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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 0513

### **TASMANIAN INDUSTRIAL COMMISSION**

#### **DEPUTY PRESIDENT P.C. SHELLEY**

**T No 11439 of 2004**

#### **CATHOLIC EDUCATION AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Tasmanian Catholic Education Employees  
Association to vary the above award**

**HOBART**

**10.30 AM, FRIDAY, 4 JUNE 2004**

**This transcript was prepared from tapes recorded  
By the Tasmanian Industrial Commission**

## HEARING COMMENCED

[10.40am]

PN34

THE COMMISSIONER: Thank you. I note there is no change in appearances. Now, we have received via email a completely new document - - -

PN35

MS BRIANT: Yes, Deputy President.

PN36

THE D.PRESIDENT: - - - from Ms Briant with a covering letter saying it is to replace any other documents you may have. Now, I take it that the Chamber of Commerce and Industry has a copy of this same document?

PN37

MS BRIANT: Yes, Deputy President.

PN38

THE COMMISSIONER: Okay, well, we will mark this one, therefore, as exhibit A3, but note that that is the final draft.

PN39

MS BRIANT: Yes.

PN40

THE D.PRESIDENT: Thank you.

## EXHIBIT #A3 FINAL DRAFT DOCUMENT

PN41

THE COMMISSIONER: Now, when we adjourned there were to be some discussions in relation to a clause dealing with part-time with a reduction of hours. Perhaps somebody can appraise me of what has been going on?

PN42

MS BRIANT: I could do that, Deputy President. So, a report-back on the progress of negotiations during the past two weeks. If you recall, Deputy President, we were last here in the Commission on 20 May. There was some dissent between the parties. This was in relation to the award clause about part-time teachers and the situation where an employer can reduce these teachers' hours of work without the employee's consent and without compensation.

PN43

Now, the union, having raised this issue in another jurisdiction, the TCCI stated they couldn't indicate their consent to the variations in the award being approved at that date. Now, on that day, Deputy President, you assisted the communication between the parties in an attempt to resolve the dispute. No agreement being reached during that discussion, but the parties agreed to have three further meetings on Tuesday, 25 May; Wednesday, 26 May; and Friday, 28 May, in an attempt to come to an agreement.

PN44

Well, the parties duly met and have arrived at the following recorded understandings: the union would request that the Anti-Discrimination Commission put the claim, the union claim, on hold until 31 August 2004, and that it only progress the investigation process at the request of the TCEEA. This matter will be included in enterprise bargaining negotiations that will be taking place between the union and the Catholic Education Employers between 24 June, 23 August 2004.

PN45

The parties further agreed that if, as a result of enterprise bargaining negotiations, if, as a result of enterprise bargaining negotiations, the clause is not varied by consent to be at the standard of normal industrial practice then the TCEEA will exercise its right to either reactivate the claim before the Anti-Discrimination Commission and/or reply for arbitration before the Industrial Commission. The parties also agree that if the clause is varied as a result of the enterprise bargaining negotiations, then the clause will be varied in the award, not in an industrial agreement. So that is the outcome of those three meetings, Deputy President.

PN46

I am now going to appraise you of certain of those undertakings, and we have sent to you the key dates and time-line for the enterprise collective bargaining process and the details of the agreed enterprise collective bargaining process, so you - hopefully, you feel assured that those understandings will, I suppose, reflect into action. Now, when we were last here, Deputy President, you indicated that failing the parties coming to an agreement about the form of words in terms of variation to the award document that was before you, then that clause would be the subject of submissions today in relation to the Commission making a determination about what the award should say in relation to that clause.

PN47

Now, if the Deputy President pleases, I would like to put to you that enterprise bargaining process and a commitment of both parties to resolve this matter, we will, in quite a short address this issue in a constructive and consultative manner. The TCEEA therefore requests that you not arbitrate on this matter today at this hearing but, hopefully, you will be content with the agreement we have come to to progress the matter. Yesterday, I spoke to Mrs Thomas at the TCCI to ensure that communication between the parties was effective, and I believe that it has been.

PN48

THE D.PRESIDENT: Okay. I take it that you agree with those submissions?

PN49

MS THOMAS: Yes, the parties have reached an agreement as to the appropriate way forward, in our view, and, hopefully, there will be a resolution of this matter in the not too distant future, so we are happy to proceed with the application to vary the award today.

PN50

THE D.PRESIDENT: Thank you. Well, obviously, it is far preferable if this matter can be resolved through enterprise bargaining and agreement rather than through arbitration, so I am happy to proceed in the way that the parties suggest.

PN51

MS BRIANT: Thank you, Deputy President.

PN52

THE D.PRESIDENT: Now, we come back to the application for the new award.

PN53

MS BRIANT: That is right, Deputy President. So you have before you three documents we have submitted. There is, for the purposes of comparison, the document showing the current award clauses on the left side, and the new proposed changes on the right side.

PN54

THE D.PRESIDENT: Yes.

PN55

MR BRIANT: There is the document which is, what we call "the new award" and the summary document, summary of changes, of only five pages. Also, Deputy President, the TCEEA is drawing from 15 agreements.

PN56

THE D.PRESIDENT: Yes, we received correspondence this morning.

PN57

MS BRIANT: Yes, and also Mr Smallbane lodged that letter with the Registrar this morning, so that has gone to him. I have provided the TCCI and Sister Majella with a copy of that letter as well, Deputy President. So that tallies up, 11 salary-sacrifice agreements because now there will be a salary-sacrificed clause in the award; and four section 55 industrial agreements which have been superseded by other agreements, or the award. So now, if you are happy with that, Deputy President, I will work through the summary of changes. So what we need in front of us is the summary of changes and also referring to the double-sided document - the document with two sides to it.

PN58

THE D.PRESIDENT: Okay, now - - -

PN59

MS BRIANT: Two columns, is a better way of putting it.

PN60

THE D.PRESIDENT: Was that one previously marked as A1?

PN61

MS BRIANT: I don't think we - I am uncertain, Deputy President.

PN62

THE D.PRESIDENT: Right, okay, well, we have got - I saw there another one marked "amended 19th of the fifth"?

PN63

MS THOMAS: Yes, Deputy President, the transcript from the previous hearing marked as exhibit A1, was the amended schedule of changes at paragraph 14. And exhibit A2 was the draft award that was presented on that day as well.

PN64

MS BRIANT: So we are working from A1, and referring to A3.

PN65

THE D.PRESIDENT: Yes.

PN66

MS BRIANT: It will be quite a long tedious process, Deputy President, because there is a lot of re-drafting, deletions, additions. I will just start with the index. Now, if we go to Part II in the index, this is page 2 of the two-column document, Part II: Employment and Associated Matters, clause 1, there is an amendment to reflect the change in name to School Support Employees. It was known as Teaching Employees, and all through the award now you will find the terms School Support Employees.

PN67

Now, moving down to Part III, Salaries and Related Matters still in the index here, again, it is the classification descriptor. Clause 1(b), School Support Employees. Before that - I just missed this - in the left-hand column, the previous award, is Exemplary Classroom Teacher, that has now been deleted from the new award, so that whole classification no longer exists. Still with classification descriptors, 1B(iii) Utility Employees has been added in there. Now, going down to clause 2, Salaries: again, the change of name from Non-Teaching Employee to School Support Employee. And, again, in 2A(v) the addition of Utility Employees to the salary scales. Going down a little bit further to Minimum Wage, which was in the previous award but we have just changed the placement in Part III. Have I missed anything?

PN68

MR SMALLBANE: Teacher Aide.

PN69

MS BRIANT: Teacher Aide, so I am back to Part III, clause 2 - - -

PN70

THE D.PRESIDENT: Change to Teacher Assistant.

