

## Express Resolution Process (ERP) Presumptions Table

| Class of Presumption   | Basis of Presumptions  | Presumption   |
|--|--|---|
| Applicable Law   | <p>Australian copyright law under the Copyright Act applies to Statutory Royalties. Moreover, under Australian copyright law:</p> <p>(i) Statutory Royalties are payable to copyright owners.</p> <p>Statutory Royalties under the Copyright Act of Australia are distinct from statutory remuneration rights to royalties that do not require copyright ownership as exist in laws of other territories.</p> <p>Accordingly, the recognition of enduring rights of authors (not tied to copyright ownership) under foreign copyright law (eg. a prohibition on the assignment of a right of remuneration) is not by itself relevant to determining the proper recipient of Statutory Royalties.</p> <p>(ii) Copyright ownership may be completely assigned without restriction.</p> | <p><b>Presumption 1.</b> For cinematograph films made prior to 19 December 2005, no share of Statutory Royalties is payable to the director, but from that date a share of Statutory Royalties for retransmission is payable to the director subject to the exceptions set out in s98 of the Copyright Act.</p> <p>This Presumption acknowledges that since 19 December 2005 directors of cinematograph films have been entitled to share in retransmission royalties, subject to specific exceptions set out in the Copyright Act. Subject to those exceptions and unless a contract provides otherwise, directors and producers are therefore both entitled to receive a share of the retransmission royalties for a film produced after 19 December 2005, although the Copyright Act does not specify in what proportion. Screenrights makes no Presumption in relation to the respective shares between producers and directors and will consider Competing Claims to such royalties under the ADR Procedure for Competing Claims. Screenrights strongly advises members to ensure that their contracts specify the proportions in which directors and producers are to share retransmission royalties.</p> |
|  |  | <b>Presumption 2.</b> No longer in use.   |
|  |  | <b>Presumption 3.</b> No longer in use.   |
| Contract terms for assignment of copyright in the film and television industry | <p>The SPA-AWG Children's Television Agreement 2011 assigns the copyright comprised in the script to the producer without a reserved right to Statutory Royalties for the writer. This agreement, which came into effect on 1 July 2011, is often used for children's miniseries and series produced in Australia.</p>   | <p><b>Presumption 4.</b> The industry agreed contract applies and therefore Statutory Royalties allocated for a script of a children's miniseries or series that commenced production in Australia on or after 1 July 2011 are payable to the producer or their assignee or successors in title (e.g. distributor or investor).</p> <p>The Presumption does not apply to children's miniseries and series that commenced production prior to 1 July 2011.</p>   |
| Contract terms for payment of Statutory Royalties                              | <p>The SPA-AWG Series and Serials Agreement 2008 contains a reserved right to Statutory Royalties for the writer. This agreement, which came into effect on 1 January 2008, is often used for series and serials that produced in Australia, other than children's television programs.</p>  | <p><b>Presumption 5.</b> The industry agreed contract applies and therefore Statutory Royalties allocated for a script of a television series or serial that commenced production in Australia on or after 1 January 2008, other than a children's television program, are payable to the writer/s of a script where the script is solely created by the writer/s.</p> <p>The Presumption does not apply to series and serials that commenced production prior to 1 January 2008.</p>   |

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| Contract terms for payment of Statutory Royalties | The SPA-AWG Miniseries and Telemovie Agreement 2010 contains a reserved right to Statutory Royalties for the writer. This agreement, which came into effect on 1 January 2010, is often used for miniseries and telemovies produced in Australia.  | <p><b>Presumption 6.</b> The industry agreed contract applies and therefore Statutory Royalties allocated for a script of a miniseries or telemovie which commenced production in Australia on or after 1 January 2010 are payable to the writer/s of a script where the script is solely created by the writer/s.</p> <p>The Presumption does not apply to miniseries and telemovies that commenced production prior to 1 January 2010.</p>                           |
|   |  | <p><b>Presumption 7.</b> No longer in use.</p>   |
| Representation by Agents                          | Agents must have written authority signed by their principal to claim Statutory Royalties on behalf of the principal.  | <p><b>Presumption 8.</b> Where a principal advises Screenrights that the principal has not specifically granted an agent the right to represent the principal in relation to a certain category of rights or in relation to certain territories, the agent does not have the requisite authority in relation to that category of rights or territories.</p>  |
|   |  | <p><b>Presumption 9.</b> No longer in use.</p> <p>**Presumption 9 has been removed from the ERP and incorporated into the broader Competing Claim Resolution Procedures as a mechanism for applying earlier decisions as precedents to Competing Claims arising over the same rights. See 3.6 Past Determination Presumption.</p>  |
| Contract terms for payment of Statutory Royalties | The SPA-AWG Series and Serials Agreement 1999 contains a reserved right to Statutory Royalties for the writer. This agreement, which came into effect on 1 July 1999, was often used for series and serials that were produced in Australia prior to 1 January 2008. The agreement was superseded by the SPA-AWG Series and Serials Agreement 2008 which came into effect on 1 January 2008. | <p><b>Presumption 10.</b> The industry agreed contract applies and therefore Statutory Royalties allocated for a script of a television series or serial that commenced production:</p> <p>(a) on or after 1 July 1999; and</p> <p>(b) on or before 31 December 2007</p> <p>are payable to the writer/s of a script.</p> <p>The Presumption does not apply to series and serials that commenced production prior to 1 July 1999 or subsequent to 31 December 2007.</p> |