



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**The Hutchins School**  
(AG2015/6647)

## **THE HUTCHINS SCHOOL EDUCATION SUPPORT STAFF ENTERPRISE AGREEMENT 2015**

Tasmania

COMMISSIONER LEE

MELBOURNE, 30 NOVEMBER 2015

*Application for approval of the Hutchins School Education Support Staff Enterprise Agreement 2015.*

[1] An application has been made for approval of an enterprise agreement known as The Hutchins School Education Support Staff Enterprise Agreement 2015 (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by The Hutchins School. 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 United Voice being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 7 December 2015. The nominal expiry date of the Agreement is 31 December 2017.



COMMISSIONER

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## **ENTERPRISE AGREEMENT**

### **1. TITLE**

This Agreement shall be known as The Hutchins School Education Support Staff Enterprise Agreement 2015.

### **2. ARRANGEMENT (CLAUSE TITLE, CLAUSE NUMBER AND PAGE NUMBER)**

1.	Title	1
2.	Arrangement	1
3.	Parties to the Agreement	2
4.	Scope of Agreement	2
5.	Date and Duration of the Agreement	2
6.	Relationship to the Award and NES	2
7.	Supersession	2
8.	Objectives	3
9.	Avoidance of Industrial Grievances (Disputes)	3
10.	Agreement Flexibility Term	3
11.	Agreement Consultation Term	4
12.	Wage Rates	4
13.	Superannuation	6
14.	Variation to the Pattern of Work for Part-time Employees	7
15.	Averaging of Annual Salary for Part Time Employees	7
16.	Sessional Specialists	8
17.	Paid Parental Leave & Maximum Period of Parental Leave	10
18.	Remuneration Packaging	13
19.	Redundancy	14
20.	Teacher Aide Allowance	16
21.	Long Service Leave	17
22.	Annual Leave	18
23.	Personal Leave	18
24.	Exceptional Circumstances Leave	18
25.	Study Leave	19
26.	Self Funded Leave Scheme	19
27.	Payment of Wages	20
28.	Future Negotiation Timeline	21
29.	No Further Claims	21
30.	Signatories	21

### **3. PARTIES TO THE AGREEMENT**

The parties to the Agreement are:

- (a) The Hutchins School, 71 Nelson Road, Sandy Bay, Tasmania (the employer).
- (b) The employees employed by the employer within the scope of the Educational Services (Schools) General Staff Award 2010 (refer to section 6 of this Agreement).

### **4. SCOPE OF AGREEMENT**

This Agreement applies to all employees employed by the employer within the scope of the Educational Services (Schools) General Staff Award 2010.

**PROVIDED THAT** casual employees employed by the employer within the scope of that Award shall be employed in accordance with the provisions of that Award and are not covered by this Agreement.

### **5. DATE AND DURATION OF THE AGREEMENT**

This Agreement shall come into effect from 1 January 2015 (or the date of commencement determined by Fair Work Commission if otherwise) and shall expire on 31 December 2017.

### **6. RELATIONSHIP TO THE AWARD AND NATIONAL EMPLOYMENT STANDARDS**

- (a) This Agreement incorporates the Educational Services (Schools) General Staff Award 2010 as in force from time to time.
- (b) To the extent that a term of this Agreement deals with or provides for a term or condition contained in the Award this Agreement will override the award term or condition.
- (c) Where this Agreement is silent on a particular matter the relevant terms of Award shall apply.
- (d) Where this Agreement and the Award are silent on a particular matter the relevant terms of National Employment Standards (NES) as detailed in the Fair Work Act shall apply.
- (e) The National Employment Standards of the Fair Work Act provisions cannot be diminished by this Agreement (or any other form of Agreement).

Where a clause of the Award is varied or is not to apply this will be detailed at the commencement of the relevant clause. Where there is an unintentional diminution of a relevant provision of the National Employment Standards by a provision of this Agreement the National Employment Standards provision shall apply to the extent of the diminution.

### **7. SUPERSESSION**

This Agreement incorporates and supersedes The Hutchins School Education Support Staff Enterprise Agreement 2013

**PROVIDED THAT** no right obligation or liability incurred or accrued under the superseded Agreement shall be affected by the supersession.

## 8. OBJECTIVES

The objective of this Agreement is to provide;

- (a) opportunities for the Management and Support Staff Employees of the School to work together in contributing to the school's aims, objectives and philosophy; and
- (b) a working environment that provides opportunities for employee development and fulfilment and promotes an inclusive, mutually respectful relationship between employer and employee.

## 9. AVOIDANCE OF INDUSTRIAL GRIEVANCES (DISPUTES)

Any grievance, industrial dispute, or matter likely to create a dispute, about any condition of employment addressed within this Agreement, shall be dealt with by negotiation between the parties. A party to a dispute may elect to be represented by a person or organisation of their choosing. For the purposes of this clause a *grievance, industrial dispute, or matter likely to create a dispute, about any condition of employment addressed within this Agreement* shall include an active condition of employment of;

- (a) this Agreement; and/or
- (b) the Award; and/or
- (c) the National Employment Standards.

**PROVIDED THAT** where a disputed condition of employment remains unresolved following negotiation between the parties the matter may be referred to Fair Work Commission for resolution, including the power to arbitrate.