PN71

MS BRIANT: That is right, yes, I forgot to highlight that, so I missed that one. So now we are going down to clause 6, and that is Reclassification. So there is minimum wage, support of wage system, paymaster salary and then reclassification; that is a new clause. And then at the bottom of the page, again the change of name from Non-Teaching Employee to School Support Employee, regarding calculation of experience. Over to the next page, there are two new clauses here, 10 and 11, Salary Sacrifice to Superannuation, which has now been included in the award, and a clause about superannuation. You will notice,

Deputy President, minimum wage is mentioned there on the left-hand side. As we have said, it has been placed - - -

PN72

MR SMALLBANE: Relocated.

PN73

MS BRIANT: Relocated. Okay, still on the index, Part IV, Allowances, clause 2B, Higher Duty Allowance, School Support Employees. Again, the change of name. And going down to subclause (3), Tool Allowance, has been added in here. That has come across with all the utility employee information. Part V, Hours of Work and Overtime. Clause 2, Hours of Work, School Support Employee, for the change of name for Non-Teaching Employees. And the same changes name down to the clause 4 and 5 in regard to overtime and rest periods.

PN74

Now, Part VI, Leave and Holidays with Pay. The same change of name from Non-Teaching to School Support Employees in regard to annual leave, clause 2. Over to page 4, of the two-column document. On the left-hand side under Special Leave With Pay, Jury Service has come out, it is subclause (c) of clause 6. That has been repositioned, under Special Leave Without Pay, so that has been removed from there. And on the right-hand side, Special Leave Without Pay, has been renumbered. Let me see, renumbered as C, 7C, yes.

PN75

First of all, that is actually - we have renumbered Special Leave With Pay, so that there is no change - yes, that is just removed from the Jury Service, therefore, that changed the numeration for Paternal Leave and Board of Committee Meetings, because they were D and E, now they are C and D. So special leave without pay, we are going on to that now, renumbered as A: General; B: Defence Force Leave; C: Jury Service; and D: Unpaid Carer's Leave. Part VII, Consultation and Dispute Resolution, there is no change to that Deputy President; that is quite nice. On to Part III, Scope, we have the addition here of Utility Services with the bringing into the award of the Utility Employees.

PN76

THE D.PRESIDENT: I thought there was an exclusion for security officers as well as for cleaners?

PN77

MS BRIANT: I think, if you look at the definitions, Commissioner - - -

PN78

THE D.PRESIDENT: Yes, I am just looking at the Scope clause.

PN79

MS BRIANT: Yes, the Scope. Well, Security Officers and Janitors, but only because they were in our - our working definition included security officers and janitors. After discussion with the LHMU we removed those and they are happy for the definition to stand as it was reworded. Do you think we need to add here "to be that precise"?

PN80

THE D.PRESIDENT: No, it is just that you have got - you have specified the cleaners - - -

PN81

MS BRIANT: Cleaners, particularly.

PN82

THE D.PRESIDENT: - - - which I guess is the same as janitors, but not the other - - -

PN83

MS BRIANT: Yes.

PN84

THE D.PRESIDENT: I mean, if the parties believe that it is sufficiently clear not to have both included in the Scope, but only one - - -

PN85

MS BRIANT: Well, perhaps it could just finish with:

PN86

*This award is established in respect of the industry of a position of educator, administrative and utility service in the Catholic Education Sector.*

PN87

You just stop there, rather than have:

PN88

*However, it does not cover employees working as cleaners.*

PN89

Then you would need to add janitors and security personnel. So if you name one precise group, why wouldn't other precise groups be named?

PN90

THE D.PRESIDENT: Yes, exactly.

PN91

MS BRIANT: So I don't know what the TCCI thinks?

PN92

THE D.PRESIDENT: So you are saying: amend it so that there is a full-stop after "sector" and delete the rest?

PN93

MS BRIANT: I think that would be my preference, Deputy President.

PN94

MS THOMAS: In terms of my reading of the express "utility services", I guess I would be concerned that does include cleaners? My notion of utility work would include cleaners, so if you wanted to specifically exclude them, I don't we would oppose excluding security.

PN95

SR KELLY: No.

PN96

MS THOMAS: A mention of security officers, or some similar expression.

PN97

MS BRIANT: But we don't have them, in effect, we don't have janitors; we don't have security employees.

PN98

THE D.PRESIDENT: Well, "janitor" is just another expression for "cleaner", really. Now, what you have got in your definitions, you have got an exclusion of janitors, have you not?

PN99

MR SMALLBANE: No, it was in, excuse me, Deputy President, it was in the  
- - -

PN100

THE D.PRESIDENT: It has been taken out?

PN101

MS BRIANT: It is taken out, yes, that is right.

PN102

MR SMALLBANE: They have taken it all out.

PN103

THE D.PRESIDENT: You have deleted, okay, you have deleted "janitor" and you have deleted "security employee"; that is what happened - - -

PN104

MR SMALLBANE: Yes.

PN105

THE D.PRESIDENT: - - - when you amended it in May. Okay. It is a little bit confusing to also have an exclusion for cleaners in the Scope, but there is no mention - so what you have done is, your utility officer definition - yes, you have got a whole list of people that it does include.

PN106

MS BRIANT: That is right, but not a list of people that it doesn't include.

PN107

MS THOMAS: Maybe if we could just go off the record so we can have a bit of  
a - - -

**OFF THE RECORD**

**[9.50am]**

**RESUMED**

**[9.55am]**

PN108

THE D.PRESIDENT: We are back on record.

PN109

MS BRIANT: Back on record, back to the Scope, Part III of the award, Scope, a change here, Deputy President. It now reads:

PN110

*This award is established in respect of the industry of a provision of educational, administrative and utility services as defined in the Catholic Education Sector.*

PN111

Date of Operation, Part IV:

PN112

*This award shall come into operation from the first full pay period to commence on, or after 1 June 2004.*

PN113

I understand that was your direction at the last hearing, Deputy President? Clause 5, here: no change to the award interest. Part VI, Supersession. Now, this award incorporates and supersedes the Catholic Educational Award Number 2 of 2000 Consolidated, and includes award variations numbers 1, 2 and 3 of 2003. Part VII, General Definitions: quite a few changes here, Deputy President. There has been some expansion to include classroom administration, which is on page 5.

PN114

I might just go to the Expansions and then I will go to the rewording, and then I will go to the deletion, so we will go back and forwards a little bit from page to page within the definitions. So the Expansions are: Classroom Administration. Equivalent qualifications, or equivalent course. That is the last definition on page 5. Leadership Course, which is on page 6, about two-thirds of the way down. Registered Teacher, which is on page 8, two from the bottom. School Support Employees, on page 9. This was a lack in the previous award. And Utility Employees, on page 11 and Utility Services on page 11. So they are all the new definitions.

PN115

Now, we will go back to page 5 and look at the rewording. A lot of this has come about because of teacher registration, Deputy President, so we had to put Registered Teacher where we had Trained Teacher. So, Assistant to the Principal, is a registered teacher. Deputy Principal, a registered teacher. On page 6, Full-time Equivalent, again, that is more than - there is a significant change there in the rewording, just to incorporate not purely the hours of delivery of formal curriculum, but to include the other duties of a full-time teacher.

PN116

We will go down now to Librarian, which is on page 6. That would be - the Professional Association for Librarians is now the Australian Library and Information Association, so there has been a change of wording of that body, and that is the same change, and the Library Technician definition at the very bottom

of page 6. Over to page 7, this is Positions of Responsibility, on page 7. Now, there are two or three changes here. There is the meaning, so Positions of Responsibility means Assistant to the Principal, Deputy Principal, Religious Education Co-ordinator, Subject Co-ordinator, Teacher Administrator, Year Co-ordinator - and this is the change:

PN117

*...or other positions deemed by the employer to be equivalent, and the following conditions apply for each position of responsibility.*

PN118

Now, there is a change there to (i):

PN119

*Applications for positions of responsibility shall be called for by advertisement -*

PN120

and the addition is:

PN121

*when there is a teaching vacancy within the school, this advertisement is to be circulated through the Tasmanian Catholic Education Sector.*

PN122

And over the page 8, still on Positions of Responsibility, number 6:

PN123

*If after the advertisement no suitable applications are received the employer may make an acting appointment.*

PN124

So that has been expanded there and reworded. Now, we go down to Qualifications, fourth from the bottom on page 8. Again, we are referring here to the Teacher Registration Act. We have added in here, Registered Teachers. Have I already done that? I already have, right, okay. So over to page 9, Relief Teacher, means a Registered Teacher, down to "school year". Now, this is quite a significant change. This now means that 12 months from the first day of February in a year to the 31st day of January in the following year.

