



CCCVAT MINISTRIES LTD
EMPLOYMENT GUIDELINE
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GUIDELINE/POLICY

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DISCLAIMER

This guideline has been compiled from information available from a variety of government and legal sources and based upon experience with human resources. To limit the amount of information in the guideline, most matters have been summarised, with links to government and sources of information websites describing the matters dealt with in full included. The information is generally correct as published at 01.03.2022, but may have been amended by the government since. While all care has been taken to reproduce summaries of the information available, CCCVAT MINISTRIES LTD [CCCVAT] accepts no responsibility for the validity of the information and recommends that entities relying on this guideline to assist them with human resource matters, visit the links provided to ensure they are viewing the latest material on the matter.

1 INTRODUCTION:

Australia has experienced significant change to laws impacting on employment in the last decade. Employers have seen WorkChoices in 2005, the Fair Work Act in 2009 and Modern Awards in 2010 plus numerous other federal and state laws impacting on employment across a number of industries. In addition to these changes, in 2014, new anti-bullying provisions gave extended powers for the Fair Work Commission to deal with bullying, and there are also state and territory-based changes that have been implemented in addition. The Commission also reviews Australia's minimum wage every year and quite often makes minor changes to accompanying legislation.

These guidelines are focussed on Church's obligations under Australian Laws concerning the employment of staff [Fair Work Act 2009](#). They are based upon information supplied by [Australian Taxation Office](#) [ATO], [Fairwork Australia](#) [FA] and [Safework Australia](#) [SA], plus other legislation impacting employment.

These guidelines cover the employment of staff including special emphasis on the employment of Ministers of Religion and include numerous links to substantiate the content of these guidelines and provide additional information.

2 CONTEXT:

Those employed in full time or part ministry [Minister of Religion Ministry] are employed in what is termed [Award and Agreement Free](#), meaning there is no official registered award covering their terms and conditions of employment. The Employer is still legally obligated to pay the national minimum wage as a minimum and abide by the eleven [National Employment Standards](#) [NSE] and other applicable laws and regulations.

Persons employed in other roles in a church may be covered by an award, the most typical the [Clerical Clerks Award](#), where awarded terms and conditions apply.

3 DEFINITIONS:

- **ABR** – Australian Business Register
- **ACNC** – Australian Charities and Not-For-Profit Commission
- **AL** – Annual Leave
- **ATO** – Australian Tax Office
- **BAS** – Business Activity Statement
- **Board/Leadership** – a body appointed by members of the church to govern and in some instances manage the affairs of the church.
- **BUV** – Baptist Union Victoria
- **CBOS** - Consumer building and occupational services
- **CCCVaT** – CCCVAT MINISTRIES LTD
- **CEIS** - Casual Employment Information Statement
- **Church** – Employer
- **CAV** – Consumer Affairs Victoria
- **CPI** – Consumer Price Index
- **Employee** – person employed by the Church to perform a designated role.
- **FA or FWA** – Fairwork Australia
- **GST** – Goods and Services Tax
- **HR** – Human Resources
- **IAS** - Instalment Activity Statement,
- **Leadership** – means the body responsible for the spiritual welfare of the church.
- **LSL** – Long Service Leave
- **NES** – National Employment Standards
- **Minister of Religion** means a person employed as a Minister or, Pastor or, Priest and can also include a person employed in a senior ministry role, subject to the church's determination.
- **PAYG** – Pay-As-You-Go tax
- **RAM** – Relationship Authorisation Manager
- **SA or SWA**– Safework Australia
- **SG** – Superannuation Guarantee

- **STP** – Single Touch Payroll
- **SCF** - Standard Choice Form (NAT 13080)
- **TFN** – Tax File Number
- **VEVO** - Visa Entitlement Verification Online.
- **Volunteer** – person engaged by the church on a voluntary basis to assist with the activities hosted by the church.
- **WHS** – Welfare, Health and Safety [previously referred to as OHS – Occupation Health and Safety].

4 EMPLOYER OBLIGATIONS – BIBICAL PERSPECTIVE:

Micah 6:8 NIV - *He has shown you, O mortal, what is good. And what does the LORD require of you? To act justly and to love mercy and to walk humbly with your God.*

Psalms 106:3 NIV - *Blessed are those who act justly, who always do what is right.*

Accordingly Employers are expected to treat Employees fairly/justly.

5 EXPECTATIONS:

One of the main sources of grief experienced between Employers and Employees is when expectations are not met. To mitigate this, Employer's need to clarify the following for the Employee:

- A. Title of the position.
- B. Stipulate who they report to [Direct Report]
 - a. A key grievance and source of distress for Employees is having to answer to multiple supervisors/managers.
- C. Conditions of employment via an Employment Agreement/Contract.
- D. Tasks they are expected to undertake via a Position Description.
- E. Set key performance targets [KPI's], by which their performance can be measured.
- F. Provide a budget for ministry role, where applicable.
- G. Provide the Employee with relevant policies/guidelines impacting on their role.
- H. Induct the Employee including meeting the people that work for the church, who they will be working with, church policies and familiarise them with the work environment.
- I. Review their performance and provide feedback.

6 EMPLOYMENT – GOVERNING LAWS:

6.1 Employment – Laws and Regulations:

There are numerous employment laws and regulations. Employers need to familiarise themselves with prior to employing someone. Following are some useful links in addition to the information provided in this guideline.

- [ATO - Your Workers](#)
- [Fairwork Australia](#)
- [ACNC - Taking on Employees](#)
- [AusGov - Department of Home Affairs](#)

6.2 Employees - Eligibility to Work in Australia:

Knowingly hiring a person who does not have a right to work in Australia is a serious crime and employers can be subject to substantial fines and imprisonment if they employ someone illegally.

Employers are liable if an illegal worker is employed, if it is proven that the employer knew about their employment being illegal. Penalties are severe for those that employ workers that are not an Australian citizen and are working without a visa or in breach of their visa conditions. Employers can be fined up to \$102,000 and, for more “aggravated” breaches such as forced or exploitative labour, the fine can be up to \$255,000).

To avoid this risk, employers should always check the work entitlements of the potential employee. In addition to checking that the employee is legally able to be employed, employers should be aware of what documentation is acceptable proof of entitlement and which is not.

Churches can only employ workers that are legally permitted to work in Australia – that is, Australian citizens, permanent residents and non-citizens with appropriate Australian work visas: For more information visit the link below.

Visa Entitlement Verification Online system (VEVO) allows visa holders, employers, education providers and other organisations to verify and check the conditions of a Visa.

VEVO tells you details relating to the current in-effect visa:

- which visa
- the expiry date
- the must not arrive after date

- the period of stay (how long you can stay)
- conditions (what you can and can't do).

Exceptions: VEVO is not able to provide any details relating to visas that are not 'in-effect'. For example, if you hold a Bridging visa but your substantive visa has not yet expired. People who migrated to Australia before 1990 and have not travelled out of Australia might not have a record in VEVO.

To verify and check a Visa, employers need to register first which they can at:

Link to: [VEVO](#)

The types of organisations that can register are listed on the website, what is required of the organisation to register and the provision to register are all included.

There are numerous tabs accessible on the website which will provide you with all the details you need know regards Visa's.

6.3 Employer - Types:

A. Small Business Employer:

A small business Employer is an Employer with fewer than 15 Employees at a particular time. If an Employer has 15 or more Employees at a particular time, they are no longer considered a small business Employer. When counting the number of Employees, Employees of associated entities of the Employer are included. Casual Employees are not included unless engaged on a regular and systematic basis - [Small Business Employer](#)

Volunteers are not included.

B. Not-For-Profit Employer:

Not-for-profit (NFP's) are organisations that provide services to the community and do not operate to earn a profit for members/shareholders. A few examples are religious institutions [churches], childcare centres, art centres, neighbourhood associations, medical centres and sports clubs.

All profits must feed into the services the organisation provides and must not be distributed to members, even when the organisation is wound-up.

NFP's are able to claim concessions but, to do so have to be registered with the relevant authority. NFP can also register for taxes such as GST, FBT and PAYG withholding, depending on the type of organisation, size and how it operates.

To learn more visit: [ATO Not-For-Profits](#)

6.4 National Employment Standards [NES]:

C. Minimum Entitlements for Employees:

The national minimum wage and the NES make up the minimum entitlements for all Employees in Australia. An award, employment contract, enterprise agreement or other registered agreement must include these provisions as a minimum.

For further information visit: [National Employment Standards \[NES\]](#)

D. The 11 Minimum Entitlements of the NES are:

- i. Maximum weekly hours
- ii. Requests for flexible working arrangements
- iii. Offers and requests to convert from casual to permanent employment
- iv. Parental leave and related entitlements
- v. Annual leave
- vi. Personal/carer's leave, compassionate leave and unpaid family and domestic violence leave
- vii. Community service leave
- viii. Long service leave
- ix. Public holidays
- x. Notice of termination and redundancy pay
- xi. Fair Work Information Statement and Casual Employment Information Statement – To download visit: [Fairwork Information Statement](#)

6.5 National Minimum Wage:

The National Minimum Wage applies to all Employees, meaning they cannot be paid less than the minimum rate and those not covered by an award or registered agreement. This is the minimum pay rate provided by the Fair Work Act 2009 and is reviewed each year. Most changes begin on the first full pay period on or after 1 July.

For further information visit: [Fairwork Australia - National Minimum Wage](#)

6.6 National Employment Standards - Maximum Weekly Hours:

A. Maximum weekly hours of work:

An Employer must not request or require an Employee to work more than the following number of hours in a week, unless the additional hours are reasonable:

- i. for a full-time Employee—38 hours; or
- ii. for an Employee who is not a full-time Employee—the lesser of:
 - a. 38 hours; and
 - b. the Employee's ordinary hours of work in a week.

B. The hours an Employee works in a week must be taken to include any hours of leave or absence (paid or unpaid) that is authorised:

- i. by the Employer; or
- ii. by or under a term of the Employee's employment; or
- iii. by or under a Commonwealth, State or Territory law, or an instrument in force under such a law.

C. Employees may refuse to work unreasonable additional hours:

For further information visit: [Fairwork Australia - Maximum Hours](#)

6.7 Fair Work Act 2009 - Sect 64 – Averaging Hours:

A. Averaging of hours of work for award/agreement free Employees.

An Employer and an award or agreement free Employee, may agree in writing to an averaging arrangement under which hours of work over a specified period of not more than 26 weeks are averaged. The average weekly hours over the specified period must not exceed:

- i. for a full-time Employee -38 hours; or
- ii. for an Employee who is not a full-time Employee--the lesser of:
 - a. 38 hours; and
 - b. the Employee's ordinary hours of work in a week.

B. The agreed averaging arrangement:

The agreed averaging arrangement may provide for average weekly hours that exceed the hours if the excess hours are reasonable for the purpose.

For more information visit: [FWA - Averaging Arrangements - Hours of Work](#)

6.8 Working Hours/Roster:

A. Fair Work Act 2009 – Flexible Working Arrangements:

Sections 62 and section 64 of the Fair Work Act 2009 allow for a flexible working arrangements.

For more information visit: [FWA - Flexible-Working-Arrangements](#)

B. Minister of Religion Ministry:

One of the many aspects of Minister of Religion and Ministry Leadership roles is that they involve working hours during the evenings and weekends.

Churches need to be conscious that those employed in ministry leadership roles have a tendency to work many hours in excess of those agreed and guard against the development of a culture which either ignores or encourages employees, both paid and Volunteer, working excessive hours, regardless of personal cost. This can lead to exploitation which is both unwise and unjust. It is unwise because it can lead to high levels of stress; impacting health, and exhaustion and, is unjust because it ignores the justice of appropriate conditions, which are due to all employees. At the same time, due to the flexible nature of these ministry roles, it is important for ministry leaders to remain accountable for their time.

C. Minister of Religion and Ministry Leaders:

Acknowledging the conflict between ministry leadership roles and the requirements of the NES, CCCVaT provides the following guidelines to ensure those engaged in ministry leadership roles are cared for.

D. Limits – Hours Worked:

It is advisable to limit the number of ordinary hours worked to five consecutive days per week, leaving two free days for personal leave.

Ideally Friday and Saturday should be reserved for personal leave, as it allows at least one day to spend time with the family and friends.

