

**REGISTER OF  
ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA03/104

**TITLE:** Illawarra Legal Centre Inc. Enterprise Agreement

**I.R.C. NO:** IRC3/1320

**DATE APPROVED/COMMENCEMENT:** 26 March 2003

**TERM:** 26 March 2006

**NEW AGREEMENT OR  
VARIATION:** New

**GAZETTAL REFERENCE:** 6 June 2003

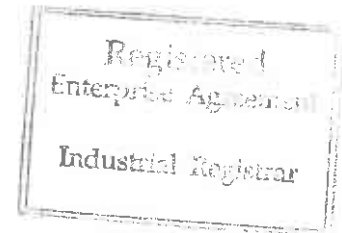
**DATE TERMINATED:**

**NUMBER OF PAGES:** 29

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** Applies to employees of the Illawarra Legal Centre Inc. who fall within the coverage of the Social and Community Services Employees (State) Award

**PARTIES:** Illawarra Legal Centre -&- the Australian Services Union of N.S.W.



**FILED**

11 MAR 2003

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**PART I - OPERATION OF THE AGREEMENT**

**1 Coverage and Title of Agreement**

This Agreement is to be known as the Illawarra Legal Centre Enterprise Agreement.

This agreement governs the terms and conditions of employment of all employees of Illawarra Legal Centre. This agreement shall be read in conjunction with the Social and Community Services Employees (State) Award, provided that where there is any inconsistency between the Award and this Agreement, this Agreement shall prevail to the extent of inconsistency, except as stated in the following paragraph.

***All increases to the Award during the life of this Agreement will flow onto the rates included in this Agreement. Otherwise this Agreement applies.***

The employer is committed during the life of this Agreement and in its renegotiation to negotiate collectively with the Union in respect of all its employees who are

eligible to be members of the Union. Therefore the employer agrees that individual employee arrangements will not be promoted or offered to any employee while this Enterprise Agreement remains in force.

## **2 Parties bound**

This Agreement will apply to:

- (a) Illawarra Legal Centre Inc. and its Committee of Management
- (b) All employees
- (c) The Australian Services Union of NSW (to be referred to in this Agreement as the "Australian Services Union" or "the Union").

## **3 Life of Agreement**

This Agreement will operate on and from the date of approval by the Commission and continue in force for a period of 3 years.

## **4 Access to this Agreement**

A copy of this Agreement will be provided to all existing and new workers and a copy will be kept in a place accessible to all workers.

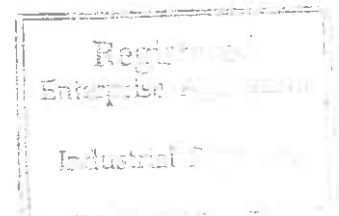
## **5 Purpose, interpretation and definitions**

- (a) This agreement applies to a Community Legal Centre which encourages co-operative work practices between workers and between workers and the Management Committee. Illawarra Legal Centre is committed to providing free, independent legal assistance to the public, and works towards reform of the law and the legal system.
- (b) The purpose of this Agreement is to set out the conditions under which workers are employed. Within the spirit of co-operative work practices, the aim of these employment conditions is to facilitate and support workers in carrying out the functions of the Centre.
- (c) As a result, this Agreement should not be interpreted restrictively. It has been written in plain English. If the meaning of a clause or condition is unclear the interpretation to be used is the one which best gives effect to the spirit of the clause and to the Agreement.
- (d) In this enterprise agreement the following definitions apply:

"Agreement" means the Illawarra Legal Centre Enterprise Agreement.

"Centre" means Illawarra Legal Centre and its Management Committee;

"Executive" means the group comprised of the Chair, Secretary and Treasurer



"Management Committee" means the group comprised of Community Representatives and Staff, with delegated responsibilities from the Executive.  
"Worker" means an employee of Illawarra Legal Centre;  
"Union" means the Australian Services Union of NSW;  
"Award" means the Social and Community Services Employees (State) Award;  
"Commission" means the Industrial Relations Commission of NSW

## **PART II - ENGAGEMENT OF WORKERS**

### **6 Conditions of employment**

- (a) Prior to commencing employment the Centre will give each new worker a letter of appointment setting out:
  - (a) the worker's job description and position title;
  - (b) the worker's regular or set hours of work;
  - (c) the worker's pay rate under this Agreement;
  - (d) the worker's employment status (i.e. permanent, casual, fixed term or under a subsidised employment scheme);
- (b) the worker's entitlement to, and possible liability to reimburse, the payment of a practicing certificate or other professional fee and
- (c) any relevant probationary periods
- (d) attaching a copy of this Agreement.

