



FAIR WORK
AUSTRALIA

DECISION

Fair Work Act 2009
s.185—Enterprise agreement

**Trustees of The Marist Brothers Southern Province T/A Assumption
College Kilmore**
(AG2011/13577)

ASSUMPTION COLLEGE KILMORE BOARDING SCHOOL SUPERVISORS ENTERPRISE AGREEMENT 2011

Educational services

DEPUTY PRESIDENT HAMILTON

MELBOURNE, 15 DECEMBER 2011

*Application for approval of the Assumption College Kilmore Boarding School Supervisors
Enterprise Agreement 2011.*

[1] An application has been made for approval of an enterprise agreement known as the Assumption College Kilmore Boarding School Supervisors Enterprise Agreement 2011 (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by the Trustees of The Marist Brothers Southern Province t/a Assumption College Kilmore. The agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met.

[3] The Agreement is approved and, in accordance with s.54, will operate from 22 December 2011. The nominal expiry date of the Agreement is 30 June 2014.



DEPUTY PRESIDENT

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**Assumption College Kilmore
Boarding School Supervisors Enterprise Agreement 2011**

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1. Application and operation

1.1 Title

This agreement shall be known as the *Assumption College Kilmore Boarding School Supervisors Enterprise Agreement 2011*.

1.2 Commencement date

- 1.2.1 This agreement will come into operation seven days after the agreement is approved by Fair Work Australia.
- 1.2.2 The nominal expiry date of this agreement is 30 June 2014.
- 1.2.3 Within twenty one days after the commencement date of this agreement the employer will make a lump sum payment of \$750 to each fulltime employee and a pro-rata payment to each part-time employee who was employed on the commencement date of the agreement. Casual employees have no entitlement to any payment.

1.3 Definitions

- 1.3.1 **Agreement** means the *Assumption College Kilmore Boarding School Supervisors Enterprise Agreement 2011*.
- 1.3.2 **Award** means Educational Services (Schools) General Staff Award 2010.
- 1.3.3 **College** means Assumption College Kilmore.
- 1.3.4 **Employer** means the Trustees of The Marist Brothers Southern Province - Trading as Assumption College Kilmore.
- 1.3.5 **Employee** means a boarding school supervisor employed by the College.
- 1.3.6 **NES** means National Employment Standards.
- 1.3.7 **Principal** means the principal of the College.
- 1.3.8 **Victorian Catholic School** means a catholic school registered to operate in Victoria by the Victorian Registration and Qualifications Authority except for Xavier College.

1.4 Coverage

This Agreement will cover any Employee of the Employer who is employed as a boarding school supervisor at the College.

1.5 Access to the Agreement and the National Employment Standards

The Employer will ensure that a copy of this Agreement, and the NES, are readily accessible to all Employees.

2. Agreement flexibility

- 2.1 Notwithstanding any other provision of this Agreement, the Employer and an individual Employee may agree to vary the application of certain terms of this Agreement to meet the genuine individual needs of the Employer and the Employee. The terms the Employer and the Employee may agree to vary the application of are those concerning:

- 2.1.1 arrangements for when work is performed;
 - 2.1.2 overtime rates;
 - 2.1.3 allowances; and
 - 2.1.4 leave loading.
- 2.2 The Employer and the individual Employee must have genuinely made the agreement without coercion or duress.
- 2.3 The agreement between the Employer and the individual Employee must:
- 2.3.1 be confined to a variation in the application of one or more of the terms listed in clause 2.1; and
 - 2.3.2 result in the Employee being better off overall than the Employee would have been if no individual flexibility agreement had been agreed to.
- 2.4 The agreement between the Employer and the individual Employee must also:
- 2.4.1 be in writing, name the parties to the agreement and be signed by the Employer and the individual Employee and, if the Employee is under 18 years of age, the Employee's parent or guardian;
 - 2.4.2 state each term of this Agreement that the Employer and the individual Employee have agreed to vary;
 - 2.4.3 detail how the application of each term has been varied by agreement between the Employer and the individual Employee;
 - 2.4.4 detail how the agreement results in the individual Employee being better off overall in relation to the individual Employee's terms and conditions of employment; and
 - 2.4.5 state the date the agreement commences to operate.
- 2.5 The Employer must give the individual Employee a copy of the agreement and keep the agreement as a time and wages record.
- 2.6 Except as provided in clause 2.4.1 the agreement must not require the approval or consent of a person other than the Employer and the individual Employee.
- 2.7 An Employer seeking to enter into an agreement must provide a written proposal to the Employee. Where the Employee's understanding of written English is limited the Employer must take measures, including translation into an appropriate language, to ensure the Employee understands the proposal.
- 2.8 The agreement may be terminated:
- 2.8.1 by the Employer or the individual Employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - 2.8.2 at any time, by written agreement between the Employer and the individual Employee.
- 2.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an Employer and an individual Employee contained in any other term of this Agreement.

3. Consultation on major change

3.1 This clause applies if:

3.1.1 the employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and

3.1.2 the change is likely to have a significant effect on employees of the enterprise.

3.2 The employer must notify the relevant employees of the decision to introduce the major change.

3.3 The relevant employees may appoint a representative for the purposes of the procedures in this clause.

3.4 If:

3.4.1 a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

3.4.2 the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

3.5 As soon as practicable after making its decision, the employer must:

3.5.1 discuss with the relevant employees:

(i) the introduction of the change; and

(ii) the effect the change is likely to have on the employees; and

(iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

3.5.2 for the purposes of the discussion— provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and

(ii) information about the expected effects of the change on the employees; and

(iii) any other matters likely to affect the employees.

3.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

3.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

3.8 If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in subclauses (3.2), (3.3) and (3.5) are taken not to apply.

3.9 In this term, a major change is likely to have a **significant effect on employees** if it results in:

3.9.1 the termination of the employment of employees; or

3.9.2 major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or

3.9.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

- 3.9.4 the alteration of hours of work; or
 - 3.9.5 the need to retrain employees; or
 - 3.9.6 the need to relocate employees to another workplace; or
 - 3.9.7 the restructuring of jobs.
- 3.10 In this clause, **relevant employees** means the employees who may be affected by the major change.

4. Dispute resolution

- 4.1 In the event of a dispute about a matter in this Agreement, the parties will follow the following steps:
- Step 1 Every attempt must be made to resolve a dispute, in the first instance, by discussions between the individual(s) directly involved at the workplace and the Employer. This does not preclude the right of either party to seek advice from outside the workplace, nor does it necessitate such an approach where this is impracticable.
 - Step 2 When a dispute is not resolved by Step 1, the Employee or the Employer may each seek the assistance of a representative in order that a further attempt can be made to resolve the matter. The Employee representative may include a union official or union delegate.
 - Step 3 In the event that Steps 1 and 2 fail to resolve the dispute, either party may refer the dispute to Fair Work Australia for its assistance in resolving the dispute by conciliation. The dispute should not be referred by either party to Fair Work Australia prior to the completion of Steps 1 and 2.
- 4.2 Until the dispute is determined, work shall continue normally in accordance with the custom or practice existing before the dispute arose, while discussions take place.
- 4.3 No party shall be prejudiced as to the final settlement by the continuance of work. Health and safety matters are exempted.
- 4.4 Where the dispute is not resolved by conciliation, either party may request that the Fair Work Australia arbitrate the matter in dispute. Any such arbitration shall be subject to and in accordance with this clause.
- 4.5 In arbitrating the dispute the Fair Work Australia may only:
- (i) give directions about the process to be followed within the College to resolve the matter in dispute; and/or
 - (ii) determine the matter in dispute consistent with the limits or standards set by the relevant provisions of this Agreement.
- 4.6 Any decision of Fair Work Australia upon arbitration is subject to the parties' rights of appeal as provided in the *Fair Work Act 2009*.

5. Types of employment

5.1 Employees will be employed in one of the following categories:

5.1.1 full-time employment;

5.1.2 part-time employment; or

5.1.3 casual employment.

5.2 At the time of engagement, the Employer will inform each Employee whether they are employed on a full-time, part-time or casual basis.

5.3 Full-time employment

A full-time Employee is an Employee engaged to work an average of 38 hours per week over the course of a year pursuant to clause 14—Ordinary hours of work.

5.4 Part-time employment

5.4.1 A part-time Employee is an Employee who is engaged to work an average of less than 38 hours per week over the course of a year.

5.4.2 A part-time Employee will be paid an hourly rate of 1/38th of the weekly rate.

5.4.3 A part-time Employee's entitlements will be calculated on a pro rata basis.

5.4.4 The Employer will notify the Employee at the commencement of employment of the Employee's average number of hours per week.

5.4.5 The Employer cannot vary the hours of a part-time Employee unless:

(i) the Employee consents; or

(ii) it can be demonstrated that such a variation is required as a result of a change in program, organisation, structure, technology or funding. In this case, seven weeks' notice in writing shall be given by the Employer. In the absence of the required notice and provided that the change involves a drop in salary, the Employee's salary will be maintained at its former level for the period of the notice not given.

5.5 Casual employment

5.5.1 A casual Employee is an Employee engaged as such.

5.5.2 A casual Employee will be paid an hourly rate of 1/38th of the weekly rate for the Employee's classification, plus 25%.

5.5.3 A casual Employee will be engaged and paid for a minimum of two hours for each engagement.

5.5.4 A casual Employee must be paid fortnightly in accordance with usual payment methods for full-time Employees.

6. Termination of employment

6.1 Summary dismissal

6.1.1 The Employer may terminate an Employee's employment summarily where that Employee is guilty of serious misconduct, that is misconduct of a kind such that it would be unreasonable to require the Employer to continue the employment during the notice period.

6.1.2 In such cases salary shall be paid up to the time of dismissal only.

6.2 Notice of termination by the Employer

6.2.1 The Employer shall give to these Employees the following notice:

Period of continuous service	Period of notice
Less than 1 year	1 week
1 year but less than 3 years	2 weeks
3 years but less than 5 years	3 weeks
5 years and over	4 weeks

6.2.2 In addition to the notice in clause 6.2.1 Employees over 45 years of age at the time of the giving of notice who have not less than two years' continuous service, shall be entitled to an additional week's notice.

6.2.3 The Employer in its discretion may make a payment in lieu of all or part of the notice period specified above.

6.2.4 Employment may be terminated by the Employer giving part of the period of notice specified and part payment in lieu thereof.

6.2.5 Payment in lieu of notice is calculated by taking the amount of salary an Employee would have received on account of ordinary time which the Employee would have worked during the notice period if the Employee's employment had not been terminated.