Splitting personal days leave over a week is not recommended, as it does not allow adequate time to rest.

E. Start and Finish Times:

Ideally start and finish times per day should be consistent but, where agreed may differ to accommodate activities that occur outside these regular hours.

F. Days Worked:

The days expected of those working in these roles should be identified in the employment agreement.

G. Time off in Lieu or Overtime:

Where expected or required as a result of a calling to work outside their regular hours of employment, this can be compensated as follows:

- i. Paid as overtime.
- ii. Granted time off in lieu.

- iii. Granted additional annual leave in lieu.

In the interests of harmony and justice, it is recommended to adopt what is preferred by the ministry leader.

H. Flexible Working Arrangements:

Flexible working arrangements can benefit employees and employers alike. A business is more likely to hold on to employees, see better productivity and job satisfaction, and reduce absenteeism if they allow staff a greater balance between work and personal lives.

Whether it is part-time work, flexi- time, job sharing, working from home or staggered hours, these are all types of flexible working.

Some employees have a statutory right to ask:

- a parent or someone responsible for a child of school age or younger
- a carer
- worker with a disability
- worker who is 55 or older
- an employee experiencing violence from a member of their family, or supporting someone in their family or household who is experiencing violence in their family

Employees that fall into one of the above categories and have worked for the employer for 12 months can ask for flexible working.

6.9 Superannuation:

A. Super Guarantee [SG]:

- i. Superannuation Guarantee is the official term for compulsory superannuation contributions made by Employers on behalf of their Employees.
- ii. It is recommended that the Church pay the superannuation guarantee level on the total salary package [Salary and Exempt Benefits], as is fair and reasonable if it were a commercial package.

B. Super Guarantee Eligibility:

- i. From 1 July 2022, you will need to pay super to your employees who earn less than \$450 per month, provided they meet other eligibility requirements.
- ii. This change expands super guarantee eligibility so that employees can receive super regardless of how much they earn.

- iii. As we move closer to 1 July 2022, check that your payroll and accounting systems have been updated so you can correctly calculate your super guarantee liability. Your digital service provider may be able to assist with further information on how and when they will implement software changes to reflect the new requirements. [ATO - Superannuation Notice](#)

C. SuperStream:

- i. With SuperStream, Employers must make super contributions on behalf of their Employees by submitting data and payments electronically in a consistent and simplified manner. SuperStream is mandatory for all Employers making super contributions, APRA-regulated super funds and self-managed superannuation funds (SMSFs) receiving contributions. The main purpose of SuperStream is to ensure Employer contributions are paid in a consistent, timely and efficient manner on behalf of Employees to their chosen super fund
- ii. Following is an ATO link which will advise you on all you need to know regards superannuation contributions: [ATO Super Instructions](#)

7.10 Probation:

- A. Probation** is a contractual term and there is generally no law covering what is and isn't a "probation period". Probation refers to a trial period at the start of a full-time or part-time Employee's employment that is generally set out in their employment contract.
- B. Organizations employing 15 full time Employees or less**, as per the Fair Work Act, can require as a maximum, a 12 months probationary period be served before employment is guaranteed [Fairwork - Probation vs Unfair Dismissal](#)
- C. The Employer generally determines the length of the probation** in the employment agreement unless an applicable award or registered agreement provides otherwise, but it is usually three or six months, depending on the nature of the role.
- D. Churches can stipulate a shorter probationary period** and if willing to offer a shorter period, should determine a mutually acceptable period during negotiations.
- E. Probation periods are often implemented prior to the start of the employment relationship.** They give an Employer and Employee an opportunity to check that Employees are suitable for the role they've been hired for.

F. While on probation, Employees continue to receive the same entitlements as someone who isn't in a probation period.

For further information and useful templates visit: [FWA - Probation](#)

7 TYPES OF EMPLOYEES:

7.1 Classifications:

There are also a variety of classifications under which people can be employed, such as:

- A. Full-time.
- B. Part-time.
- C. Casual.
- D. Fixed term.
- E. Shift-workers.
- F. Daily hire and weekly hire.
- G. Probation.
- H. Apprentices and trainees.
- I. Outworkers.

Following is a brief description of these types.

7.2 Full time Employee:

A full-time Employee is classified as a worker who has ongoing employment and usually works 38 hours per week [Full Time Worker](#).

A. A full-time Employee is entitled to paid leave including annual leave and sick & carer's leave. They're usually entitled to written notice when they're employment ends, or payment instead of notice.

B. The actual hours of work for a full-time Employee in a particular job or industry are agreed between the Employer and the Employee, or can be set by an award, registered agreement or agreement.

7.3 Part time Employee:

A Part-time Employee work less than 38 hours per week and their hours are usually regular. They're usually employed on a permanent basis or on a fixed term contract. A part time worker is entitled to all the benefits as a full time worker on a pro-rata basis - [Part Time Employees](#)

7.4 Casual Employee:

A. A person is a casual Employee if:

They accept an offer for a job from an Employer knowing that there is no firm advance commitment to ongoing work with an agreed pattern of work.

For example, if an Employee is employed as casual, their roster changes each week to suit their Employer's needs, and they can refuse or swap shifts, that could mean they are casual.

B. Specifically, under the Fair Work Act, a person is a casual Employee if:

- i. they are offered a job, and
- ii. the offer does not include a firm advance commitment that the work will continue indefinitely with an agreed pattern of work, and
- iii. they accept the offer knowing that there is no firm advance commitment and become an Employee.

C. What do casual Employees get?

Under the National Employment Standards (the NES), casual Employees are entitled to:

- i. access a pathway to become a permanent Employee,
- ii. two days unpaid carer's leave and two days unpaid compassionate leave per occasion,
- iii. five days unpaid family and domestic violence leave (in a 12-month period), and
- iv. unpaid community service leave.

D. Casual Employees:

Can request flexible working arrangements and take unpaid parental leave if:

- i. they have been employed by their Employer as a casual Employee on a regular and systematic basis over at least 12 months, and
- ii. they reasonably expect to continue being employed by the Employer on a regular and systematic basis.

Under awards and agreements, casual Employees are also paid a casual loading (a higher pay rate for being a casual Employee), or a specific pay rate for being a casual Employee.

E. Casuals don't get paid days off - FWA - Casual Employees Entitlements

Casuals don't get paid days off, notice of termination or redundancy pay, even if they work regularly for a long time. In some states and territories long serving casuals are eligible for [long-service-leave](#)

F. Changing to full-time or part-time employment:

A casual Employee can change to full-time or part-time employment at any time if the Employer and Employee both agree. Under the NES, casual Employees have the right to access a pathway to become a permanent full-time or part-time Employee, in some circumstances. This is also known as 'casual conversion'. For more information see becoming a permanent Employee - [Casual Employees](#)

G. Casual Employment Information Statement [CEIS]:

By 27 September 2021, Employers (other than small businesses) need to assess whether existing casual Employees employed prior to 27th March 2021 are eligible to be offered to convert to permanent employment.

For more information visit [CEIS](#)

7.5 Fixed Term Contract Employees:

A. Fixed term contract Employees are employed for a specific period of time or task.

B. Full-time or part-time fixed term Employees are generally entitled to the same wages, penalties and leave as permanent Employees. An award or registered agreement may provide extra terms and conditions for a fixed term Employee.

C. For more information on this classification visit:

- [FWA - Fixed Term Contract Employees](#)

7.6 Contractors:

The difference between a contractor and an employee is not always clear.

In legal terms, the relationship between employers and employees is a contract of service but the relationship between employers and an independent contractor is a contract for service. In practical terms, there are subtle differences.

An employee will often work full-time, part-time or casually and will do so as directed by the employer. A contractor usually works the hours required to do a task and has more control over the way they work. But even these factors are not enough to decide whether someone is an employee or contractor.

7.7 Outworker:

A. Outworkers are contractors or Employees who perform work at home or at a place other than that of the Employer's premises.

B. Outworkers are entitled to at least the:

- i. Minimum entitlements in the National Employment Standards.
- ii. Relevant award rate or the national minimum wage.

C. Awards or registered agreements may specify other conditions for outworkers.

D. Outworker terms in registered agreements have to be at least equal to the conditions in the relevant award.

- i. Award conditions for outworkers in the clothing, textile and footwear industry still apply even when there's a registered agreement in place.

E. If an award or agreement doesn't contain terms for an outworker, then the outworker is entitled the same conditions as any other Employee.

F. For further information visit: [FWA - Outworkers](#)

7.8 Volunteer:

A volunteer is a person engaged by the church on a voluntary basis [unpaid] to assist with activities hosted by the church.

A. Unpaid work can include:

- i. vocational placements to unpaid job placements,
- ii. internships,
- iii. work experience, and
- iv. trials.

B. They are entered into for a number of reasons which include:

- i. to give a person experience in a job or industry,
- ii. to provide training and skills and/or work experience as part of formal programs to assist people to obtain work,
- iii. to test a person's job skills, or
- iv. to Volunteer time and effort to a not-for-profit organisation.

C. Not paying a person for their efforts in some of these arrangements can be lawful. For example, for defined vocational placements, or where a job seeker is not an Employee, but rather is receiving benefits from the

government and undertaking a work placement as part of a Commonwealth employment program.

D. In cases where the person is actually an Employee, they are entitled to pay and conditions under the Fair Work Act. If a person is an Employee, they may also need to complete formal or informal training to make sure they have the right skills and knowledge to perform their job. This can include on-the-job training, online or formal training courses or team training.

E. If an Employee has to do training as part of their job, they have to be paid the right pay for those hours worked. Employees also have to be paid the right pay for time spent in team meetings or opening and closing the business, if their Employer requires them to be there.

For further information visit: [Fairwork Australia - Unpaid Work Guidelines-and-Policies -Volunteers-Policy](#)

7.9 Agency and temporary staff (on-hire staff).

Agency or temporary staff, or “on- hire staff” fall into a slightly different category. Although they are not permanent employees, they are still covered by the same work, health and safety laws as employees.

On-hire staff are covered by the National Employment Standards (NES) and any relevant Awards in place for your industry. If the business supplying on-hire staff has its own enterprise agreement, this may replace the relevant Award if it covers the on-hire employee’s work. Temporary staff are also covered by equal opportunity laws to protect them from discrimination or victimisation at work.

As soon as on-hire staff start, employers need to provide a safe place for them to work, safe plant and equipment and supervision, and whatever else their role requires. Employers also need to provide training or check they are trained. These duties apply even when their role is temporary or time limited.

7.10 Disabled employees.

Employers must make reasonable adjustments to accommodate workers with disabilities, under the Commonwealth Disability Discrimination Act 1995. Equal opportunity laws state employers must avoid discrimination during recruitment and in the workplace ensuring workers with a disability do not get less favourable treatment than other employees.

During interviews, employers should always be careful when asking candidates about their health. For example, if an illness or disability has been disclosed

during the interview and the candidate is unsuccessful, they may claim they were discriminated against because of their illness or disability.

When hiring a disabled employee, employers may need to make reasonable adjustments to the workplace. For example, a specialised mouse for someone who struggles with dexterity, or later start and finish times to avoid the pains of travelling during peak hour. Employers cannot be expected to make reasonable adjustments if someone is not visibly disabled and they have not told you about their disability.

7.11 Joint Ministries:

A joint ministry between a husband and wife, at the discretion of the couple, can be either defined under the contract of employment or two separate appointments both with a job description and employment agreement.

7.12 Alternative employment.

There may be times when an employer will have to find alternative employment for an employee. This could be because of a change in their personal circumstances so they cannot do their job or meet the obligations in their contract; or it could be a change in the business resulting in potential redundancies.

It may be possible to avoid redundancy by employees being offered suitable alternative work. Whether the role is suitable for them, depends on the status, pay, benefits, location, working environment, or hours of work. If there is a suitable alternative position and it is not offered, the employee may be able to lodge an unfair dismissal claim.

If an employee has a change in their personal circumstances, they may be unable to do their usual job. For example, if they lose their driving licence, they can no longer drive for work. This does not mean the employer can immediately dismiss them, and employers in this scenario are encouraged to look for reasonable alternative duties.