### **7 Full-time employment**

- (a) A worker not specifically engaged on a part-time or casual basis is defined as a full time worker and entitled to full-time benefits

### **8 Part-time employment**

- (a) A part-time worker is a person employed
  - i) other than as a casual; and
  - ii) to work a specified number of days and hours that are less than the hours worked by a full-time worker in a fortnight.
- (b) The minimum hours of duty for a part-time worker on any one day is three hours.
- (c) A part time worker may, with the agreement of the Centre, temporarily change their days or hours in a day or total hours of work in a fortnight.
- (d) Unless specifically stated, a part time worker has full entitlements under this Agreement proportionate to their total hours compared to that of a full-time worker.
- (e) A full time worker may negotiate with the Centre to convert their position to part time, either permanently or for an agreed temporary period.
- (f) A worker who has converted from full time employment to part time employment for an agreed temporary period, either following parenting leave or otherwise, is

entitled to revert to full time hours before the end of the agreed period provided they have given the Centre a suitable period of notice.

The suitability of the period of notice will depend on all the circumstances of the case, including amongst other matters, whether another worker has been employed as a result of the part time work, the period of part time employment worked and remaining to be worked, the Centre's budget and the worker's reasons for reverting to full time employment.

## **9 Permanent Employment**

- (a) A permanent worker is a full-time or part-time worker engaged other than specifically on a casual or fixed term basis or under a subsidised employment scheme.

## **10 Casual employment**

- (a) A casual worker is specifically engaged as such, is employed on a daily basis for a minimum shift of three hours and for a total of no more than 755 hours at a time (the equivalent of thirteen weeks full time employment).
- (b) A casual worker will be informed in writing upon engagement that:
  - (i) they are hired by the hour;
  - (ii) subject to being paid a minimum shift of 3 hours, they will be paid for actual time worked;
  - (iii) they are not entitled to payment for public holidays not worked nor payment for paid leave of any type other than Long Service Leave.
- (c) A casual worker will be paid the appropriate hourly rate under this Agreement plus a loading of 15% plus one twelfth for ordinary working hours. This loading is inclusive of any statutory entitlement the worker has to annual holiday payments.
- (d) Where a casual worker is subsequently employed by the Centre on a permanent basis the worker's previous periods of employment in the last 6 months will be counted as service for all purposes except the calculation of leave under this Agreement, but the Long Service Leave Act will continue to apply.

## **11 Fixed term employment**

- (a) A fixed term worker is specifically engaged to work for no more than 52 weeks, either full-time or part-time:
  - (i) in a position which is temporary in nature for a specified period of time;
  - (ii) for the completion of a specified task[s] or project; or
  - (iii) to relieve in a vacant position arising from a worker taking leave in accordance with this Agreement.
- (b) Unless otherwise stated, fixed term workers are entitled to the full benefits of this Agreement on a proportionate basis.

- (c) When offering employment on a fixed term basis to a job applicant, the Centre will advise them in writing of the temporary nature of the employment and the duration of employment.
- (d) If within 3 months of ending fixed term employment with the Centre a worker is subsequently re-employed as a permanent worker, the fixed term employment will count as service under this Agreement for all purposes (except for specific leave entitlements if any periods of that leave were taken or paid out under the fixed term employment).
- (e) The employment of a fixed term worker may be extended once only, and only up to a total employment of 18 months.

## **12 Subsidised Employment Schemes**

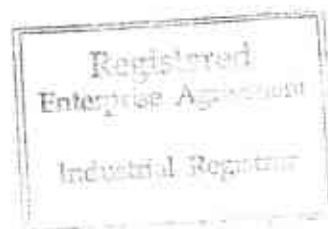
- (a) Workers employed by the Centre under a government-sponsored employment scheme will be employed in accordance with the requirements of the particular scheme.