PN125

THE D.PRESIDENT: What is the effect of that change?

PN126

MS BRIANT: The effect is, in practical terms, that, if teachers leave during the year, they are not paying back holiday pay that they got for the January of that year, so what has happened in the past, Deputy President, someone has been paid the 20 days holiday pay for January. They may leave at the end of second term, therefore, owe the employer seven days of holiday pay. So they have actually been paid for the holidays for work they have not yet done and it has led to a lot of hardship for people having to pay back money. So that is the reason we - for new employees, they will be on a different year from current employees.

PN127

Now, we have got a Subject Co-ordinator. Again, that is Registered Teacher. That is the change there. And over the page to the top of page 10, Tasmanian Catholic Teachers' Certificate. Again, it is - the word is "registered", not "trained". Teacher, as an employee registered by the Teachers' Registration Board, Teacher Administrator, Registered Teacher, Teacher Assistant, that is the change of title from Teacher Aide to Teacher Assistant. It is just a more commonly accepted term for people who fulfil that employment. Teacher/Librarian, a registered teacher, and a few extra words here:

PN128

*The Teacher/Librarian means a registered teacher as defined, who also holds librarianship qualifications deemed appropriate by the employer.*

PN129

Trained Teacher, is a registered teacher - -

PN130

THE D.PRESIDENT: So that means, just for my information - - -

PN131

MS BRIANT: Yes?

PN132

THE D.PRESIDENT: - - - somebody who completes their teaching qualification has to be registered before they commence teaching?

PN133

MS BRIANT: Yes, they get professional registration, Deputy President. They apply to the Teacher Registration Board and based on their appropriate qualifications, get professional registration. Then after a year of full - equivalent to full-time service they would - and satisfactory service, they would get full registration.

PN134

THE D.PRESIDENT: Full registration.

PN135

MS BRIANT: That is right.

PN136

THE D.PRESIDENT: So, therefore, everybody knows that when you say a registered teacher, it includes provisions registration?

PN137

MS BRIANT: Yes, it does. If we go over now to page 11, which is Untrained Teacher. Now, this is someone who has successfully completed a recognised course of teacher training in a recognised tertiary institute and that is what the existing clause is. Added to that:

PN138

*...but whom the Tasmanian Teacher Registration Board has issued with a limited authority to teach.*

PN139

Now, "with a limited authority to teach" - do I need to explain that to you, Deputy President, how that works?

PN140

THE D.PRESIDENT: I am interested.

PN141

MS BRIANT: Yes. Say there is a school in an outlying area who can't get a French teacher - - -

PN142

THE D.PRESIDENT: I see; yes. Yes.

PN143

MS BRIANT: So - but there is a person in the locality who is - who can teach French. The school applies for a LATT for that person, for that school, for that purpose. Yes, and that person is issued with a LATT. Is that a good summary, Majella?

PN144

SR KELLY: Yes, and the limited authority to teach can only be applied to that particular function.

PN145

THE D.PRESIDENT: Area and subject?

PN146

SR KELLY: Yes.

PN147

MS BRIANT: Year Co-ordinator, again, is a registered teacher. So that is the rewording. Now, we will go on to the deletions. So we go back now, to where?

PN148

MR SMALLBANE: RECs.

PN149

MS BRIANT: RECs, yes. Page 8, is, with a definition of Religious Education Co-ordinator - begins. I had better say the whole term, because I notice in the last transcript it said, "Risk Co-ordinator", so it is Religious Education Co-ordinator. If we go to the top of page 9; the classes for REC, class 1 and class 2, have been moved to, what we refer, the more logical part into Part IV, Allowances, clause 2, Work-Related Allowances, subclause (d)(ii)(1). So they have actually - haven't been deleted from the award, they have been deleted from this part of the award.

PN150

Now, if we go down to Teacher/Administrator, that is on page 10, and that has been moved again, class 1, 2 and 3, Teacher/Administrator has been moved to Part IV, Allowances, for the same reason as the Religious Education Co-ordinator. And the Year Co-ordinator, which is on page 12 - - -

PN151

MR SMALLBANE: Eleven.

PN152

MS BRIANT: - - - 11; again, the Part IV Allowances. So, we are done with the definitions now.

PN153

THE D.PRESIDENT: I might just clarify a point? I don't know who is responsible for all the sterling good work, but it is enormously helpful to have the comparisons set out so clearly and in such a detailed manner.

PN154

MS BRIANT: Thank you. It is very tedious but it is very essential as well. Part II, Employment Relationship and Associated Matters, clause 1, Contract of Employment Change from Non-Teaching Employees to School Support Employees. That has also been expanded, this part.

PN155

SR KELLY: Angela?

PN156

MS BRIANT: Yes?

PN157

SR KELLY: Do you want to go back and indicate the School Support Employees who have been included in the Definitions? I don't think you mentioned that?

PN158

MS BRIANT: Didn't I mention that?

PN159

SR KELLY: No.

PN160

MS BRIANT: Back to Definitions; thank you, Majella. You "choose the employee"?

PN161

SR KELLY: No, no, no, School Support.

PN162

MS BRIANT: School Support; no, I think I did mention that.

PN163

SR KELLY: Did you? We didn't have it under - - -

PN164

MS BRIANT: Yes, I might not have brought it out though; you could be right.

PN165

SR KELLY: Page 9.

PN166

MS BRIANT: Yes. School Support Employee, means an employee who does not engage in teaching and includes a Clerical, Secretarial and Administrative

employee, a Teacher Assistant, a Teaching Support employee and a Utility employee, so that includes all those people who were not defined before. Thank you.

PN167

SR KELLY: Or was defined as "non"-something.

PN168

MS BRIANT: Yes. Yes, this is a more positive aspect. So we go back to Part II and we are looking at the Contract of Employment for School Support Employees. So there is a new subclause here at (a):

PN169

*An employer as defined, shall advertise any vacant position throughout all Tasmanian Catholic schools and the Tasmanian Catholic Education Office.*

PN170

So this is the expansion and if we go over the page to (g); (g), (h), (i) are all new subclauses here; (g) is:

PN171

*On the day of termination, or by a mutually agreed date, an employee shall receive all outstanding entitlements.*

PN172

This is a reference to termination, obviously. And (h), Redundancy:

PN173

*The employer, as defined, and the Association, as defined, agree to develop a memorandum of understanding with respect to redundancy.*

PN174

And, (i), Replacement Employees:

PN175

*At the time of appointment the employer shall provide written advice to the replacement employee indicating (1) their classification level; (2) their salary; (3) the temporary nature of the appointment; (4) the duties to be performed; (5) the benefits which are applicable under the award such as annual leave, holidays with pay, and sick leave, as per Part VI, Leave and Holidays With Pay; (6) expected duration of the appointment; (7) the rights under this award of the employee being replaced; and (8) that the period of employment may be varied at any time subject to the return to work of the employee being replaced and the giving of at least two weeks' notice by the employer.*

PN176

THE D.PRESIDENT: So that is not just for people who are replacing employees on maternity leave?

PN177

MS BRIANT: No.

PN178

THE D.PRESIDENT: That is for all?

PN179

MS BRIANT: That is for all.