6.2.6 The period of notice in this clause shall not apply in the case of an Employee whose employment is for a specified period of time.

6.3 Notice of termination by the Employee

The notice of termination to be given by an Employee shall be:

6.3.1 the same as that required of an Employer in clause 6.2.1; or

6.3.2 any lesser period of notice agreed to by the Employer.

6.3.3 Where an Employee fails to give the period of notice the Employer shall have the right to withhold from moneys due up to an amount equal to one week's ordinary time rate of pay for each week of the required notice not given, up to a maximum of four weeks at the ordinary time rate of pay.

6.4 Time off during notice period

Where the Employer has given notice of termination to an Employee, an Employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at a time or times that are convenient to the Employee after consultation with the Employer.

7. Redundancy

The procedures and payments for redundancy are specified in Appendix 1.

8. Classification

8.1 All employees will be classified as a Boarding School Supervisor whose principal duties are to support the operation of a school's boarding house in relation to the supervision of students and can include from time to time deputising for the person in charge of the boarding house.

8.2 Competency

Competency at this level involves application of knowledge with depth in some areas and a broad range of skills. There are a range of roles and tasks in a variety of contexts. There is some complexity in the extent and choice of actions required. Competencies are normally used within routines, methods and procedures. Some discretion and judgment is involved in the selection of equipment, work organisation, services, actions and achieving outcomes within time constraints.

8.3 Judgment, independence and problem solving

Employees exercise judgment on work methods and task sequence within specified timelines and standard practices and procedures. Answers are usually found by selecting from specific choices defined in standard work policies or procedures.

8.4 Level of supervision

Employees are provided with routine supervision, moving to general direction with experience. Supervision of other employees may be required. When employees are working alone, they may work semi-autonomously.

8.5 Training level or qualifications

The duties typically require a skill level which assumes and requires knowledge or training in clerical/administrative, trades or technical functions equivalent to:

- (i) completion of a trades certificate or Certificate III;
- (ii) completion of Year 12 or a Certificate II, with relevant work experience; or
- (iii) an equivalent combination of relevant experience and/or education/training.

9. Salary

9.1 Annual salary

At the commencement of the Agreement the Employer will pay the Employee:

Level	Annual Salary
Boarding School Supervisor Level 1	\$50,000
Boarding School Supervisor Level 2	\$51,795

9.2 Commencement level and progression

9.2.1 An Employee will commence employment at Level 1 except where the Employee has at least 12 months of experience in a similar role in a Victorian Catholic School, in which case the Employee will commence employment at Level 2.

9.2.2 A Boarding School Supervisor Level 1 will increment to a Boarding School Supervisor Level 2 on 1 May in the year after the Employee commenced employment as a Boarding School Supervisor Level 1, provided that the Employee has had at least 4 months of experience as a Boarding School Supervisor Level 1.

9.3 Salary increases

9.3.1 The rates in clause 9.1 will be adjusted annually between 1 January 2012 and 30 June 2014 in accordance with the percentage increases to the rates of a School Officer Level 3 employed at the College.

9.3.2 A School Officer Level 3 means the an employee in Level 3 of the classification of a School Officer as defined in the *Victorian Catholic Education Multi Employer Agreement 2008* or the equivalent classification in any replacement enterprise agreement.

10. Allowances

10.1 Meal allowance

An Employee on duty in the boarding house during meal times will be entitled to the meal provided to the College's boarding students.

10.2 Vehicle allowance

10.2.1 An Employee required by the Employer to use the Employee's motor vehicle in the performance of duties must be paid the following allowances:

- (i) Motor car
\$0.74 per kilometre with a maximum payment as for 400 kilometres per week.
- (ii) Motorcycle
\$0.25 per kilometre with a maximum payment as for 400 kilometres per week.

10.2.2 Where the Employer provides a motor vehicle which is used by an Employee in the performance of the Employee's duties the Employer must pay all expenses including registration, running and maintenance.

10.2.3 Adjustment of expense related allowances

- (iii) At the time of any adjustment to the standard rate, the vehicle allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (iv) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Vehicle allowance	Private motoring sub-group

11. Accident Make Up Pay

11.1 Entitlement to accident make-up pay

- 11.1.1 Subject to paragraphs 11.1.2 and 11.1.3, where an Employee becomes entitled to compensation payments under the *Accident Compensation Act 1985 (Vic)*, the Employer who is liable to pay the compensation will pay to the Employee accident make-up pay being an amount equivalent to the difference between:
 - 11.1.1.1 the amount of compensation payable under the *Accident Compensation Act 1985 (Vic)* and, in respect of an Employee who is partially incapacitated, any wages earned by that Employee; and
 - 11.1.1.2 the amount that would have been payable under this MOU (including the Employee's entitlement to Employer contributions to Superannuation) if the Employee had been performing his or her normal duties.
- 11.1.2 Subject to clause 11.1.3, accident make-up pay will be paid for a maximum of 26 weeks, inclusive of school holidays, in respect of the same injury.
- 11.1.3 Accident make-up pay under this clause will be paid only while an Employee continues to receive compensation under the *Accident Compensation Act 1985 (Vic)*.

11.2 Accident make-up pay not payable

Accident make-up pay will not be payable:

- 11.2.1 if the Employee is on any form of paid leave; or
- 11.2.2 where the incapacity arises from an industrial disease contracted by a gradual process and, at the time of the incapacity, the Employee had been employed for less than four weeks.

11.3 Eligibility for accident make-up pay

In order for an Employee to be eligible for accident make-up pay in accordance with this clause:

- 11.3.1 the Employee or a representative of the Employee must give notice in writing of the injury to the Employer as soon as practicable;
- 11.3.2 the Employee must provide written evidence of the injury from time to time as required by the Employer during the period of payment;

- 11.3.3 the Employee must advise the Employer, in writing, of any civil action or claim for damages the Employee may make;
- 11.3.4 the Employee must attend medical examinations by a legally qualified medical practitioner, provided and paid for by the Employer, as required by the Employer in accordance with the relevant Act; and
- 11.3.5 the Employee must authorise the Employer to obtain any information concerning the injury or compensation payable with respect to the injury from the insurance company that is liable to pay such compensation.

11.4 Accident make-up pay ceases

An Employee will cease to be entitled to accident make-up pay if any of the following occur:

- 11.4.1 there is a redemption by the Employee of weekly compensation payments by the payment of a lump sum benefit under the *Accident Compensation Act 1985 (Vic)*;
- 11.4.2 the Employee's employment with the Employer is terminated due to serious misconduct by the Employee;
- 11.4.3 the Employee resigns; or
- 11.4.4 the Employee dies.

12. Payment of salary and allowances

- 12.1 Wages and allowances shall be paid at least once in every fortnight throughout the school year. Such wages and allowances may be paid in advance at the discretion of the Employer.
- 12.2 Wages and allowances shall be paid by cheque or electronic funds transfer by choice of the Employer. Where an Employee is paid by direct transfer such payments shall be transferred into an account of the Employee's nomination in any bank or recognised financial institution.
- 12.3 By written agreement between the Employer and the Employee, a proportion of the Employee's wages and allowances may be paid as an Employer contribution to the Employee's superannuation fund. Any such Employer contribution to a superannuation fund must be in addition to the Employer's obligation under the *Superannuation Guarantee (Administration) Act 1992 (Cth)*.
- 12.4 When an error in payment of wages and/or allowances has been made, discussions will take place between the Employee and the Employer regarding a scheme of payment to rectify the error.
- 12.5 An Employee may elect to participate in remuneration packaging in accordance with Appendix 2 of the Agreement.

13. Superannuation

- 13.1 All Employees, other than casual Employees unless entitled by virtue of the provisions of the *Superannuation Guarantee (Administration) Act 1992*, shall be entitled to have payments made into an approved Superannuation Fund, the choice of fund to be in accordance with clause 13.2.
- 13.2 Within 15 days of commencement of service with the Employer, an Employee shall be entitled to elect to have the Employer's superannuation contributions paid into the

Employee's account with the Catholic Superannuation Fund, or the Australian Super or another compliant fund.

- 13.3 An Employee may vary the choice of superannuation fund only once in a twelve month period.
- 13.4 Should the Employee fail to notify the Employer of the Fund elected, within 15 days of commencement of service with that Employer, then the Employer may open an account on the Employee's behalf with the Catholic Superannuation Fund.

14. Ordinary hours of work

- 14.1 The ordinary hours of work will be averaged over a period of 12 months.
- 14.2 An Employee will be paid the applicable annual rate in clause 9.1 for all weeks of the year, excluding periods of unpaid leave provided for in this Agreement or the NES.
- 14.3 The Employer may require a part-time Employee to work reasonable additional hours. For any such additional hours, the Employee will be paid at their hourly rate plus a loading of 25%. Additional hours worked by a part-time Employee in accordance with this clause do not accrue leave entitlements under the Agreement or the NES.
- 14.4 Where additional hours are worked on a day the Employee is already attending for work, the minimum engagement of two hours will not apply.

15. Breaks

15.1 Meal break

- 15.1.1 An Employee will be entitled to an unpaid meal break of 30 minutes no later than five hours after commencing work.
- 15.1.2 Where an Employee is rostered for duty continuously between 9:00 am and 6:00 pm on a weekend, the Employee will be entitled to an additional unpaid meal break of 30 minutes.

15.2 Rest break

- 15.2.1 On a weekday, at a time suitable to the Employer, an Employee is entitled to a paid rest break of 10 minutes for each period of three hours worked, with a maximum of two paid rest breaks per shift. The Employer and an Employee may agree to one rest break of 20 minutes in place of the two 10 minute rest breaks.
- 15.2.2 On a weekend, where an Employee is rostered for duty continuously between 9:00 am and 6:00 pm, at a time suitable to the Employer, an Employee is entitled to a paid rest break of 10 minutes for each period of three hours worked, with a maximum of three paid 10 minute rest breaks per shift. The Employer and an Employee may agree to one rest break of 20 minutes in place of two 10 minute rest breaks.

16. Rostering

- 16.1 A roster showing normal starting and finishing times and the name of each Employee will be prepared by the Employer and will be displayed in a place conveniently accessible to the Employees at least seven days before the commencement of the roster period.