## **13 Job Descriptions**

- (a) A worker's job description, as provided to them by the Centre under clause 6, will not be altered except by agreement between the Centre and the worker.
- (b) Individual job descriptions will be reviewed annually through the Staff Appraisal System.

## **14 Confidentiality**

- (a) The Centre will maintain the confidentiality of all matters relating to or affecting the employment of a worker, subject to any provision within this Agreement or under legislation which allows otherwise.



### **PART III - HOURS OF WORK**

#### **15 Hours of work**

- (a) For the purposes of this Agreement the ordinary full time working hours is 70 hours per fortnight based on a 35 hour week, Monday to Friday.
- (b) The standard hours for start and finish of work will be set out in a worker's letter of appointment, however generally all workers are expected to work an average of 7 hours per day between the hours of 8am and 6pm with one hour off for lunch without pay.
- (c) When a worker travels from home to a different work location, any time additional to the time a worker normally travels to reach work will be considered work time.
- (e) No worker will be required to work in excess of 4 hours without a meal break.
- (f) Meal breaks are unpaid, from 30 minutes up to 2 hours, generally between 12 noon and 2pm at times convenient to the needs of the worker and the Centre.
- (g) Workers may take morning and afternoon tea breaks of 15 minutes on paid time.

#### **16 Call back**

- (a) Where a worker is "called back" to work (for example, in an evening or on a weekend) having left the place of employment, they will be entitled to a minimum payment of 3 hours work, without necessarily having to work that full period.
- (b) Where the work performed on a call back falls on a day of time-in-lieu, the worker will be allowed to be absent on another day as time in lieu.
- (c) These hours will be treated as overtime and be added to the worker's time-in-lieu credits.

#### **17 Flexi time**

- (a) Workers work a standard 7 hour day, with core hours of work being 9.30am- 12 noon and 2pm- 4.30pm. If for any reason a worker is unable to be present at work by 9.30 am then the worker shall telephone prior to 9.30am and advise when they will be arriving at work
- (b) It is acknowledged that in the normal course of work, and as part of their normal duties, workers will sometimes work more or less than a 7 hour day, and the number of hours over or under the 7 hours are recorded as flexi time credits or debits on the workers time sheet
- (c) The number of hours of flexi time credits accrued by a worker shall not at any one time exceed the number of hours that the worker is contracted to work each week.



- (d) If circumstances beyond the worker's control occur and flexi time credits do exceed the limit set in 17 (c), this will be negotiated with the Coordinator, and if not resolved, taken to the Management Committee.
- (e) A worker is expected to reduce their accumulated flexi time credits to zero by the end of their employment, and to assist in this the Centre may, in some cases, direct a worker to be absent on flexi time. However, any debit at the end of employment will be deducted from salary.

Where exceptional or unforeseen circumstances have not made it possible for a worker to reduce their flexi time credits to zero the credits will be paid out upon ending employment.

- (f) A listing of each worker's flexitime credits and debits shall be provided each month to the Management Committee
- (g) A worker shall not be more than 7 hours in debit. A worker will not be paid for more than 7 hours debit.

#### **18. Overtime**

- (a) Overtime is an unusual occurrence and is worked when the worker is required to perform duties outside of their normal duties as set out in their job descriptions, with the prior approval of the Coordinator
- (b) For overtime worked on Monday to Friday inclusive a worker shall be entitled to time off in lieu of payment for overtime on the basis of one and one half hours off for each hour worked
- (c) For overtime worked on Saturday, Sunday or a day which is not the worker's ordinary working day, the worker shall be entitled to two hours time off in lieu of payment for every hour worked
- (d) For overtime worked on a public holiday a worker shall be entitled to two and a half hours time off in lieu of payment for every hour worked
- (e) Where a worker is recalled to work overtime after leaving the Centre, whether notified before or after leaving the premises, the time taken in travelling to and from work for the purpose of such recall shall be included in the calculation of overtime entitlements under this clause
- (f) Overtime worked is to be recorded separately from normal hours and flexi time credits. The overall amount taken in compensation for overtime shall not exceed four weeks per year in any year of employment. Time in lieu of payment for overtime must be taken in the year of accrual and shall not accumulate from year to year
- (g) No more than two days or 14 hours time in lieu of payment for overtime shall be accrued before either the time accrued is taken or by special arrangement additional hours are paid

- (h) Overtime worked on weekends and public holidays should be approved by the Management Committee before it is worked.