7.13 Changing employment status:

- A. A casual Employee** can change to full-time or part-time employment and visa-versa at any time, if the Employer and Employee both agree to it.
- B. Some enterprise agreements**, other registered agreements and awards have a process for changing casual Employees to full-time or part-time.
- C. Find more information** about arrangements for casual Employees in your award by selecting from the list below.

[Fairwork Australia - Casual to Part or Full Time](#)

[Fairwork Australia - Full Time to Part Time or Casual](#)

8 EMPLOYMENT AGREEMENT – TERMS AND CONDITIONS:

8.1 Employment Agreement:

An employment contract is an agreement between an Employer and Employee that sets out terms and conditions of employment.

A contract must contain an offer, acceptance, and consideration, among other aspects, to be a legal document. If any of these components are missing, the contract may not be legally enforceable.

An employment contract is beneficial for two reasons: in case of a need to discuss rights, duties, promises and agreements, or if a dispute arises.

It is best practice to have a written contract of employment signed by witnesses, even though the law accepts verbal contracts too. Some Awards do require employers to advise employees in writing in certain instances, such as their status of employment or hours of work.

[Fairwork Australia - Employment-Agreements/Contracts](#)

8.2 Minimum Terms:

An employment contract cannot provide for less than the legal minimum terms in:

- A. The National Employment Standards (NES).**
- B. Awards, enterprise agreements or other registered agreements that may apply.**
- C. Minimum Award hourly rate.**

Employees are covered by the NES, regardless of the type of contract and the terms and conditions of contract they enter into.

[Fairwork Australia - Minimum Terms](#)

8.3 Definitions:

An employment agreement may include or reference but, is not limited to:

- A. Probationary period.**
- B. Remuneration package including allowances and redundancy entitlements.**
- C. Annual, long service and other leave entitlements.**
- D. Superannuation.**
- E. Policies that the Employee is expected to agree to and abide by.**

- F. Process for reviews, dispute resolutions and complaints of misconduct.
- G. Grounds for termination.
- H. Position description.
- I. Employee KRA's/KPI's defined in the strategic plan.
- J. A budget for the ministry/managerial role.
- K. What happens at the conclusion of the role?
- L. Fairwork Australia Information Statement [mandatory].

8.4 Process for developing a Job Description and Employment Agreement:

- A. Determine the role and duties, which should be based or defined by the strategic plan.
- B. Develop a Position Description based on the foregoing determination.
- C. Determine the qualifications and experience required for the role.
- D. Determine the time required to perform the duties of the role.
- E. Determine the nature of the role, whether full/part time or casual/Volunteer.
- F. Determine the remuneration, hours/days and terms and conditions of employment.
- G. Establish who the role will report to [Direct Report].
- H. Record all that is determined and agreed in the employment agreement, including the Position Description and Fair Work Information Statement, with a statement that the Employee acknowledges what is offered and understands what is expected.
- I. All parties to sign the employment contract/agreement, the Employee to be given a copy, the original scanned and filed and, the hard copy filed.

8.5 Notes:

- A. **A legally compliant employment agreement** template is available from CCCVaT.
- B. **It is recommended that if regulatory required terms and conditions** are amended, that legal advice be sort to prevent the agreement being declared null and void.

8.6 Reviewing an Employment Agreement:

The Church should regularly review the terms and conditions of an employment agreement to ensure it remains regulatory compliant and reflects changes to remuneration and expectations.

9 EMPLOYMENT AGREEMENT – REGULATORY COMPLIANCES:

9.1 Tax File Number Declaration:

A. The ATO requires new Employees to complete a Tax File Number declaration:

The ATO identifies the Employee via their Tax File Number [TFN], which the Employee records in the declaration. You can obtain the TFN declaration form by:

- i. Downloading the form @ [Tax File Number Declaration Form](#)
- ii. Ordering online @ [TFN Online Order](#)
- iii. Ordering by phone - 1300 720 092.
 - o *Take note of the name and number of the Tax File Number Declaration (NAT 3092) before ordering the product and only order what you need, as this form is reviewed annually.*

B. Employees may elect to complete the form online or print and complete the form:

Instructions for those that elect to complete the form online:

- i. Save a copy to your computer.
- ii. Complete section 1.
- iii. Print a copy.
- iv. Sign and date the declaration.
- v. Give a copy to the Employer.

Instructions for those that elect to complete the form by hand:

- i. Print a copy.
- ii. Write clearly in BLOCK LETTERS using a black or dark blue pen.
- iii. Place 'X' in all applicable boxes.
- iv. Do not use correction fluid or covering stickers.
- v. Check all is signed and date the declaration.
- vi. Give the completed form to your Employer.

C. Upon receipt of the form, Employers can either:

- i. Transcribe the details in STP and lodge via their online accounting software; or
- ii. Complete section 2 and mail to the ATO [address included on the form].
 - o If mailing, separate the various sheets and post only the ATO's copy; or
- iii. Scan and submit the completed form electronically.

9.2 Standard Choice Form (NAT 13080) [SCF]:

A. Employers are required by law to make superannuation contributions to a superannuation fund of the Employee's choice [ATO Superannuation Guidelines](#)

B. For the current rate and thresholds visit [SG Rates and Thresholds](#)

C. The Employee is eligible to choose their super fund if they meet current criteria - [Employee Eligibility](#)

D. Employees are to advise Employers of their preferred fund completing a Standard Choice Form [SCF], which can be downloaded at [ATO Standard Choice Form](#)

- i. Employees can complete pre-filled standard choice forms through [ATO Online Services](#)

E. Upon completion of the form the Employee is to hand or email the form to the Employer, so the Employer is able to enter the details in STP and lodge with the ATO.

F. From 1 November 2021, if you have new Employees start, you may have an extra step to take to comply with choice of fund rules if they don't choose a super fund.

- i. You may now need to request their 'stapled super fund' details from them.
- ii. A stapled super fund is an existing super account which is linked, or 'stapled', to an individual Employee so that it follows them as they change jobs.
- iii. If you don't meet your choice of super fund obligations, additional penalties may apply.
- iv. The change aims to reduce account fees by stopping new super accounts from being opened every time an Employee starts a new job.
- v. For details visit [ATO Super Rules - 01.11.21](#)

9.3 Fringe Benefits:

A. What is a benefit?

- i. Broadly defined to include any right, privilege, service or facility provided in respect of a person's employment.
- ii. Different to salary & wage income and superannuation.
- iii. Governed by the Fringe Benefits Tax Assessment Act 1986 ("FBTAA")

- iv. Can result in the payment of fringe benefits tax ("FBT") by the employer.
- v. If the benefit is:
 - a. A fringe benefit- FBT is payable
 - b. An exempt benefit- no FBT is payable (but note that limits may apply)

B. A fringe benefit is a 'payment' to an Employee, but in a different form to salary or wages. For complete details visit [ATO Fringe Benefits](#)

C. Fringe benefits tax [FBT] is paid by Employers on certain benefits they provide to their Employees or their Employees' family or other associates. FBT applies even if the benefit is provided by a third party under an arrangement with the Employer.

D. Depending on your type of organisation, certain benefits you provide to Employees receive concessional FBT treatment. Charities that want to access FBT concessions must be registered with the ACNC as a charity and endorsed by us [ATO FBT Guidelines](#)

E. A charity which is registered by the ACNC as a charity is a registered charity. The ACNC also registers each registered charity in a sub-type according to its charitable purposes. The relevant sub-types for FBT purposes are:

- i. Registered health promotion charity (charitable institution whose principal activity is to promote the prevention or the control of diseases in human beings).
- ii. Registered public benevolent institution (charitable institution that is a public benevolent institution).
- iii. Registered religious institution (charitable institution that is a religious institution).

F. Endorsement of a registered charity is also required to access:

- i. FBT exemption for public benevolent institutions
- ii. FBT exemption for health promotion charities
- iii. FBT rebate for Registered Charities

To apply visit: [ATO Application for Endorsement](#)

G. Subject to certain conditions, some organisations are exempt from FBT. These organisations include:

- i. registered public benevolent institutions endorsed by the ATO for FBT concessions
- ii. registered health promotion charities endorsed by the ATO for FBT concessions
- iii. public and not-for-profit hospitals

- iv. public ambulance services

9.4 ATO Ruling TR2019/3 Exempt Benefits:

A. Churches may pay religious practitioners in whole or part 'exempt benefits':

- i. The exempt benefits may be provided to the Employee, spouse or their child.
- ii. Exempt benefits are exempt for PAYG tax, representing a benefit to the Employee.
- iii. To qualify the benefit must be provided by a registered religious institution to an Employee who is a religious practitioner.

B. Under Section 57 a registered religious institution is defined as:

- i. Registered with the ACNC as a charity with the subtype of 'advancing religion'
- ii. A charity can have advancing religion as its subtype even if it is not its predominant subtype.

C. A Religious Practitioner'[15] is defined as:

- i. A minister of religion
- ii. A student at an institution who is undertaking a course of instruction in the duties of a minister of religion
- iii. A full-time member of a religious order, or
- iv. A student at a college conducted solely for training persons to become members of religious orders.

D. Characteristics as required in TR 2019/3:

- i. Is a member of a religious institution;
- ii. Is recognised by ordination or other admission or commissioning, or has authority from the religious institution to carry out the duties of a minister based on theological training or other relevant experience;
- iii. Is officially recognised as having authority on doctrine or religious practice;
- iv. Is distinct from ordinary adherents of the religion;
- v. Is an acknowledged leader in spiritual affairs of the institution, and
- vi. Is authorised to act as a minister or spiritual leader, including the conduct of religious worship and other religious ceremonies

ATO view: except in rare cases, all of the above are required

- E. The characteristics, definitions and examples** provided by the ATO need to be explored in detail to determine who qualifies.

Example 1

David is employed by a registered religious institution to provide spiritual support to children, and to conduct the youth group. While David has a Bachelor of Theology, he is not ordained by the religious institution and is not commissioned or authorised by the religious institution to act as a minister or spiritual leader.

He is not a religious practitioner and benefits provided to him will not be exempt from FBT.

Example 2

Maya is commissioned by a registered religious institution to perform the Minister of Religion duties of a minister of a religious institution. The religious institution employs her to run religious services on Wednesday and Friday, and to teach the Sunday school.

Maya is a religious practitioner, and benefits provided to her by the religious institution will be exempt from FBT.

F. Duties of the Employee:

- i. The benefit is not provided principally (i.e. > 50%) in respect of duties other than:
 - a. Minister of Religion duties or
 - b. Directly-related religious activities
- ii. Importance of job description documenting those duties are principally exempt (if so, all benefits are exempt)
- iii. However, exempt benefits can be provided for specific exempt duties, even if overall duties are not exempt
 - a. Example- a minister undertaking primarily administrative duties provided with a vehicle principally for Minister of Religion visitation

G. Duties - Definitions:

- i. Minister of Religion Duties, duties associated with the spiritual care of people, including:
 - a. Visitations.
 - b. Communication of religious beliefs.
 - c. Providing people with spiritual guidance and support.
 - d. Providing Minister of Religion supervision to those engaged in Minister of Religion duties.
- ii. Directly related religious activities:

- a. The practice, study, teaching or propagation of religious beliefs.
- iii. Missionary work can be either category of duties.
- iv. Exclusions:
 - a. Administration duties in connection with the church.

Example 1

Brianna is a minister of religion employed by a registered religious institution. Her duties include writing spiritual content for the religious institution's website and newsletters, as well as preparing programs for other ministers to use in spiritual study groups.

These are directly related religious activities.

Example 2

Gabrielle is a minister of religion employed by a registered religious institution. She is the musical director for the religious institution's weekly service. Her duties include:

- a. scheduling performers
- b. conducting rehearsals for the supporting band and backing vocalists
- c. attending production meetings
- d. managing the technical rehearsal.

These are not directly related religious activities.

H. Summary:

- i. If an Employee is wholly employed in accordance with the foregoing definitions and examples, that person can be remunerated 100% exempt benefit.
- ii. As so often occurs in smaller churches the minister of religion is required to perform numerous administration tasks. Generating rosters or work relating to services provided by the church does not qualify as administrative work, however work relating to accounts and compliances etc does.
- iii. Accordingly, it is important that the ministry of religion's duties and time devoted to those duties are documented in a Position Description.
- iv. The time allocated to Minister of Religion vs administrative tasks can them justify the split between the payment of salary and exempt benefits.

