

**Fair Work Commission  
4 yearly review of modern awards**

**SUBMISSION**

**AM2014/266**

**Educational Services (Teachers) Award 20XX  
[MA000077]**

**Exposure Draft (15 March 2019)**

**Association of Independent Schools of New South Wales  
Association of Independent Schools of South Australia  
Association of Independent Schools of Western Australia  
Independent Schools Queensland  
Independent Schools Tasmania  
Independent Schools Victoria**

**12 April 2019**

## Clause 31 (Redundancy)

1. It is noted that clause 31 (Redundancy) of the Exposure Draft of the Educational Services (Teachers) Award 20XX has been struck out in its entirety, with the structure of the redundancy provision being subject to further consideration by the Plain Language Full Bench of the Fair Work Commission (Commission).
2. Given the Commission's review of the current clause, we note that the terms of clause 31.6 (Part-time employees) dealing with the reduction of a part-time employee's hours of work were a matter of consent during the award modernisation proceedings leading to the development of the *Educational Services (Teachers) Award 2010*.
3. Towards the end of each school year, an employer operating as a school will develop the educational timetable for the following school year based on students' subject selections and teachers' teaching preferences. A timetable must also be structured to accommodate the availability of teachers working part-time.
4. Although every effort is made to provide part-time teachers with the teacher's contracted or preferred time fraction for each school year, it is not always possible to do so. For example:
  - a. a school may not offer the same subjects or the same number of classes each year, due to changes in the school's student enrolment and the students' subject selections;
  - b. the time allocated to subjects varies. A Year 7 English class may be allocated four 50-minute lessons per week whilst a Year 10 English class may have five 50-minute lessons per week. As a teacher will not ordinarily be allocated the same class at the same year level on a continuing basis, there is potential for the teaching load to vary.
5. Timetabling-associated changes may mean that a part-time teacher with a 50 per cent teaching load in one year may be offered a teaching load of 45 per cent or 60 per cent for the following year, based upon the classes that can be allocated. In the next year, the teaching load may return to 50 per cent.
6. Clause 31.6 provides some flexibility to accommodate student and staff preferences on a year to year basis without implementing a process to manage major workplace change for a relatively small variation in the time fraction of a part-time teacher.

## **Clause 31.6 (Part-time employees)**

7. The phrasing of this clause is not quite correct. Although the clause is currently struck out, the clause should be amended from:

*If a part-time employee's hours are reduced, without their consent, by more than 25%, they will be entitled to the provisions of this clause 31.*

to

*If a part-time employee's hours are reduced, without their consent, by more than 25%, they will be entitled to the provisions of this clause.*

## **Schedule A – Hours of Work and Related Matters – Teachers employed in early childhood services operating for at least 48 weeks per year**

8. After Schedule A.2.12 in the Exposure Draft, the Commission has asked the following question:

*"Parties are asked whether a system of RDOs may apply to employees in services operating for less than 48 weeks per year. If so, should clause A.2.12 be moved to clause 15?"*

9. Teachers in schools are assigned specific classes to teach, usually for a full school year. In some schools, classes may be timetabled for a term or a semester. School timetables, if set in place for a term, a semester or a year, do not vary unless it is necessary to reassign teachers' work due to a change in staffing or a change in the student enrolment.
10. The school day has a defined duration and a school generally operates for 39 to 41 term weeks of the school year. The structure of a school day and the school year are determined by educational timetables. Operational and timetabling restrictions do not permit a teacher to teach an extra 24 minutes per day to accrue a rostered day off (RDO) on the 20<sup>th</sup> day of a four-week period. That is:
- a. an individual teacher is unable to reschedule a 50-minute class timetabled for Period 4 on Tuesdays to become two 24-minute lessons after the final timetabled lesson for the day on Monday and Thursday of the same week;
  - b. it is not likely that all students of a class would be available to attend a lesson rescheduled to a time outside of the standard school day;

- c. on the 20<sup>th</sup> day of a four-week period, it is more likely than not that a teacher will be scheduled to teach some classes. One teacher's class cannot be moved to another timeslot on the timetable without affecting the timetable for many other students and teachers. A RDO on the 20<sup>th</sup> day of a four-week period would result in it being necessary for the employer to engage a replacement teacher to teach the scheduled classes.
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- 11. Teachers in early childhood services operating for at least 48 weeks per year, rather than for only the term weeks of the school year, are working in a setting providing preschool education and childcare to students below school age. The working arrangements tend to be based on hours rather than on the assignment of classes. As such, it may be possible to work additional time every day to accrue an RDO.
  - 12. It is appropriate for Schedule A.2 to remain in Schedule A. Relocating Schedule A.2 to clause 15 would require additional explanation to make it clear that it does not apply other than in an early childhood service operating for 48 weeks or more in a year.
  - 13. It is our view that Schedule A.2 should not be relocated to clause 15, as it has no application to the work of a teacher in a school setting.