**PART IV - CLASSIFICATIONS, TRAINING, WAGES AND SUPERANNUATION**

**19 Rates of pay**

- (a) The underpinning Award to this Agreement is the Social and Community Services (State) Award. At no time will wage rates fall below those applicable in the Award.

(b) Wage rates are as follows:

<b>Position</b>	<b>Grading</b>	<b>Wage Rate Per Annum *(based on 35 hr week)</b>
Administrative Officer	<b>Grade 2</b>	
	Year 1	28 387
	Year 2	29 779
	Year 3	31 172
Receptionist/ Admin Officer	<b>Grade 3</b>	
	Year 1	33 957
	Year 2	35 350
	Year 3	36 742
Project Workers/ Caseworkers/ Solicitors	<b>Grade 4</b>	
	Year 1	40 920
	Year 2	42 205
	Year 3	43 491
	Year 4	44 776
Financial Manager/ Administrator	<b>Grade 5</b>	
	Year 1	46 062
Coordinator	<b>Grade 5</b>	
	Year 1	46 062
	Year 2	48 204
	<b>Grade 6</b>	
	Year 1	52 489
Principal Solicitor	<b>Grade 5</b>	
	Year 1	46 062
	Year 2	48 204
	<b>Grade 6</b>	
	Year 1	52 489
	Year 2	55 702

- (c) Entry point into the wage scale will be determined by the interview panel, using the guidelines as contained in the Centre's Employment policy.



- (d) Movement to the next Year level within the appropriate Grade is by automatic increment, based on 12 months service with the Centre.
- (e) Salary rates may be increased but not decreased. Any increase in salary rates will be deemed to be the applicable salary rate of this Agreement

## **20 Payment of wages**

- (a) Wages will be paid fortnightly by cheque.
- (b) The Centre will deduct from salary income tax required to be paid to the Australian Taxation Office and such other amounts as are authorised in writing by the worker.
- (c) Each worker will receive a pay slip on or before payday, setting out the gross and net salary, allowances paid, tax and other amounts deducted, superannuation payments and the net amount to be paid.
- (d) Upon ending employment, wages due to a worker will be paid on the last day of work or, by arrangement with the worker, either forwarded by post or deposited into the worker's bank account on the next working day.

## **21 Wage Package**

- (a) The Centre offers its workers the option of a "wage package". This means that workers may receive part of their remuneration in a form other than take home pay, that is in a "packaged amount".
- (b) The Illawarra Legal Centre Inc., as a Public Benevolent Institution, is exempted from paying the fringe benefit tax on the packaged amount up to a cap of \$30 000(s 57A Fringe Benefit Tax Assessment Act 1986).
- (c) The wage package increases the overall financial benefit the worker receives from the Centre by reducing annual gross income, and thus tax liability, and redirecting the deducted gross income, paid fortnightly and without attracting a tax liability, towards reducing a debt or liability the worker has.
- (d) The packaged amount must be paid towards a bona fide documented debt. Without being limiting, examples of payments the Centre can make under this arrangement include the repayment of a personal or home loan, electricity or other utility bills or rent. The payment must not be made to the worker personally, nor to a credit account that will leave the account with a "credit balance".
- (e) The wage package is available to all permanent workers.
- (f) Under the wage package arrangement the worker will be given fortnightly cheques made out to a nominated recipient and it will be the worker's responsibility to forward the cheque to that recipient. No more than 3 cheques per fortnight will be drawn.