PN180

THE D.PRESIDENT: Okay.

PN181

MS BRIANT: In the previous award we only had details of replacement of employees in the Parental Leave section.

PN182

THE D.PRESIDENT: Yes, that is right.

PN183

MS BRIANT: So there was no general clause to apply to every other employee, so we saw that as a lack in the award. And it is a logical place to find that information and we think it more accessible for employees. If I go back to page 12, subclause (b), refers to the clause rather than the division - it is just a more correct term. And over to page 13, (f), we have a change here of numeration; this was (e) in the previous award.

PN184

THE D.PRESIDENT: So the Statement of Service is new, is it?

PN185

MS BRIANT: I am just looking through, with you, Chris, so, Deputy President, I will just check on something there.

PN186

THE D.PRESIDENT: No, it is not.

PN187

MS BRIANT: I haven't got down to there yet. I am just working through this. But (f) in the previous award is now (j) in the new award. And the addition here is Roman numeral (iii):

PN188

*Termination shall be in accordance with the terms under which the appointment is made.*

PN189

So we have just expanded (j) to include - - -

PN190

THE D.PRESIDENT: So what does that actually mean? Are you saying that people employed under the special funding projects don't have the same conditions in relation to termination of employment, for example, Notice, and so on, as other employees?

PN191

MS BRIANT: I will look back at the definition and we will see how we refer to them in Definitions:

PN192

*Special Funding employee means a person who is employed by the employer for the duration of special funding for a particular project during which time the employee shall receive the salary and conditions which apply to their classification within this award.*

PN193

THE D.PRESIDENT: So that the fixed term contract, in effect, you are saying - I am just wondering what it is that (j)(iii) is actually doing?

PN194

MS BRIANT: Well, I suppose it doesn't need to be given - a person doesn't need to be given the termination notice of two weeks because they have a date when their appointment will cease, when they take up the appointment. That would be my understanding of what that refers to. So the employer is not bound to give that two weeks' termination notice. Am I correct in that, Majella?

PN195

SR KELLY: Well, you don't have to give termination notices for fixed term contracts anyway, because the contracts expire.

PN196

THE D.PRESIDENT: You don't need to give notice; it is pre-determined, that is right.

PN197

MS BRIANT: So do you think this clause is not necessary?

PN198

THE D.PRESIDENT: It is probably redundant, but I suppose it does no damage to have it there?

PN199

MS BRIANT: Perhaps it makes it clearer for those people that they don't expect to get two weeks' notice because their initial appointment gave them the period when the appointment would expire? That was our intention, I think, in adding that during discussions. We will now go to Contract of Employment for Teachers. This has been expanded as well, Deputy President, to include additional subclauses (a):

PN200

*An employer, as defined, shall advertise any vacant positions throughout all Tasmanian Catholic schools and the Tasmanian Catholic Education Office.*

PN201

(b):

PN202

*After two years in one school as a replacement employee, or a short-term of limited tenure contract, an employee will receive every consideration for any appropriate vacancy in the school, or other things being equal.*

PN203

THE D.PRESIDENT: What on earth does that mean?

PN204

MS BRIANT: That means, we have had the situation in the past of a - - -

PN205

THE D.PRESIDENT: I know what it is intending to do, but what do the words actually mean?

PN206

MS BRIANT: I suppose it means that, hopefully, they will be given every consideration. That is as strong as we could negotiate. There is no guarantee of a position; there is no guarantee of an interview, but, hopefully, we won't have the situation where someone fills in at a school for three years and then a vacancy comes up which they felt they were appropriately qualified for, and they don't get that position. So we felt it was the best we could do in negotiations, Deputy President, in giving those people a bit more consideration. It is not very strong.

PN207

THE D.PRESIDENT: No, it doesn't say "positive consideration"?

PN208

MS BRIANT: No.

PN209

THE D.PRESIDENT: It is not actually saying anything because you have already said that all vacant positions shall be advertised.

PN210

MS BRIANT: Yes.

PN211

THE D.PRESIDENT: These people are already in the system.

PN212

MS BRIANT: Yes.

PN213

THE D.PRESIDENT: They have a right to apply, of course.

PN214

MS BRIANT: Yes. Yes.

PN215

THE D.PRESIDENT: So that is not giving them - - -

PN216

MS BRIANT: Anything extra.

PN217

THE D.PRESIDENT: - - - anything extra, so why does it need to be there in its current form?

PN218

MS BRIANT: Well, it probably doesn't do anything positive.

PN219

THE D.PRESIDENT: It does nothing positive.

PN220

MS BRIANT: Positive. But it is the best we could get agreement on. If Sr Majella would like to comment on that from the employer's perspective?

PN221

SR KELLY: These people have - if a position becomes vacant at any time, replacement employees can apply for it.

PN222

THE D.PRESIDENT: Of course.

PN223

MS THOMAS: Whether they probably had - - -

PN224

SR KELLY: Whether they have been there for the two years, or not.

PN225

THE D.PRESIDENT: But I mean, you couldn't have anything that prevented them from applying for it, so - - -

PN226

SR KELLY: No.

PN227

MS THOMAS: No.

PN228

MS BRIANT: No.

PN229

THE D.PRESIDENT: I mean, I don't think that we should clutter awards with statements that do nothing.

PN230

MS BRIANT: Yes. If it has had positive consideration - - -

PN231

THE D.PRESIDENT: If you believe that this is giving them something that wasn't there, if it wasn't in the award then it should stay, but if it is your - that if - - -

PN232

MS BRIANT: I suppose on reflection it became less significant once we had actually been able to negotiate subclause (a).

PN233

THE D.PRESIDENT: That it is advertised.

PN234

MS BRIANT: That is right, yes.

PN235

THE D.PRESIDENT: All positions are advertised which automatically implies that, therefore, anybody can apply for them.

PN236

MS BRIANT: Perhaps we hoped, in practice, every consideration would be, not advised towards that person but an appreciation of that person's service to the school, but it may not make any difference at all. My recollection is that we negotiated subclause (b) before we negotiated subclause (a), so in a sense it had become redundant once subclause (a) has been agreed upon. So you are suggesting it just goes out of the award, Deputy President, and doesn't enhance it in any way?

PN237

THE D.PRESIDENT: Well, it is up to the parties because they are the ones who are agreeing to it, but it seems to me that it, in fact, does nothing.

PN238

MS BRIANT: But if it is a positive consideration?

PN239

THE D.PRESIDENT: Well, that would be different.

PN240

MS BRIANT: It would be different.

PN241

SR KELLY: But what does "positive consideration" mean?

PN242

THE D.PRESIDENT: Well, it means that you are going to be perhaps - if you have got two people who are equal you will choose that one.

PN243

SR KELLY: Well, a person who is employed already has positive consideration because you know their capabilities.

PN244

THE D.PRESIDENT: Well, I mean, it is like, well, I suppose, positive discrimination to the effect if you have got a man and a woman and you have a positive discrimination policy because you have an under-representation, and they are absolutely equal, you would choose the person who is currently under-represented - - -

PN245

MS BRIANT: Yes.

PN246

THE D.PRESIDENT: - - - so it means, basically, yes - - -

PN247

MS BRIANT: It is a recognition of a special - - -

PN248

THE D.PRESIDENT: All other things being equal, I mean, if you have got two candidates you will be - you will choose the one to whom you have a positive policy.

PN249

MS BRIANT: Well, that would certainly give no acknowledgment and appreciate to the person who has filled in at the school for two, or more years, so that would certainly be an enhancement in either the - of the union - - -

PN250

SR KELLY: Yes, but it doesn't address the thing about the policy that would need to be in place from - I understand what you are saying where things - - -

PN251

THE D.PRESIDENT: If you are trying to make your teacher group more representative of the general community - - -

PN252

SR KELLY: Yes.

PN253

THE D.PRESIDENT: - - - for example, it could - - -

PN254

SR KELLY: Yes, in a situation like that.