## 10. AGREEMENT FLEXIBILITY TERM

An individual employee covered by this Agreement and the employer may agree to an *individual flexibility arrangement* varying the effect of the Agreement in relation to the employee and employer, in order to meet the genuine needs of the employee and employer.

*Individual flexibility arrangements* shall be discussed, developed and documented using the model flexibility term set out in Schedule 2.2 of the Fair Work Regulations, 2009. The parties to an agreement made under this term will be provided with a written copy of the individual flexibility arrangement within 14 days of the agreement being reached.

For the purposes of this clause *Individual flexibility arrangements* may be agreed in relation to matters covered by;

- (a) this Agreement; or
- (b) the Modernised Award; or
- (c) both the Agreement and the Modernised Award;

provided they are confined to the matters described in sub-clause 1(a) of the model terms.

## 11. AGREEMENT CONSULTATION TERM

For the life of this Agreement the employer is required to consult the employees covered by this Agreement in relation to any major workplace changes that are likely to have a significant effect on the employees. In such circumstances employees are allowed to be represented for the purposes of that consultation.

Where consultation is required by this clause the consultation will be conducted in accordance with the model consultation term set out in Schedule 2.3 of the Fair Work Regulations, 2009.

## 12. WAGE RATES

- (a) For the life of this Agreement this clause overrides sub-clauses 15.1, 15.2(a) and 15.2(b) of the Educational Services (Schools) General Staff Award 2010. Award sub-clauses 15.2(c), 15.3 and 15.4 continue to apply.

### Wage Groups and Rates

Effective from the date of the approval of the Agreement by the Fair Work Commission, and then backdated to the first full pay period commencing on or after 1 January 2015, the minimum weekly wage rates payable to an employee engaged under a classification level described in the following table shall be:

Effective 1/1/2015		2% step
Classification Level	Weekly Rate	Difference
1.1	\$807.90	
	\$824.10	\$16.20
1.2	\$840.30	\$16.20
	\$840.30	
	\$857.10	\$16.80
1.3	\$873.90	\$16.80
	\$872.10	
	\$889.50	\$17.40
2.1	\$906.90	\$17.40
	\$879.30	
	\$896.90	\$17.60
3.1	\$914.50	\$17.60
	<b>\$919.90</b>	<b>2.30%</b>
	\$938.30	\$18.40
4.1	\$956.70	\$18.40
	\$973.00	
	\$992.40	\$19.50
	\$1,011.90	\$19.50

Effective 1/1/2015 (cont.)		2% step
Classification Level	Weekly Rate	Difference
4.2	\$1,023.50	
	\$1,044.00	\$20.50
5.1	\$1,064.40	\$20.50
	\$1,057.50	
6.1	\$1,078.70	\$21.20
	\$1,099.80	\$21.20
7.1	\$1,152.00	
	\$1,175.00	\$23.00
7.2	\$1,198.10	\$23.00
	\$1,270.60	
7.3	\$1,296.00	\$25.40
	\$1,321.40	\$25.40
8	\$1,312.00	
	\$1,338.20	\$26.20
	\$1,364.40	\$26.20
	\$1,353.40	
	\$1,380.50	\$27.10
	\$1,407.60	\$27.10
	\$1,477.70	
	\$1,507.30	\$29.60
	\$1,536.80	\$29.60

(b) Annual Percentage Increase

(i) The employer will provide an annual percentage increase for 2016 and 2017, effective from the first full pay period commencing on or after 1 January of each year, which will be, as a minimum, equal to the greater of;

1) The percentage figure published as the Australian Bureau of Statistics Consumer Price Index (Hobart, Annual % Change December to December) for the December Quarter of the preceding year (i.e. December Quarter 2015 and 2016); or

2) 1.50%.

**PROVIDED THAT** where the annual percentage increase any one year is greater than the percentage determined in accordance with clause 12 (b) (i) above the percentage to be applied shall not exceed 5.00%.

(ii) The parties agree to meet in February of each of 2016 and 2017 to discuss and determine the annual percentage increase for the calendar year. As a guide, matters that will influence the outcome of those discussions include the teacher's likely increase, the state of the economy, enrolments, wage growth in our sector and the State in general, etc. Once determined, the annual percentage increase shall be applied and backdated to the commencement of the first full pay period commencing on or after 1 January of that year.

(c) Incremental Steps

- (i) Each Wage Group has two incremental 'steps' in addition to the base rate.
- (ii) Each 'step' in the wage group will be 2% of the base rate for the wage group.
- (iii) Progression to the next 'step' will depend on the completion of 12 months continuous satisfactory service at the previous 'step' level (including the base rate 'step' in the wage classification).
- (iv) In cases where performance is considered to be unsatisfactory and progression is withheld the following shall occur.
  - 1. Performance counselling will be provided to the employee.
  - 2. The employee will be entitled to have the decision considered through the normal consultative mechanisms within the school.
  - 3. Where the normal consultative mechanisms within the school fail to resolve the matter the conditions outlined in Section 9: Avoidance of Industrial Grievances (Disputes) shall apply.

(c) Promotion to a Higher Wage Group

- (i) Where an employee is promoted to a higher wage group they should receive a weekly wage rate that is equal to or higher than their existing wage rate.
- (ii) The date for future progression to higher step increments within the wage group will be based on the date of their promotion.

