2, a weekly company dancer may be engaged by an employer under a single fixed term contract if:

- (a) the company dancer was an employee of the employer as at 30 June 2024;
- (b) the fixed term contract is entered into on or after 1 July 2024 but before 31 December 2024;

(c) the period for which the company dancer has been employed by the employer at the time the fixed term contract is entered into is greater than 2 years; and

(d) the term of the fixed term contract does not exceed 12 months.

5. By updating the table of contents accordingly.

B. This determination comes into operation from 16 July 2024. In accordance with s 165(3) of the *Fair Work Act 2009* (Cth) this determination does not take effect in relation to a particular employee until the start of the first full pay period that starts on or after 16 July 2024.



PRESIDENT

Printed by authority of the Commonwealth Government Printer

<MA000081 PR777032>