Example 1

Peter is a minister of religion employed by a registered religious institution. His time is split between 70 Minister of Religion duties and 30% administrative work.

Accordingly, he could be remunerated 70% as exempt benefits and 30% as a taxable salary.

I. For further information visit:

[ATO TR2019/3](#)

[ATO TR2019/3 Compendium](#)

10 RENUMERATION:

10.1 Salary Package:

A. A salary package can consist of many components and should be structured to capitalize on the benefits available to employees: The salary package can contain, but not limited to the following components.

- i. Taxable Salary.
- ii. Fringe Benefits.
- iii. Exempt Benefits [exempt from PAYG & Fringe Benefit Tax].
- iv. Housing Benefit [if available or agreed].
- v. Other Benefits or allowances [if available or agreed].
- vi. Superannuation Guarantee [Mandated by law].
- vii. Superannuation, employee contribution.

10.2 Religious Practitioners:

A. Traditionally Brethren churches have relied on the BUV stipend as a guide to setting salary packages. [BUV Stipends](#)

The BUV stipend is usually reviewed annually and published in January each year.

B. Churches should consider the following factors in determining a suitable salary package to offer a religious practitioner:

- i. The current BUV stipend.
- ii. The state of the market for religious practitioners.
- iii. Whether the religious practitioner is in training – refer following 'Ministers of Religion in Training' table.
- iv. The religious practitioner's experience, skills and ability.
- v. The number of hours per week the religious practitioner is expected to work.

- vi. The type of work expected of the religious practitioner, including responsibilities, the number of employees responsible for and number of members/attendees of the church.
- vii. The church's financial capacity.
- viii. Non-salaried benefits or allowances offered.

C. CCCVaT has produced a salary calculator for churches to use as a guide [Remuneration Guideline](#)

D. Ultimately it is a matter of what the church can afford and what the religious practitioner is willing to work for.

E. Salary packages should be reviewed annually.

10.3 Ministers of Religion in Training:

The following table is provided by BUW as a remuneration guide for Ministers of Religion in training. The recommended percentage/pro-rata would apply to all payments including remuneration, exempt benefit, housing exempt benefit and superannuation.

| Experience | Years | Training | | | | |
|--------------------------------------|-------|-----------------|--------------|--------------|--------------------------|--------------------|
| | | No Training | 1yr Theo/Min | 1yr Theo/Min | Theology Ministry Degree | Unrelated Bachelor |
| Unpaid Ministry | <2 | 60% | 65% | 65% | 75% | 65% |
| Unpaid Ministry | <10 | 70% | 75% | 80% | 85% | 80% |
| Unpaid Ministry | >10 | 80% | 85% | 90% | 95% | 90% |
| Paid Minister of Religion Leadership | <5 | NA ¹ | 85% | 90% | 95% | 90% |
| Paid Minister of Religion Leadership | >5 | 80% | 90% | 95% | 100% | 95% |

10.4 Employees Non-Religious Practitioners:

A. Most employees employed in non-religious practitioner's roles will more than likely be covered by an award or industry bench mark.

B. Most basic administrative roles are covered under [Clerks—Private Sector Award MA000002](#)

- C. **For a list of awards** visit [Fairwork - List of Agreements and Awards](#)
- D. **Note if the employee is covered under an award**, all the terms and conditions of the award apply.
- E. **Salary packages** should be reviewed in accordance with awards.
- F. **Where not covered by an award** there are numerous websites listing the salaries for various occupations to use as a guide.

10.5 Taxable Salary:

A. Taxable salary can be subject to numerous levees and conditions including:

- i. Medicare levy:
 - a. For most taxpayers the Medicare levy is 2% of their taxable income.
 - b. The Medicare levy surcharge (MLS) is a separate levy from Medicare levy. It applies to taxpayers on a higher income who don't have private health cover. The MLS is designed to encourage these taxpayers to take out private patient hospital cover and use the private hospital system.
 - c. There are Medicare levy reductions that can apply, for a list visit - [ATO Medicare Levy Reductions](#)
 - d. ML & MLS - [ATO Medicare Levy Calculator](#)
- ii. Other levees and deductions:
 - a. Higher education loan scheme repayments.
 - b. Tax offsets
 - c. Tax credits.
 - d. To assess your liability visit - [ATO Income Tax Estimator](#)
- iii. Income Tax Rates:
 - a. Rates vary depending on what tax bracket you come under and for residents and foreign residents, children and those on working holidays:
 - b. For income tax rates visit - [ATO Income Tax Rates](#).
 - c. For the ATO's income tax calculator visit - [ATO Tax Calculator](#)
- iv. Tax Free Threshold:
 - a. The tax-free threshold for Australian residents is \$18,200, which means first \$18,200 of your income in each income year is tax-free, income above that is taxed.

- b. Employees who work for more than one employer, generally can only claim the tax-free threshold from one.
- c. Claiming the tax-free threshold reduces the amount of tax withheld, otherwise it is taxed at high rate.
- d. For more information visit - [ATO Tax Free Threshold](#)

10.6 Exempt Benefits - [ATO Tax Ruling TR 2019/3 Exempt Benefits](#)

The ruling along with a compendium is available via the above link.

A. Correct structuring of benefits:

There are numerous ways to structure this benefit, however to mitigate confusion the method most churches use is stated.

- i. Ideally to a separate bank account.
 - a. 'Working account' arrangement commonly used by churches.
 - b. Most churches acquire a debit card in the name of the employee to pay the exempt benefit into.
- ii. Benefits should not be paid to an employee's personal bank account.
 - a. Risk of remuneration being changed from exempt benefit to assessable income.
 - b. Risk of employer obligations not being complied with.
- iii. Exempt benefits provided to religious practitioners by religious institutions:
 - a. Are not subject to any legal limit.
 - b. Do not have any reportable value that needs to be disclosed in the recipient's income tax return (note that there are different rules for Centrelink benefits)
- iv. This is different to benefits provided by all other NFPs
- v. To maintain this privileged position, limit benefits to what is appropriate.
 - a. Denominational guidelines are good to follow.
 - b. If unsure, adopt a conservative approach.

B. Packaging of tithes & offerings:

- i. Can be done by the employee electing to receive less salary (i.e. no payment made), provided:
 - a. It applies prospectively; and

- b. It does not result in the employee's salary being less than what is required under any applicable award.
- ii. Cannot be done by way of a payment by a church to itself on behalf of the employee, such as:
 - a. Electronic payment to general account from working account.
 - b. Church provides a cheque to be submitted with the offering.
- iii. Consequences if made by payment:
 - a. Not an expense payment benefit.
 - b. Employee will be deemed to be assessable on the income as they have directed the church to deal with it on their behalf.

C. Payments on termination:

- i. Amounts paid on termination cannot be paid as exempt benefits.
Examples:
 - a. Employment termination payments (such as gifts and payments in lieu of notice).
 - b. Unused annual and long service leave entitlements.
- ii. Amounts of normal remuneration accrued prior to termination of employment generally can be paid as exempt benefits.
Example:
 - a. Unexpended balance in working account.
- iii. Gratuities or 'love offerings'
 - a. Classified as an employment termination payment.
 - b. Amounts cannot just be paid in cash - employer obligations must be complied with.

D. Reporting & disclosing:

- i. Exempt benefits are not required to be reported via STP or on a PAYG payment summary.
- ii. Exempt benefits can be taken into account when determining eligibility for Centrelink benefits.
 - a. This will depend on the type of benefit provided.
 - b. Contact Centrelink to discuss this.

iii. Victorian Workcover:

- c. Exempt benefits are not required to be disclosed on a declaration of rateable remuneration.
- d. Exempt benefits are taken into account when determining PIAWE in the event of a claim.

10.7 Housing Benefits:

A. Supplied House:

- i. Churches possessing a house in close proximity to the Church can offer it as part of a Minister of Religion's salary package. Where agreed the house would form part of a Minister of Religion's salary package as an exempt benefit. If a Minister of Religion agrees to consider the house as part of the salary package, it is recommended:
 - a. the Church contact a local real estate agent to determine what rent the house would command in the market; and
 - b. agree on a suitable offset to a Ministers of Religion salary package.

B. The value of the offset needs to be fair and reasonable and acceptable to the Minister of Religion. A simple calculation follows:

| | |
|--|----------|
| i. Salary including exempt benefits | \$XXXXXX |
| ii. Less agreed value of housing benefit | \$XXXXXX |
| iii. Less savings in tax | \$XXXXXX |
| iv. New Salary Package | \$XXXXXX |

C. It is highly recommended that the parties sign a standard rental agreement to qualify terms and conditions and responsibilities.

10.8 Housing Benefit – Rental Home:

A. It is to be noted that a Minister of Religion would be expected to attend the office at the Church, local organizations and to call on those in need in the local community. Ideally therefore a Minister of Religion should be located in close proximity to the Church.

B. Churches that do not possess a house to offer as part of a salary package can consider renting one in the local area on behalf of a Minister of Religion or allowing a Minister of Religion to rent one. In either situation the parties need to agree on an acceptable offset to the salary package.

The advantages of providing a home or renting one on behalf of a Minister of Religion is that it can reduce a Minister of Religion's personal tax as this type of benefit provided by a religious institute to a Minister of Religion is not subject to Fringe Benefits Tax under the act.

- i. Information on housing may be found at the following sites:

<http://www.housing.vic.gov.au/search/site/publications%20reports%20reports%20rental%20report>

<http://www.dhhs.tas.gov.au/housing>

C. The definition of local area is subject to negotiation between the parties and can be determined by:

- i. Whether in the same or adjacent post code.
- ii. Within 15 to 20 minutes' drive in average traffic conditions.

D. Where agreed to by the Church Ministers of Religion may live in a different location to that of the Church.

- i. Where the rental cost of house in the chosen location is greater than an equivalent home in the local area, a Minister of Religion shall cover the additional costs.
- ii. Where the rental cost of house in the chosen location is less than an equivalent home in the local area, the Church shall suitably adjust the remuneration.

E. The foregoing options are subject to negotiation between the parties.

F. It is recommended where the Church has rented a house on behalf of a Minister of Religion that the terms and conditions of the arrangement be quantified in an agreement including who pays utilities.

10.9 House – Minimum Conditions:

A. The Church will ensure the house has appropriate:

- i. floor coverings, drapes, blinds and light fittings, antenna, internet access etc;
- ii. garage or carport;
- iii. heating and cooling;
- iv. security, fences and gates as appropriate;
- v. building insurance; and
- vi. other than the items listed below being the responsibility of a Minister of Religion, all other items and condition of the building/s is to be maintained in good order and condition as if leased under State residential laws.

- a. For information pertaining to this provision, refer Divisions 5 and 6 of the Victorian Residential Tenancies Act 1997 - Act No. 109/1997, Visit the following site for details.

[http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/edfb620cf7503d1aca256da4001b08af/c7f3c6d8118d4bcaca256e5b00213c3d/\\$FILE/97-109a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/edfb620cf7503d1aca256da4001b08af/c7f3c6d8118d4bcaca256e5b00213c3d/$FILE/97-109a.pdf)

- b. For Tasmania refer the Tasmanian Residential Tenancy Act 1997, Divisions 3a and 4. Visit the following site for details.

http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=;doc_id=82%2B%2B1997%2BBAT%40E%2B20141231000000;histon=;prompt=;rec=;term=

B. The Minister of Religion is responsible for:

- i. garden maintenance;
- ii. general cleaning and household maintenance; and
- iii. contents insurance.
 - a. As a general rule Churches should maintain the house to a level its leaders would be happy to live in and Ministers of Religion maintain the house as if it were their own home.
 - b. The Church and Minister of Religion should undertake an annual review of the house to determine if any maintenance or safety issues requiring attention. The costs of maintenance and upkeep of the house should be given a priority in the Church budget.
 - c. It is recommended the address of the manse not be publicly advertised. All Church related correspondence should be addressed to the Church.

10.10 Part Time - Housing Benefits:

- A. For part time Ministers of Religion**, the value of the housing benefits highlighted in sections 6.4, 6.4.1 and 6.4.2 can be offset against the salary package on a pro-rata basis.

10.11 Relocation Expenses:

- A. Subject to circumstances and negotiation**, it is usual practice to reimburse the Minister of Religion's relocation expenses when the appointment requires a Minister of Religion to move closer to the Church than the Minister of Religion's current location.