(d) Safety Net

In the event of any relevant wage increases being handed down by Fair Work Commission during the life of this Agreement the wage rates in this Agreement shall only be adjusted where those rates fall below the adjusted Fair Work Commission rates.

(e) Application for Reclassification

An employee covered by this Agreement, who has served in a classification for a least one calendar year, may apply for reclassification if they believe their duties have significantly changed.

Applications for reclassification should follow the School's guidelines and are to be directed to the Business Manager.

**13. SUPERANNUATION**

- (a) For the life of this Agreement this clause applies in addition to clause 20 of the Educational Services (Schools) General Staff Award 2010.
- (b) Employees employed under this Agreement shall be entitled to nominate a complying fund to which the employer superannuation contributions shall be paid on their behalf.

Where an employee does not advise the employer of a nominated fund, the default fund into which superannuation contributions shall be paid shall be The Hutchins School 2008 Super Plan Sub-Plan of Mercer Super Trust.

For the purposes of this clause *complying fund* means a superannuation fund which

adheres to the Federal legislation standards and thereby qualifies for favourable taxation treatment.

#### **14. VARIATION TO THE PATTERN OF WORK FOR PART-TIME EMPLOYEES**

- (a) For the life of this Agreement this clause applies in addition to sub-clause 10.4 of the Educational Services (Schools) General Staff Award 2010.
- (b) It is agreed by the parties to this Agreement that all part time employees are engaged in accordance with the provisions of this Agreement and those set out in clause 10 of the Educational Services (Schools) General Staff Award 2010. No part time staff are engaged in accordance with the provisions of clause 11 of the Educational Services (Schools) General Staff Award 2010
- (c) The pattern of work of a part time employee, as defined in sub-clause 10.4(a) of the Educational Services (Schools) General Staff Award 2010 may be varied by the employer where such a variation is necessary to accommodate the business needs of the school. Examples of instances where this may be necessary include variations to student numbers (either across the school or in certain areas of the school or in the general pattern of their distribution), changes in funding for a special needs area or a particular special needs student, etc. In such instances, the employee will be entitled to one week's notice before the variation takes effect and details of the proposed variation in writing. For the purpose of this clause the *pattern of work* includes both the number of hours worked each day as well as the days of the week on which the employee may work.
- (d) Any variation to the pattern of work of a part time employee made under this clause must ensure that the total weekly hours worked (or if the hours of worked are averaged, the total hours worked in the averaging cycle) are maintained and not reduced by the variation taking effect.

#### **15. AVERAGING OF ANNUAL SALARY FOR PART TIME EMPLOYEES**

- (a) Where a part time employee is engaged to work on an average of less than 38 hours per week and/or for less than a school year and who has reasonably predictable hours of work in accordance with clause 10.4 of the Educational Services (Schools) General Staff Award 2010, they may elect to;
  - (i) be paid for the hours worked during each pay cycle they are engaged to work during the calendar year; or
  - (ii) have their wages averaged over the calendar year in accordance with the following formula;

$$[(A + B) \times C] \div 12 = \text{Average monthly payment for the year.}$$

Where:

A = projected hours the employee is rostered to work during the weeks they are engaged to work during the calendar year, including any paid public holidays falling due to the employee in accordance with their roster during the weeks they are engaged to work during the calendar year; and

B = pro-rata of five weeks annual leave; and

C = current hourly rate.

(b) Where an employee elects to have their wages calculated and paid in accordance with the provisions of sub-clause 15(a)(ii);

- (i) For the purposes of this clause a school year shall mean a calendar year.
- (ii) Annual leave shall be paid and taken in accordance with the provisions of clause 18 of this Agreement.
- (iii) the employee must provide the employer with written notification of their decision to have their wages averaged over the calendar year at least 14 days before the completion of the preceding calendar year; and
- (iv) the decision of the employee is binding until the completion of the last pay period to commence in the calendar year they have elected to have their wages averaged over the year; and
- (v) for a calendar year the averaging and payment method will commence from the first full pay period to commence in the year; and
- (vi) employees shall be paid the average monthly payment for the 12 monthly pay periods of the year; and
- (vii) any wage increases which become due to the employee during the course of the year will take effect from the commencement of the first full pay period after the effective date of the increase; and
- (viii) where an employee's hours increase or decrease during the course of the calendar year the average monthly payment for the year shall be recalculated to take into consideration the increase or decrease; and
- (ix) where the employee proceeds on any form of leave without pay during the course of the year the cost of that leave without pay will be calculated in accordance with the following formula;

Total hours of LWOP x Current hourly rate = Total cost of leave without pay.

Where leave without pay is taken, the employee's average monthly payment amount will be reduced by the amounts as necessary until such time as the total cost of leave without pay is recovered by the employer.

(c) An employee who has elected to be paid in accordance with this section shall be entitled to an annual leave loading of 17.5% of his or her gross annual leave entitlement in any one year. The annual leave loading is to be paid in the final monthly payment for the year.

**PROVIDED THAT** where the employee has taken any form of leave without pay during the course of the year the annual leave and 17.5% leave loading due to the employee may be adjusted to reflect the extent of the leave taken.

## 16. SESSIONAL SPECIALISTS

### (a) Classification

Arrangements under this Clause may only be applied to those employees who are classified as Instructional Services employees as per the Award.