- 16.2 A roster may be altered by mutual consent at any time or by amendment of the roster by the Employer on seven days' notice.
- 16.3 Notwithstanding clause 16.2 a roster may be altered at any time to enable the functions of the Employer to be carried out where another Employee is absent from work due to illness or in an emergency. In such circumstances, unless agreed between the Employer and the Employee, an Employee must be given 48 hours' notice of a change to a rostered shift. If 48 hours' notice is not provided, the Employee will be entitled to a penalty of 50% of the ordinary time rate. Where such alteration requires an Employee to work on a day which would otherwise have been the Employee's day off, a day off instead will be arranged by mutual consent.
- 16.4 Employees may be rostered for the following duties:
- 16.4.1 Supervision of students in the boarding house;
 - 16.4.2 Attendance at College functions;
 - 16.4.3 Attendance at parent interviews;
 - 16.4.4 Professional development days;
 - 16.4.5 Administration days; and
 - 16.4.6 Other duties as directed by the Principal.

17. Flexible working arrangements

Flexible working arrangements are provided for in the NES.

18. Annual leave and leave loading

18.1 Annual leave

An Employee is entitled to four weeks' paid annual leave per year of service determined in accordance with Clause 29– Service Continuity. Annual leave will accrue weekly and will be taken, unless otherwise agreed, during the school holidays.

18.2 Pro rata payment in lieu of accrued annual leave

18.2.1 An Employee is entitled to a pro-rata payment of accrued annual leave on termination of employment.

18.2.2 A pro-rata entitlement to annual leave for the current year of employment shall be calculated on the following basis:

$$\frac{\text{Total number of hours rostered for duty in the year}}{(48 \times 38)} \times 4 \times \text{Employee's weekly rate of pay}$$

from which result shall be deducted any amount of already paid for annual leave for that year.

18.3 School holidays

18.3.1 An Employee is entitled to school holidays without deduction of pay.

18.3.2 An employee may be rostered for duty during school holidays where students are in attendance at the College.

- 18.3.3 An Employee will be deemed to have taken any entitlement to 4 weeks' annual leave during school holidays. Where an employee has been rostered for duty during school holidays, these hours will not be deemed as annual leave.

18.4 Definition of working week

For the purposes of this clause a working week is any week in the school year, as defined, regardless of the number of working days in that week.

18.5 Leave loading

- 18.5.1 An Employee who has an entitlement to paid annual leave shall receive a loading of 17.5% on four weeks' pay at the Employee's weekly rate of pay.
- 18.5.2 The leave loading shall be paid no later than within the last two working weeks of the school year, or at the time of termination of employment as appropriate.
- 18.5.3 An Employee who has an entitlement to a pro-rata period of leave shall be entitled to a pro-rata leave loading calculated on the following basis:

$$\frac{\text{Total number of hours rostered for duty in the year} \times 4 \times 17.5\% \times \text{Employee's weekly rate of pay}}{(48 \times 38)}$$

18.6 Casual employees

A casual Employee shall not be entitled to paid annual leave or leave loading.

18.7 Employees' weekly rate of pay

The Employee's weekly rate of pay for all purposes of this clause shall be the rate applicable to that Employee on 1 December of that year or at the date of termination of employment.

19. Personal leave

19.1 Amount of Paid Personal Leave

- 19.1.1 Paid personal leave will be available to an Employee, when they are absent due to personal illness or injury (**sick leave**) or for the purposes of caring for an immediate family or household member who is sick and requires the Employee's care and support or who requires the Employee's care due to an unexpected emergency (**carer's leave**).
- 19.1.2 Personal leave of fifteen days (pro rata for part-time Employees) will be available in the first and subsequent years of service. This is subject to an Employee commencing on a day other than the first day of the school year, in which case such an Employee shall receive a pro-rata entitlement to 15 days personal leave for the remainder of the school year
- 19.1.3 In any year unused personal leave accrues at the rate of the lesser of:
- (i) fifteen days personal leave per year less the amount of personal leave taken from the current year's personal entitlement in that year; or
 - (ii) the balance of that year's unused personal leave.

- 19.1.4 A part-time Employee shall have a pro-rata entitlement to fifteen days of personal leave calculated in hours per annum as follows:
- 19.1.4.1 entitlement per annum = time fraction employed per week x 3
- 19.1.4.2 any unused personal leave at the end of each school year shall be converted to days per annum on the following basis:
- Cumulative days = unused hours divided by 7.6
- 19.1.5 Any unused personal leave is fully cumulative.
- 19.1.6 The Employer shall deduct from the Employee's personal leave credit to the limit of the credit available:
- 19.1.6.1 any days or part days for full-time Employees; and
- 19.1.6.2 any hours for part-time Employees, when the Employee has been absent on sick leave or carer's leave.

19.2 Immediate Family or Household

- 19.2.1 The entitlement to use personal leave for the purposes of carer's leave is subject to the person being either;
- (i) a member of the Employee's immediate family; or
- (ii) a member of the Employee's household.
- 19.2.2 The term immediate family means:
- (i) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the Employee; and
- (ii) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the Employee or spouse of the Employee.

19.3 Personal leave for personal injury or sickness (sick leave)

An Employee shall be entitled to paid personal leave when unable to perform duties because of personal ill health or accident (sick leave) provided that:

- 19.3.1 The Employee shall produce a certificate of a registered health practitioner or other evidence satisfactory to the Employer for:
- 19.3.1.1 any absence of more than two consecutive working days;
- 19.3.1.2 any absences where the number of personal leave days already taken without the production of a certificate of a registered health practitioner exceeds ten working days in the one school year.
- 19.3.1.3 any absence on the week day immediately before or immediately after a public holiday so long as that week day is a working day.
- 19.3.2 During an extended period of paid personal leave an Employee may be required to produce a medical certificate every 28 days.
- 19.3.3 the Employee shall not be entitled to paid personal leave;
- 19.3.3.1 where personal leave credits are exhausted; or

19.3.3.2 unless that Employee, or the authorised representative or the Employee, within at least two hours before the normal commencement time of that Employee, or as soon as reasonably practicable after that time, notifies the Employer of the Employee's inability to attend for duty and the estimated duration of the absence.

19.4 Personal leave to care for an immediate family or household member (Carer's leave)

19.4.1 The Employee is entitled to paid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency provided that: .

19.4.1.1 The Employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the Employee is responsible for the care of the person concerned.

19.4.1.2 The Employee shall, wherever practicable, give the Employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the Employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the Employee to give prior notice of absence, the Employee shall notify the Employer by telephone of such absence at the first opportunity on the day of absence.

19.5 Unpaid Personal Leave

19.5.1 The Employee who is unable to perform duties because of personal ill health or accident, and where paid personal leave credits have been exhausted, shall be entitled to unpaid sick leave. This entitlement is subject to the production at least each 28 days of a certificate of a legally qualified medical practitioner or other evidence satisfactory to the Employer.

19.5.2 Where no personal leave entitlement is available an Employee is entitled to take up to 20 days of carer's leave without pay.

19.5.3 Where an Employee has no entitlement to carer's leave (with or without pay) any request for leave for such purposes will be given due consideration by the Employer.

19.6 Compassionate leave

19.6.1 Paid leave entitlement

19.6.1.1 An Employee, other than a casual Employee is entitled to up to three days of compassionate leave on each occasion on which a member of the Employee's immediate family or household dies.

19.6.1.2 An Employee is entitled to up to two days' compassionate leave on each occasion on which a member of the Employee's immediate family or household contracts or develops a personal illness or sustains a personal injury that poses a serious threat to his or her life. The taking of such leave can only occur once for each occasion of injury or illness and may be taken at any time during the injury or illness.

19.6.2 Unpaid leave entitlement

Where an Employee has exhausted all compassionate leave entitlements, the Employee will be entitled to three days unpaid compassionate leave.

19.6.3 Evidence supporting claim

The Employer may require the Employee to provide evidence that would satisfy a reasonable person that the leave has been taken for circumstances covered by Clause 19.6.

20. Other paid leave

20.1 Examinations

An Employee shall be entitled to leave with pay to attend compulsory examinations in courses of study relevant to the Employee's classification under the Agreement.

20.2 Infectious Diseases

20.2.1 An Employee shall be entitled to leave with pay when the Employee contracts one of the following infectious diseases through a contact in the workplace and where the Principal/Employer is satisfied that the disease is prevalent in the workplace: German measles, chicken pox, measles, mumps, glandular fever, scarlet fever, whooping cough, rheumatic fever, hepatitis.

20.2.2 The Employee must produce a medical certificate which specifically names the disease and the Employee shall request in writing that the leave not be debited against sick leave.

20.3 Jury Service

20.3.1 An Employee required under the *Juries Act 2000 (Vic)* to appear and serve as a juror in any court shall be entitled to be granted leave with pay for the period during which attendance at court is required.

20.3.2 An Employee must provide written proof to the Employer of the requirement to attend for jury service and an estimate of the duration of the absence from duty if given by the court.

20.3.3 Any payments made to the Employee by Court Authorities with respect to jury service by way of a prescribed rate of remuneration but excluding allowances shall be reimbursed to the Employer.

21. Long service leave

An Employee will be entitled to long service leave in accordance with the provisions of Appendix 3 of this Agreement.

22. Parental leave

An Employee will be entitled to parental leave in accordance with the provisions of Appendix 4 of this Agreement.

23. Community service leave

Community service leave is provided for in the NES.

24. Leave without pay

- 24.1 While an Employee has the right to apply for leave without pay, the granting of such leave is at the discretion of the Employer.
- 24.2 Leave without pay does not break continuity of service but is not to be taken into account in calculating the period of service for any purpose of this Agreement where the period of leave without pay is in excess of fifteen days in a school year.
- 24.3 Leave without pay diminishes the entitlement an Employee would otherwise have to annual leave and leave loading under this Agreement for periods of leave without pay in excess of fifteen days, in that school year, in direct proportion to the amount of leave without pay taken.
- 24.4 If an Employee is granted extended leave without pay, (i.e. four months or more) the question of the Employee's specific duties on return to work should be considered before the granting of such leave and any arrangements made should be documented. If no such prior arrangement is made, an Employee upon return to work shall be entitled to a position commensurate with their qualifications and experience.
- 24.5 When an Employee is on extended leave without pay, the Employee shall confirm an intention to return to work seven working weeks prior to the expiry of the leave.
- 24.6 If no confirmation of an intention to return to work is received within seven working weeks prior to the expiry of the leave, the Employee shall not be entitled to return to duty until the notice prescribed above has been given in writing to the Employer. Provided that the Employer has the right to require that an Employee shall recommence duty either on the commencement day originally approved or at the commencement of the next school term after the notice period expires or at any other time agreed by the Employer and the Employee. Such notice must be given prior to the expiration of the leave and must contain reasons why the required notice was not given.
- 24.7 If an Employee does not provide written notice of a return to work in and no arrangement has been made in accordance with clause 24.6, the Employer shall be entitled to apply, from the date of expiry of the approved leave without pay, the provisions of abandonment of employment.