B. Relocation expenses for the Minister of Religion and family, if applicable, can include:

- i. The cost of relocating furniture and belongings.

- ii. Flights or car expenses incurred moving to the new residence.
- iii. Penalty fees for the early disconnection of services at the current residence.
- iv. Fees for the connection of services at the new residence.
- v. In the event the Minister of Religion re-located from another state, the cost of any licenses or registrations required by the state for property transferred.
- vi. Compensation for the time spent relocating.

C. It is important to be considerate to the disruption in the lives of those affected by the move in terms of time and cost and, where just compensation is requested, it is fairly addressed.

10.11 Tithes and offerings:

A. Churches are not to assume or imply any expectation that the Minister of Religion/Employee will tithe any percentage or amount of their remuneration to the Church.

B. As part of their commitment and Leadership of the Church community, Ministers of Religion will usually want to tithe some of their remuneration to the Church; however, it is the Minister of Religion's choice to decide where and how much of their remuneration to tithe.

11 LEAVE:

11.1 Annual leave - [Fairwork Australia - Annual Leave](#)

A. Annual leave accumulates according to an employee's ordinary hours or according to that specified in awards or work place agreements, which most specify an entitlement of four weeks annual leave for each year worked.

B. Four weeks leave per annum is a minimum, regardless of the hours worked as a full or permanent part time employee, which awards and employment arrangements may vary to include additional days or weeks.

C. Annual leave can continue to accrue during employment, as there is no legal requirement to take it.

- i. It is recommended Churches include a provision in their employment agreement limiting the accrual of annual leave to either six or eight weeks, which thereafter the Church can direct the employee to take it.

D. Accrued annual leave constitutes a liability and in accordance with Australian Standard Account Practices, it is recommended that Churches accrue this liability in their accounts.

- i. AASB 119 "Employee Benefits" prescribes how employee entitlements are to be recognised and measured in financial statements. In summary, AASB 119 requires recognition of:
 - a. Provisions for employee liabilities, in the balance sheet. Long term liabilities, such as long service leave, that are not expected to be paid within 12 months, are to be measured at present value.
- ii. Current service cost and actuarial gains and losses, in the profit and loss.
 - a. Where assets are reserved for funding employee benefits, such assets are recorded at fair value, and returns on plan assets are recognised as income in the profit and loss.

E. Requesting annual leave:

- i. An employee needs to request to take annual leave before going on leave. The process for requesting annual leave is usually specified in an award or registered agreement, company policy or contract of employment.
- b. An employer can only refuse an employee's request for annual leave if the refusal is reasonable.

F. How much annual leave can be taken at one time?

- i. There's no minimum or maximum amount of annual leave that can be taken at a time. Provided both parties agree, an employee can take a part day, single day or a number of days or weeks off.
- ii. Employees don't need to take all of their annual leave at once.
- iii. Employees are not entitled to take more annual leave than they have accrued.

11.2 Long Service Leave - [FWA - Long-Service-Leave](#):

- i. Most employees' entitlement to long service leave comes from long service leave laws in each state or territory. These laws set out:
 - a. how long an employee has to be working to get long service leave (for example, after 7 years)
 - b. how much long service leave the employee gets?
- ii. In some states and territories long serving casuals are eligible for long service leave.
- iii. To find out about long service leave entitlements, refer the information and links below.

A. AUSTRALIAN CAPITAL TERRITORY:

- i. For details visit the following website.

<http://www.legislation.act.gov.au/a/1976-27/default.asp>

B. NEW SOUTH WALES:

- i. Long service leave applies to most NSW Employees who are full-time, part-time or casuals.
- ii. If you have been working for the same Employer for 10 years you are entitled to 2 months (8.67 weeks) paid leave, to be paid at your ordinary gross weekly wage under the NSW Long Service Leave Act 1955 (the Act).
- iii. The Act also provides for a pro-rata entitlement after five years, if the Employee resigns as a result of:
 - a. illness,
 - b. incapacity or
 - c. domestic or other pressing necessity.
- iv. If an Employee resigns for one of the above reasons, they need to advise the Employer in writing at the time of giving notice.
- v. The Act also provides for a pro-rata entitlement after five years, if an Employee's services have been terminated by the Employer for any reason other than serious and willful misconduct, or if the Employee dies.
- vi. If an Employee ceases employment before 5 years' service there is no entitlement for long service leave.
- vii. Special conditions may apply to workers in the building and construction industry and Employees of cleaning contractors.
- viii. For more information contact the Long Service Corporation.
- ix. If you were previously covered by a Federal award or agreement that provided long service leave arrangements, these may still apply. You will need to contact the Fair Work Infoline on 13 13 94 or visit Fair Work Online [Fair Work Ombudsman]
- x. For further information and access to the NSW government LSL calculator visit:
http://www.industrialrelations.nsw.gov.au/oirwww/Employment_info/Leave/Long_service_leave.page

C. NORTHERN TERRITORY:

- i. For details visit the following website.

<https://nt.gov.au/employ/for-Employees-in-nt/long-service-leave>

D. QUEENSLAND:

- i. For details visit the following website.

<https://www.business.qld.gov.au/running-business/employing/Employee-rights/long-service-leave/entitlements>

E. SOUTH AUSTRALIA:

- i. For details visit the following website.

https://www.safework.sa.gov.au/show_page.jsp?id=2477

F. TASMANIA:

- ii. In Tasmania the main legislation covering Employees in the private sector is the Long Service Leave Act 1976.
- iii. For an Employee covered by the Long Service Leave Act 1976 to be entitled to a pro-rata payment on leaving their employment, they would need to have either:
 - a. 10 years continuous service or more with their Employer; or
 - b. years' service (5 for mining Employees) but less than 10 years and be leaving due to illness, incapacity, domestic or other pressing necessity of such a nature to justify termination, or attained the age of retirement, or be an Employee whose employment is terminated by his Employer for any reason other than the serious and willful misconduct of the Employee.

G. VICTORIA:

i. Who does the LSL Act 2018 apply to?

https://www.business.vic.gov.au/_data/assets/pdf_file/0007/1748860/Long-Service-Leave-Act-2018-Comprehensive-Guide-web-quality.pdf

- a. Most Victorian Employees (excluding Employees under some Commonwealth enterprise agreements and pre-reform awards, and other Victorian laws). Categories/types of employment generally include: full time, part time, casual, seasonal and fixed term.
- b. Employees under certain labour hire arrangements.

ii. Who does the LSL Act not apply to?

- a. The LSL Act 2018 may not apply to Employees who are covered by a federal award or workplace agreement – individual or collective – where that award or agreement contains its own LSL provisions.
- b. The LSL Act 2018 does not apply to Employees who have their long service entitlement provided by another act or regulation – such as workers in building and construction, where it's provided by CoINVEST scheme External link (opens in same window)

iii. How long do Employees have to work to be eligible for LSL?

a. An Employee will be entitled to take LSL after completing a minimum of 7 years' 'continuous employment' with 'one Employer'.

b. For more information see:

https://www.business.vic.gov.au/_data/assets/word_doc/0004/1724845/LSL-Act-2018-Fact-Sheet-02-taking-LSL.docx

c. Visit our page on Long service leave: continuous employment for more information.

<https://www.business.vic.gov.au/hiring-and-managing-staff/long-service-leave-victoria/long-service-leave-act-continuous-employment>

iv. How can Employees take LSL?

a. LSL can be taken for any period of not less than one day

b. an Employee can request to take a period of LSL for twice as long as the period to which they are entitled, at half their ordinary pay

c. an Employee can request to take LSL at any time after 7 years' continuous employment

d. the Employer must grant leave as soon as practicable following the Employee's request unless the Employer has 'reasonable business grounds' for refusing the request

e. an Employer may direct an Employee to take leave by giving at least 12 weeks' written notice. If the Employee does not want to take their leave at the time nominated by the Employer, they can apply to the Industrial Division of the Magistrates' Court.

f. For more information see:

https://www.business.vic.gov.au/_data/assets/word_doc/0004/1724845/LSL-Act-2018-Fact-Sheet-02-taking-LSL.docx

g. You can also visit our page:

<https://www.business.vic.gov.au/hiring-and-managing-staff/long-service-leave-victoria/how-long-service-leave-can-be-taken>

v. How do I calculate payment for LSL?

h. LSL is calculated as the total number of weeks' employment divided by 60 and multiplied by the ordinary weekly rate of pay at the time the leave is taken, or when the Employee ceases employment.

H. WESTERN AUSTRALIA:

- i. For details visit the following website.

<https://www.commerce.wa.gov.au/publications/long-service-leave-western-australia-fact-sheet>

11.3 Public holidays - [Fairwork Australia - Public Holidays](#)

A. Public holidays can vary according to the laws of the state or territory.

- i. For a list of these laws visit: [State/Territory Public Holidays](#)
- ii. An employee is entitled to public holidays depending on where they are based for work, not where they are working on the day of the public holiday

B. It's important to know when public holidays are due, because some employees may have different entitlements on these days.

- i. As some public holidays were created to celebrate religious events, Ministers of Religion can often be required to lead or participate in a service or activity in celebration of the such an event.
- ii. The employment agreement needs to define how a Minister of Religion is compensated, for working on such a day that falls outside their normal hours of employment.

11.4 Personal/carer's, compassionate & family and domestic violence leave:

A. National Employment Standards (NES)

Personal/carer's leave, compassionate leave and family and domestic violence leave form part of the National Employment Standards (NES) in the Fair Work Act 2009. The NES apply to all employees covered by the national workplace relations system. An award, enterprise agreement or other registered agreement, contract of employment or workplace policy can't provide for conditions that are less than the national minimum wage or the NES. They can't exclude the NES.

The NES established minimum entitlements for permanent employees, including:

- i. Personal/carer's leave.
- ii. Unpaid carer's leave.
- iii. Compassionate leave.
- iv. Family and domestic violence leave.

These forms of leave are designed to help an employee deal with things like personal illness or injury, caring responsibilities, family emergencies, family and domestic violence, and the death or life-threatening illness or injury of close family members.

Casual employees are entitled to take leave such as unpaid carer's leave, unpaid family and domestic violence leave and unpaid compassionate leave.

Download the fact sheet: [FAIRWORK AUSTRALIA - FACT SHEET](#)

B. Paid personal/carer's leave:

- i. The term 'personal/carer's leave' covers both sick leave and carer's leave. Employees are entitled to:
 - a. 10 days each year for full-time employees.
 - b. pro rata 10 days each year for part-time employees.
- ii. An employee's entitlement to paid personal/carer's leave accumulates progressively during a year of service, based on their ordinary hours of work. The entitlement to 10 days of personal/carer's leave can be calculated as 1/26th of an employee's ordinary hours of work in a year.
- iii. Personal/carer's leave accumulates from year to year.
- iv. Personal/carer's leave continues to accrue when an employee takes paid personal/carer's leave or paid annual leave. Personal carer's leave and compassionate leave will not accrue on unpaid leave unless it is community service leave or it is provided for in an award or agreement.
- v. An employee can take paid personal/carer's leave:
 - a. if they are unfit for work because of their own personal illness or injury (including pregnancy-related illness), or
 - b. to provide care or support to a member of their immediate family or household, because of a personal illness, injury or unexpected emergency affecting the member. A member of the employee's immediate family means a spouse (or former spouse), de facto partner (or former de facto partner), child, parent, grandparent, grandchild or sibling of an employee; or a child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner).
- vi. When paid personal/carer's leave is taken, the minimum requirement is that an employee must be paid at their base rate of pay for the ordinary hours they would have worked during the period. An employee's 'base rate of pay' (other than a pieceworker) is the rate of pay payable to an employee for their ordinary hours of work, but not including any of the following:
 - a. incentive-based payments and bonuses
 - b. loadings

- c. monetary allowances
 - d. overtime or penalty rates
 - e. any other separately identifiable amounts.
- vii. Award or agreement covered employees can cash out paid personal/carer's leave if all of the following apply:
- a. the award or agreement allows the practice
 - b. there is a separate agreement in writing on each occasion
 - c. the employee retains a balance of at least 15 days of untaken paid personal/carer's leave
 - d. the employee is paid at least the full amount that would have been payable had the employee taken the leave they have cashed out.
- viii. It is unlawful for an employer to force (or try to force) an employee to make (or not make) an agreement to cash out personal/carer's leave under a term included in an award or agreement.
- ix. An award or agreement-free employee is not able to cash out paid personal/carer's leave.

