

# CFMEU

## CONSTRUCTION

### IN THE FAIR WORK COMMISSION

*Fair Work Act 2009*

s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective  
s.576(2)(aa)—Promoting cooperative and productive workplace relations and preventing disputes

**Modern Awards Review 2023-24 – Arts and Culture Sector  
(AM2023/21)**

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**SUBMISSION OF THE CONSTRUCTION, FORESTRY AND  
MARITIME EMPLOYEES UNION (CONSTRUCTION & GENERAL DIVISION)**

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1<sup>st</sup> December 2023

<b>Construction, Forestry and Maritime Employees Union (Construction and General Division)</b> ABN 46 243 168 565	<b>Contact Person:</b> Stuart Maxwell, Senior National Industrial Officer	<b>Address for Service:</b> Level 1, 1 Miller Lane Pyrmont NSW 2009	<b>T:</b> <b>E:</b>	(02) 8524 5800 <a href="mailto:smaxwell@cfmeu.org">smaxwell@cfmeu.org</a>
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## **Introduction**

1. On 15<sup>th</sup> September 2023, the Fair Work Commission (FWC) commenced the Modern Awards Review 2023-24 (the Review), on its own initiative under ss.157(3)(a) and 576(2)(aa) of the *Fair Work Act 2009* (FW Act), to review modern awards in relation to key focus areas identified by the Minister for Employment and Workplace Relations in his 12<sup>th</sup> September 2023 correspondence to the President of the FWC<sup>1</sup>, including the arts and culture sector.
2. On 6<sup>th</sup> November 2023 the FWC released a Discussion Paper on the Arts and Culture Sector<sup>2</sup> to promote discussions in relation to modern award coverage and minimum standards in the arts and culture sector. The discussion paper dealt with a range of issues including modern awards with possible coverage in the arts and culture sector, and parties were invited to respond to the questions posed in the discussion paper.
3. The Construction Forestry and Maritime Employees Union (Construction and General Division) (the CFMEU C&G) has a peripheral interest in the arts and culture sector as our members perform various roles within it and makes this brief submission to assist the FWC.

## **Visual Arts and Craft Professionals**

4. In the discussion paper reference is made to the occupations of visual arts and crafts professionals and that these have been identified with reference to the ANSCO unit groups. According to the ANZCO unit groups these occupations include the following:

### **2114 Visual Arts and Crafts Professionals**

Visual Arts and Crafts Professionals create visual two- and three-dimensional concepts and forms through painting, drawing, carving, sculpting, modelling, printmaking, video, multimedia, found objects, ephemera, soundscapes and other media to communicate concepts and ideas.

#### **Indicative Skill Level:**

The occupations Painter (Visual Arts) and Sculptor in this unit group have a level of skill commensurate with the qualifications and experience outlined below.

#### **In Australia:**

- Bachelor degree or higher qualification. At least five years of relevant experience may substitute for the formal qualification (ANZSCO Skill Level 1)

#### **In New Zealand:**

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<sup>1</sup> <https://www.fwc.gov.au/documents/consultation/letter-from-minister-2023-09-12.pdf>

<sup>2</sup> <https://www.fwc.gov.au/documents/sites/award-review-2023-24/am202321-discussion-paper-061123.pdf>

- Bachelor degree or higher qualification. At least five years of relevant experience may substitute for the formal qualification (ANZSCO Skill Level 1)

In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.

The occupations Potter or Ceramic Artist and Visual Arts and Crafts Professionals nec in this unit group have a level of skill commensurate with the qualifications and experience outlined below.

**In Australia:**

- Bachelor degree or higher qualification. At least five years of relevant experience may substitute for the formal qualification (ANZSCO Skill Level 1)

**In New Zealand:**

- NZQF Diploma, or at least three years of relevant experience (ANZSCO Skill Level 2)

In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.