25. Public holidays

25.1 Public holidays are provided for in the NES.

25.2 Payment for work on a public holiday

An employee required to work on a public holiday will be paid at the rate of 250% for ordinary hours performed, unless the employer and the employee have agreed to the employee taking a day off instead of payment in which case the employee will be paid at the ordinary time rate for work on the public holiday.

25.3 Substitution of public holidays

25.3.1 By agreement between the employer and the majority of employees, an alternative day may be taken as a public holiday instead of any of the days specified by the NES. The agreement will be recorded in writing and made available to every affected employee.

25.3.2 Where substitution is agreed, the substituted day will be the public holiday for all purposes of this award.

26. Facilities

26.1 The Employer will provide an Employee who is required to sleepover during a rostered shift with reasonable accommodation including living quarters, fuel and light at no cost to the employee.

26.2 Accommodation for Employees will be of a good, clean and secure standard and will contain adequate furnishings for the Employee's use.

26.3 Each Employee unless otherwise agreed will be provided with a bedroom for their use.

26.4 Where there is a dispute about the accommodation or facilities provided then the dispute settlement procedure of the Agreement will apply.

27. Annual review meeting

27.1 An Employee will be required to participate in an Annual Review Meeting with the Principal, or Principal's nominee. Such a meeting will focus on affirming achievement and suggesting avenues of professional development.

27.2 Where a meeting is required an Employee shall be advised of the issues to be discussed within a reasonable time prior to the meeting.

28. Breakages and loss

Provided that the Employee has taken reasonable care, an Employee will not be liable for any breakages or loss of property which occurs in the normal course of that Employee's duties.

29. Service continuity

29.1 For the purposes of this Agreement, service shall be deemed to be continuous notwithstanding:

- 29.1.1 school holidays, annual leave or long service leave;
- 29.1.2 sick leave or an absence covered by the provisions of the *Accident Compensation Act* or the *Transport Accident Act 1986 (Vic)* where such absence is supported by a certificate from a qualified medical practitioner or other evidence satisfactory to the Principal/Employer;
- 29.1.3 any other form of leave granted by the Employer;
- 29.1.4 any absence with reasonable cause, supported by evidence satisfactory to the Principal/Employer;
- 29.1.5 any interruption or termination of the employment by the Employer if such interruption or termination is made with the deliberate intention of avoiding the obligations imposed by this Agreement;
- 29.1.6 any interruption to the employment arising directly or indirectly from an industrial dispute;
- 29.1.7 any period between employment in a Victorian Catholic school up to a maximum of fifteen consecutive working days in any one school year; and
- 29.1.8 All other absences from service shall break continuity of service.

29.2 In calculating a year of service the following shall be included:

- 29.2.1 school holidays, annual leave or long service leave;
- 29.2.2 personal leave to the extent of personal leave credits;
- 29.2.3 absences covered by the *Accident Compensation Act* to the extent of accident make up pay;
- 29.2.4 absences covered by the *Transport Accident Act 1986 (Victoria)* to a maximum of six months;
- 29.2.5 leave granted with pay;
- 29.2.6 leave without pay up to a maximum of fifteen days in any one year; and
- 29.2.7 any period between employment in a Victorian Catholic school up to a maximum of fifteen consecutive working days in any one school year.
- 29.2.8 All other absences shall be excluded.

Signatories


Signed for and on behalf of the Trustees of The Marist Brothers Southern Province - Trading as Assumption College Kilmore by:

Name: Michael Kenny
Position: Principal of Assumption College Kilmore as the Employer's authorised bargaining representative.
Address: Sutherland Street, Kilmore Victoria 3764

Signature: 

Signed as an employee of Assumption College Kilmore:

Name: LYNETTE CROWDER
Position: Boarding School Supervisor
Address: 77 MCINTOSH LANE
LANCEFIELD VIC 3435.

Signature: 

Appendix 1 – Redundancy

1. Redundancy

- 1.1 Redundancy occurs where the Employer has made a definite decision that the Employer no longer wishes the job the Employee has been doing done by anyone and that decision leads to a termination of the Employee's employment, except where this is due to ordinary and customary turnover of labour.
- 1.2 Despite the provisions of this Appendix, where a reduction of 0.5 or more FTE in the hours of a part-time Employee is proposed, the Employee may choose to accept the new position at the reduced FTE fraction, or to be declared redundant from Catholic Education and receive the appropriate payment as provided in this Appendix.

2. Discussions before terminations

Where a situation of potential redundancy exists, the Employer shall hold discussions in accordance with the Procedures in clause 12 of this Appendix in the case of a potential redundancy in Catholic Education in Victoria.

3. Transfer to lower paid duties

Where an Employee is transferred to lower paid duties for reasons set out in clause, the Employee shall be entitled to the same period of notice of transfer as would have been the case if this employment had been terminated and the Employer may at the Employer's option, make payment in lieu thereof an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rate for the number of weeks of notice still owing.

4. Severance pay

- 4.1 In addition to the period of notice prescribed for ordinary termination in this Agreement and subject to further award of the Fair Work Australia, an Employee whose employment is terminated for reasons set out in clause 1 of this Appendix shall be entitled to the following amount of severance pay in respect of a period of continuous service as defined in the termination clause of the Agreement.
- 4.2 If an Employee is under 45 years of age, the Employer shall pay in accordance with the following scale:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year but less than 2 years	4 weeks' pay
2 years but less than 3 years	7 weeks' pay
3 years but less than 4 years	10 weeks' pay
4 years but less than 5 years	12 weeks' pay
5 years but less than 6 years	14 weeks' pay
6 years and over	16 weeks' pay
15 years and over	21 weeks' pay

- 4.3 Where an Employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year but less than 2 years	5 weeks' pay
2 years but less than 3 years	8.75 weeks' pay
3 years but less than 4 years	12.5 weeks' pay
4 years but less than 5 years	15 weeks' pay
5 years but less than 6 years	17.5 weeks' pay
6 years and over	20 weeks' pay
15 years and over	25 weeks' pay

- 4.4 "Weeks' pay" means the ordinary time rate of pay for the Employee concerned.

5. Employee leaving during notice

An Employee whose employment is terminated for reasons set out in clause 1 of this Appendix may terminate employment during the period of notice and, if so, shall be entitled to the same benefits and payments under clause 4 of this Appendix clause had the Employee remained with the Employer until the expiry of such notice. Provided that in such circumstances the Employee shall not be entitled to payment in lieu of notice.

6. Alternative employment

- 6.1 The Employer in a particular redundancy case may make application to Fair Work Australia to have the general severance pay prescription varied if the Employer obtains acceptable alternative employment for an Employee. The parties agree that Fair Work Australia has the power to vary the severance pay prescriptions and issue orders in such circumstances.
- 6.2 Where the Employee obtains employment in another Catholic School or Institution in Victoria and there is no loss of benefits (i.e. salary, long service leave, sick leave, annual leave, superannuation, etc.) then the Employee shall not be entitled to severance pay.

7. Incapacity to pay

- 7.1 The Employer, in a particular redundancy case, may make application to Fair Work Australia to have the general severance pay prescription varied on the basis of the Employer's incapacity to pay. The parties agree that the Fair Work Australia has the power to vary the severance pay prescriptions and issue orders in such circumstances

8. Time off during notice period

- 8.1 During the period of notice of termination given by the Employer, an Employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- 8.2 If the Employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the Employee shall, at the request of the Employer, be required to produce proof of attendance at an interview or not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

9. Transmission of business

- 9.1 Where a business is transmitted from the Employer (in this sub-clause called "the transmitter") to another Employer (in this sub-clause called "the transferee") and an Employee who at the time of such transmission was an Employee of the transmitter in that business becomes an Employee of the transferee.
- 9.1.1 the continuity of the employment of the Employee shall be deemed not to have been broken by reason of such transmission; and
- 9.1.2 the period of employment which the Employee has had with the transmitter or any prior transmitter shall be deemed to be service of the Employee with the transferee.
- 9.2 In this sub-clause "business" includes trade, process, business or occupation and includes part of any such business-and "transmission" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding meaning.

10. Employee with less than one year's continuous service

This Appendix shall not apply to Employees with less than one year's continuous service, as defined in clause 29 (Service Continuity).

11. Employees exempted

This Appendix shall not apply where employment is terminated as a consequence of misconduct, poor performance or conduct that justifies instant dismissal, or in the case of casual Employees or emergency teachers, or Employees engaged for specific periods of time or for a specified task or tasks.

12. Redundancy Procedures

12.1 Preamble

The Procedures have been designed to ensure a consistent and fair approach to be applied to all in Catholic education.

12.2 Definition

For the purpose of these Procedures, a potential redundancy situation applies where any member of staff could be disadvantaged in his or her current employment contract as a result of changes in funding, curriculum, enrolment decline, or as a result of policy/administration changes.

12.3 Objectives

12.3.1 The objectives of these Procedures, in order, are to:

- (i) avoid redundancies in Catholic schools in Victoria;
- (ii) delay redundancies where this is not possible; and
- (iii) facilitate those declared redundant to find other suitable employment within Catholic education so that they do not suffer financially as a result of being declared redundant.

12.3.2 The Procedures must be applied as early as possible. This also allows the appropriate consultation to occur and the provision of notice where applicable.

12.4 Timelines

The timelines are a guide only. They are based on the assumption that a redundancy will take effect from the beginning of a school year and that the information upon which a potential redundancy is identified is available early in the year previous to the redundancy. Where a situation arises in other circumstances (e.g. as a result of student elective choices late in a

school year, or unanticipated enrolment decline in the February census) the timelines contained in this document may not apply and the school will notify the parties as soon as the potential redundancy situation is identified so that Step 1 can commence.

12.5 Re-Employment Assistance

12.5.1 Role of the Diocesan Catholic Education Offices

12.5.1.1 In order to achieve the aims outlined above, Employers will request Diocesan Catholic Education Offices to assist staff to find on-going employment where:

- (i) schools have declared individual staff members redundant; or
- (ii) the school has announced its closure; or
- (iii) the school has announced that it is amalgamating with another school/s.

12.5.2 Interviews

12.5.2.1 Where an application is made for a vacant position in a Catholic school in Victoria, and

- (i) the applicant has the qualifications and experience to fill the vacancy; and
- (ii) the applicant identifies that he/she has been declared redundant from another Victorian Catholic school then the school should interview the applicant for the position.