C. Unpaid carer's leave:

- i. An employee (including a casual employee) is entitled to two days of unpaid carer's leave for each occasion when a member of the employee's immediate family or household requires care or support because of a personal illness, injury, or an unexpected emergency.
- ii. An employee may take unpaid carer's leave for each occasion as a single continuous period of up to two days, or any separate periods to which the employee and their employer agree. An employee can't take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave (this does not apply to casuals who have no entitlement to paid personal/carer's leave).

D. Compassionate leave:

- i. An employee (including a casual employee) is entitled to 2 days of compassionate leave to spend time with a member of their immediate family or household who suffers a life-threatening illness or injury. An employee is also entitled to take compassionate leave:
 - a. after the death of a member of the employee's immediate family or household

- b. if a child who would have been part of the employee's immediate family or household, is stillborn, or
 - c. if an employee, or the employee's current spouse or de facto partner, has a miscarriage.
- ii. An employee may take compassionate leave for each occasion as:
 - a. a single continuous 2-day period or
 - b. 2 separate periods of one day each or
 - c. any separate periods to which the employee and their employer agree.
- iii. If an employee (other than a casual employee) takes a period of compassionate leave, the employer must pay the employee at the employee's base rate of pay for the ordinary hours they would have worked during the period.
- iv. As mentioned above, casual employees are not entitled to any paid personal/carer's leave or compassionate leave. However, casuals are entitled to unpaid carer's leave and compassionate leave.

E. Family and domestic violence leave:

- i. An employee (including a casual employee) is entitled to 5 days of unpaid family and domestic violence leave each year. Employees are entitled to the full 5 days from the day they start work. They don't have to build it up over time.
 - a. The 5 days renew each 12 months but doesn't accumulate from year to year if it isn't used.
- ii. Employees can take the leave if they need to do something to deal with the impact of family and domestic violence and it's impractical to do so outside their ordinary hours of work.

For example, this could include:

- a. making arrangements for their safety, or safety of a family member (including relocation)
 - b. attending court hearings, or
 - c. accessing police services.
- iii. The leave doesn't need to be taken all at once and can be taken as single or multiple days.
 - a. An employer and employee can also agree for an employee to take less than one day at a time, or for the employee to take more than 5 days.
- iv. Are there notice and evidence requirements?

- a. For all periods of personal/carer's leave, family and domestic violence leave, or compassionate leave, an employee must give their employer notice of the taking of the leave.
 - b. The notice must be given to the employer as soon as practicable (which may be at a time after the leave has started), and must advise the employer of the period, or expected period, of the leave.
 - c. An employer is entitled to request evidence that would substantiate the reason for leave. A failure to provide notice or, if required, evidence that would satisfy a reasonable person to substantiate the reasons for the leave, means the employee is not entitled to the leave.
 - d. An award or agreement may include terms relating to the kind of evidence that an employee must provide in order to be entitled to paid personal/carer's leave, unpaid carer's leave or compassionate leave. For example, an employer may request that the employee provides a medical certificate.
- v. Notice and evidence requirements for family and domestic violence leave
- a. An employer can ask their employee for evidence that shows the employee took the leave to deal with family and domestic violence. If the employee doesn't provide the requested evidence, they may not get family and domestic violence leave.
 - b. The evidence has to convince a reasonable person that the employee took the leave to deal with the impact of family and domestic violence.
 - c. Types of evidence can include:
 - documents issued by the police service
 - documents issued by a court
 - family violence support service documents, or
 - a statutory declaration.
- vi. Employers can ask employees to provide evidence for as little as one day or less off work.

F. Community service leave: [FWA - Community Service Leave Fact Sheet](#)

- i. Community service leave forms part of the National Employment Standards (NES). The NES applies to all employees covered by the national workplace relations system, regardless of any award, agreement or contract.
- ii. The NES entitles employees to be absent from work to engage in certain community service activities such as:

- a. a voluntary emergency management activity.
 - b. jury duty, including attendance for jury selection.
- iii. An employee engages in a voluntary emergency management activity only if they:
- a. engage in an activity that involves dealing with an emergency or natural disaster
 - b. engage in the activity on a voluntary basis
 - c. were either requested to engage in an activity, or it would be reasonable to expect that such a request would have been made if circumstances had permitted
 - d. are a member of, or have a member-like association with, a recognised emergency management body.
- iv. A recognised emergency management body is:
- a. a body that has a role or function under a plan that is for coping with emergencies and/or disasters (prepared by the Commonwealth, a state or a territory)
 - b. a fire-fighting, civil defence or rescue body
 - c. any other body which substantially involves responding to an emergency or natural disaster.
- v. This would include bodies such as the State Emergency Service (SES), Country Fire Authority (CFA) or the RSPCA (in respect of animal rescue).
- vi. There is no set limit on the amount of leave an employee is entitled to. They can be absent from their employment:
- a. for the time that they are engaged in the activity, including reasonable travelling time associated with the activity, and reasonable rest time immediately following the activity
 - b. if the absence is reasonable in all the circumstances (jury duty is taken to always be reasonable).
- vii. For an employee to be covered by the community service leave provisions, they must give their employer:
- a. notice of the absence as soon as practicable
 - b. the period or expected period of absence
 - c. evidence that they are entitled to the leave, if requested by the employer.

- viii. Community service leave under the NES is unpaid, except for jury duty. Employees (except casuals) are entitled to make-up pay for the first 10 days they are absent for jury duty.
 - a. Make-up pay is the difference between jury duty pay (excluding expense-related allowances) and the employee's base pay rate for the ordinary hours they would have worked.
- ix. If requested by the employer, an employee must show:
 - a. they have taken all necessary steps to obtain jury duty pay
 - b. the total amount of jury duty pay that has been paid or will be payable to the employee for the period.
- x. If the employee is unable to provide this evidence, they won't be entitled to make-up pay.
- xi. However, if state and territory laws provide more beneficial entitlements than the NES, these will apply instead. For example, if a state or territory law provides casual employees with pay for jury duty, this would apply instead of the NES.

G Parental leave & related entitlements - [FWA - Parental Leave Fact Sheet](#)

- i. Parental leave is part of the National Employment Standards (NES). The NES applies to all employees in the national workplace relations system, regardless of any award, agreement or contract.
- ii. The NES entitlement to unpaid parental leave and related entitlements apply to all employees in Australia. The parental leave provisions include:
 - a. birth-related leave and adoption-related leave (including in relation to premature birth, stillbirth or infant death)
 - b. unpaid special maternity leave.
 - c. a right to transfer to a safe job in appropriate cases, or to take 'no safe job leave'
 - d. consultation requirements.
 - e. a return-to-work guarantee.
 - f. unpaid pre-adoption leave.
- iii. All employees in Australia are eligible for unpaid parental leave if they have completed at least 12 months of continuous service with their employer. This includes casual employees if they:

- a. have been employed by the employer on a regular and systematic basis for a sequence of periods over at least 12 months.
 - b. would reasonably have expected to continue working for their employer on a regular and systematic basis, had it not been for the birth (or expected birth) or adoption (or expected adoption) of a child.
- iv. Unpaid parental leave applies to employees who have, or will have, responsibility for the care of a child.
- v. Parents who experience a stillbirth or the death of an infant during the first 24 months of life can also take unpaid parental leave.
- vi. Parents are entitled to unpaid parental leave if:
 - a. the employee, the employee's spouse, or the employee's de facto partner gives birth or
 - b. the employee adopts a child under 16.
- vii. An employee's 'de facto partner' is someone who lives with the employee in a relationship as a couple on a genuine domestic basis. The employee's partner can be the same sex or different sex to the employee, and either a current or former de facto partner of the employee.
 - a. Each eligible member of an employee couple can take a separate period of up to 12 months of unpaid parental leave. The combined leave can't be for more than 24 months.
 - b. If only 1 person is taking leave, they can take up to 24 months if their employer agrees.
 - c. An 'employee couple' is where 2 employees are in a spousal or de facto relationship and want to take leave. They don't have to be working for the same employer.
- viii. There are different rules for taking unpaid parental leave, depending on:
 - a. if 1 employee takes leave, or
 - b. if both members of an employee couple take leave.
- ix. The following rules apply where 1 employee (or only 1 member of an employee couple) takes leave:
 - a. The leave can be taken as a single continuous period, or as a single continuous period and a flexible period of up to 30 days (6 weeks).
 - b. For a pregnant employee, leave can start up to 6 weeks before the expected date of birth, or earlier if agreed. If the employee is not giving birth (for

example the leave is adoption related or the employee who isn't pregnant is the parent taking leave), leave starts on the date of birth or placement of the child.

- c. The leave can start at any time within 12 months after the birth or placement of the child if:
 - d. the employee has a spouse or de facto partner who is not an employee and
 - e. the spouse or de facto partner has responsibility for the care of the child.
 - f. Employees can take paid leave such as annual leave at the same time as unpaid parental leave.
- x. The following rules apply to an employee couple if both employees take unpaid parental leave.
 - a. The employees are entitled to a total of up to 24 months of leave between them, which generally must be taken separately in a single continuous period.
 - b. If the employee who takes leave first is pregnant or gives birth, they can start their leave up to 6 weeks before the expected date of birth or earlier if agreed with the employer.
 - c. If the employee who takes leave first is not pregnant, their leave must start on the date of birth or placement.
 - d. Both employees of an employee couple can take leave at the same time (called 'concurrent leave') for a maximum period of 8 weeks. This leave must be taken within 12 months of the birth or adoption of a child. The concurrent leave can be taken in separate periods. Each period must be at least 2 weeks unless the employer agrees to a shorter period.
 - e. Concurrent leave counts as part of an employee's overall unpaid parental leave and is deducted from their overall entitlement of 12 months of leave.
 - f. Employees can take paid leave such as annual leave at the same time as unpaid parental leave.
- xi. Employees can take up to 30 days (6 weeks) of their unpaid parental leave flexibly at any time within 24 months of a child's birth or adoption. Flexible unpaid parental leave can be taken as:
 - a. a single continuous period of 1 day or longer
 - b. separate periods of 1 day or longer each.

- xii. An employee can take flexible unpaid parental leave on the same day their partner is on continuous unpaid parental leave. The 2 employees can only take a total of up to 8 weeks of unpaid parental leave at the same time.
- xiii. An employee's entitlement to unpaid parental leave, except for flexible unpaid parental leave, will end on the first day that the employee takes flexible unpaid parental leave. Once an employee takes flexible unpaid parental leave, they can't later take a period of continuous unpaid parental leave. This means that if an employee is planning on taking a period of continuous unpaid parental leave they should do so before they take any flexible unpaid parental leave.
- xiv. An employee taking 12 months parental leave can request an extension of a further 12 months leave (up to 24 months in total), unless they are a member of an employee couple and their partner has already taken 12 months of leave.
- xv. The request must be in writing and given to the employer at least 4 weeks before the end of the employee's initial period of parental leave. The employer must respond in writing within 21 days, stating whether they grant or refuse the request. They can only refuse if:
- a. they have given the employee a reasonable opportunity to discuss their request
 - b. there are reasonable business grounds to do so.
- xvi. The NES doesn't define 'reasonable business grounds' for refusing a request. Factors may include:
- a. the effect on the workplace (for example the impact on finances, efficiency, productivity, customer service)
 - b. the inability to manage the workload among existing staff
 - c. the inability to recruit a replacement employee.
- xvii. If a pregnant employee wants to work during the 6 weeks before birth their employer can ask them to provide a medical certificate within 7 days that states:
- a. the employee is fit for work
 - b. if the employee is fit for work, whether it is inadvisable for the employee to continue in her present position because of:
 - illness or risks arising out of the employee's pregnancy, or
 - hazards connected with the position.
- xviii. The employer can require the employee to take a period of unpaid parental leave as soon as possible if the employee:

- a. fails to provide the requested medical certificate within 7 days of the request,
or
 - b. provides a certificate within 7 days that states they are not fit for work at all.
- xix. The employee's unpaid parental leave will then start when she is directed to take unpaid parental leave and will count as part of the employee's total unpaid parental leave entitlement. The rules about when the leave must start and notice requirements don't apply.
- xx. An employee is not entitled to take unpaid parental leave unless they:
- a. inform their employer of their intention to take unpaid parental leave by giving at least 10 weeks written notice (unless it is not possible to do so)
 - b. specify the intended start and end dates of the leave
 - c. at least 4 weeks before the intended start date:
 - confirm the intended start and end dates, or
 - advise the employer of any changes to the intended start and end dates (unless it is not possible to do so).
- xxi. Where concurrent leave is to be taken in separate periods, these notice requirements apply to the first period of that leave. For second and subsequent periods, the employee must provide the employer with at least 4 weeks' notice.
- xxii. An employer may require evidence that would satisfy a reasonable person of the actual or expected date of birth of a child (for example a medical certificate), or the day or expected day of placement of a child under 16.
- xxiii. If an employee wants to take flexible unpaid parental leave (up to 30 days), they need to tell their employer:
- a. at the same time they give notice of their continuous parental leave, or
 - b. at least 10 weeks before the start of their flexible parental leave.
- xxiv. An employee needs to tell their employer the total number of days of flexible parental leave they intend to take. An employee can't take more than 30 days of flexible leave.