- (g) The calculation and payment of all annual leave, leave loading and employer superannuation contributions will be based on the annual gross salary the worker receives before wage packaging.
- (h) Workers may elect to package an amount up to 30% of their gross salary, not exceeding \$14 000 (this amount is the package plus half of the Centre Benefit- see (i) below).
- (i) The Centre Benefit (tax saving) will be split 50/50 between the worker and the Centre.
- (j) In the event that the Centre is not exempt from paying fringe benefit tax, then the Centre will immediately revert to paying the worker the full salary amount.
- (k) In some circumstances, workers may enter into an agreement with the Centre that only "Type 2" benefits will be nominated (eg mortgage payments, childcare fees etc) and in this circumstance individual capping amounts must be negotiated and agreed between the Centre and the worker, and shall not exceed \$30 000 grossed up.
- (l) The provisions of the Award Clause 27 shall also apply

## **22 Staff Appraisal and Development**

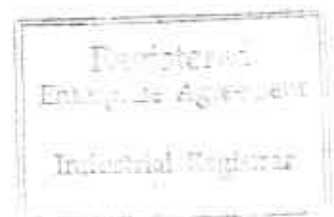
- (a) During any relevant probationary period, and then on an annual basis a worker will undergo an appraisal, aimed at giving the worker a forum to assess their work performance and skills, receive feedback, identify staff development and training needs, and to set achievable goals for themselves and the Centre.
- (b) Staff appraisal and development will occur in accordance with Model Staff Appraisal system adopted by the Centre.

## **23 Staff training and development**

- (a) The Centre is committed to ensuring that workers maintain and develop their skills and knowledge, particularly through access to training. The Centre regards training and staff development as being inherent in a worker's employment.
- (b) The Centre will encourage workers to undertake training, and the performance appraisal system will be one method of identifying training needs. Training may be to enhance a worker's skills or knowledge in relation to their current position but may also be to assist them in their career development.

## **24 Superannuation**

- (a) Calculated from the date of appointment the Centre will contribute in respect of a worker the equivalent of 9% of gross salary (pre packaged amount) to the Health Employees Superannuation Trust of Australia, unless the worker nominates another qualifying fund.



- (b) The Centre will increase contributions in line with any changes in the Commonwealth Superannuation Guarantee Scheme.

## **PART V - ALLOWANCES AND AMENITIES**

### **25 Travelling, motor vehicle and other allowances**

- (a) If a worker is required by the Centre to use their own vehicle for work they are entitled to a vehicle allowance at the rate set out at Table 1.
- (b) If a worker is to use their own vehicle for work purposes, the vehicle must either be comprehensively or Third Party Property Damage insured and the Centre's insurance will cover the cost of any insurance excess, no claim bonus, or damage to the worker's car up to a maximum amount per incident as set out in the Centre's current insurance policy.
- (c) Clauses 25a and 25b applies only to registered vehicles and workers with a current licence.
- (d) In accordance with the general Centre policy regarding travel, staff must consider modes of travel such as public transport and car pooling before choosing to use individual private vehicles.
- (e) The Centre will reimburse all reasonable expenses, including telephone calls, and public transport costs incurred by a worker in the course of carrying out their work, provided that proof of expenses is provided.
- (f) A worker required to stay away from home overnight due to work commitments will be reimbursed the cost of pre- approved board and lodging. Meal allowances are set out at Table 1 (except where accommodation and/or food has been paid by the Centre, e.g. as part of conference registration costs).

### **26 Amenities**

- (a) The Centre will provide workers with:
  - (i) reasonable toilet and washing facilities;
  - (ii) adequate and appropriate facilities for tea and meal breaks, including a microwave;
  - (ii) reasonable heating and cooling appliances to ensure the working environment is healthy and safe; and
  - (iv) adequate and appropriate accommodation to enable workers to perform their duties.

### **27 Access to the workplace for childcare**

- (a) Where unforeseen circumstances arise which make alternative childcare arrangements impractical, a worker responsible for the care of a child may bring the child to work if it does not conflict with the performance of the worker's or other workers' duties.

