

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*  
s.170XF determination of designated award  
for the purposes of a certified agreement

**Independent Education Union of Australia and  
Preshil, The Margaret Lyttle Memorial School**  
(AG2005/4303)

**THE PRESHIL AGREEMENT 2005**

Educational services

COMMISSIONER WHELAN

MELBOURNE, 14 JUNE 2005

*Determination of designated award.*

**DETERMINATION**

By letter dated 6 June 2005, the Independent Education Union of Australia sought for the purposes of Part VIE of the *Workplace Relations Act 1996* (the Act), a determination of the appropriate award to be used for the purpose of deciding whether the agreement passes the No-disadvantage test.

Upon hearing Mr Odgers and Ms Smith for the Independent Education Union of Australia and Ms Millane for Preshil, The Margaret Lyttle Memorial School, I determine pursuant to s.170XF of the Act, that the following award is the most appropriate award.

**BUILDING SERVICES (VICTORIA) AWARD 2003**

(ODN C No. 21726 of 1992)

[AW822844 Print L2955]

BY THE COMMISSIONER:

  
COMMISSIONER



AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*

s.170LJ - Agreement with organisations of employees (Division 2)

**Independent Education Union of Australia**

and

**Preshil, The Margaret Lyttle Memorial School**  
(AG2005/4303)

**PRESHIL AGREEMENT 2005**

Educational services

COMMISSIONER WHELAN

MELBOURNE, 14 JUNE 2005

**CERTIFICATION OF AGREEMENT**

In accordance with section 170LT of the *Workplace Relations Act 1996*, the Commission hereby certifies the attached written agreement.

This agreement shall come into force from 14 June 2005 and shall remain in force until 31 December 2005.

BY THE COMMISSION:

  
COMMISSIONER 

*Appearances:*

*F. Smith and A. Odgers* for the Independent Education Union of Australia.

*F. Millane* for Preshil, The Margaret Lyttle Memorial School.

*Hearing details:*

2005.

Melbourne:

June 14.

Printed by authority of the Commonwealth Government Printer

# Certified Agreement Preshil

4303

## Arrangement

### Clause Number, Subject Matter

1. Title
2. Parties Bound
3. Application
4. Relationship to Other Instruments
5. Duration
6. Letter of Appointment
7. Statement of Service
8. Wages
9. Overnight Allowance
10. Carer's Leave
11. Parental Leave
12. Introduction of Change
13. Consultative Committee
14. Due Process
15. Redundancy
16. Grievance and Dispute Resolution Procedures

#### **1. Title**

This agreement shall be known as the Preshil Agreement 2005 ("the Agreement").

#### **2. Parties Bound**

Parties to this agreement are Preshil the Margaret Lyttle Memorial School ("the Employer") and the Independent Education Union of Australia ("the Union").

#### **3. Application**

This agreement is binding upon teachers, schools assistants, clerical employees and grounds and maintenance staff employed by the Employer.

#### **4. Relationship to Other Industrial Instruments**

4.1 This Agreement shall apply to all persons employed as teachers, and school assistants, howsoever called and persons employed in a clerical and administrative or grounds and maintenance capacity.

4.2 This Agreement shall contain all provisions of the Victorian Independent Schools – Teachers – Award 1996, the Victorian Independent Schools -School Assistants - Award 1998 and the Victorian Independent Schools – Clerical and Administrative Employees-Award 2004 ("the Awards"), as varied to the date of certification of this agreement, save and except for:

4.2.1 Award variations which are inferior to the Award provisions to be varied

4.2.2 Award variations which are inferior to the provisions of this Agreement

#### **5. Duration**

5.1 The Agreement shall operate from the date of certification by the Australian Industrial Relations Commission until its nominal expiry date on 31 December 2005.

5.2 Both parties agree to commence negotiations for a new Certified Agreement by

May 2005, for completion by December 2005.

## **6. Letter of Appointment**

Upon engagement, the Employer will provide the employee (other than casual staff) with a letter of appointment. This will set out basic information about the appointment: classification, date of commencement, full or part time, ongoing or fixed term (and reasons for fixed term) and rate of pay.

## **7. Statement of Service**

Upon cessation of employment, the school will provide the employee with a statement of service. This will set out basic information; role and period of employment.

## **8. Wages**

Appendix 1

Any non-teaching staff employed after the making of this agreement shall be entitled to terms and conditions superior to those contained in the relevant award.

## **9. Overnight Allowance**

Where an employee is required to be away from home overnight, an allowance of \$50 per night shall be paid.