H. Parental leave for stillbirth, premature birth or infant death:

- i. In the case of a stillbirth or an infant death during the first 24 months of life, an eligible employee is still entitled to take unpaid parental leave. They can take up to 12 months unpaid parental leave.
- ii. An employer can't make an employee come back to work, or cancel any upcoming planned leave, after a stillbirth or an infant death. The employee can also take unpaid parental leave even if they haven't previously given notice to their employer (as long as they notify their employer as soon as practicable).
- iii. An employee can also choose to return to work if they want to. They can reduce or cancel their planned parental leave if their pregnancy ends due to stillbirth or infant death.
- iv. If the unpaid parental leave hasn't started, the employee can cancel the leave with written notice.
- v. If the leave has started, the employee can give at least 4 weeks written notice cancelling the leave and providing a return-to-work date. This date must be at least 4 weeks after the employer receives the notice.
- vi. Parents who experience a stillbirth or an infant death may take compassionate leave while on parental leave. Another employee may also be entitled to take compassionate leave where the child was, or would have been, their immediate family or household member.

I. Premature birth and birth-related complications:

- i. Parents can agree with their employers to put their unpaid parental leave on hold if the child has to remain in hospital after birth or is hospitalised immediately after birth. This includes if the child was premature or developed a complication or contracted an illness during birth or following birth.
- ii. This means that while their baby is hospitalised, a parent can return to work and the period where they are back at work will not be deducted from their unpaid parental leave. The parent can then resume their unpaid parental leave at the earliest of:
 - a. a time agreed with their employer.
 - b. the end of the day when the child is discharged from the hospital or
 - c. if the child dies, the end of the day when the child dies.
- iii. The period the employee works doesn't break their period of continuous unpaid parental leave.

- iv. Employers can request evidence that would satisfy a reasonable person that the child is in hospital and the employee is fit for work, such as a medical certificate.

J. Unpaid special maternity leave:

- i. An eligible pregnant employee is entitled to take unpaid special maternity leave if the employee is not fit for work because:
 - a. of a pregnancy-related illness, or
 - b. if
 - she has been pregnant
 - her pregnancy ends after at least 12 weeks because of miscarriage or termination
 - the infant isn't stillborn.
- ii. While the employee won't be entitled to take special maternity leave if the infant is stillborn, the employee may still be entitled to take unpaid parental leave.
- iii. An employee must give their employer notice they are taking unpaid special maternity leave as soon as possible (which may be after the leave has started). They need to tell them the expected period of leave.
- iv. An employer can ask for evidence that would satisfy a reasonable person (for example a medical certificate).
- v. The entitlement to unpaid parental leave isn't reduced by the amount of any unpaid special maternity leave taken by the employee while they are pregnant.

K. Transfer to a safe job or 'no safe job leave':

- i. A pregnant employee is entitled to be transferred to an 'appropriate safe job'. An appropriate safe job is a job that has:
 - a. the same ordinary hours of work as the employee's present position, or
 - b. a different number of ordinary hours that the employee agrees to.
- ii. This entitlement applies if the employee has provided evidence (for example a medical certificate) that would satisfy a reasonable person that:
 - a. they are fit for work, but
 - b. it is inadvisable for them to continue in their present position during a period because of:
 - illness or risks arising out of the pregnancy, or
 - hazards connected with that position.

- iii. If there is an appropriate safe job available, the employee must be transferred to that job for the risk period (until it's safe to go back to her normal job or until she gives birth), with no other change to the employee's terms and conditions of employment. The employer must pay the employee at their full rate of pay for the position they were in before the transfer and for the hours they work during the risk period.
- iv. If there is no appropriate safe job available and the employee is entitled to unpaid parental leave, they are entitled to paid 'no safe job leave' for the risk period. They need to be paid at their base pay rate for ordinary hours of work during the risk period.
- v. If there is no appropriate safe job available and the employee isn't entitled to unpaid parental leave, they are entitled to unpaid 'no safe job leave' for the risk period.
- vi. If an employee is on paid 'no safe job leave' during the 6-week period before the expected date of birth, the employer can ask the employee for a medical certificate stating whether they are fit for work.
- vii. If the employee doesn't give the employer a medical certificate within 7 days after the request, or they provide a certificate stating they are not fit for work, the employer can require them to take unpaid parental leave as soon as practical (if they are eligible).
- viii. The 'no safe job leave' ends when the period of unpaid parental leave starts.

L. Consultation:

- i. Employees on unpaid parental leave are entitled to be kept informed of any decisions their employer makes that will have a significant effect on the status, pay or location of their pre-parental leave position. The employer must take all reasonable steps to give the employee information about (and an opportunity to discuss) the effect of any such decisions on the employee's position.
- ii. The employee's pre-parental leave position is the position they held before starting the unpaid parental leave, or the position they held before they were transferred to a safe job or reduced their hours due to the pregnancy.

M. An employee is entitled to return to:

- i. their pre-parental leave position, or
- ii. an available position for which they are qualified and suited, which is nearest in status and pay to their pre-parental leave position, if their pre-parental leave position doesn't exist anymore.

- iii. Before hiring an employee to perform the work of the employee on leave, the employer needs to notify any replacement employee:
 - c. their engagement is temporary
 - d. the employee on leave has a right to return to work when their unpaid parental leave ends (including if the period is extended, or if it is reduced in the case of a stillbirth or infant death or if they are no longer responsible for the care of the child).

N. Keeping in touch days:

- i. A keeping in touch day is when an employee performs work for the employer on a day or part of a day while on a period of approved parental leave.
- ii. An employee on unpaid parental leave gets 10 keeping in touch days. If the employee extends their period of unpaid parental leave beyond 12 months, they can take an additional 10 days.
- iii. Keeping in touch days can be worked:
 - a. as a part day
 - b. 1 day at a time
 - c. a few days at a time, or
 - d. all at once.
- iv. Keeping in touch days can occur at least 42 days after the date of birth or adoption of the child or earlier if the employee requests it. If a request is made, a keeping in touch day can't be worked earlier than 14 days after the date of birth or placement of the child.
- v. The employer and employee have to agree to the keeping in touch days. An employee doesn't have to use keeping in touch days if they don't want to.
- vi. An employee gets their normal pay and accumulates leave entitlements for each keeping in touch day (or part day).

O. Unpaid pre-adoption leave:

- i. All employees (regardless of how long they've worked for the employer) are entitled to up to 2 days of unpaid pre-adoption leave to attend any interviews or examinations required to adopt.
- ii. This leave can be taken as:
 - a. a single continuous period of up to 2 days, or
 - b. any separate periods to which the employee and employer agree.

- iii. If an employee has other leave available, such as annual leave, the employer may direct them to use this leave before taking unpaid pre-adoption leave.
- iv. An employee must give their employer notice they are taking unpaid pre-adoption leave as soon as possible (which may be after the leave has started). They need to tell them the expected duration of the leave and, if required, provide evidence that would satisfy a reasonable person.

P. Some employees are also entitled to paid parental leave:

- i. The Australian Government Paid Parental Leave scheme provides government-funded Parental Leave Pay, and Dad and Partner Pay at the National Minimum Wage to employees who meet the eligibility criteria. For more information about government-funded paid parental leave, you can visit the Services Australia website [☞](#) or call them on 13 61 50.

Q. Confidentiality:

- i. Employers have to take reasonably practicable steps to keep any information about an employee's situation confidential, when they receive it as part of an application for leave. This includes information about the employee giving notice that they're taking the leave and any evidence they provide. Employers are not prevented from disclosing information if:
 - a. it's required by law, or
 - b. it's necessary to protect the life, health or safety of the employee or another person.
- ii. Employers need to be aware that any information about an employee's experience of family and domestic violence is sensitive. If information is mishandled, it could have adverse consequences for their employee. Employers should work with their employee to discuss and agree on how this information will be handled.

12 RESOURCES:

- i. To enable a Minister of Religion to perform their duties as expected, the Church will need to provide the person with the following resources and; allowances where appropriate:
 - a. Computer.
 - b. Software.
 - c. Internet.
 - d. Telephone - landline, mobile or both.

- e. Office.
 - f. Office expenses.
 - g. Professional development.
 - h. Vehicle or vehicle allowance.
 - i. Hospitality allowance.
 - j. Resource Materials.
 - k. Debit Card.
- ii. The following establishes parameters for the Church to provide the resources or appropriate reimbursement of expenses where they are provided and or paid for by a Minister of Religion.
 - iii. It is recommended that claims of the following nature where provided as an allowance or reimbursed be expedited on a monthly basis.

12.1 Computer:

- i. The Minister of Religion is to be equipped with a suitable computer with the capability of performing the tasks expected, at an agreed price.
 - a. Where provided by the Church, it is recommended it be replaced every three years.
 - b. Where provided by the Minister of Religion, it is recommended that the purchase be reimbursed outright or paid as an allowance according to the following formula:

Purchase Price/36 months = per month.

12.2 Software:

- i. The computer is to be equipped with appropriate software for the Minister of Religion to perform the tasks expected.
 - a. The computer is to be loaded with a comprehensive anti-virus software suite or monitored by a third-party software security provider.
 - b. Where the computer is provided by the Church, the Church is to purchase and install the software and register it under the Church.
 - c. Where the computer is provided by the Minister of Religion, with the exclusion of the operating system and standard office operating systems, the Church is to purchase any additional software required to perform the tasks expected or reimburse the Minister of Religion's authorised purchase. The software is to be

registered to the Church and remain the property of the Church, so it can be transferred to another computer.

12.3 Internet:

- i. The Minister of Religion is to be provided with access to the internet.
 - a. Where a Minister of Religion is able to operate from the Church, then a Minister of Religion is to be provided access to the Church's internet service.
 - b. Where internet access is via the Minister of Religion's home or nominated office venue, both parties are to agree on a suitable service plan, which is to be funded as agreed between the parties.

12.4 Telephone – Fixed Line:

- i. A Minister of Religion is to have access to the Church's landline telephone [where available] in the Church's office.

12.5 Telephone – Mobile:

- i. The Church and Minister of Religion are to agree on a suitable mobile service plan which the Church is to reimburse as agreed between the parties, subject to the terms of employment.

12.6 Office:

- i. The Minister of Religion is preferably to be provided with an appropriate space where they can operate from that also enables a Minister of Religion to engage in conversations of a confidential nature that cannot be heard by other people.
- ii. Where the Church is not able to provide a Minister of Religion with an office, it is to arrange for a Minister of Religion to access space to use as an office in the local area or within their residence.
 - a. Prior to approving an alternate space to function as an office for a Minister of Religion, the Church is to inspect the space is to ensure:
 - It complies with all building regulations.
 - Is WHS compliant.
 - b. The alternate space is to be included in the Church's manifest of properties to be routinely inspected under building and WHS monitoring.

12.7 Office Expenses:

- i. Churches shall provide a Minister of Religion with all the necessary stationery and equipment to complete the duties expected of them.

