

Model flexibility term



Employers and employees covered by the Victorian Catholic Education Multi Enterprise Agreement 2013 (VCEMEA) may agree to enter into an Individual Flexibility Arrangement (IFA).

Individual Flexibility Arrangement

An IFA between an employer and employee is designed to amend certain clauses in the VCEMEA. The variation can occur if the VCEMEA deals with one or more of the following matters:

- When work is performed
- Overtime rates
- Penalty rates
- Allowances
- Leave loading.

The IFA should meet the genuine needs of the employer and employee, be genuinely agreed to by the parties and must:

- Be in writing (including the date the arrangement commences)
- Include the names of the employer and the employee
- Signed by the employer and the employee (if the employee is under 18 years of age, it must also be signed by a parent or guardian).

The IFA must also include:

- The terms of the VCEMEA that will be varied by the arrangements
- How the arrangement will vary the effect of the terms
- How the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement (including personally and financially).

A copy of the IFA must be provided to the employee within fourteen (14) days after the IFA is agreed to.

The terms of the IFA must be permitted under section 172 of the *Fair Work Act 2009* (Cth) (the Act) and are not unlawful terms under section 192 of the Act.

The IFA must ensure that the employee is better off overall had no arrangement been made (personal circumstances and financial and non-financial benefits). An IFA cannot be used to reduce or remove an employee's entitlements.



National Employment Standards

When an employer and employee enter into an IFA, the IFA must state what clauses are being varied, and can be made at any time during the employee's employment. When agreement has been reached on the arrangements, it must be put in writing and signed by both the employer and the employee. If the employee is under 18 years of age, it must also be signed by the parent or guardian of the employee.

The employer should keep a copy of the signed IFA and give a copy to the employee.

An IFA does not need to be approved or registered with the Fair Work Ombudsman or the Fair Work Commission.

An employee cannot be forced to sign an IFA, and an employee's right to refuse to agree to an IFA is protected by their general protections (a set of rights under the *Fair Work Act 2009* that cover all employees under the national workplace relations systems). This means that they cannot be discriminated against or treated adversely for refusing to agree to an IFA.

An IFA may be ended at any time by written agreement between an employer and employee,

otherwise the IFA can be ended by giving the other party appropriate notice (13 weeks under an Award, or as determine by the Agreement, provided it is less than 28 days).

References

- *Victorian Catholic Education Multi Enterprise Agreement 2013* (clause 10)

Legislation

- *Fair Work Act 2009* (section 144, 172, 194, 202)
- Fair Work Ombudsman