### (b) Work Time

To support the academic and co-curricular programs, work time will be generally defined

in contact periods. A contact period will usually consist of two sessions of 25 minutes each, however on occasion, employees may be allocated to a single session (25 minutes only). The applicable hourly rate will be paid pro-rata per session or contact period.

(c) Rest Breaks

Rest breaks are unpaid and are to be taken as scheduled during the school day (ie recess and lunchtime). Should work time be scheduled across recess or lunchtime (ie to facilitate a co-curricular activity, then an appropriate unpaid rest break will be provided as soon as possible afterwards.

(d) Changes to Patterns of Work

Amendments to the defined patterns of work (ie session or contact period allocations) need to be provided in advance (7 days) and in writing to the employee and for the changes to be agreed between the parties, before they are effective.

Adhoc changes to defined patterns of work requires 7 days notice by the employer otherwise wages for the defined time are applicable (eg student unavailability due to other school commitments).

Any additionally required work outside of that defined will be remunerated by the employer on the basis of time spent in attendance but with a minimum payment of one contact period (2 x 25 minute sessions).

On an adhoc basis and with mutual agreement, defined work times can be swapped for another work time (eg Thursday contact periods may be swapped with a Friday night performance) as long as all time spent in attendance is remunerated. Such an arrangement must be made in advance (7 days) otherwise the originally scheduled work time and any additional work time will be paid.

(e) Overtime

Overtime is not payable as it is included in the applicable rate of pay but all time worked will be paid and should be recorded on a timesheet for supervisor approval.

When working any overtime hours, an unpaid rest break of 20 minutes and a meal break of 30 minutes should be provided after an additional three and then five hours worked (respectively).

(f) Leave Entitlements

Entitlements to relevant paid leave (annual and personal leave) are provided in the National Employment Standards and are included in the applicable rate of pay.

When taking personal leave, employees are required to provide notification and evidence requirements as per the NES. Any such absences should be recorded a timesheet.

Employees are not eligible for Long Service or Parental Leave given their status of employment is not deemed to be permanent.

(g) Superannuation

The School will make superannuation guarantee contribution payments as per superannuation guarantee legislation (currently 9%) plus an additional 1%. All other conditions related to superannuation are as per Clause 13 of this Agreement.

(h) Rates of Pay

The following hourly rates of pay are applied to those employees deemed as Sessional Specialists:

Instructional Services		2015	
Grade	Pay Level	Hourly Rate	Plus 2.3%
1	Level 4.2	\$43.52	\$44.61
2	Level 5.1	\$44.97	\$46.09
3	Level 6.1	\$48.99	\$50.21

**17. PAID PARENTAL LEAVE & MAXIMUM PERIOD OF PARENTAL LEAVE**

- (a) For the life of this Agreement this clause applies in addition to Chapter 2, Part 2.2, Division 5, Parental Leave and Related Entitlements, of the Fair Work Act.
- (b) For the purpose of this Agreement the following variations to the Fair Work Act apply:
- (i) Chapter 2, Part 2.2, Division 5, Parental Leave, Section 70. The reference to 12 months is to be read as 104 weeks.
  - (ii) Chapter 2, Part 2.2, Division 5, Parental Leave, Section 74. The reference to 12 months is to be read as 104 weeks.
  - (iii) Chapter 2, Part 2.2, Division 5, Parental Leave, Section 75. The right to extend the period of parental leave does not apply where the employee concerned has already been granted the maximum period of leave of 104 weeks. In other circumstances an application under Section 76, Clause 2 may be made though the combined total weeks of the parental leave must not exceed the maximum allowable weeks of 104.

- (c) For the life of this Agreement the paid parental leave entitlements available to permanent female employees covered by this Agreement, and who are eligible for parental leave in accordance with the terms of the Fair Work Act, shall be determined by reference to the following table:

Date	Applies to Parental Leave commencing.	Paid Parental Leave Entitlement (PPLE)*	PPLE to be taken in the period
Existing < 1/01/14	Before 01/01/15	12 weeks	6 weeks prior to the expected date of delivery and 9 weeks after the actual date of delivery of the child.
From 01/01/15	On or after 01/01/16	13 weeks	6 weeks prior to the expected date of delivery and 10 weeks after the actual date of delivery of the child.
From 01/01/16	On or after 01/01/17	14 weeks	6 weeks prior to the expected date of delivery and 11 weeks after the actual date of delivery of the child.

- (d) A permanent female employee covered by this Agreement who is eligible for parental leave in accordance with the terms of the NES shall be entitled to;
- (i) leave on full pay for a period determined by the employee's paid parental leave entitlement (refer to the PPLE column in the table in sub-clause 17[c]) at the time of the commencement of their period of parental leave; and
  - (ii) additional annual and long service leave and/or leave without pay to bring the aggregate parental leave to a continuous period of not more than 104 weeks;

For a part time employee payment for the paid parental leave entitlement (refer to the PPLE column in the table in sub-clause 17[c]) shall be based on the FTE load that the part time employee was undertaking immediately prior to the commencement of the parental leave.

**PROVIDED THAT** where an employee has had to reduce their FTE in accordance with the special maternity leave provisions of the Fair Work Act, the employee's FTE to be applied for the purposes of calculating the paid parental leave entitlement (refer to the PPLE column in the table in sub-clause 17[c]) and other leave entitlements shall be the FTE which applied immediately prior to the commencement of the special maternity leave period.