- ii. Where additional stationery or equipment is required, subject to appropriate approval, the Church is either to purchase this or reimburse the Minister of Religion's for such purchases.
- iii. It is recommended where the Minister of Religion is expected to purchase stationery or equipment on behalf of the Church, that these purchases be either limited to the annual budget or where above by agreement.

12.8 Professional Development Expenses:

- i. The Church has a duty of care to up-skill a Minister of Religion capacity to perform their duties to better serve the Kingdom of God.
- ii. Where suitable training is identified and the parties agree, the Church shall fund a Minister of Religion to attend the training, which will form part of their ordinary hours.
- iii. Where the training is only conducted during the Minister of Religion's free time, a Minister of Religion is to be compensated with time in lieu.

12.9 Motor Vehicle:

Vehicles provided by either Party are to be registered, comprehensively insured, road worthy and maintained in accordance with the vehicle manufactures requirements.

- i. The Church can either:
 - a. Provide a suitable motor vehicle for a Minister of Religion's use.
 - b. Under this option the Church will be responsible for all vehicle costs.
- ii. Provide a Minister of Religion with a car allowance.
 - a. This can be provided as an exempt benefit.
 - b. Under this arrangement a Minister of Religion will need to keep a record of all expenditure incurred.
 - c. GST incurred in such expenditure is claimable along with exempt benefit payments.
- iii. Reimburse a Minister of Religion for kilometres travelled as part of their expected ministry duties.
 - a. For the current ATO rates visit [ATO Motor Vehicle Expenditure/Claims](#)
 - b. The allowance covers journeys made to and from the destination less the kilometre normally travelled to work and back ie

| | |
|------------------------------------|-----------------------|
| KMS to work [same for return trip] | 4kms [8 kms in total] |
|------------------------------------|-----------------------|

| | |
|--|-------|
| Trip to destination and return to home | 11kms |
| Claimable | 3kms |

12.10 Pastoral Care:

- i. Pastoral Care expenses can vary considerable depending upon what is expected of a Minister of Religion. It is highly recommended that the Leadership of the Church determine what level and type of Pastoral Care is expected of a Minister of Religion in the performance of duties and what it is willing to reimburse.
 - a. Where agreed, it is recommended an annual budget be established to cover such expenditure, that the Church monitors on a monthly basis.
 - b. Where a Pastoral Care budget is agreed, a Minister of Religion is to retain all receipts as evidence of the expense, which are to be submitted to the Church for reimbursement.
 - c. If a need arises where the Ministry of Religion has to exceed the budget or incur a substantial cost to visit a person in need of Pastoral Care, the Minister of Religion is to seek the permission of the Treasurer first.

12.11 Resource Materials:

- i. The Church is to provide a Minister of Religion with a suite of resource materials to support their role.
- ii. Where a Minister of Religion requires resource materials in addition to those provided, the Church is to determine if they are of value to the Church, which in such instances the Church is to pay for them and where not the Minister of Religion.
- iii. Resource materials provided by the Church remain the property of the Church.

12.12 Debit Card:

- i. The Church may elect to provide a Minister of Religion with a debit card [not Credit-Card] to purchase budgeted or agreed items in the course of their duties.
- ii. Where such cards are provided, the Church is to maintain sufficient funds in the account to cover such purchases.

13 WELFARE HEALTH & SAFETY:

13.1 Welfare Health & Safety:

- i. Work Place Health and Safety is either regulated by the Australian Federal Government under the Harmonised WHS laws or in the case of WA and Victoria, by their respective state governments.

[AUST - WHS](#)

[VIC - WHS](#)

[WA -WHS](#)

- ii. Workplace Health and Safety [WHS] is a system of laws, regulations and compliance codes which set out the responsibilities of Employers and Employees to ensure the safety of employees is maintained in the work environment.
- iii. WHS is a serious matter and breaches of WHS can incur significant fines for the Employer and Employee. Not having a WHS Policy can be considered negligent and can result in fines or prosecution.
- iv. As Christian we have a duty of care to one another and consequently we should be at the forefront of protecting those that work in the service of the Kingdom.
- v. WHS regulations are comprehensive and rather than deal with their provisions here it is recommended each church acquire a copy of CCCVaT's WHS policy and subscribe to MONIT to maintain compliance.

13.2 Sexual Harassment:

- i. Workplace sexual harassment can cause both psychological and physical harm, making it a risk to health and safety.
- ii. Under the model WHS laws, a person conducting a business or undertaking (PCBU) must manage the health and safety risks of workplace sexual harassment between workers and from other people at the workplace, like customers and clients.

[SWA - Sexual Harassment](#)

13.3 Mental Health:

- i. Employee's mental health is becoming a major issue in the workplace which can be as debilitating as a physical injury.
- ii. Mental Health is a complex matter and this guideline does not purport to provide solutions. It can only refer to the many verses in the Bible that provide guidance on this matter and others.
- iii. It is important that the Church be aware of how intercourse between a Minister of Religion, Leaders and assembly can impact on a person mental health and strive to be affirmative in their relations with each other.
- iv. Mental anguish can stem from many causes, so the Church needs to be conscience that it is supportive of its Minister of Religion and provide Leadership and feedback.

- v. The Mentally Healthy Workplace Alliance (the Alliance) is a national approach by business, community and government to encourage Australian workplaces to become mentally healthy for the benefit of the whole community and businesses, big and small. For further details visit.

<http://www.mentalhealthcommission.gov.au/our-work/mentally-healthy-workplace-alliance.aspx>

- vi. To assist Churches CCCVaT offers and funds support services conducted by trained and experienced psychologists, counsellors or mentors.

13.4 Equal Opportunity, Anti-Discrimination, Anti-Harassment and Bullying:

- i. The New Testament includes numerous provisions for the care of others and all Christians have a duty of care to behave towards one another in a manner that exemplifies their faith and demonstrates their love for one another.
- ii. Effective employers want to run an organisation where everyone is treated fairly, differences are accepted, and people are treated with tolerance and respect.
- iii. In addition to Federal Government legislation like the Fair Work Act 2009, there are several National and State based anti-discrimination laws that must be followed.
- iv. The Victorian Equal Opportunity Act (2010) is an example of this type of legislation. It covers discrimination in employment, sexual harassment and victimisation at work. Importantly, this type of legislation not only covers current employees but extends to job applicants and contractors.
- v. The Equal Opportunity Act 2010 (Vic) prohibits unlawful discrimination in the form of direct and indirect discrimination. Discrimination is also unlawful under federal legislation, including the Age Discrimination Act 2004 (Cth), Sex Discrimination Act 1984 (Cth); Racial Discrimination Act 1975 (Cth); Disability Discrimination Act 1992 (Cth); Human Rights and Equal Opportunity Commission Act 1986 (Cth); and the Fair Work Act 2009 (Cth) which may change from time to time.
- vi. CCCVaT has a comprehensive manual on Equal Opportunity, Anti-Discrimination, Anti-Harassment and Bullying which can be obtained via the website or contacting the office@cccvat.com.au

13.5 Conflict Resolution:

- i. Conflict between individuals or parties should be dealt with in accordance with the Church's or CCCVaT's policy on Conflict Resolution.

13.6 Social Media:

- i. The Church should have guidelines to define the church's protocols and use of social media to ensure consistency and conformity of the message whether

written, via audio or visual and, to mitigate damage to the Christian faith and organisation's reputation and its potential to harm others.

- ii. CCCVaT has a guideline and policy available at [Social-Media-Policy](#)

14 REGULATORY MATTERS – OTHER:

There is a myriad of laws, regulations and compliances that apply to employment. Most of the pertinent are listed in these guidelines but following are some, but not all, of the others you should be aware of:

14.1 Whistle Blowers:

- i. The whistle-blower protection provisions in the Corporations Act apply to a 'regulated entity'. A regulated entity is defined to include all companies registered under the Corporations Act and other types of incorporated entities, including a corporation to which the Commonwealth Constitution applies.
- ii. Charities and NFPs that operate as Companies Limited by Guarantee are now required to implement Whistleblower policies by 1 Jan 2020, and the consequences of not doing so are serious. Many thousands of ministries and churches are affected by this, and may not be aware of this significant new requirement.
- iii. Not-for-profit organisations that are incorporated under state or territory legislation, such as incorporated associations or cooperatives, can meet the definition of a trading or financial corporation, despite being formed for a not-for-profit, charitable, or community benefit purpose.
- iv. It is not always clear whether a not-for-profit organisation or charity falls within the definition of a trading or financial corporation, where it engages in trading or financial activities as part of its not-for-profit or charitable activities. Some of these organisations may fall within the definition, and some may not.
- v. CCCVAT has developed a WBP available at - [Whistler-Blower-Policy](#)

14.2 Wage Theft:

- i. On 1 July 2021, it became a crime for an employer in Victoria to:
 - a. deliberately and dishonestly underpay employees
 - b. deliberately and dishonestly withhold wages, superannuation or other employee entitlements
 - c. falsify employee entitlement records to gain a financial advantage.
 - d. avoid keeping employee entitlement records to gain a financial advantage.

- ii. These crimes are punishable by a fine of up to \$218,088 or up to 10 years' jail for individuals and a fine of up to \$1,090,440 for companies.
- iii. Wage theft offences involve deliberate and dishonest conduct. Honest mistakes made by employers who exercise due diligence in paying wages and entitlements are not considered wage theft.

[VIC GOV - WAGE THEFT](#)

14.3 Change and Suppression Practices Act:

Change-or-Suppression-Practices-Act

- i. Practices seeking to change or suppress a person's sexual orientation or gender identity (conversion practices) have been banned in Victoria following the passing of the Change or Suppression (Conversion) Practices Prohibition Bill which came into force on the 16.02.2022.
- ii. What does 'practice' mean?
Defined broadly.
 - a. Psychiatry or psychotherapy including consultations, treatment or therapy, or any other similar consultation, treatment or therapy.
 - b. Religious practice including, but not limited to, a prayer-based practice, a deliverance practice or an exorcism.
 - c. Referral of a person for the purposes of a change or suppression practice being directed towards the person.
 - d. In person or online practices.
- iii. Penalties:
 - a. Engaging in one or more change or suppression practices that cause serious injury: Penalty: 10 years imprisonment and/or \$218,088 for an individual and \$1,090,440 for a body corporate
 - b. Engaging in one or more change or suppression practices that cause injury. Penalty: 5 years imprisonment and/or \$109,044 for an individual or \$545,220 for a body corporate
 - c. Taking a person from Victoria for a change or suppression practice. Penalty: 2 years imprisonment and/or \$43,617 for an individual and \$218,000 for a body corporate
 - d. Advertising a change or suppression practice. Penalty: \$10,904 for an individual and \$54,522 for a body corporate.

- iv. Organisational vicarious liability
 - a. If a person engages in a change or suppression practice in the course of employment (including as a Volunteer) or while acting as an agent:
 - Both **that person and their “employer”** or principal are taken to have engaged in the change or suppression practice
 - The person and/or the “employer” or principal **may be reported** to the Victorian Equal Opportunity and Human Rights Commission.
 - v. Defence to vicarious liability: If an employer or principal can prove, on the balance of probabilities, that they took reasonable precautions to prevent the person under their employment from engaging in the change or suppression practice, then they will not be held vicariously liable for that person’s conduct.

14.4 Sick Pay Guarantee [2 Year Trial Period]:

- i. The Victorian Sick Pay Guarantee provides casual and contract workers with a guarantee they will receive sick pay when they need to take time off when they are sick or need to care for loved ones. Because no worker should have to choose between a day’s pay and their health – and the health of a loved one.
- ii. Victoria is the first state to provide 5 days a year of sick and carer's pay at the national minimum wage for casual and contract workers in certain occupations.
- iii. The Victorian Sick Pay Guarantee will operate for 2 years, starting in 2022 and is fully funded by the Victorian Government.
- iv. The listed occupations are highly insecure and workers in these industries do not usually have access to sick and carer's pay. More than 150,000 workers are expected to be eligible in this first phase of the Victorian Sick Pay Guarantee.
- v. Public Consultation Summary Report
 - a. This report is a summary of the discussions and submissions received during July and August 2021 from business, industry and community. This feedback helped shape what has now become the Victorian Sick Pay Guarantee.
- vi. For additional information and consultation report visit [Vic-Gov Sick-Pay-Guarantee](#)