PN255

THE D.PRESIDENT: Yes, that one policy could collide with another.

PN256

SR KELLY: Yes.

PN257

MS THOMAS: That, perhaps, it really is an issue of policy, and, really, maybe not something that should be in the award? I gather there are no limitations on the ability for employees to apply for positions, whether they are fixed term - - -

PN258

SR KELLY: No, they are not.

PN259

MS THOMAS: - - - replacement, full time, part time, and everyone would be given consideration in light of other legislation that applies, so - - -

PN260

THE D.PRESIDENT: And I think it should be a matter of policy. The Commission is specifically excluded from considering appointments as an industrial matter, so if it is in the award and there is a dispute about it, there is some difficulty because the question relies as to whether it is an industrial matter at all.

PN261

MS BRIANT: In that case it is probably better not to be - this clause is better to be removed? It is not going to be helpful in any way, is it?

PN262

THE D.PRESIDENT: And it can address it through exchange of letters, development of policy, or whatever.

PN263

MS BRIANT: Well, then we are suggesting, Deputy President, that it be removed and that will lead to some re-numbering all the way through, but I will work on the current numbering now - - -

PN264

THE D.PRESIDENT: Yes.

PN265

MS BRIANT: - - - but (c) will become (b), obviously, but just for the sake of clarity.

PN266

THE D.PRESIDENT: I mean, it does - yes, things about appointments are a little bit tricky being in awards in any case.

PN267

MS BRIANT: Right. Yes, that would lead to confusion.

PN268

THE D.PRESIDENT: I mean, classification, yes; promotion, yes; whether or not somebody ascends up a career path, yes; but initial appointments, no.

PN269

MS BRIANT: In that case it should come out, yes. Thank you, for that guidance, Deputy President. We will go to what is now (e), but which will become (d), obviously, when we do the re-numbering, on page 14. This is a new clause, reflects the change in the school year:

PN270

*When a person is employed under the provisions of this award and this employment commenced after 31 December 2004, the school year shall be deemed to commence on 1 February and conclude on 31 January of the next year.*

PN271

And now, over to (r), which is on page 15:

PN272

*On the day of termination, or by a mutually agreed date, a teacher shall receive any outstanding entitlements.*

PN273

(t), Redundancy:

PN274

*The employer, as defined, and the Association as defined, agree to develop a memorandum of understanding with respect to redundancy.*

PN275

These clauses, you may recall, also included the Non-School Support Employee Contract area. (u), Replacement Teachers:

PN276

*At the time of appointment the teacher shall provide written advice to the replacement employee indicating -*

PN277

on page 16:

PN278

*(1) their classification level; (2) their salary; (3) the temporary nature of the appointment; (4) the duties to be performed; (5) the benefits which are applicable under the award such as annual leave, holidays with pay and sick leave as per Part VI, leave and holidays with pay; (6) the expected duration of the appointment; (7) the rights under this award of the employee being replaced; and (8) that the period of employment may be varied at any time subject to the return to work of the employee being replaced and the giving of at least two weeks' notice by the employer.*

PN279

If we go back now to page 13, this is Re-drafting, and actually then go over to the top of page 14 to the current B, has been re-drafted and appears at D, opposite, in the new award, that is the School Year, the change in the school year. Now, subclause (c) of the previous award is re-drafted to be subclause (f) of the new award, so, again, it effects the change from school year commencing on 1 January to commencing on 1 February. Subclause (d) of the previous award is re-drafted at (g) of the new award. So it now reads:

PN280

*Employment under this clause shall be subject to the satisfactory completion of a probationary period of one school term.*

PN281

That just makes it clearer. So that is - we go to classification descriptors now which will be on page 16, and we start with Deputy Principal. The qualifications for Deputy Principal have been amended. The new award will read:

PN282

*At least four years teacher training and five years teaching experience and an approved leadership course.*

PN283

THE D.PRESIDENT: Who provides these approved leadership courses?

PN284

MS BRIANT: The employers and the leadership courses are now defined in the definitions.

PN285

THE D.PRESIDENT: Okay.

PN286

MS BRIANT: I will just go back to that.

PN287

THE D.PRESIDENT: There are far too many awards of this Commission that talk about appropriate courses and appropriate qualifications when in fact they are a wish and a hope more than a reality but this is something that actually is well in place and it is defined within the award.

PN288

MS BRIANT: Yes, well, just for the first time, on page 6 here, we have got:

PN289

*Leadership course means a course offered by an employer party to this award -*

PN290

and it is two-thirds of the way down:

PN291

*Leadership course means a course offered by an employer party to this award and is a qualification required of applicants for certain positions of responsibility.*

PN292

THE D.PRESIDENT: Yes, so the course is in existence?

PN293

MS BRIANT: Yes.

PN294

THE D.PRESIDENT: And it is provided.

PN295

MS BRIANT: Yes.

PN296

THE D.PRESIDENT: So that is clearly on the record.

PN297

MS BRIANT: Yes.

PN298

THE D.PRESIDENT: Yes.

PN299

MS BRIANT: There are in fact a number of courses, all of which are deemed to be approved courses.

PN300

THE DEPUTY PRESIDENT: Thank you.

PN301

MS BRIANT: So:

PN302

*For Deputy Principal qualifications the approved leadership course ... (reads)... three years teaching religious education within the last five years.*

PN303

Now, we go down to subclause (b) on the left hand side of page 17, and that is exemplary classroom teacher. Now, I have got a note here on the right hand side, "Exemplary classroom teachers have been deleted from the award," so that classification no longer exists. So I go over a few pages now, to the bottom of page 19, and that is the change from non-teaching employees to school support employees. It is just the re-naming. Go over to page 21, Deputy President, the bottom of the page, Teaching Support Employees/Teacher Aides in the Current Award.

PN304

The new award would read, Teacher assistants, so there is that change of name there. And also underneath, the line down, which is the same change, No specific change for teacher assistants. Just moving forward now to utility employees which is on page 27. So we are still on clause 1, and this is must be A, subclause (iii), and this is utility employees who have come over from agreement T8820 of 2000. So there is all the definitions from that agreement. They are unchanged.

PN305

Over to page 28. Now, this is teachers. It is just re-numbered here. It was D in the previous award. It will be C in this one. And also the progression, if we go through all the classifications to page 33. Only a small change here, Deputy President. The top of page 33, Progression on Upgrading of Qualifications. Now, notwithstanding the requirements of part 3, Salaries and Related Matters, clause 9. That is a re-numbering. That was clause 7.

PN306

Go down to salaries now, which is clause 2. The change in A from Non-teaching Employee to School Support Employee, and again within that clause, at the bottom of that, B, School support Employees," rather than - on the left hand side, C, Non-teaching Employees. The salaries themselves have changed, so the salary categories contained in the previous award have been amended to all those contained in the Catholic Education Agreement T10784 of 2003. As you know, we have got now the new 2004 Catholic Education Agreement, with the current salary, but they are - the award salaries are from the 2003 agreement.

PN307

So they have all been amended from the previous award. That goes through from the Clerical, Administrative and Secretarial Employees to the Teacher Assistants, and that is a change there. Actually, I noticed there teacher assistants is a change of title too on page 34, which you probably hadn't picked up in all the things that - items that were changed from teacher aide to teacher assistant. Again, the salaries have been changed for teacher assistant.

PN308

The salary for teacher support employee, salaries for all the junior employees, including utility employee, which obviously wasn't included before. And over to page 35, utility employees, again a new inclusion. So that is the salaries. Now, if we come now to deputy principal we have expanded that there to give it a clearer lead into that salary level:

PN309

*An employee appointed to a position classified under this subclause ... (reads)... a classification as set out in part 3, clause 1A, deputy principal.*

PN310

So we have already gone through those, the determination of what level that person would be at, depending on the size of the school, and that is the salaries there for the deputy principal. Now, exemplary classroom teacher has been deleted. Therefore the salaries have been deleted as well.