12.6 Step 1 The redundancy identification

12.6.1 Procedures

12.6.1.1 In each year as soon as a potential redundancy situation is identified at the school level, the Employer/Principal shall communicate this fact to the staff, in writing, with an outline of the reasons for the potential redundancy;

12.6.1.2 A copy of this notification shall be forwarded at the same time to Independent Education Union Victoria Tasmania, and the Executive Director of Catholic Education Melbourne (**Parties**);

12.6.1.3 A copy of these Procedures is also to be given to each staff member.

12.6.2 Timeline

12.6.2.1 This step to take place by the end of the third week of the third term where the redundancy would be effective at the end of the year.

12.6.2.2 The timeline is an indication of the latest date at which it is expected that the staff are informed of the potential redundancy. It is to be noted that the staff are to be informed as soon as the school identifies the potential redundancy in that year.

12.6.2.3 As soon as a potential redundancy situation is resolved at the school level, the Employer/Principal shall communicate this fact to the Parties.

12.6.2.4 After the staff have been notified in writing the school should commence procedures to resolve the potential redundancy.

12.6.3 Alternatives available

- 12.6.3.1 In investigating the alternatives available, a written record shall be held of the information obtained and the efforts made to ascertain any way of resolving the problem.
- 12.6.3.2 Included in the alternatives that the Employer/ Principal should investigate are the following:
- (i) What efforts can be made to re-deploy existing staff within the school;
 - (ii) Staffing requirements in all other schools under the authority of the present Employer;
 - (iii) The possibilities of employment of staff in neighbouring schools;
 - (iv) Any additional funding that may be available, e.g. additional government funding, parish support;
 - (v) Retraining possibilities;
 - (vi) Possible leave arrangements e.g. Leave Without Pay, Long Service Leave, Parental Leave,
- 12.6.3.3 Included in the alternatives are applications by staff indicating that they are willing to make a voluntary offer to be declared redundant.
- 12.6.3.4 When staff are asked what their intentions are for the period concerned (e.g. the following year) it should be noted that it is unacceptable for staff to be pressured into applying for positions elsewhere because it may be seen that the school has pre-empted the necessary consultative and deliberative processes in later steps.

12.7 Step 2 The Redundancy Document

12.7.1 Procedures

- 12.7.1.1 If the potential redundancy is not solved, the Principal will send either:
- (i) a redundancy document to all the parties mentioned above, or
 - (ii) a notification that a voluntary redundancy and/or an offer of leave without pay' has been accepted.

12.7.2 Timeline

The Employer's/Principal's document is to be sent to the parties at the beginning of the third last week of third term, but must be received by the parties at least three working days before the date of the Step 3 meeting.

12.7.3 Guidelines

The development and distribution of the school's redundancy document is the responsibility of the Employer/Principal. The document will include the following information:

12.7.3.1 The reasons for the potential redundancy

The Employer/Principal should outline the reasons why the problem exists. Information such as funding, staffing and enrolments (past, present and projected) are factors which are important. Issues such as Funding, Staffing and Curriculum change should also be mentioned where relevant.

12.7.3.2 The number and categories of staff likely to be affected
The teaching and/or non-teaching areas where the redundancy is likely to take place and the numbers of staff involved are identified.

12.7.3.3 The number of staff employed and details of their employment (this area to be kept confidential).

12.7.3.4 Alternatives Investigated

- (i) The possibilities of redeploying staff within the school; information re staffing requirements (e.g. vacancies) in all schools under authority of Employer;
- (ii) information about vacancies in neighbouring schools;
- (iii) information about any extra funding available including attempts made to seek such funds;
- (iv) the possibility of re-training;
- (v) possible leave arrangements.
- (vi) Indications by staff that they are willing to make a voluntary offer to be declared redundant.

12.7.3.5 Special Funding to Tide Over a Redundancy Gap

Where it is known that only a small gap of over-employment may occur, it is desirable to consider whether funding can be arranged to tide over this gap. The school should outline to the parties the efforts it has made to address this possibility. (Documents in this section remain confidential).

12.8 Step 3 The Redundancy Meeting

12.8.1 Procedures

- 12.8.1.1 A meeting will be held between the Parties to consider the Employer's/Principal's redundancy proposal.
- 12.8.1.2 The Parties will seek to agree on the criteria to be applied.
- 12.8.1.3 Given agreement on both the criteria to be applied and the redundancy proposal, the Employer/Principal shall indicate to the Parties at the meeting the name/s of the person/s to be declared redundant. The person/s so named shall be informed within a week of the meeting by the Employer/Principal.
- 12.8.1.4 In the event of the disagreement by any party with any of these stages, that party shall indicate to the meeting why there is disagreement. Failing resolution, 12.8.1.5 will apply.
- 12.8.1.5 A second meeting will be held to attempt to resolve the disagreement arising in 12.8.1.4.
- 12.8.1.6 If agreement cannot be reached as a result of the meeting in 12.8.1.5 the Employer/Principal shall inform the Parties at the meeting of the action that the Employer/Principal intends to take.

12.8.2 Timeline

- 12.8.2.1 The actual time and place will be decided by mutual agreement between the Parties and the Employer/Principal, but the meeting is to take place between the Monday of the second last week of third

term and the Friday of the first week of fourth term, the school holiday time to be included).

12.8.2.2 The meeting outlined in 12.8.1.5 will take place within one week of the meeting in 12.8.1.1.

12.8.3 Guidelines

12.8.3.1 The following outlines possible criteria which the parties will take into consideration and criteria which may not be put forward.

12.8.3.2 Deciding who is to be Declared Redundant

(i) Criteria

- Identify the needs of the school;
- Identify the work currently being performed which will no longer need to be performed due to redundancy;
- Identify those staff who, if declared redundant, could not be replaced by any member of the existing staff having regard to the programs planned for the period after the redundancy; i.e. new staff would have to be employed if that person (s) was declared redundant;

(ii) Factors

The Employer /Principal will nominate the factors (from those below) which have been considered in determining the staff member (s) to be declared redundant. The Employer/ Principal will advise those attending the meeting of the factors and any priority that has been applied to these factors:

- Current Contract of Employment
- Current Duties
- Curriculum Programs
- Experience
- Funding Base for Staff Member
- Graduate Status
- Length of Service
- Pastoral Considerations
- Previous Redundancy History
- Qualifications
- Specialist Expertise
- Staff member's willingness to make a voluntary offer to be declared redundant

(iii) Factors which cannot be used:

- Person is a Union Representative / Union Affiliation
- Person's Sex, Marital Status, Age, Pregnancy
- Person's Lifestyle
- Person's Competence or Otherwise, or Suitability or Otherwise
- Person's Religion

12.9 Step 4 Notifying the Redundancy Result

12.9.1 Procedures

The parties attending the meeting in 12.8 are notified in writing of the details of the Employers action following 12.8.

12.9.2 Timeline

The notification must be forwarded to the parties within two weeks of the meeting in 12.8.

12.10 Step 5 Assistance in Re-deployment

12.10.1 Procedures

12.10.1.1 The Principal will promptly co-ordinate re-employment assistance with the relevant Catholic Education office as set out above;

12.10.1.2 During the period of notice the Principal should:

- (i) with the agreement of the staff member/s declared redundant, contact neighbouring Catholic schools and CEO Offices to facilitate employment of the staff member;
- (ii) where agreed, meet regularly with the staff member/s declared redundant, to discuss pastoral and professional issues;
- (iv) provide time release to the staff member/s declared redundant to attend interviews.

12.10.1.3 **Leave Without Pay**

- (i) Prior to the redundancy payment being forwarded to the Employee/s, the Employee/s should be offered Leave Without Pay for the following school year, thereby deferring the date of termination of the Employee/s declared redundant.
- (ii) If the Employee/s accepts the offer of Leave Without Pay, the Principal shall notify the parties.
- (iii) Should a position become available in the school during the period of Leave Without Pay, for which the Employee has appropriate skills and qualifications, the Employee should be advised that the position exists. If the Employee wishes to remain on the period of Leave Without Pay, the position will be held open until the expiration of the period of Leave Without Pay.
- (iv) Where an Employee/s has accepted an offer of a period of Leave Without Pay to defer the date of termination, and there has been no change in the potential redundancy situation, then 12.10.1.4 will apply.

12.10.1.4 In the last week of the third term of the following school year, the Principal shall notify the parties that they intend to proceed with the notice of termination if the 12.8 meeting is not re-convened, then at the expiration of the period of Leave Without Pay, if the Employee has not obtained alternative employment in Catholic Education, the Employee shall receive the appropriate redundancy payment.

12.10.1.5 Timelines

- (i) The offer of Leave Without Pay to Employees declared redundant should be made as early as possible during the period of notice;
- (ii) The letter notifying the parties of an acceptance of an offer of Leave Without Pay should be sent immediately;
- (iii) The letter notifying the parties of an intention to proceed with the notice of termination on the expiration of a period of Leave Without Pay should be sent in the last week of the third term of the school year in which the Leave Without Pay is taken.

12.11 Step 6 Variations to Step 4 notification and redundancy payments advice

12.11.1.1 Procedures & Timeline & Guidelines

- (i) The parties attending 12.8.1.1 and/or 12.8.1.5 are notified in writing of:
 - Variations to step 3 meeting resolution. Any variation (s) to the resolution to the redundancy which occur after the STEP 4 notification should be sent to the parties immediately.
 - Final redundancy payments. Where no resolution to the redundancy situation can be found, then the Principal should notify the parties as to the amount and date of redundancy payment made to any person/s made redundant.
- (ii) Payments to staff declared redundant should be 15 working days after the termination of employment as a result of the redundancy declaration taking effect.

Appendix 2 -Remuneration packaging

1. Application

This Appendix applies where Employers provide salary and benefit packages to Employees whose employment is covered by this agreement.

2. Definitions

For the purpose of this clause:

- 2.1 Benefits means the benefits nominated by the Employee from the benefits provided by the Employer;
- 2.2 Benefit Value means the amount specified by the Employer as the cost to the Employer of the Benefit provided including Fringe Benefits Tax, if any;
- 2.3 Fringe Benefits Tax means tax imposed by the *Fringe Benefits Tax Act 1986 (Cth)*.

3. Conditions of employment

Except as provided by this clause, an Employee must be employed at a salary based on a rate of pay, and otherwise on terms and conditions not less than those prescribed by this Agreement.

4. Remuneration packaging

The Employer will offer to provide and the Employee, in writing, may agree to accept:

- 4.1 the Benefits nominated by the Employee; and
- 4.2 a salary equal to the difference between the Benefit Value and the salary which would have applied to the Employee under clause 3 above in the absence of an agreement under this sub-clause.

5. Benefits

The Benefits will be those made available by the Employer.

