



## media, entertainment & arts alliance

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### MEAA Submission – Portable Long Service Leave<sup>1</sup>

11 December 2015

#### Who MEAA Represent

The Media, Entertainment & Arts Alliance (MEAA) is the largest and most established union and industry advocate for Australia's creative professionals. Its membership includes journalists, artists, photographers, performers, producers, ballet dancers, symphony orchestra members and musicians, venue and event workers, sportspersons and officials, together with film, television and performing arts technicians. We have a diverse and vibrant membership across all spheres of creative endeavour in Australia.

According to the Australian Bureau of Statistics (ABS), there are approximately 126,000 persons employed in industries where MEAA has representative rights.<sup>2</sup> The breakdown of this figure is:

- 16,000 Performing Artists (incl. actors, musicians, dancers)
- 6,000 in performing arts venue operations
- 34,000 in motion picture and sound recording
- 15,000 in film and video production
- 17,000 in broadcasting (7,800 in commercial broadcasting)
- 20,000 in newspaper publishing industry
- 8,000 sportspersons
- 10,000 in horse and dog racing<sup>3</sup>

MEAA represents members who are engaged as employees and contractors, the latter being on episodic or non-continuing bases. Over the last five to ten years, however, we have witnessed growth in the number of members engaged as contractors, casual and freelancers and on fixed terms compared to ongoing employment. This has not only affected security of employment in our sectors of operation, but seen a steady decline in the range of statutory and other entitlements afforded to ongoing employees, including redundancy, leave and Long Service Leave (LSL).

MEAA is concerned that increasing rates of workforce mobility and casualisation will ultimately render vast numbers of employees (and contractors) ineligible to receive LSL. In other words, current LSL arrangements are laws of diminishing returns. We therefore believe that the application to LSL should be 'blind' to the number of employers services are performed for in favour of ongoing service within an industry.

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<sup>1</sup> MEAA notes and welcomes the range of inquiries by Federal and State parliaments into long service leave and its portability. This submission is substantially similar to other portable long service leave submissions made by MEAA in 2015.

<sup>2</sup> MEAA does not have representative or coverage rights for *all* persons employed in these sectors.

<sup>3</sup> All figures have been rounded. The figure for horse and dog racing was sourced from an IBIS World summary; all other data have been sourced from the Australian Bureau of Statistics (ABS), especially Statistical Overviews of industry divisions.



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### About this Submission

MEAA welcomes the opportunity to comment on this inquiry into Portable Long Service Leave (PLSL).

LSL a long-standing entitlement that contributes to the sustainability of industries by rewarding commitment to an industry over sustained periods.

MEAA is mindful and generally supportive of the recommendations of the recent evaluation and report by the McKell Institute on the case for establishing a broad system of Portable Long Service Leave throughout Australia.<sup>4</sup>

It is important to note that MEAA does not oppose the creation of a *generalised* system of long service leave, where LSL entitlements accrue to an individual irrespective of the industry or sector in which they work.

MEAA's position is a pragmatic one: we presently believe a generalised system of LSL (or PLSL) may pose more (and perhaps insoluble) questions about system design and registration of entitlements than a system aligned to specific industries. We also note in this respect that all current PLSL schemes are industry-based.

Our position is that the present system of Long Service Leave (LSL) requires reform to achieve two objectives:

1. To ensure equitable access to LSL on an industry-by-industry basis; and
2. To preserve the system of LSL in an environment where job mobility and insecurity increasingly undermines historical eligibility criteria.

### Work Mobility

The most recent ABS labour market data reveals:

- 19.5% of Australian workers had been with their current employer for less than one year.
- 44% of workers had been employed by the same employer for more than five years.
- About 25% of workers had remained with a single employer for 10 years or more.
- 33% of workers report not having any entitlement to LSL.

Overall, three-quarters of employees work for a single employer for less than 10 years. It follows that a significant majority of all workers do not receive a full LSL entitlement.

### Information Media and Telecommunications (IMT)

The IMT services industry represented 1.77 per cent of total Australian workforce in 2011. The main areas of MEAA coverage and representation within this industry are journalism and (print, online and TV) and broadcasting (commercial and public TV and Radio), plus motion picture production. Using ABS data spanning 2011 and 2012, about 4% workers in the IMT industry shift to another industry annually.

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<sup>4</sup> See McKell Institute's '*The Case for a National Portable Long Service Leave Scheme in Australia*', June 2014



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In terms of the percentage of employees in the IMT industry, 25.7% had been with their current employer for more than 10 years, while 41.3% of employees had at least ten years in the workforce but less than 10 years with their current employer.

There have been widespread reductions in the number of editorial employees in the media sector over the past eight years especially, due to the combined effect of the Global Financial Crisis, structural changes brought about by the accelerated uptake of digital technology and the emergence of new players.

The number of journalists now employed in the traditional media sector has fallen considerably and is continuing to fall. Some estimates put the decline at 40%.

The loss of these positions has been partially offset by the migration of editorial positions to online media, while other displaced journalists have sought work in allied industries, such as public relations and communications consulting. In both cases, employment security is relatively scarce and access to entitlements such as LSL is rare.

Of course, where journalists and other editorial employees have remained within an industry but had multiple (different) employers within a five, seven or ten year period, there is no entitlement to long service leave.

