



STATEMENT

Fair Work Act 2009

s.217 - Application to vary an agreement to remove an ambiguity or uncertainty

Diocese of Sale Catholic Education Limited

(AG2021/9160)

COMMISSIONER PLATT

ADELAIDE, 16 FEBRUARY 2022

The Diocese of Sale Catholic Education Limited (the Applicant), supported by the Independent Education Union of Australia (IEU) and the Australian Nursing and Midwifery Federation (ANMF) have lodged an application to vary the *Victorian Catholic Education Multi-Enterprise Agreement 2018* (the Agreement).

The parties contend that the provisions contained in the Appendix 3 of the Agreement regarding Long Service Leave (LSL) are ambiguous and/or uncertain in both the drafting and practical application. My preliminary review of the matter supports this view. The heading used is misleading and the provisions are internally inconsistent.

The Applicant has significantly amended its proposal from that sought originally. The effect of the revised proposal is that employees who access LSL will receive their current rate of pay (as defined) unless the *Long Service Leave Act 2018* (VIC) (the LSL Act) would provide a greater benefit.

The following examples are illustrative:

- An employee who worked for five years as a 0.5 FTE part-time employee and then subsequently worked five years full-time would receive their LSL entitlement at their full ordinary time earnings as per Clause 3.1 of Appendix 3.
- An employee who worked for six years as a full-time employee and then subsequently for four years as a 0.5 FTE part-time employee would receive their LSL entitlement at 80% (as average of their entire employment) of their ordinary time earnings as per Clause 3.2 of Appendix 3 and in accordance with s.15 of the LSL Act.

Based in the information received to date (and in the absence of any objections) my preliminary view is that the application to vary the Agreement will be granted.

If any party or person wishes to object, they should advise my Chambers by 4.00pm (SA time) Friday, 4 March 2022 and provide the basis of their objection. Copies of objections must be provided to the other parties to enable them to respond.

If there is a requirement for a Hearing, it will be conducted by videoconference, on 16 March 2022 at 10.00am (SA time).



COMMISSIONER

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