**Tasks Include:**

- conceiving and developing ideas, designs and styles for paintings, drawings, pottery pieces and sculptures
- arranging objects, positioning models, and selecting landscapes and other visual forms according to chosen subject matter
- selecting artistic media, method and materials
- applying media to surfaces using appropriate techniques
- moulding clay into functional and artistic articles by wheel-throwing, moulding and hand-building
- mixing glazing materials and applying glazes to dried pottery by dipping and painting
- placing finished and decorated pieces in kilns
- sketching designs of proposed sculptures, and making wax and plaster models
- devising forms from metal using welding and metalworking equipment, and from stone using masonry tools
- carving and forming materials to desired shape using hand and power tools

**Occupations:**

- 211411 Painter (Visual Arts)
- 211412 Potter or Ceramic Artist
- 211413 Sculptor
- 211499 Visual Arts and Crafts Professionals nec

**211411 Painter (Visual Arts)**

Alternative Title:

- Painter (Artistic)

Conceives and creates visual art forms, such as pictures, abstract designs and similar compositions, to communicate impressions and ideas. This occupation requires high levels of creative talent or personal commitment and interest as well as, or in place of, formal qualifications or experience.

Skill Level: 1

### **211412 Potter or Ceramic Artist**

Conceives and creates functional or artistic articles by moulding clay, glass and other fusible materials using hand-building and wheel techniques. This occupation requires high levels of creative talent or personal commitment and interest as well as, or in place of, formal qualifications or experience.

Skill Level:

- 1 Australia
- 2 New Zealand

### **211413 Sculptor**

Conceives and creates three-dimensional forms to communicate impressions and ideas by carving or modelling materials, such as wood, stone, clay and metal, or assembling found and manufactured materials. This occupation requires high levels of creative talent or personal commitment and interest as well as, or in place of, formal qualifications or experience.

Skill Level: 1

### **211499 Visual Arts and Crafts Professionals nec**

This occupation group covers Visual Arts and Crafts Professionals not elsewhere classified. This occupation group requires high levels of creative talent or personal commitment and interest as well as, or in place of, formal qualifications or experience.

Skill Level:

- 1 Australia
- 2 New Zealand

Occupations in this group include:

- Leadlighter
- Multimedia Artist
- Quilter
- Textile Artist<sup>3</sup>

5. The CFMEU C&G submits that the skill levels used in the ANSCO codes (of bachelor degree or higher qualification) are somewhat restrictive and exclude artisan workers with lesser qualifications, such as trade qualifications, that may be performing such work. For example:
- stonemasons engaged on building and heritage work conceive and create three-dimensional forms to communicate impressions and ideas by carving
  - glaziers engage in working with leadlight
  - plasterers can be engaged in intricate plaster modelling
  - painters/artworkers can be engaged in painting murals on the outside of buildings
  - signwriters can be engaged in gilding (i.e. the application of gold, silver, aluminium or any metal leaf to any surface) or the production of original designs for windows, posters, show windows and theatre displays.
6. The recognition of these occupations is important as it helps identify modern awards that are not mentioned in the discussion paper.

#### **Modern Awards with Possible Coverage in the Arts and Culture Sector**

7. Identifying existing award coverage is important in establishing the minimum wages and conditions to apply to employees performing the relevant work.
8. The CFMEU C&G submits that in considering modern award coverage in the arts and culture sector the FWC should recognise the coverage of the *Building and Construction General On-site Award 2020*<sup>4</sup> where any of the employees are engaged on artistic and cultural work associated with the construction or refurbishment of any building or building type structure. This could include, for example, the building of a theatre, church or public building which involves intricate stonework, the painting of murals or the creation and installation of original leadlight windows.
9. The FWC should also recognise the coverage of the *Joinery and Building Trades Award 2020*<sup>5</sup> which apart from covering stonemasonry and glass and glazing work<sup>6</sup>, also has occupational coverage for the following occupations<sup>7</sup>:
- (i) carver (defined as an employee who carves any kind of stonework which does not come within the definition of a stonemason, for the decoration of buildings or other stonework, from a model or freehand design);

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<sup>4</sup> [Building and Construction General On-site Award 2020 \[MA000020\]](#)

<sup>5</sup> [Joinery and Building Trades Award 2020 \[MA000029\]](#)

<sup>6</sup> Clause 4.2(a)

<sup>7</sup> Clause 4.2(b)

- (ii) letter cutter (defined as an employee who marks out, sandblasts, cuts or finishes letters or decoration in any kind of stone);
- (iii) signwriter;
- (iv) painter;
- (v) stonemason; and
- (vi) plasterer.

10. The occupational coverage means that the award covers the occupation where the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee.<sup>8</sup>
11. The CFMEU C&G submits that recognising the coverage of these two awards will assist the FWC in identifying if any gaps in award coverage exist.

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<sup>8</sup> Clause 4.3(a).