6. Notification of benefit value

The Employer must advise the Employee in writing of the Benefit Value before the Employee and the Employer enter into an agreement pursuant to clause 4 above.

7. Calculation of salary during leave

During the currency of an agreement under clause 4 above:

- 7.1 an Employee who takes leave on full pay will receive the Benefits and salary referred to in clause 4 of this Appendix;
- 7.2 an Employee who takes leave without pay is not entitled to any Benefits during the period of leave;
- 7.3 an Employee who takes leave on less than full pay will receive:
 - (a) the Benefits; and
 - (b) an amount of salary calculated by applying the formula:

$$A = S \times P\% - [(100\% - P\%) \times B]$$

where:

S = the salary determined under clause 4 above

P = the percentage of salary payable during the leave

B = the Benefit Value

A= the amount of salary

8. Other payments

Any other payment under this agreement, calculated by reference to the Employee's salary, however described, and payable:

8.1. during employment; or

8.2 on termination of employment in respect of untaken paid leave; or on death,

will be at the rate of pay which would have applied to the Employee under clause 3 of this Appendix, in the absence of an agreement under clause 4 of this Appendix.

Appendix 3 - Long Service Leave

1. Entitlement

1.1 Accrual of Long Service Leave

1.1.1 An Employee shall accrue an entitlement to Long Service Leave at the following rates of accrual:

- (i) 1.30 weeks leave in respect of each year of continuous service in Catholic Education save that the accrual shall be;
- (ii) 1.20 weeks leave in respect of each year of continuous service in excess of ten years in Catholic Education from the commencement of the 1978 school year until 28 January 1996.

1.1.2 Accrued Long Service Leave for an Employee is reduced by the amount of Long Service Leave granted to the Employee, or any payment in lieu of Long Service Leave paid to the Employee, by the Employer.

1.1.3 For the purpose of this Appendix:

- (i) "Employer" means the respondent to this Agreement or a former Employer of the Employee who at the time of the Employee's employment is or was a participant in the Catholic Education Long Service Leave Scheme Victoria.
- (ii) "Service in Catholic Education" means service by an Employee with one or more Employers;

1.2 When the Leave or Leave Payment is due

1.2.1 An Employee is entitled to Long Service Leave on completion of 7 years continuous service in Catholic Education and thereafter an Employee is entitled to further Long Service Leave on completion of each additional and subsequent year of continuous service in Catholic Education.

1.2.2 Notwithstanding the provisions of 1.2.1 above the Employer must pay to an Employee upon termination of employment. An Employee after 7 years continuous service in Catholic Education a payment in lieu of Long Service Leave of an amount equivalent to the remuneration the Employee would have received had the full amount of unused long service leave been taken as leave at the date of termination.

1.2.3 Conditions in respect of the taking of leave by Employees who were former members of religious orders that were in effect as at the date of lodgement of this agreement will continue unchanged.

1.2.4 An Employee who has completed less than 7 years continuous service in Catholic Education and whose employment is terminated on account of invalidity is entitled to be paid on termination long service leave equivalent to their accrual.

1.2.5 For an Employee who dies whilst in employment having completed less than 7 years continuous service in Catholic Education, the Employer must pay an amount in respect of the Long Service Leave accrued to the date of death to the Employee's Estate.

1.3 How the payment is calculated and paid

1.3.1 Long Service Leave is paid at the ordinary weekly rate of pay at the time of the taking of the leave or on termination. Payment of the leave the ordinary rate of pay includes:

- (i) regular weekly over award payments;
 - (ii) any position of leadership allowance which is paid on a regular and continuing basis;
 - (iii) any other allowances in the nature of salary.
- 1.3.2 Where the ordinary rate increases during the period of leave the Long Service Leave rate will be increased accordingly. Employees taking leave paid in advance will be paid any arrears at the conclusion of the period of leave.
- 1.3.3 The ordinary pay of an Employee on long service leave shall be paid in one of the following ways to be nominated in advance by the Employee.
- (i) full pay in advance on commencing the leave;
 - (ii) at the same pay intervals as the Employee would have been paid if not commencing the leave; or
 - (iii) as agreed between the Employer and the Employee.
- 1.3.4 The calculation and payment in respect of Employees who have worked part-time during an eligible accrual period shall be as follows:
- (a) If the whole period of service was part-time service, at the full time rate of ordinary pay at the time of the taking of the leave, multiplied by the greater of either the average weekly time fraction over the aggregate period of part-time service or the average weekly time fraction over the most recent aggregate period of 12 months of part-time service;
 - (b) If the period of service includes both part-time and full-time service then:
 - (i) at the full time ordinary pay as at the date of taking of the leave for such proportion of the leave as equates to the proportion of the period of service which was full-time service; and
 - (ii) for the remainder of the leave at the full time ordinary pay as at the time of the taking of the leave multiplied by the greater of either the average weekly time fraction over the period of part-time service, or the average weekly time fraction over the most recent aggregate period of 12 months of part-time service.
- 1.3.5 Where an Employee is entitled to long service leave for which payment is to be determined in accordance with sub-clause 1.3.4, the Employee may, to the extent of the Employee's entitlement, nominate the proportion of the leave entitlement to which the respective part-time payments under sub-clauses 1.3.4(b) (i) and 1.3.4(b) (ii) are to apply.

2. How and when the leave is taken

- 2.1 Where an Employee and his/her Employer agree
- 2.1.1 the first period of long service leave to which the Employee becomes entitled may be taken in two or three separate periods; and
 - 2.1.2 Any subsequent period of long service leave to which the Employee becomes entitled may be taken in two separate periods.
- 2.2 When an Employee becomes entitled to long service leave upon application by the Employee such leave shall be granted by the Employer as soon as practicable having regard to the needs of the institution in which the Employee is employed or at such later time as shall be agreed between the Employer and Employee.

- 2.3 An Employee who has an entitlement to Long Service Leave is entitled to take a period of leave without pay in conjunction with that Long Service Leave subject to the following conditions:-
- 2.3.1 The Employee shall return to work at the start of a school term;
 - 2.3.2 The total period of leave shall comprise the whole term or terms;
 - 2.3.3 The period of leave without pay will normally be limited to the remainder of the term in which long service leave is taken; and
 - 2.3.4 The period of leave without pay would not normally be longer than the period of long service leave.
 - (i) Any period of long service leave shall be exclusive of any public holiday occurring during the period when the leave is taken and any annual leave or school holidays.
 - (ii) Where an Employee becomes ill whilst on long service leave and such illness extends beyond seven continuous days, the period will, subject to the submission of satisfactory medical evidence to the Employer, be recognised as sick leave pursuant to the provisions of this Agreement, deducted from the Employees personal leave credits and the Employee given credit for long service leave accordingly.

3. How accrued service and continuous service are calculated

- 3.1 The defining terms of continuous service expressed in this appendix apply only to long service leave.
- 3.2 Accrued service for the purpose of calculating entitlements to be paid after the commencement of this Agreement is defined as service with an Employer. Nothing in this Appendix other than subsequent accrual consistent with this appendix shall be construed so as to increase the accrued service which was available to Employees at the date of lodgement of this agreement for the purpose of calculating prospective long service leave entitlements
- 3.3 Service in Catholic education shall be continuous and accruable for the purpose of calculating Long Service Leave entitlements notwithstanding;
- 3.3.1 The taking of any paid leave by an Employee which was granted and paid for by an Employer including annual leave, long service leave and sick leave;
 - 3.3.2 Any absence for which the Employee is entitled to receive weekly payments pursuant to the Workers Compensation Act, the Accident Compensation Act or the Transport Accident Act;
 - 3.3.3 Any unpaid absence from work on account of illness or injury of up to one year inclusive of any annual leave or school holidays;
- 3.4 Service in Catholic education shall be continuous but not accruable for the purpose of calculating long service leave entitlements where:
- 3.4.1 there is any interruption to service arising directly or indirectly from an industrial dispute;
 - 3.4.2 the Employee is stood down through no fault of their own as the Employer cannot continue the employment because the Employee cannot be gainfully employed;
 - 3.4.3 the termination of an Employee's employment with an Employer, if the Employee is re-employed by another respondent Employer, within a period not exceeding two years after the effective date of such termination
 - 3.4.4 there is any unpaid absence from work by reason of parental or adoption leave not exceeding;

- (i) 18 months prior to 1 February 1980;
- (ii) 12 months between 1 February 1980 and 31 January 1985 inclusive;
- (iii) 104 weeks between 1 February 1985 and 18 October 2004;
- (iv) 156 weeks on or after 19 October 2004.

3.4.5 there is a leave of absence without pay formally granted to the Employee by his/her Employer, including periods of unpaid sick leave, in excess of one year.

Appendix 4 – Parental leave provisions

1. Subject to the terms of this Appendix Employees are entitled to maternity, paternity and adoption leave (parental leave) and to work part-time in connection with the birth or adoption of a child.

1.1. General Terms of Parental Leave

1.1.1. Conditions of eligibility:

- 1.1.1(a) An Employee for the purposes of this Appendix is a full-time or is a part-time Employee, or an “eligible casual Employee” as defined in *the Fair Work Act 2009* but not a casual Employee;
- 1.1.1(b) The Employee has had not less than 42 consecutive school weeks or four consecutive school terms of continuous service in Catholic education in Victoria immediately preceding the date upon which the Employee proceeds on such leave. If an Employee applying for parental leave does not meet the conditions in this clause then that Employee is only entitled to take leave without pay until the end of the current school year, in the event of pregnancy or birth and is not subject to the provisions regarding returning to work on a part time basis;
- 1.1.1(c) The Employee shall produce to the Employer a certificate from a legally qualified medical practitioner stating either the presumed date of her confinement or the Employee’s spouses name and that the spouse is pregnant including a presumed date of her confinement;
- 1.1.1(d) Whilst ensuring that the minimum entitlements under the parental leave provisions of the *Fair Work Act 2009* are guaranteed, the parties in recognition of the payments made under this Appendix expect the following Clauses to be observed;
 - Clause 1.1.2(b)
 - Clause 1.1.2(c)
 - Clause 1.1.2(d)
 - Clause 1.1.4(a)
 - Clause 1.1.4(b)
 - Clause 1.1.9(a)
- 1.1.1(e) The Employee's entitlement shall be reduced by any period of parental leave taken by the Employee's spouse in relation to the same child, apart from paternity leave taken by the Employee’s spouse of up to three weeks at the time of confinement.