## **10. Carer's Leave**

10.1.1 An employee shall be entitled, subject to their accrued personal leave, to use up to ten day's personal leave during each year of service to care for members of the employee's immediate family or household who are sick and require the employee's care and support.

10.2 Carer's leave does not accrue from year to year and each day of carer's leave taken diminishes the employee's accrued personal leave entitlement.

## **11. Parental Leave**

### **11.1 Maternity leave**

(a) An employee who is entitled to maternity leave shall be entitled to a period of maternity leave of up to 208 weeks.

(b) Such leave shall be taken without pay, except that the employer will at the time of confinement of an employee who is eligible for maternity leave, make a payment of up to 12 weeks pay at the employee's ordinary rate of pay. Such payment shall correspond directly to the period of leave that would otherwise be unpaid.

### **11.2 Paternity Leave**

(a) Primary carer

The provisions of clause 11.1(a) and (b) shall apply in the case of paternity leave where the employee is the primary carer of the child.

(b) Non-primary carer

An employee who is not the primary carer of the child shall be entitled to a period of leave of up to 10 working days at full pay or 20 days at half pay at or around the time of the birth of the child.

### **11.3 Adoption leave**

(a) Primary Carer

The employee is entitled to one or two periods of leave in connection with an adoption:

\* a period of up to three weeks prior to the placement of the child in

order to facilitate the adoption of the child, if required;

\* a period of up to 208 weeks from the time of placement of the child.

Such leave shall be taken without pay, except that the employer will at the time of placement of the child make a payment of up to 12 weeks pay at the employee's ordinary rate of pay. Such payment shall correspond directly to the period of leave that would otherwise be unpaid.

(b) Non-primary carer

An employee who is not the primary carer of the child shall be entitled to a period of leave of up to 10 working days at full pay or 20 days at half pay at or around the time of the adoption of the child.

## 12. Introduction of Change

Where the Employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the Employer shall notify the employees who may be affected by the proposed changes and their union.

"Significant effects" includes termination of employment, major changes in the composition, operation or size of the Employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

The Employer shall discuss with the employees affected and the union, as early as practicable, the introduction of the changes referred to above, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or their advocate in relation to the changes.

The Employer shall provide in writing to the employees concerned and their union all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on employees and any other matters likely to affect staff. The Employer shall not be required to disclose confidential information the disclosure of which would be inimical to the School's interests.

## 13. Consultative Committee

The purpose of the consultative committee is to

- Monitor and make recommendations in relation to the Agreement
- Consult and make recommendations to the Employer about workloads (e.g. extras, practical classes, spread of hours for part-timers) and Positions of Responsibility (allowances / time release)
  - The committee shall comprise:
    - 1 representative of the junior school staff
    - 1 representative of the senior school staff
    - 1 representative of the VIEU sub-branch
    - The Principal or his/her nominee
    - 1 (other) nominee of the principal

## 14. Due Process

Due process shall commence with the Employer advising the employee in writing of:

- The School's concerns with the conduct or performance of the employee
- The time, date, and place of the first due process meeting; at least 7 days' notice shall be given
- The right of the employee to be accompanied by a nominee of his or her choice at all

due process meetings

- The School's right to terminate the employment of the employee should due process not resolve the School's concerns.

The initial Due Process meeting will:

- Include discussion of the Employer's concerns with the conduct or performance of the employee.
- Give the employee an opportunity to respond to these concerns.
- Include discussion of any counseling or assistance, where appropriate, available to the employee.
- Include documentation where appropriate.
- Set periods of review as appropriate.

If following due process the decision is made to terminate the employment of an employee, due notice shall be given.

## **15. Redundancy**

### **15.1 Discussion before termination**

(a) Where the Employer has made a definite decision that it no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment, the Principal shall hold discussions with employees directly affected and their union.

(b) The discussions shall take place as soon as is practicable after the decision has been made and shall include any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned. Employees may invite an advocate to accompany them in these discussions.

(c) For the purposes of the discussion the Principal shall, as soon as practicable, provide in writing to the employees concerned and their union, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out. The Principal shall not be required to disclose confidential information the disclosure of which would be inimical to the School's interests.

### **15.2 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties for reasons set out above the employee shall be entitled to the same period of notice of transfer as he or she would have been entitled to if his or her employment had been terminated. The School may, at its discretion, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rate for the number of weeks of notice still owing.