- (e) A permanent employee of the school who satisfies the eligibility requirements set out in the Fair Work Act for parental leave in relation to the adoption of a child will be entitled

to paid parental leave in accordance with the provisions set out in clause 16(c) provided that;

- (i) the employee is the primary care giver for the adopted child for the duration of the parental leave period; and
- (ii) the parental leave period to which the paid parental leave entitlement (refer to the PPLE column in the table in sub-clause 17(c)) applies is taken at a time which includes the date of placement of the child; and
- (iii) the parental leave period to which the paid parental leave entitlement (refer to the PPLE column in the table in sub-clause 17(c)) applies is taken at a time which falls within the periods specified in column 4 of the table set out in sub-clause 17(c) of this section (For practical purposes the terms "*expected date of delivery*" and "*actual date of delivery*" used in column 4 of the table should be taken to mean "*expected date of placement*" and "*actual date of placement*" for the purposes of this sub-clause).

In addition, eligible employees may access additional unpaid parental leave and / or annual and long service leave and/or leave without pay to bring the aggregate parental leave to a continuous period of not more than 104 weeks in accordance with the provisions of this clause provided that the employee making application will be the primary care giver for the adopted child for the duration of the parental leave period.

- (f) The employer may require an employee who resigns without resuming their employment for a minimum period of 12 weeks following a period of paid and / or unpaid parental leave, to forfeit their entitlement to paid parental leave. Payments made in respect to any period of paid parental leave shall be refunded in full or deducted in settlement of the final pay and entitlements.
- (g) An employee shall be required to complete a period of at least 12 months continuous service following their return to work from parental leave before being eligible for a further period of paid parental leave entitlement, as set out sub-clause 17(c).
- (h) A permanent employee who has completed at least 12 months continuous service with the employer and who is the partner of the person expecting a child (or children), shall be entitled to a total of five (5) days leave on full pay to be taken between;
  - (i) The time of hospitalisation of the expectant mother in preparation for the birth of the child (or children) and/or the commencement of the mother's labour, whichever occurs first; and
  - (ii) The fourth clear weekday following the return home of the mother and/or child (or children) following the birth.

For a part time employee payment for the five (5) days shall be based on the FTE load that the part time employee was undertaking immediately prior to the commencement of the leave.

Provided that this leave is not transferable and any entitlement shall be forfeited should the partner of the person expecting the child (or children) not take, for whatever reason, the leave within the time period detailed above.

- (i) A permanent employee who has completed at least 12 months continuous service with the employer and who is adopting a child (or children) but will not be the primary care

giver for the adopted child, shall be entitled to five (5) days leave on full pay to be taken at the time of the placement of the child.

For a part time employee payment for the five (5) days shall be based on the FTE load that the part time employee was undertaking immediately prior to the commencement of the leave.

- (j) Employees who are eligible for a parental leave payment under the terms of this Agreement may also apply for additional leave/funding under the Federally funded parental leave scheme. Where an employee is eligible for additional leave/funding under the Federal scheme they shall retain their entitlement to parental leave payment under this Agreement. However, it is the employee's responsibility to apply for any additional leave in accordance with the employer's normal procedures and to make any claim to the said Federal scheme directly.

## 18. REMUNERATION PACKAGING

### Definitions

<b>Benefits</b>	means the benefits selected by the employee from the benefits provided by the employer;
<b>Benefit Value</b>	means the amount specified by the School as the cost to the employer of the Benefit provided including Fringe Benefits Tax, if any;
<b>Fringe Benefits Tax</b>	means tax imposed by the <u>Fringe Benefits Tax Act 1986</u> (Cth)

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### (a) Conditions of Employment

Except as provided by this clause, an employee must be employed at a wage based on a rate of pay, and otherwise on terms and conditions not less than those prescribed by the Educational Services (Schools) General Staff Award 2010 (refer to section 6 of this Agreement).

### (b) Remuneration Packaging

The employer may offer to provide and the employee may agree in writing to accept:

- (i) the Benefits selected by the employee from those made available by the School; and
- (ii) a wage equal to the difference between the Benefit Value and the wage which would have applied to the employee under Section 12 of this Agreement in the absence of an agreement between the employee and the employer under this clause 18(b).

### (c) Benefits

The Benefits will be those made available by the employer.

### (d) 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 18(b) of this section.

(e) Calculation of Wage During Leave

During the currency of an agreement made under clause 18(b) of this section:

- (i) an employee who takes leave on full pay will receive the Benefits and wage referred to in clause 18(b) of this section;
- (ii) an employee who takes leave without pay is not entitled to any Benefits during the period of leave;
- (iii) an employee who takes leave on less than full pay will receive:
- (iv) the Benefits; and
- (v) an amount of wage calculated by applying the formula:

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

where:

W = the wage determined under clause 18(b) of this section:

P = the percentage of wage payable during the leave

B = the Benefit Value

A = the amount of wages

(f) Other Payments

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

- (i) during employment; or
- (ii) on termination of employment in respect of untaken paid leave; or
- (iii) on death will be at the rate of pay which would have applied to the employee under this Agreement, in the absence of an agreement under clause 18(b) of this section.