PN311

THE DEPUTY PRESIDENT: So what happened to the people who previously exemplary classroom teachers?

PN312

MS BRIANT: Well, this actually is having no - - -

PN313

THE DEPUTY PRESIDENT: Do they get translated to some - what - - -

PN314

MS BRIANT: No.

PN315

MS THOMAS: Everybody got an additional step on the salary scale, and those people who were exemplary classroom teachers 2 or exemplary classroom teachers 3 have been subsumed into positions of responsibility.

PN316

THE DEPUTY PRESIDENT: Right. Thank you.

PN317

MS BRIANT: Well, probably the union wouldn't see it quite that way. There certainly was a new step on the salary scale for all teachers in the Catholic sector, which reflected the movement of another salary scale for Government teachers, and the people who were ECT ones remained on their additional allowance, or their additional salary, until the top of the scale teachers caught up with them. And the ECT 2s and 3s, too, of whom there were very few, remained again on their salary until level 13 came up to where they were, or their appointment expired, because they were five year appointments.

PN318

And some of those people may have gone to PORs, and some of them may not have gone to PORs. There would be a variation there. But certainly it has happened over the last two agreements, hasn't it? So this is, I suppose, the culmination of it now, not being included in the award any longer. So if we go to page 36 now, Minimum Wage. This has not been changed, it is just in a different

place in this part of the award, so it is clause 3. It was clause 8 of the previous award. Clause 4, Support of Wage System, was clause 3 in the previous award, and it has been varied, as per T10927 of 2003.

PN319

So I think the figure which was \$60 a week is a minimum amount payable for a minimum wage. Actually that hasn't changed, just a renumbering, that is all. Clause 5, Payment of Salary, on page 39. Now, that was clause 4 in the previous award. There is a change here, a redrafting of E to give more details on the person's pay advice, Deputy President. So:

PN320

*An employee shall receive each pay day a written statement, that shall include at least the following. The period covered by the payment.*

PN321

That is new.

PN322

*Annual gross salary, fortnightly gross salary, classification level.*

PN323

That is unchanged. And the following are all new:

PN324

*Employer superannuation guarantee contribution. ...(reads)... or any other payment not usually included in the employee's salary.*

PN325

And over the page to page 40:

PN326

*Any deductions made thereon, and the net amount paid.*

PN327

That was in the previous award. So the items in bold are the additions to the pay advice. Reclassification at clause 6 is a new clause:

PN328

*A school support employee who has served in a classification for at least one calendar year may seek reclassification if his/her duties have significantly changed.*

PN329

Just making it clearer that that capacity is available. Clause 7 was clause 5 in the previous award, and the change to school support employee. Clause 8, Calculation of Entitlements, Part-time Teachers. I am just looking at subclause (a) here, Deputy President:

PN330

*The calculation of hours for part-time employees for salary purposes and for hours of attendance shall be based upon a proportion of a standard teaching load of 20 hours in a secondary school, or 23 hours in a primary school.*

PN331

That was 24 in the previous award. Calculation of Experience for Teachers. This has been renumbered to be clause 9, and redrafted with A and C of the previous award, A being on page 40, C being on page 41, contained in A, B and C of the new award. And that led to subsequent renumbering. I might just read through A, B and C to make it a bit clearer. So the new A:

PN332

*Experience relates to work done in the appropriate field ... (reads)... employer in similar educational institutions.*

PN333

B, which is a significant redrafting:

PN334

*A year of experience is the equivalent of three school terms or on a pro rata basis to the number of working days in a school year.*

PN335

That is, 195. 195 days is the maximum days of work for a teacher. So that is what that is relating to, so there can be an accumulation of those days. Over to page 41. So that is a renumbering here, Deputy President. And C in the previous award:

PN336

*Assessment of years of experience for full-time teachers shall be calculated on a pro rata basis to the number of working days in the years.*

PN337

So that has become B, in a sense, of the new award. So it is just making it clearer and renumbering it there. Now, E of the previous award has been expanded to F of the new award. So F now reads:

PN338

*Relief, replacement and limited tenure teachers who work for more than 10 days per term may count days worked towards experience.*

PN339

And in this instance 195 days accrued constitutes one year's experience. In the past there was no accruing of experience for relief teachers. G has been added as well:

PN340

*Relief, replacement and limited tenure teachers are responsible for keeping records of days worked, and having these confirmed by the principal in a record of employment book supplied by the employer or the association.*

PN341

Which we have to develop in the very near future, so that we can issue these books to employees and our members.

PN342

THE DEPUTY PRESIDENT: Okay. So if they were doing relief teaching in the state system that counts as well, but they would have to get the principal at that school just to endorse it, or whatever?

PN343

MS BRIANT: Yes. Absolutely. I understand in the government schools they either do it - they have got a record book which the AEU have issued to relief teachers, which we have a copy of, that record book. And some schools actually have an electronic version of that as well. So if we can obtain that, that would be another alternative, I suppose, but the relief book would be the best thing, because it is supportable from school to school, system to system. So it is going to be a very important little book for that person. Subclause (h) here replaces subclause (f) of the previous award. This is another very significant change. (h) now will read:

PN344

*Teachers who have a break in continuity of service of five years or more ... (reads)... a period of probation as per part 2, clause 2G of this award.*

PN345

The normal probationary period for a new employee, and, as you see on the left hand side there the previous award there was a penalty for loss of use of experience. Now, clause 8, Minimum Wage, has been moved, as we have already seen. Go over to page 42. This is a new clause, and this replaces all those salary sacrifice agreements listed in the letter to the registrar, which you have a copy of. I hope they are all here if you need to see them, Deputy President. We have delved into our files and found them all. So, 10, Salary Sacrifice to Superannuation. Do you want me to read through the whole clause, Deputy President?

PN346

THE DEPUTY PRESIDENT: No. It is quite clear.

PN347

MS BRIANT: Quite clear. Yes. And clause 11 on page 43, Superannuation. Again, I think that is probably clear. It is a standard kind of a clause. It makes it clear that the funds to which employees contribute will be Tasplan or Catholic Superannuation Fund. So that is the end of Part (III). On to Part (IV) now, Allowances. There is no change to cost related allowances, but on page 44 we come to work related allowances. 2A, First Aid Allowance. Now, that is - this has been amended to that is the allowance contained in T10509 of 2002. So the award of plus 320, T10509 I think it was increased to \$400, and that has been brought across here.

PN348

Higher Duty Allowance. Just the change of name there to school support employee. Going down here a bit further, Librarian Allowance. Again that has been brought across from T10509. If we go over to page 45, Assistant to the Principal. I will just go through all the changes there. There is a change in the qualifications, and also a change in the allowance. So the qualifications here are:

PN349

*At least three years teacher training, and three years of teaching experience  
...(reads)... relating to religious education and the Catholic ethos.*

PN350

This brings it into line with the deputy principal qualifications. The allowance from T10509 of 2002, 2800.81 for a school with fewer than 250 students. As schools, this is a slight rewording. Schools with 250 or more students, 5501.00. So there is no gap as there was before. I go on to religious education coordinator. Now, these are classifications that brought across from the definitions in the previous award. For the sake of clarity here we have got the details of class 1 and class 2 of religious education coordinator, and down at the bottom of page 45 the allowances, again brought across from T10509.

PN351

Over to page 46. This is the allowances for the religious education coordinator for a secondary school, again brought across from T10509. There has been renumbering as well. Because classification went in for religious education coordinator that changed the numbering within that. So that is why, on page 46, Period of Appointment, becomes subclause (3), General, becomes subclause (4). And now moving over to page 47. This is Allowances for Subject or Year Coordinators. And that is the allowances from T10509 of 2002, and again a renumbering of Period of Appointment being subclause (3) now, and General being subclause (4).