### **15.3 Severance Pay**

In addition to any prescribed period of notice, an employee whose employment is terminated by reason of redundancy must be paid severance pay as follows:

Years of service	Weeks of pay
Less than one	Nil
One but less than two	4
Two but less than three	6
Three but less than four	8
Four but less than five	10
Five but less than six	12

Six but less than seven	14
Seven but less than eight	16
Eight but less than nine	18
Nine but less than ten	20
Ten but less than eleven	21

Thereafter an extra week for each year of service above ten years to a maximum of 24 weeks.

For the purposes of this clause, continuous service shall be calculated to include all service for which paid leave was applicable but shall not include any period of unpaid leave except at the discretion of the School.

#### **15.4 Leaving during notice**

An employee whose employment is terminated for reasons set out in Clause 15.1(a) above may terminate his or her employment during the period of notice and, if so, shall be entitled to the same benefits and payments under Clause 15.3 had he or she remained until the expiry of such notice. In such circumstances the employee shall not be entitled to payment in lieu of notice.

#### **15.5 Alternative employment**

The Employer, in a particular redundancy case, may vary the general redundancy pay prescription if it obtains acceptable alternative employment for an employee acceptable to that employee.

#### **15.6 Time off during notice period**

(a) During the period of notice of termination an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

(b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee may be required to produce proof of attendance at an interview or he or she may not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

#### **15.7 Employees with less than one year's continuous service**

This Redundancy clause shall not apply to employees with less than one year's continuous service, or equivalent, and the general obligation is that relevant employees be given an indication of the impending redundancy at the first reasonable opportunity, and that such steps be taken as may be reasonable to facilitate the employees affected obtaining suitable alternative employment.

#### **15.8 Exemptions**

This clause shall not apply where employment is terminated as a consequence of conduct that justifies summary dismissal, or by due process (see clause 14), or to employees employed as Replacement or Casual staff or who are employed for a specific period.

### **16. Grievance and Dispute Resolution Procedure**

Matters in dispute arising from this Agreement shall be dealt with in accordance with the provisions of the Award. (cl. 9)

#### **16.1 Step 1**

Every Attempt shall be made to resolve a grievance by discussions between the employer and the (employee)(s) directly involved at the school or the employer and the union where the grievance is between the employer and the union. This does not preclude the right of either party to seek advice from outside the school, nor does it necessitate such an approach where this is impracticable.

16.2 Step 2


Where a grievance is not resolved by step 1, the employer or the (employee) may seek the assistance of a union, employer association or other representatives in order that a further attempt may be made to resolve the matter.

16.3 Step 3



Where the employer and the (employee) are unable to resolve the matter, they may agree they may agree to refer it to a mutually agreeable mediator for resolution. Either party may seek the assistance of a representative.

16.3 Step 4

In the event that Steps 1,2 and 3 fail to resolve the matter it may be referred by either party to the Commission. In normal circumstances, the matter should not be referred by either party to the Commission prior to the completion of Steps 1 and 2, and where agreed, Step 3.

  
\_\_\_\_\_  
Tony Keenan  
General Secretary  
Independent Education Union of Australia (Victoria Branch)

6<sup>th</sup> June 2005  
Date

  
\_\_\_\_\_  
Vivien Millaine  
Principal  
Preshil 

2nd June 2005  
Date

Appendix 1: Salaries

Level	Feb '05 (+2.5%)		Aug '05 (+2.5%)	
	PA	PF	PA	PF
1	43479	1666.50	43,852.32	1680.81
2	44,781.59	1716.43	45,901.13	1759.34
3	46,780.44	1793.04	47,949.95	1837.87
4	48,778.15	1869.61	49,997.60	1916.35
5	50,779.26	1946.31	52,048.74	1994.97
6	52,778.10	2022.92	54,097.55	2073.50
7	54,776.95	2099.54	56,146.38	2152.03
8	56,775.80	2176.15	58,198.18	2230.56
9	58,776.90	2252.85	60,246.33	2309.17
10	59,604.28	2284.56	61,094.39	2341.68
11	60,431.66	2316.28	61,942.45	2374.18
12	61,261.31	2348.08	62,792.84	2406.78
13	62,140.76	2381.78	63,694.28	2441.33
SA1	30488.85	1168.60	31251.07	1197.82
SA2	43,733.47	1676.25	44,826.81	1718.16
CFT	31,128.09	1193.10	31,906.29	1222.93
CPT	16,383.22	627.95	16,792.80	643.65
C&A1	43,640.20	1672.68	44,731.20	1714.50
C&A2	33,046.00	1266.62	33,872.15	1298.28