### **Arts and Recreation (A and R)**

Workers in the A and R industries represented 1.51 per cent of total workforce in 2011. The main areas of MEAA coverage and representation within this industry are musicians, live productions, event and venue workers, performing artists and technicians.

In Arts and Recreation, 18.7% of workers had been with their current employer for more than 10 years, while 42.8% of employees had ten years or more workforce participation but less than 10 years with their current employer. About 5% of workers in Arts and Recreation changed from one industry to another in the previous year. (ABS data)

Employment in areas covered by MEAA is predominantly short-term, casual, project based and/or freelance. At any given moment, more than 85 per cent of actors are not employed in their chosen profession. This high level of underemployment is a feature of acting communities around the world. Indeed, a viable industry depends upon a large pool of acting talent from which to cast the diverse range of roles required for film, television and live performance productions.

On an Australian feature film, it is rare for more than four actors (and often as few as two) to be engaged for the duration of the shooting schedule of between six and eight weeks. An actor with a substantial supporting role may have only five days' work, often spread throughout the shoot. Actors in minor roles may have as little as one day's work on a production. Actors must keep themselves available for the particular days of engagement even if these days are spread over the shoot.

Similarly, work in television drama series and serial programs is short term in nature. Programs are commissioned for one season only, generally 13 episodes although increasingly less. There is no way of knowing whether a particular series will be commissioned for a new season. Australia's two favourite



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and longest running serials, *Home and Away* and *Neighbours* are the only exceptions to this rule. Only a handful of actors achieve job security – Ray Meagher in *Home and Away* and Alan Fletcher in *Neighbours* being cases in point.

Live theatre productions engage the cast for the duration of the production, although only in commercial musical theatre do seasons run longer than twelve weeks. Occasionally, a company other than the Bell Shakespeare Company is successful in touring an Australian production. It remains, however, the exception rather than the norm.

Dancers seeking security of employment are, like musicians, dependent on being engaged by one of the government subsidised dance or ballet companies. Even then, dancers in the Queensland Ballet and Western Australian Ballet do not have work year round. The Australian Ballet is the only dance company able to engage its dancers on full-time annual contracts.

### **A National Long Service Leave Standard**

MEAA supports the development and implementation of a (long-awaited) National Long Service Leave standard that also provides for portability of 'Accrued Employment Leave' on an industry-by-industry or generalised basis. This would require a condition that where the Standard is less beneficial than a current employee is entitled to, the standard will not apply.

As is well-known, there are current national minimum standards for a range of leave entitlements under the National Employment Standards (NES). The absence of such a protection for LSL is regrettable. The lack of activity in developing a standard from 2010 to the present date has delayed what all interested parties believe will be a complex process requiring extensive consultation.

It is possible, however, that the delay in developing a uniform national LSL standard will enable greater consideration of the need for more equitable thresholds to LSL entitlements and considered treatment of the question of how to ensure Australia's highly mobile workforce are able to access LSL when working for a single employer over an extended period is impossible.

### **Conclusion**

There is substantial mobility and financial insecurity in the professions represented by MEAA, which can be reduced to three: actor/performer. Based on official ABS and other MEAA internal data, these trends show no sign of slowing.

Our members are professionally trained and in the main consider their current vocations to be permanent. Due to the often transient nature of employment in the media and in the arts, they very rarely find security of employment that culminates in an entitlement to LSL.

We are aware that PLSL systems are concentrated in the areas of building and construction, cleaning and coal mining and the public sector. These schemes have sufficient scale to sustain their own operation.

MEAA is not wedded to the establishment of further industry-specific PLSL scheme to suit its particular membership areas. To be cost-effective and efficient, economies of scale must be achieved. MEAA



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therefore supports the establishment of a PLSL scheme that spans several industries, but collects and administers LSL funds on an industry-specific basis.

The features of a PLSL scheme supported by MEAA include the following:

- The creation of a multi-industry Long Service Leave 'Clearing House' or system of Accrued Employment Leave<sup>5</sup>
- This body to be supported by Statute
- Service to be counted by the performance of work on an 'industry' basis
- Pro-rate LSL entitlement eligibility after five years' work in a single industry, including for regular and systematic casual work
- Coverage of employees and contractors
- A uniform percentage of wages to be paid via employer levy
- Employers to be eligible to offset levy contributions through tax deductions
- Favourable tax treatment being applied to PLSL investments

MEAA believe that an extension of long service leave to persons in insecure and unstable work who nonetheless remain employed within a single industry or sector over an extended period of time is due. It would act as a means of maintaining service and skills within an industry and arguably enhance productivity and innovation. It would also reverse the decline in the application and importance of LSL in general and address the growing 'free rider' issue, where employers do not bear LSL liabilities.

Our members are committed to their professions; they are professionally trained but are less likely to have access to a range of statutory entitlements compared to employees in other sectors, whether it is paid leave or redundancy payments.<sup>6</sup> It is an inequitable situation that should be offset by the creation of a scheme where service in a professional work area over time can be acknowledged and rewarded.

*Authorised by:*

*Paul Murphy, MEAA Chief Executive Officer*

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<sup>5</sup> As advocated in the McKell Institute's 'The Case for a National Portable Long Service Leave Scheme in Australia', June 2014

<sup>6</sup> As provided for in the National Employment Standards (NES) in the *Fair Work Act 2009*