## **28 Occupational Health and Safety**

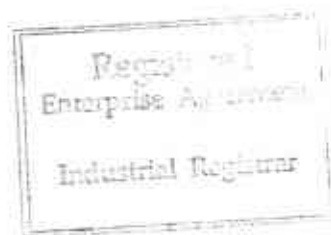
- (a) The Centre will take all reasonable action to ensure the health and safety of workers and implement appropriate health and safety policies and practices.
- (b) The Centre will maintain a first aid kit to the standard recommended by the St John's Ambulance Society.
- (c) The Centre will not permit smoking on its premises.
- (d) When the Centre's workers are unable to work because a hazard within the working environment presents a real, or reasonably perceived, immediate risk of injury or detriment to their health, and no alternative work arrangement can be made, the resulting absence from work will be on paid time.
- (e) The preceding clause does not apply to a worker who is involved in a rehabilitation program, whether or not it is the subject of a workers compensation claim, nor to a worker whose work environment has been modified to accommodate a physical or intellectual limitation; in each of these cases the relevant workers compensation or anti-discrimination legislation will continue to apply.
- (f) Workers will not use a keyboard for a continuous period longer than 60 minutes without taking a 10 minute break, nor for more than 4 hours in total in a day.

## **29 Practicing Certificates and Professional Accreditation**

- (a) The Centre will meet the cost of any practicing certificate or other professional fees or accreditation a worker requires to fulfill the duties of their position.
- (b) Should a worker terminate their employment within 3 months of the Centre paying the cost of their certificate, fees or other accreditation then the Centre will seek a pro rata reimbursement for these expenses.
- (c) Where it is relevant to the worker's position, the entitlement to payment under this clause, including possible liability to reimbursement, will be set out in the worker's letter of appointment.

## **30 Vicarious liability**

- (a) The Centre will be responsible in accordance with the Employees' Liability (Indemnification of Employer) Act 1982 to indemnify workers against liability for any civil liability arising out of the course of workers' employment.



## **PART VI - LEAVE**

### **31 Leave to count as service**

- (a) Unless it is stated to the contrary, all leave counts as service.
- (b) Unless it is stated to the contrary, in exceptional circumstances and where it is fair and equitable to do so, the Centre may grant a worker additional periods of any leave under this Agreement.

### **32 Sick leave**

- (a) A worker is entitled to 15 days full pay and 15 days half pay in paid sick leave in each year of service, with any unused leave being carried over to accumulate with following years' leave. Any unused leave at the end of employment will not be paid out.
- (b) Sick leave may be used on account of personal ill health or injury or on account of the ill health or injury of a person in the worker's care. Provisions of Clause 42 Personal/ Carer's Leave of the Award also apply.
- (c) Not more than 3 days in any one period of sick leave may be taken without producing a medical certificate for the worker.
- (d) A worker should make all reasonable efforts to give the Centre early notice of their absence from work.
- (e) Where a worker would have been entitled to sick leave but for being absent on time in lieu or annual leave, sick leave will be paid for the relevant period and the equivalent period of time in lieu or annual leave will be recredited. Proof of such illness or injury shall be furnished as in 32 (c).
- (f) Illness shall include mental ill health.

### **33 Annual leave**

- (a) A worker is entitled to 5 weeks annual leave in each year of service, with any unused leave being carried over to accumulate with the following years' leave
- (b) Any public holiday during a worker's annual leave will be counted and paid as such, and not as annual leave, if the worker would otherwise have been entitled to that public holiday.
- (c) Except at the end of a worker's employment, annual leave will not be paid unless the worker takes the corresponding period of absence from work.
- (d) When a worker finishes employment they will be paid all accrued annual leave plus leave loading.

- (e) The rate of pay for annual leave is the ordinary rate of salary plus a leave loading bonus of 17.5% of the gross salary for the period of leave. However, where the Centre has allowed a worker to anticipate future leave, leave loading will not be paid on that portion of recreation leave until the date the leave would otherwise have accrued.
- (f) Where a worker would have been entitled to sick leave but for being on annual leave, sick leave will be paid for the relevant period and the equivalent period of annual leave will be recredited.
- (g) The Centre may in appropriate circumstances allow a worker to anticipate future leave.
- (h) The provisions of the Annual Holidays Act 1944 also apply.