PN352

Moving down to Teacher Administrator, at the bottom of page 47. There is a classification there which has now become subclause (1), and that has come over from the definitions as well, to be consistent with the other positions of responsibility. And page 48 has got the allowances there from T10509 of 2002, and the renumbering of (3) and (4), which is (3) being, Period of Appointment, and (4) being, General. Now, Tool Allowance, here at E, and that has come across from T8820 of 2000, the School Utility Employee Agreement. That is the end of Part (IV).

PN353

We will go on to Part (V), Hours of Work and Overtime. No change to clause 1 on page 49. We just have a small change in the heading of clause 2, that is, Hours of work, School Support Employees. Bottom of page 49 again the change from Non-teachers to School Support Employee. Subclause (ii) here - this is about Part-time Employees and Hours of Work. So I will just read this out.

PN354

*Part-time employees as - - -*

PN355

THE DEPUTY PRESIDENT: Okay. Yes.

PN356

MS BRIANT: You can see that there?

PN357

THE DEPUTY PRESIDENT: So part-time employees previously didn't have any paid leave, and now they have got the opportunity?

PN358

MS BRIANT: No.

PN359

MS THOMAS: No. Part-time employees before had paid leave pro rata - - -

PN360

THE DEPUTY PRESIDENT: Oh, I see. It went - right.

PN361

MS THOMAS: - - - if they worked 20 hours or more. If they worked less than 20 hours - - -

PN362

THE DEPUTY PRESIDENT: Less 20 they didn't.

PN363

MS THOMAS: - - - they had the 20 per cent loading in lieu.

PN364

THE DEPUTY PRESIDENT: Right. And no option to have pro rata?

PN365

MS THOMAS: Yes. And some people preferred to have the paid leave, and the other entitlements.

PN366

THE DEPUTY PRESIDENT: Yes. Yes. Very good.

PN367

MS BRIANT: It has just been redrafted to make it clearer there, Deputy President. Because if we look at the left hand side, (iv), that has been deleted in the new award, because that provision was already made in Part (VI) of the award, Leave and Holidays with Pay. So that actually was in twice in the previous award. So it actually led to confusion, because it was in two places in the award.

PN368

So, again, with the sick leave that has been moved to the appropriate part of the award, leaving holidays with pay, so this will be briefer in the new award, but hopefully clearer. Now, Replacement Employees, which is subclause (e), bottom of page 50. This has been redrafted and relocated from the previous award. So that will now read:

PN369

*The ordinary hours of work for a replacement employee shall be as set out in subclause (a), Full Time Employees, or subclause (c), Part-time Employees, of this clause.*

PN370

This is our attempt to make it just clearer. And over to page 51. On the left hand side this is about the details about advice at the time of appointment. Now, that has been moved to Part (II) of the award, under Employment Relationship and Associated Matters, contract of employment, school support employees. So we thought it more properly belonged there, rather than where it was situated in the award. Hours of work, Teachers. Looking at subclause (a)(ii), the rewording of this clause is:

PN371

*Notwithstanding paragraph 1 above, and various timetable configurations ... (reads)... delivery of the instructional load as defined, and for classroom administration -*

PN372

which probably should read "as defined" there as well. We have got classroom administration in the definitions, haven't we?

PN373

THE DEPUTY PRESIDENT: Yes.

PN374

MS BRIANT:

PN375

*... not to exceed 23 hours per week.*

PN376

2:

PN377

*Other supervisory duties associated with the effective operation of the school and the partial care and safety of students.*

PN378

If we look at the left hand side there we will see subclause (iii):

PN379

*Full time and primary employees shall be entitled to a minimum of one hour's release time per week in total for the purposes of activities associated with the teaching and learning program.*

PN380

Now, that doesn't appear in the new award, because it is just set out in a completely different way. So there is 25 hours for students, 23 hours of instructional load in classroom administration for teachers. So, apart from supervisory duties, there is a two hour difference between those two figures. If I go on to (iii), Time allocated for meetings of staff, there is just a small change there to the wording of that clause.

PN381

THE DEPUTY PRESIDENT: Is that paid time or not paid time?

PN382

MS BRIANT: For meetings?

PN383

THE DEPUTY PRESIDENT: Yes.

PN384

MS BRIANT: It is within the 35 hours of the average working week, so it is paid. It comes out of that 35 hours of paid time. The normal school day - let us read the whole clause:

PN385

*Time allocated for meetings of staff outside the normal school day shall not exceed an average of two hours per week across the school term.*

PN386

There is no definition in the award of a normal school day, but I suppose it is taken to mean the school day is, say, from - in a primary school, from 8.30, when the teacher is expected to be in the classroom, to 3.30, when the teacher is generally approved that they would leave the classroom. So a staff meeting which might go to 5 o'clock is within the 35 hours of the average working week, but not within the normal school day.

PN387

Now, it is not defined, and perhaps that is a lack in the definitions, because there could be different interpretations of what the normal school day is. It could be the time spent in the classroom, it could be the time spent in the school. Did you want to comment on that, Majella, to amplify that?

PN388

SR KELLY: We would need to write a book to define the normal school day.

PN389

THE DEPUTY PRESIDENT: Yes. And this could mean being called in for a staff meeting at 10 o'clock at night.

PN390

MS BRIANT: It could do, because there aren't any ordinary hours.

PN391

THE DEPUTY PRESIDENT: But this is outside of the normal school day? What this clause is talking about is things that aren't in the normal school day.

PN392

MS BRIANT: That is right. But within the average working week.

PN393

SR KELLY: The saving thing with respect to this is that the configuration of hours and the activities are determined in consultation with the consultative committee, at the beginning of the year, so to put a meeting at 10 o'clock at night I think would be a bit difficult to convince the consultative committee.

PN394

THE DEPUTY PRESIDENT: It possibly would be.

PN395

MS BRIANT: That would probably be true if the consultative committee actually ever met and discussed these things, but as, you know, often it doesn't happen, and even though in theory there is the capacity, as the award says, for consultation. But I do agree with Majella I have not heard of a staff meeting being called at 10 o'clock of an evening, so I think reason would prevail in most instances.

PN396

SR KELLY: We would have difficulty getting the principal there at 10 o'clock.

PN397

MS BRIANT: (iv) here, this is a new clause for primary teachers. This clause has been in the secondary hours of work, so it has been brought across here to be reflected in the primary teachers hours of work:

PN398

*Notwithstanding the provisions of 2 and 3 of this subclause ... (reads)... attend parent/teacher meetings.*

PN399

Now, that would be within the average working week again, because this is all within the average working week. If you go now to page 52, this is B, Full-time employees, secondary schools, and down to the bottom of the page, D, Part-time employees, primary and secondary schools. So, I am sorry, I have gone from secondary to primary and secondary, but part-time people. The change to this subclause is on page 53. So it is (i) of D, and it is just a change to numbering - - -

PN400

THE DEPUTY PRESIDENT: Numbering.

PN401

MS BRIANT: - - - that is all. That is right. Now, on to page 54. This is subclause (f), the Replacement Employees, Primary and Secondary Schools. It is only just, I suppose, a very much briefer clause here now:

PN402

*Replacement employees shall be required to be present on campus for the times and duties as set out in subclauses A, B or D of this clause.*

PN403

So those subclauses being the primary teachers, secondary teachers and the part-time teachers. So those subclauses on the left hand side have been moved to Part (II) of the award, as we discussed when we went through the replacement employees and all the detail they should be given on appointment. So it seemed to be an easier place to find that. And G, Specially Funded Employees, again a much briefer clause here, just referring to the subclauses (a), (b) or (d) of this clause. Again the - - -

PN404

THE DEPUTY PRESIDENT: But in both cases is it (a) or (b) or (d), or is it (a) and (b) or (d)? So should it have an "or" in front of the (b)?