**19. REDUNDANCY**

(a) For the life of this Agreement this clause applies in addition to clause 13 of the Educational Services (Schools) General Staff Award 2010 and 2010 Chapter 2, Part 2.2, Division 11 of the Fair Work Act.

(b) Specific Provisions Applicable to Partial Redundancies.

- (i) Where the employment situation in any section of the school has changed to such an extent that a partial redundancy (eg a reduction in working hours) is necessary, the employer may, by written notification to the employee ("notification of redundancy"), indicate that in 4 weeks (28 days) time the hours of work associated with the position occupied by an employee will be reduced to a level determined by the employer. The employee may then:
  - 1. agree to the proposed reduction in their working hours, in which case a partial redundancy calculated in accordance with the redundancy provisions of this clause and based on the reduction in their work time will be paid by the employer to the employee; or
  - 2. elect to declare the whole position redundant, in which case a full redundancy

calculated in accordance with the redundancy provisions of this clause will be paid by the employer to the employee.

Where the employee has been advised of the necessity of a partial redundancy the employee must notify the employer of their decision to accept the proposed reduction in their working hours or to declare the whole position redundant within 2 weeks (14 days) of the notification.

(f) Quantum of Redundancy Payments

Depending on the duration of service, an employee whose employment is terminated, or partially terminated, by reason of redundancy shall be entitled to, in addition to the applicable notice period, a compensatory redundancy payment determined by reference to the following table and the proviso detailed at the foot of the table:

One year's service or less	nil
More than one year's service but less than two year's service	4 weeks
More than two year's service but less than three year's service	6 weeks
More than three year's service but less than four year's service	8 weeks
More than four year's service but less than five year's service	10 weeks
More than five year's service but less than six year's service	12 weeks
More than six year's service but less than seven year's service	14 weeks
More than seven year's service but less than eight year's service	16 weeks
More than eight year's service but less than nine year's service	18 weeks
More than nine year's service but less than ten year's service	20 weeks
More than ten year's service but less than eleven year's service	22 weeks
More than eleven year's service but less than twelve year's service	24 weeks
Twelve years service and over	26 weeks

**PROVIDED THAT** the calculation of the compensatory redundancy payment shall take into consideration any period of part time employment by the employee during their current period of employment with the employer.

(g) Other Conditions Relating to Redundancy Payments

- (i) The entitlements due to the employee (e.g. compensatory redundancy payment, annual leave, annual leave loading, long service leave payment, notice period, etc) shall be paid in a lump sum on the last day of employment.
- (ii) The employee shall be entitled to receive (at least) a certificate of service on their termination. Such certificate of service shall contain (at least) the commencing and finishing dates of service, the reason for termination and the duties performed whilst employed.
- (iii) Where an employee has been given notice of redundancy in accordance with sub-clause 19(b)(i) and the employee has elected to declare the whole position redundant in accordance with sub-clause 19(b)(i)2 the employer shall release the employee from their employment before the expiration of their notice period if requested to do so by the employee. Where an employee has requested such a release the employee is not entitled to the balance of their notice period.
- (iv) Where an employee is made redundant in accordance with the provisions of this

section the services of a recognised outplacement consultant shall be made available to the employee at the employer's expense.

**PROVIDED THAT** the employer's liability to provide such a service is limited to:

1. a maximum of \$1000.00 per employee; or
2. providing the service for a maximum period of 3 calendar months from the date of the employee's termination;

whichever liability limit is reached first.

## **20. TEACHER AIDE ALLOWANCE**

- (a) For the life of this Agreement employee's employed as Teacher Aides shall be paid an allowance in recognition of the inflexibility of his or her working day, and to accommodate additional preparation time when required.
- (b) To be entitled to the maximum allowance the employee must be engaged to work full time hours during term time. Employees who work less than a full-time day during term time will be entitled to a pro-rata allowance payment.
- (c) The allowance shall be paid as part of the employee's normal pay-cycle.
- (d) An employee is not entitled to the allowance in respect of any period(s) of leave without pay.
- (e) The allowance is not payable on any accumulated leave entitlements paid out on the termination of employment, or on long service leave "cashed in" (rather than taken) during the employee's employment.
- (f) In return for receiving the allowance, employee's may be required to undertake up to an additional 30 minutes of work per day in order to carry out operational duties which they are unable to complete during student attendance times. The additional work time may be undertaken before or after the employee's rostered work hours depending on the school's operational needs.

**PROVIDED THAT** this additional time, if required, cannot be worked during the employee's meal breaks or rest breaks under any circumstances.

- (g) The maximum annual allowance for 2015 will be \$2,400 subject to the provisions set out in this clause.
- (h) In 2016 and for each subsequent calendar year during the remaining life of this agreement, the annual maximum allowance shall be increased by the same annual percentage increase applied to wage rates under sub-clause 12(a) herein.
- (i) This allowance is paid on the mutual understanding of both the employer and employee that it is full and final compensation for all work undertaken in accordance with the provisions of this clause.

**PROVIDED THAT** each employee's total ordinary hours shall be averaged over a term and, where it is found that an employee's average weekly hours over the term exceeds 38 hours, he or she will be entitled to be paid the excess hours at the rate of time and a half.