1.1.2. Single period of parental leave and commencement

- 1.1.2(a) Subject to 1.1.3 and 1.1.5 hereof, the period of parental leave shall be for an unbroken period of from six to 156 weeks and shall include, in the case of maternity leave, a period of six weeks compulsory leave to be taken immediately following confinement. Save that for a replacement or relieving Employee, that period of leave shall not extend beyond the period for which they have been engaged as a replacement or relieving Employee.

- 1.1.2(a)(i) The exception to this provision is when an Employee takes paternity leave. In this circumstance the period shall be one week to 156 weeks including up to three weeks taken at the time of the Employee's spouses confinement.
- 1.1.2(b) Employees accessing more than 104 weeks parental leave are subject to a return to work at the commencement of a school year only, even if this extends the period of maternity leave beyond 156 weeks, unless otherwise agreed.
- 1.1.2(c) An Employee shall at least 10 weeks prior to the presumed date of confinement produce to their Employer the certificate referred to in 1.1.1(c) above and give notice in writing to their Employer setting out the presumed date of confinement.
- 1.1.2(d) An Employee shall give at least 10 weeks notice in writing and provision of a statutory declaration to their Employer of the date upon which the Employee proposes to commence paternity leave stating the period of leave to be taken. Such notice and statutory declaration are detailed as follows;
 - 1.1.2(d)(i) Particulars of any period of parental leave sought or taken by their spouse and that for the period of parental leave the Employee will not engage in any conduct inconsistent with their contract of employment;
 - 1.1.2(d)(ii) The notice required shall be in the form of a common parental leave application as agreed between the parties.
- 1.1.2(e) The provisions of paragraph 1.1.2(d) do not apply in the case of an Employee requesting up to three week's paternity leave.
- 1.1.2 (f) Whilst an Employee is required to comply with paragraphs 1.1.2(c) and (d), the requirement is not a condition of eligibility.

1.1.3. Further period of parental leave resulting from a subsequent pregnancy or adoption

For the purposes of this Clause a further period of parental leave shall mean a period of parental leave resulting from a subsequent pregnancy or adoption taken without a return to work from an initial (or subsequent) period of parental leave and shall be deemed to be a new and separate period of parental leave.

- 1.1.3(a) When an Employee who is already on parental leave under this Appendix applies for a further period of leave because of a subsequent pregnancy, the further period of parental leave shall be for a period not exceeding 156 weeks and shall commence from the date of confinement and shall cease at either the start of the next school year or the start of the year following as determined by the Employee. Save that where an Employee takes a further period of parental leave in excess of 104 weeks the Employee shall return to work at the beginning of a school year only, even if this extends the period beyond 156 weeks, unless otherwise agreed with her Employer.
- 1.1.3(b) Application for a subsequent period of parental leave shall comply with the provisions contained in 1.1.1, 1.1.2(a), 1.1.2(c), 1.1.2(d) and 1.1.3(a) above. Save that, this will not require an Employee currently on paternity leave to return to work during the period of compulsory maternity leave of the mother following the birth of another child.

- 1.1.3(c) The parental leave taken and any return to work arrangements the Employee has currently in place cease when a further period of parental leave commences.

1.1.4. Variation of parental leave

- 1.1.4(a) Provided the variation does not extend each period of parental leave beyond 156 weeks, the period may be lengthened only once (save with the agreement of the Employer) by the Employee giving not less than 21 days notice in writing stating the period by which the leave is to be lengthened. Employees accessing more than 104 weeks parental leave are subject to a return to work at the commencement of a school year only, even if this extends the period of parental leave beyond 156 weeks, unless otherwise agreed.
- 1.1.4(b) The period of leave may, with the consent of the Employer, be shortened by the Employee giving not less than seven working weeks notice in writing stating the period by which the leave is to be shortened.
- 1.1.4(c) Subject to 1.1.3(a) of this subclause, the provisions of 1.1.4(a) and 1.1.4(b) above apply to those Employees taking further periods of leave, unless the Employer consents.

1.1.5. Cancellation of parental leave

- 1.1.5(a) Parental leave applied for but not commenced shall be cancelled where the pregnancy terminates other than by the birth of a living child or should the placement of the child not proceed.
- 1.1.5(b) Where the cancellation of parental leave occurs due to circumstances in clause 1.1.5(a), it shall be the right of the Employee to resume work at a time nominated by the Employer (which shall be no later than the beginning of the next succeeding term from the date of the notice in writing by the Employee to the Employer that the Employee wishes to resume work).

1.1.6. Parental leave and other entitlements

Provided the aggregate of leave, including leave taken pursuant to 1.2.4 hereof, does not exceed 156 weeks for each period of parental leave or does not negate the obligation to return to work at the beginning of the school year for further periods of parental leave as defined in 1.1.3(a):

- 1.1.6(a) An Employee may in lieu of or in conjunction with parental leave take any annual leave or long service leave or any part thereof to which the Employee is then entitled;
- 1.1.6(b) Paid sick leave or other paid authorised absences under this Agreement (excluding annual leave or long service leave taken in conjunction with parental leave) shall not be available to an Employee during their absence on parental leave.

1.1.7. Effect of parental leave on employment

Notwithstanding any provision to the contrary, absence on parental leave shall not break the continuity of service of an Employee but shall not be taken into account in

calculating the period of service for any purpose of this Agreement provided that absence on parental leave shall count for purposes of 1.1.1(b) above.

1.1.8. Termination of employment

- 1.1.8(a) An Employee on parental leave may terminate his or her employment at any time during the period of leave by giving the required period of notice under this agreement.
- 1.1.8(b) The rights of an Employer in relation to termination of employment are not hereby affected by an Employee taking parental leave.

1.1.9. Return to work after a single period of parental leave

- 1.1.9(a) Except as provided in 1.1.9(b) hereof, an Employee will return to work only from the beginning of a school term, preferably from the beginning of a school year and will indicate their intention of returning to work by giving in writing not less than seven working weeks notice wholly within a school term, that notice to be immediately prior to the proposed school term of commencement.
- 1.1.9(b) An Employer may by agreement with the Employee arrange for an Employee to return to work at some date earlier than the commencement of a school term.
- 1.1.9(c) Provided the notice required pursuant to 1.1.9(a) above has been given, an Employee shall be entitled to return to his or her former position or if that position no longer exists, a position commensurate with his or her qualifications and experience.
- 1.1.9(d) A part-time Employee shall be entitled to return to a position which includes the same number of hours per week, but not necessarily the same times or class levels.
- 1.1.9(e) If no confirmation of an intention to return is received, the Employer shall take reasonable steps of enquiry prior to making other arrangements.

1.1.10. Return to work from a further period of parental leave resulting from a subsequent pregnancy

- 1.1.10(a) An Employee will return to work only from the beginning of a school year and will indicate their intention of returning to work by giving in writing not less than seven working weeks notice wholly within a school term in the school year prior to the intended return.
- 1.1.10(b) Return to work from a further period of parental leave resulting from a subsequent pregnancy will comply with the provisions in 1.1.9(b), 1.1.9(c), 1.1.9(d) and 1.1.9(e) of this Clause.

1.1.11. Replacement employees

- 1.1.11(a) An Employee specifically engaged as a result of an Employee proceeding on parental leave will normally be a replacement Employee provided however that such replacement Employee does not have to fill the job vacated by the Employee proceeding on parental leave.

- 1.1.11(b) Before an Employer engages a replacement Employee under this subclause, the Employer shall inform that person of the temporary nature of the employment and the rights of the Employee who is being replaced.
- 1.1.11(c) Before the Employer temporarily promotes or transfers an Employee to replace an Employee exercising their rights under this Clause the Employer shall inform that person of the temporary nature of the promotion or transfer and the rights of the Employee who is being replaced.
- 1.1.11(d) Nothing in this subclause shall be construed as requiring an Employer to engage a replacement Employee.

1.2. Specific Provisions in Relation to Maternity Leave

1.2.1. Parental Leave Payment

- 1.2.1(a) Parental leave shall be without pay except that where the qualifying conditions set out below are met, a payment equivalent to fourteen weeks wages will be made. The payment is only made to female Employees. No superannuation is paid in respect of this payment. The payment is made in respect of the first 14 week period of the leave taken that would otherwise be without pay after the birth of the child. This 14 week period will not count as service for the purposes of leave entitlements. The payment is made at the time of confinement.
- 1.2.1(b) An Employee who has not previously received a parental or maternity leave payment while working in Catholic education must have had not less than 42 consecutive school weeks or four consecutive school terms of continuous service in Catholic education to qualify for the parental leave payment. The payment will be calculated based on the Employee's ordinary rate of pay immediately prior to the commencement of maternity leave.
- 1.2.1(c) An Employee who has previously received a parental or maternity leave payment and taken parental leave thereto whilst employed in Catholic education must have returned to work in Catholic education for a period of not less than 42 consecutive school weeks or four consecutive school terms continuous service to qualify for a further parental leave payment. That payment will be made at the rate paid to the Employee immediately prior to the taking of this, second or subsequent, period of parental leave.

- 1.2.2. An Employee may commence a period of maternity leave at any time within six weeks (this does not preclude an earlier start to maternity leave) before the expected birth of the child. Where the Employee continues to work within the six week period immediately prior to the expected date of birth, an Employer may require the Employee to provide a medical certificate stating that she is fit to work on her normal duties.

1.2.3. Transfer to a safe job

- 1.2.4(a) When in the opinion of a legally qualified medical practitioner an Employee is fit to work but illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Employee make it inadvisable for the Employee to continue in her present position for a

stated period the Employee shall, if Employee has complied with the notice requirements of this Agreement and the Employer deems it reasonably practicable, be transferred to a safe job with no other change to the Employee's terms and conditions of employment.

- 1.2.4(b) If the Employer does not think it is reasonably practicable to transfer the Employee to a safe job, the Employee may, or the Employer may require the Employee to take paid leave immediately, at the Employee's ordinary rate of pay immediately before the period begins, for such period as is certified necessary by a legally qualified medical practitioner and such leave shall be in addition to any other leave entitlement she has.

1.2.4. Special maternity leave and sick leave

- 1.2.5(a) Where the pregnancy of an Employee not then on maternity leave terminates within 28 weeks before the expected date of birth, other than by the birth of a living child, then:
- 1.2.5(a)(i) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a legally qualified medical practitioner certifies as necessary before her return to work; or
 - 1.2.5(a)(ii) for illness other than the normal consequences of confinement she shall be entitled either in lieu of or in addition to special maternity leave to such paid sick leave to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.
- 1.2.5(b) Where an Employee not then on maternity leave suffers illness related to her pregnancy, she may take such sick leave to which she is then entitled and/or such further unpaid leave (to be known as special maternity leave) as a legally qualified medical practitioner certifies as necessary before her return to work.
- 1.2.5(c) For the purposes of 1.1.9 and 1.1.10 maternity leave shall include special maternity leave.
- 1.2.5(d) An Employee returning to work after a period of leave taken pursuant to this subclause shall, be entitled to return to her former position or if that position no longer exists, a position commensurate with her qualifications and experience
- 1.2.5(e) A part-time Employee shall be entitled to return to a position which includes the same number of hours per week but not necessarily the same times or class levels.
- 1.2.5(f) In addition to any entitlement described above an Employee who is pregnant may access up to five days of her accrued sick leave entitlements for attending pre-natal medical appointments.