#### **34 Public holidays**

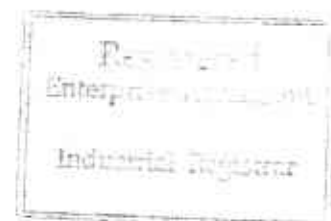
- (a) Workers will be entitled to paid leave for a day duly proclaimed by the NSW Government as being a public holiday, provided the worker is otherwise due to work on that day.
- (b) By agreement between the Centre and a worker another day may be substituted for any public holiday.
- (c) Indigenous Australian workers are entitled to NAIDOC Day as an additional public holiday.

#### **35 Leave during Christmas closure**

- (a) The Centre closes over the Christmas period, closing from Christmas Eve and reopening on the first working day after New Year's day. Permanent workers will receive their ordinary weekly pay for this time.
- (b) This leave is not annual leave and cannot be deferred to another date. This leave will be comprised of the union picnic day and bonus paid leave to the equivalent of the period.
- (c) A fixed term worker employed at the time of the Christmas closure will receive their ordinary weekly pay for this time.
- (d) Clause (34) regarding Public Holidays does not apply over the Christmas closure period.

#### **36 Leave without pay (LWOP)**

- (a) Applications for leave without pay may be made to the Management Committee. Leave for periods up to 12 months will be considered.





- (b) Applications for LWOP shall be made in accordance with the policy of the Centre.

**37 Long service leave**

- (a) Workers are entitled to and accrue paid long service leave in accordance with the Long Service Leave Act 1955 (NSW), except workers may take paid leave after 5 years service on the pro rata basis of 13 weeks for 15 years service.

Accrued long service leave will be paid out on termination of employment including resignation or retirement, after 5 years service, except where termination is due to the employee's serious and willful misconduct.

**38 Parental leave**

- (a) After 12 months continuous service a worker is entitled to 52 weeks parenting leave, in one or two unbroken periods, provided the worker presents a certificate stating the expected date of the birth or adoption of their child.
- (b) Parenting leave may be taken, in the case of a pregnant worker, from within 12 weeks of the expected date of birth of the child or, in the case of adoption, from one week prior to taking custody of the child in anticipation of adoption. In the case of the worker being the partner of a pregnant woman, unpaid parenting leave may be taken from the date of birth.

*Maternity leave*

- (c) A female worker taking leave for the birth of a child will be entitled to six weeks full time and six weeks part time paid leave. Such leave shall be taken within 12 weeks on either side of the anticipated date of confinement. She shall also be entitled to an additional forty weeks unpaid leave in respect of such pregnancy to be taken in a further continuous period.

At least 12 weeks prior to the presumed date of confinement the worker will give the centre written notice of that date of confinement. The worker will also give the Centre at least 4 weeks written notice of the proposed start of parenting leave and of the intended duration of the leave.

*Adoption leave*

- (d) A worker taking leave to adopt a child is entitled to six weeks full time and six weeks part time paid leave and an additional forty weeks unpaid leave, if they are to be the primary carer of the child, with all periods of leave to be taken within two years after adoption.

In this clause a child refers to a person under the age of 16 years who has not previously lived continuously with the worker for at least 6 months or who is not a stepchild of the worker or their partner.

As promptly as possible following the worker receiving the relevant government approval to adopt, the worker will advise the Centre of this approval. Either at the same time or as soon as is reasonable having regard to the circumstances of the adoption, the worker will advise the Centre of the intended period of parenting leave to be taken.

Workers wishing to attend interviews, workshops, court attendances, medical examinations or other necessary matters for the purpose of adopting a child are entitled to up to 2 days unpaid special adoption leave.

- (e) Absence on unpaid parental leave does not break continuity of service but does not count as service for the purposes of calculating increments or any entitlements to leave under this Agreement.

#### **39 Bereavement leave**

- (a) A worker is entitled to five days paid leave on each occasion (non-cumulative) in the event of the death of a person with whom the worker has a bona fide domestic or familial relationship, or other significant bond.
- (b) A worker is entitled to five days unpaid leave in each 12 months of service
- (c) The Centre may require the worker to provide reasonable evidence of the death, and may extend the period of leave on compassionate grounds. Particularly in respect of a worker obliged under Aboriginal or Torres Strait Islander custom or tradition to participate in ceremonial activities related to bereavement, the centre will give special consideration to any request, under this subclause, to extend the paid or unpaid leave.