## 21. LONG SERVICE LEAVE

For the duration of the life of this Agreement employee's covered by this Agreement entitlement to long service leave shall, in addition to the relevant provisions of the Long Service Leave Act 1976, be subject to the following provisions:

- (a) Long service leave will accrue at the rate of 6.5 weekdays for each completed year of continuous employment.
- (b) An employee who has completed at least seven years, though less than eight years, continuous employment at the time of:
  - (i) the termination of the employee's employment by the employer for reasons other than serious and wilful misconduct; or
  - (ii) the resignation of the employee due to incapacity or for reasons of domestic and pressing necessity; or
  - (iii) the cessation of employment for reasons of illness of such a nature to justify the termination of employment, or retirement or death;

shall be entitled to pro-rata long service leave payment based on the employees service and FTE at the time of the termination.

Where the termination is due to the serious and wilful misconduct of the employee there is no entitlement to payment.

- (c) An employee who has completed at least eight years continuous employment at the time of the termination or resignation or cessation of their employment shall be entitled to pro-rata long service leave payment based on the employee's service and FTE at the time of the termination.
- (d) Upon completion of eight years continuous service an employee is entitled to apply to take long service leave, provided that;
  - (i) applications are made in accordance with the normal long service leave application processes of the employer; and
  - (ii) the duration and timing of any leave period is subject to the approval of the employer, having given consideration to the reasonable needs of both the employer and employee; and
  - (iii) a leave period of a minimum of one term or, if more than that, two whole consecutive terms (i.e. not one and a half terms) is encouraged. Where an employee has insufficient entitlement to cover the entire term or terms the balance may be made up by taking approved leave without pay.
  - (iv) The School will give consideration to applications for leave of a shorter period than one term so long as operational requirements and relief cover costs can be maintained to a standard acceptable to the School.
- (e) All other provisions are in accordance with the Long Service Leave Act 1976 and the exemption granted to the school by the Tasmanian Department of Justice (to accrue long service leave at the rate of 13 weeks for each 10 years of continuous employment).

## **22. ANNUAL LEAVE**

- (a) For the life of this Agreement this clause applies in addition to sub-clause 28.2 of the Educational Services (Schools) General Staff Award 2010 and Division 5 of the NES. For the purpose of this clause the terms school year and calendar year are interchangeable.
- (b) For the life of this Agreement full time employees covered by this Agreement shall receive 5 weeks annual leave per annum.
- (c) Part time employees covered by this Agreement shall receive pro-rata of 5 weeks annual leave, based on their FTE and/or the number of weeks worked during the school year.

(d) The periods of annual leave for part time employees who work less than a full school year will be scheduled by the employer, with the intention that the annual leave due to an employee is taken within the calendar year. At the start of each school year each employee will be given the option of choosing either;

- (i) To be paid their annual leave payment at the time of the scheduled leave; or
- (ii) To be paid their annual leave in a lump sum at the end of the school year.

Irrespective of the method of payment chosen the periods of annual leave for a part time employee who works less than a full school year will be scheduled by the employer, with the intention that the annual leave due to an employee is taken within the calendar year in which it is accrued.

## **23. PERSONAL LEAVE**

- (a) Employees employed under this Agreement, other than casuals, Sessional Specialists (Clause 16) or employees engaged for a period of less than six (6) months, will be credited with a personal leave balance equal to one (1) working week (based on their FTE) upon commencement of employment.

**PROVIDED THAT** an employee credited with personal leave in accordance with the provisions of this clause will not accrue any further personal leave during the first six (6) months of their employment, and will revert to the accrual method prescribed by Division 7, sub-clause 96(2) of the Fair Work Act should their employment be ongoing beyond the initial six (6) months.

- (b) For absences of more than two consecutive days i.e. for the third consecutive day or part thereof, a medical certificate must be obtained by the employee and provided to the employer on, or as close to, the first day back at work after the absence.

## **24. EXCEPTIONAL CIRCUMSTANCES LEAVE**

- (a) Employees, other than Sessional Specialists, covered by this agreement are entitled to apply for additional paid leave for absences from work which have become necessary due to exceptional circumstances.
- (b) "Exceptional circumstances" means, for the purposes of this clause, extreme personal events, as a result of which the employee must take time of work, where it is not appropriate for the leave period to be deducted from an existing leave accrual or alternative entitlement. For example, absence due to/or to deal with instances of domestic violence or family breakdown, or absence due to an illness covered by a

medical certificate and recognised by the School as an infectious condition (as defined by published OSHC and ELC Exclusion List).

**PROVIDED THAT** should a clause be incorporated into the Award during the life of this Agreement which deals with the same or similar matters, then this clause shall wholly prevail over the relevant Award clause or clauses (if more than one).

- (c) The entitlement to exceptional circumstances leave is limited to five (5) days per calendar year. For part time employees the exceptional circumstances leave entitlement shall be based on the employee's FTE at the time of taking the leave.
- (d) The exceptional circumstances leave entitlement does not accrue from year to year.
- (e) Applications for exceptional circumstances leave are to be directed to the Business Manager. The Business Manager may request supporting evidence of the need for the leave such as but not limited to, a medical certificate or statutory declaration.
- (f) Wherever possible, applications following School procedures, should be made in advance, though in certain circumstances the School accepts that applications may need to be made retrospectively.