1.3. Specific Provisions in Relation to Paternity Leave

- 1.3.1. The Employee's entitlement to paternity leave shall be reduced by any period of maternity leave taken by the Employee's spouse in relation to the same child and, apart from paternity leave of up to three weeks at the time of confinement, shall not be taken concurrently with maternity leave.

- 1.3.2. The three weeks leave referred to at 1.3.1 above will be without pay. The Employee may elect to have five days of leave deducted from the Employee's carer's leave credits.

1.4. Specific Provisions in Relation to Adoption Leave

Part 1.4 of this appendix is also applicable to Employees who are entrusted with the care of a child or children under a Permanent Care Order of a Court.

1.4.1. Definitions

In this subclause:

- 1.4.1(a) child, in relation to an Employee, means a person under the age of 16 years who is placed with the Employee for the purposes of adoption and who has not previously lived continuously with the Employee for a period of 6 months or more at the date or proposed date of placement or is not a child of the Employee or the Employee's spouse or de facto partner.
- 1.4.1(b) primary care-giver means a person who assumes the principal role of providing care and attention to a child.
- 1.4.1(c) relative adoption occurs where a child is adopted by a parent, a spouse of a parent or another relative, being a grandparent, brother, sister, aunt or uncle (whether of the whole blood or half blood or by marriage).

1.4.2. Eligibility for adoption leave

- 1.4.2(a) An Employee is, on production to the Employer of the documentation required by 1.4.3(a) below entitled to one or two periods of adoption leave, the total of which must not exceed 156 weeks in the following circumstances:
- 1.4.2(a)(i) an unbroken period of up to three weeks at a time of the placement of the child (referred to in this subclause as short adoption leave);
- 1.4.2(a)(ii) an unbroken period of up to 156 weeks from the time of the placement of the child in order to be the primary care-giver of the child (referred to in this clause as extended adoption leave). This entitlement is to be reduced by any period of short adoption leave taken and the aggregate of any periods of adoption leave taken or to be taken by the Employee's spouse in relation to the same child. Save that for a replacement or relieving Employee, that period of leave shall not extend beyond the period for which they have been engaged as a replacement or relieving Employee;
- 1.4.2(b) The Employer will, at the time of placement of the child, as defined in sub-clause 1.4.1(a) make a payment of up to 14 weeks' pay at the Employee's ordinary rate of pay to one parent or an aggregate of up to 14 weeks' pay to both parents employed by respondents to the agreement, such payment being directly proportional to a period that would otherwise be unpaid.
- 1.4.2(c) Extended adoption leave is not to be taken concurrently with adoption leave taken by the Employee's spouse in relation to the same child.

1.4.3. Certification

- 1.4.3(a) Before taking adoption leave, the Employee must produce to the Employer a statement from an adoption agency or another appropriate body of the expected date of placement of the child with the Employee for adoption purposes; or a statement from the appropriate government authority confirming that the Employee is to have custody of the child pending application for an adoption order.

1.4.4. Notice requirements

- 1.4.4(a) On receiving notice of approval for adoption purposes, an Employee must notify his or her Employer of the approval and, as soon as is reasonably practicable after receiving notice of the approval, must further notify the Employer of the period or periods of adoption leave which the Employee proposes to take. In the case of a relative adoption, the Employee must so notify the Employer as soon as is reasonably practicable on deciding to take a child into custody pending an application for an adoption order.
- 1.4.4(b) An Employee who commences employment with an Employer after receiving a placement approval notice or placement notice for adoption purposes must notify the Employer of that date as soon as is reasonably practicable after commencing employment and of the period of adoption leave which the Employee proposes to take. Such an Employee is not entitled to adoption leave unless he or she has not less than 42 weeks or four consecutive school terms of continuous service within Catholic education in Victoria immediately preceding the date on which he or she commences the leave.
- 1.4.4(c) An Employee must, within 8 weeks or as soon as is reasonably practicable after he or she is aware of the expected date of placement of a child for adoption purposes, give notice in writing to his or her Employer of that date, and of the first and last days of any period of short adoption leave to be taken.
- 1.4.4(e) An Employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with 1.4.4(c) or 1.4.4(d) if the failure is caused by:
- 1.4.4(e)(ii) the requirement of an adoption agency for the Employee to accept earlier or later placement of a child; or
 - 1.4.4(e)(iii) the death of his or her spouse.

1.4.5. Pre-adoption leave

- 1.4.7(a) The Employer must grant to any Employee who is seeking to adopt a child any unpaid leave not exceeding two days that is required by the Employee to attend any compulsory interviews or examinations that are necessary as part of the adoption procedure.
- 1.4.7(b) If paid leave is available to the Employee, the Employee may elect to take such leave instead of pre-adoption leave.

1.5. Returning to work on a Part-time work basis

The following provisions shall apply to Employees who have been on parental leave and are wishing to return to work on a part time basis.

1.5.1. Definitions

In this subclause:

- 1.5.1(a) Part-time employment means work of a lesser number of hours than constitutes full-time work under this agreement, but does not include temporary or casual work.
- 1.5.1(b) Former position means the position held by an Employee immediately before commencing part-time employment under this subclause or, if such position no longer exists but there are other positions available for which the Employee is qualified and capable of performing, a position as nearly as possible comparable in status and pay to that of the position held by the Employee immediately before commencing part-time work.

1.5.2. Entitlement

With the agreement of the Employer:

- 1.5.2(a) An Employee may work part-time in one or more periods at any time from six weeks after the birth of the child until the child reaches school age.
- 1.5.2(b) The Employer shall consider the request to work part-time having regard to the Employee's circumstances and, provided the request is genuinely based on the Employee's parental responsibilities, may only, refuse the request on reasonable grounds related to the effect on the workplace or the Employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- 1.5.2(c) Where an Employee wishes to make a request under clause 1.5, such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the Employee is due to return to work from parental leave.

1.5.3. Return to former position

- 1.5.3(a) An Employee who has had at least 42 weeks continuous service or 4 consecutive school terms within Catholic education in Victoria immediately before commencing part-time employment after the birth or placement of a child has, at the expiration of the period of such part-time employment or the first period, if there is more than one, the right to return to his or her former position.
- 1.5.3(b) Nothing in 1.5.3(a) shall prevent the Employer from permitting the Employee to return to his or her former position after a second or subsequent period of part-time employment.

1.5.4. Effect of part-time work on continuous service

Under this Agreement, commencement on part-time employment under this subclause and return from part-time employment to full-time employment under this subclause does not break the continuity of service of an Employee.

1.5.5. Pro rata entitlements

Subject to the provisions of this subclause and the matters agreed to in 1.5.6 hereof, part-time employment shall be in accordance with the provisions of this Agreement and the entitlements provided for in this Agreement shall apply to part time employment on a pro rata basis.

1.5.6. Part-time work agreement

- 1.5.6(a) Before commencing a period of part-time employment under this subclause the Employer and the Employee shall agree:

- 1.5.6(a)(i) that the Employee may work part-time;
- 1.5.6(a)(ii) upon the hours to be worked by the Employee, the days upon which they will be worked and the commencing times for the work;
- 1.5.6(a)(iii) upon the period of part-time employment.
- 1.5.6(b) The terms of this agreement may be varied by consent.
- 1.5.6(c) The terms of this agreement and any variation to it shall be in writing and retained by the Employer. A copy of the agreement and any variation to it shall be provided to the Employee by the Employer.
- 1.5.6(d) The terms of this agreement shall apply to the part-time employment;
- 1.5.6(e) The work to be performed part-time need not be the work performed by the Employee in his or her former position but shall be work commensurate with the Employee's qualifications and experience.
- 1.5.6(f) An Employer may request, but not require, an Employee working part-time under this clause to work outside or in excess of the Employee's ordinary hours of duty provided for in accordance with 1.5.6(a) above.

1.5.7. Termination of employment

- 1.5.7(a) The employment of a part-time Employee under this clause may be terminated in accordance with the provisions of this Agreement.
- 1.5.7(b) Any termination benefits payable to an Employee whose employment is terminated while working part-time under this clause, or while working full-time after transferring from part-time work under this clause shall be calculated by reference to the full-time rate of pay at the time of termination and by regarding all service as a full-time Employee as qualifying for a termination entitlement based on the period of full-time employment and all service as a part-time Employee on a pro rata basis.

1.5.8. Replacement employees

- 1.5.8(a) An Employee specifically engaged as a result of an Employee proceeding on part-time employment under this subclause will normally be a replacement Employee.
- 1.5.8(b) Before an Employer engages a replacement Employee under this subclause, the Employer shall inform that person of the temporary nature of the employment and the rights of the Employee who is being replaced.
- 1.5.8(c) Before an Employer temporarily promotes or transfers an Employee to replace an Employee exercising his/her rights under this clause the Employer shall inform that person of the temporary nature of the promotion or transfer and the rights of the Employee who is being replaced.
- 1.5.8(d) Nothing in this subclause shall be construed as requiring an Employer to engage a replacement Employee.

1.6. Communication during parental leave

- 1.6.1. Where an Employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Employer shall take reasonable steps to:

- 1.6.1(a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave; and
- 1.6.1(b) provide an opportunity for the Employee to discuss any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave.
- 1.6.2. The Employee shall take reasonable steps to inform the Employer about any significant matter that will affect the Employee's decision regarding the duration of parental leave to be taken, whether the Employee intends to return to work and whether the Employee intends to request to return to work on a part-time basis.
- 1.6.3. The Employee shall also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with 1.6.1.

1.7. Right to Request

- 1.7.1. Notwithstanding anything to the contrary in this Appendix an Employee entitled to parental leave pursuant to the provisions of this Appendix may request the Employer to allow the Employee to extend the period of simultaneous unpaid parental leave of three weeks to a maximum of eight weeks;
- 1.7.2. The Employer shall consider the request having regard to the Employee's circumstances and, provided the request is genuinely based on the Employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- 1.7.3. The Employee's request and the Employer's decision made under clause 1.7 must be recorded in writing.