PN405

MS BRIANT: Well, that is - I suppose (a) is the primary, (b) is the secondary, (d) is the part-time primary and secondary. So either primary or the secondary or their part time either.

PN406

SR KELLY: You are right. It should be "or".

PN407

MS BRIANT: Or. Where do you want that to go?

PN408

SR KELLY: (a) or (b) or (d).

PN409

MS BRIANT: (a) or (b) or (d).

PN410

THE DEPUTY PRESIDENT: And it would be the same for replacement employees above, wouldn't it?

PN411

MS BRIANT: Yes. Thank you for that clarification, Deputy President. It is easy to miss one little word when you are working through this again and again. Overtime now, clause 4. Just the change of name from Non-teaching Employees to School Support Employees. And again on the bottom of page 55, this is rest periods for now school support employees.

PN412

Now, going over to Part (VI) of the award, Leave and Holidays with Pay. Clause 1, Holidays with Pay, is unchanged. Clause 2, Annual Leave, the heading is now A, School Support Employees. Now, there is also some redrafting and renumbering here and some additions. So we have got A(i), 1, 2 and 3, and then we have got subclause (ii):

PN413

*Part-time employees as defined working 20 hours or more per week shall be entitled to the provisions of part 6, Leave and holidays with pay, clause 2, annual leave.*

PN414

It just makes it clearer where that clause is, and then it gives the formula here. Over to page 57, this is Annual Leave Loading. Now, this was in the - if we look opposite that to (vi), sub-subclause 2, it just says about the 17.5 per cent of leave loading. This clause here in more detail reflects the clause in the teachers section of this leave and holidays with pay part of the award. So it just makes it much clearer. So I won't read all through that, because it is quite detailed. Page 58, we are on to B, Teachers. It has been redrafted and added to and renumbered, to take into account the Easter break. So:

PN415

*Employees who complete a four year service, commencing the first day of the school year ...(reads)... and the Wednesday, Thursday and Friday of the Easter week.*

PN416

That is a salary for the full school year. Now, for the last few years teachers have been having this Wednesday, Thursday and Friday of Easter week as paid stand down time, but it wasn't in the award. So it has actually been happening in practice, but it wasn't details. Now, if we look at (ii) here, this is an addition:

PN417

*Employees who commence their current employment with an employer ...(reads)... payments beyond 31 December in the final year of their current employment.*

PN418

So an employee who commenced employment - - -

PN419

THE DEPUTY PRESIDENT: So that takes account of the change in the school year?

PN420

MS BRIANT: That is right.

PN421

THE DEPUTY PRESIDENT: Yes.

PN422

MS BRIANT: That is it, yes. And (iv) here, the Annual Leave Loading, and here is the more detailed explanation of the entitlement to annual leave loading, including - I neglected to mention this in the previous - the school support employee annual leave loading clause. These important parental - - -

PN423

THE DEPUTY PRESIDENT: That:

PN424

*Parental leave counts as time served, for the purpose of receiving the leave loading.*

PN425

Yes.

PN426

MS BRIANT: Exactly so. So that is a significant enhancement there. And over to page 59, it just made that clearer about the leave loading, referring to a level 11 teachers scale either for a four week period, or in the case of a pro rata leave loading, on a per day basis. It just is expressing it in different terms, compared to the left hand side, where it was just looking at parts and clauses, and perhaps a bit more confusing. We will go through now - parental leave is unchanged.

PN427

So we move right through to sick leave on page 66. And so clause 5A(1), just change the wording here to, Employers Bound by the Scope, rather than, Employers Pay for this Award. It is a more correct term. And that is same in (ii), Bound by the Scope. If you go to page 67 there is a new I and J, and this is about the part-time school support employees right to sick leave, and this has been brought over from the part-time hours of work clause in the award, to where it more correctly belonged, we felt, in the sick leave part. And at J here too:

PN428

*A part-time employee classified as a teacher shall be entitled to 10 days sick leave per year, at the rate of the FTE.*

PN429

Just to make it very clear what that entitlement was. Clause 6, Special Leave with Pay. The first change here is on page 69, Jury Service, subclause C on the left hand side having been moved to Part (VI) - or this same part of the award, but to the special leave without pay. So go through to that now, have a look at clause 7, Special Leave without Pay, on page 71, and that is where jury service is. So it has been moved to there, but also been added to in subclause (iii):

PN430

*If the remuneration received by an employee as defined ...(reads)... and the amount received in respect of jury service.*

PN431

So there is no loss of remuneration to the employee when fulfilling those jury duties. And that is the end of the proposed variations, Deputy President.

PN432

THE DEPUTY PRESIDENT: Thank you very much, Ms Briant.

PN433

MS BRIANT: Is there anything I have missed?

PN434

MR SMALLBANE: Yes. Could I just go back to the definitions on page 6, if I could, Deputy President.

PN435

THE DEPUTY PRESIDENT: Yes.

PN436

MR SMALLBANE: There is just for clearer defining and consistency, the definition that we put there for leadership course. It means the course offered by an employer, and we have endeavoured to change parties to this award right throughout who are covered by the scope of, so I would suggest that we - for consistency we do that for that. Just something that we missed.

PN437

THE DEPUTY PRESIDENT: Now, I am assuming that there are no objections to any of these proposed changes, unless we hear that there is an objection to them? So that is fine, and all those changes will be made. So either a whole

clean copy, if it means reordering pages, or just appropriate pages, if the changes don't result in page renumbering changes.

PN438

MR SMALLBANE: Does the Commission want us to do those changes, and provide you with - yes.

PN439

THE DEPUTY PRESIDENT: Yes.

PN440

MS BRIANT: Yes. Okay.

PN441

MR SMALLBANE: We shall.

PN442

MS BRIANT: Fine.

PN443

THE DEPUTY PRESIDENT: Yes. We do. But as I am saying, we don't need a whole new document, unless the changes result in page renumbering - - -

PN444

MR SMALLBANE: Right. Yes, I understand.

PN445

THE DEPUTY PRESIDENT: - - - in which case we do want a whole new document.

PN446

MS BRIANT: Yes. That is right.

PN447

MR SMALLBANE: Yes. I understand.

PN448

MS BRIANT: Deputy President, in asking you to approve these variations, we submit that they confirm with the appropriate award subject matter, as detailed in section 32 of the Industrial Relations Act, the subject matter of awards. We believe that our application does not infringe on the public interest test, as set out in section 36 of the Industrial Relations Act 1984. We also submit that the agreement conforms with the wage fixing principles T8413, and T8483 of 1999. We recommend that the award variations be approved, if the Deputy President pleases.

PN449

THE DEPUTY PRESIDENT: Thank you. Ms Thomas?

PN450

MS THOMAS: Yes. The TCCI has no objections to the variations to the Catholic Education Award, as outlined by Ms Briant, in working through exhibit A1, A3 and the comparison document, and obviously there are some changes that we have agreed on that will be included in the final award. The variations are

consistent importantly with the wage fixing principles, and that the relevance of the safety net in this award is maintained in light of the prevailing industrial circumstances that relate to this industry. The review of this award has been comprehensive and it has been over approximately the last 12 months, and certainly the TCCI recognises the extent of cooperation between the parties in making all these changes. So we support the variations to the award.

PN451

THE DEPUTY PRESIDENT: Thank you. Well, it is apparent that the parties have been involved in a great deal of work in order to comprehensively review and update this award, and are to be congratulated for their efforts in doing so. And, again, I express appreciation for the manner and the way in which the changes have been set out, both in the documents and in the submissions, and I indicate that the award will be varied in the manner sought, with an operative date of 1 June 2004, and a decision will be issued in due course. That concludes the matter.

**ADJOURNED INDEFINITELY**

**[11.10am]**

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LIST OF WITNESSES, EXHIBITS AND MFIs

**EXHIBIT #A3 FINAL DRAFT DOCUMENT.....PN41**