#### **25. STUDY LEAVE**

- (a) Employees, other than Sessional Specialist, covered by this agreement are entitled to apply for up to two (2) additional days of paid leave to complete commitments associated with the requirements of a defined qualification as per the School's career competency program (however named).
- (b) The entitlement to study leave is limited to two work (2) days per school year.
- (c) "Work day" is defined as a normal day of work however that day is formally defined for that employee.
- (d) The study leave entitlement does not accrue from year to year.

#### **26. SELF FUNDED LEAVE SCHEME**

- (a) An employee who has completed a minimum of 12 months of continuous service with the employer and who is covered by this Agreement may elect to join the self-funded leave scheme offered by the employer.
- (b) The scheme allows employees to set aside an amount of money from their pay to fund additional leave. Employees may elect one, two or three calendar weeks (i.e. Monday to Sunday) of additional leave per calendar year.
- (c) An employee wishing to join the self-funded leave scheme for the first time, must make written application to the employer notifying them of their nominated arrangement. It is the School's preference that such a letter be lodged and the application officially approved by the end of February of the calendar year in which the employee wishes to join the scheme (nothing prevents an employee from making application in the preceding calendar year if they wish).
- (d) Employees electing to join at another time during the calendar year however will only be able to access a pro-rata accrual of their nominated self funded leave period by the end of that first year.

- (e) Employees participating in the scheme in the second and any subsequent consecutive calendar year must reach agreement with the employer on the quantum of additional leave (i.e. one, two or three calendar weeks) before the commencement of the calendar year. If the employee fails to provide notice of the quantum required for the coming calendar year it will be assumed that the existing arrangement/quantum applies.
- (f) Once membership of the scheme is approved, the employee must remain in the scheme for the remainder of that calendar year.
- (g) The employer will give consideration to applications to join the scheme so long as operational requirements can be maintained to a standard acceptable to the School.
- (h) Self-funded leave must be taken in whole calendar weeks. Such calendar weeks may be non-consecutive however must all be completed (i.e. all self-funded leave taken) before the end of the calendar year.
- (i) The actual amount set aside from the employee's pay for the calendar year shall be calculated and agreed as part of the application process, and shall be paid to the employee as a lump sum when they proceed on the period of self-funded leave. For clarity, it is the annual deduction which is paid to the employee at the time of taking the leave, not the amount set aside at that time.

**PROVIDED THAT**, the employer is entitled to recoup any monies owed by the employee if the employee's employment with the employer ceases before the end of the calendar year in which the self funded leave arrangement applied. Such monies may be deducted from the employee's final pay, or where there are insufficient funds payable in the final pay to cover the debt, the employee's monthly pay.

- (j) Application for any period of self-funded leave is subject to approval, as is the timing of any leave period. However, as it is a condition of the self-funded leave scheme that the leave be taken within the calendar year in which it is funded it is, therefore, incumbent on both the employer and employee to identify suitable leave periods during the calendar year as part of the application and planning process.

If an employee fails to take part or all of their self-funded leave in any calendar year the balance of the money set aside to fund their untaken leave pay will be paid to the employee in the December pay. In such circumstances, the self-funded leave balance will be reduced to zero by 31 December of that year.

- (k) Self-funded leave is not annual leave, and accordingly there is no leave loading payable in connection to any period of self-funded leave.

## **27. PAYMENT OF WAGES**

- (a) For the life of this Agreement this clause overrides clause 19 of the Educational Services (Schools) General Staff Award 2010.
- (b) Payment of wages shall be monthly by direct bank deposit to the institution and account of employee's choosing no later than 15<sup>th</sup> day of the month.
- (c) Employees covered by this Agreement who were employed prior to 1 January, 2002 and who are paid either weekly or fortnightly will have the option of being paid in the existing manner for the life of this Agreement.

- (d) In the event of an employee suffering financial hardship as a direct result of the monthly pay frequency the employer will give consideration to increasing the pay frequency for the employee concerned for an agreed period in order to assist the employee in overcoming the financial hardship. Applications for relief under this clause should be directed to the Business Manager.
- (e) The parties agree that should, during the life of this Agreement, the frequency of payment for employees of the school covered by the Educational Services (Teachers) Award 2010 be varied the frequency of payment for employees covered by this Agreement will be adjusted accordingly and the details of the agreed adjustment recorded in a memorandum of understanding. In order to take effect the memorandum of understanding will need to be signed by the employer and the nominated employee representative and will remain in force for the remaining life of this Agreement.

**28. FUTURE NEGOTIATION TIMELINE**

The Employer commits to communicating a proposed enterprise agreement negotiation timeline to general staff employees in February 2017 with negotiations to commence no later than May 2017.

**29. NO FURTHER CLAIMS**

It is a condition of this Agreement that the parties will not seek any further claims with respect to salaries or the conditions contained in this Agreement within the life of this Agreement.

**30. SIGNATORIES**

<p>For and on behalf of:</p>  <p>The Hutchins School Board, 71 Nelson Road, Sandy Bay (the employer)</p>	 <p style="text-align: right;">12/11/15</p> <p>Warwick Dean, Headmaster, The Hutchins School</p>
<p>For and on behalf of:</p>  <p>The employees, other than casuals, employed by the employer within the scope of the Educational Services (Schools) General Staff Award 2010.</p>	 <p style="text-align: right;">10/11/15</p> <p>Sally Westcott, Representing Employees</p>