#### **40 Jury service leave**

- (a) A worker who is required to attend jury service during their ordinary working hours will be reimbursed by the Centre an amount equal to the difference between the amount paid in respect of their attendance for jury service and the amount of wages they would have received had they not been on jury service.
- (b) The worker will notify the Centre as soon as possible of the date on which they are required to attend for jury service. They will also provide documentary proof of their attendance, the duration of such attendance and the amount received.

#### **41 Study leave**

- (a) A worker is entitled to 3.5 hours paid leave per week to attend courses approved by the Centre.
- (b) Study leave may be accrued throughout the year to be taken prior to exams or other forms of assessment, as a block of no more than seven days.

- (c) A worker is entitled to paid leave to attend exams in courses approved by the Centre.
- (d) These provisions are to be read in association with the Centre's Study Leave Policy.

**42 Trade union training leave**

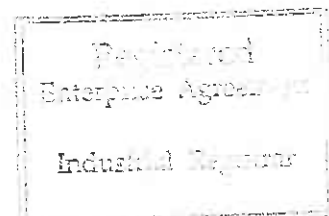
- (a) A worker is entitled to take up to three days paid leave (non-cumulative) every year to attend courses run by the Union or the Trade Union Training Authority.

**PART VII - GRIEVANCE, COUNSELLING & DISCIPLINARY PROCEDURES, TERMINATION, INTRODUCTION OF CHANGE, AND REDUNDANCY**

**43 Grievance and dispute settling procedures**

- (a) The Centre and its workers recognise that individual and group problems arise from time to time and it is necessary to resolve these problems quickly. The Management Committee and the workers are committed to resolving grievances through open communication and in a manner consistent with cooperative work practices.
- (b) In the interests of a harmonious and productive workplace the Centre requires, wherever possible, that all workers attend accredited conflict resolution training within the first 12 months of their employment and follow-up training at least every 2 years. All existing workers will attend accredited follow-up conflict resolution training at least every 2 years
- (c) A grievance includes a complaint or dispute and may relate to:
- any condition of employment, or any provision of this Agreement, and the way it has been applied by the Centre;
  - a decision of the Centre/Management Committee which affects a worker or group of workers;
  - the behaviour or conduct of another worker or of a member of the Management Committee;
  - any decision or action taken under the Counselling & Disciplinary Procedure of this Agreement; or
  - any other matter that affects a worker in their employment.
- (d) At all stages of the grievance process the Centre will ensure that the principles of natural justice are observed and employed.
- (e) At all stages of the grievance process the Centre will ensure that the privacy of all affected workers are respected and confidentiality observed.
- (f) *Informal process*

Where a worker has a grievance which involves the conduct of another worker or workers, or a non-staff member of the Management Committee, it is recommended



the worker will discuss the matter with that person, or through staff meetings, before pursuing the formal steps of this grievance procedure.

However, the Centre also recognises it is difficult in sensitive cases to expect a worker to confront a co-worker or Management Committee member over their behaviour or conduct. Where it is appropriate, and agreeable to the people involved, the Coordinator or another staff member may play a mediatory role.

(g) *Formal process*

Where a worker (or workers) has a grievance they should pursue the following steps and may have a representative of the Union, a co-worker or another person of their choice assisting them:

*Step 1*

The worker(s) should raise the grievance in writing with the Coordinator and the Coordinator will attempt to conciliate a satisfactory outcome;

*Step 2*

If the matter remains unresolved, the Coordinator will make a written submission to the Grievance Sub Committee of the Management Committee

Where the complaint reflects upon the actions of the Coordinator or upon the policy or procedure of the Centre, the complainant may make a written submission directly to the Grievance Sub Committee.

Where the complaint indicates a breach of the NSW Anti Discrimination Act the complainant is to be advised by the Coordinator that he/ she may also contact the NSW Anti Discrimination Board.

The Grievance Sub Committee is a non- standing sub committee of the Management Committee, with the Chair as the Convenor. Two other (non staff) Management Committee members shall be appointed as appropriate to make the membership three non- staff Management Committee members.

The Grievance Sub Committee shall receive written submissions relating to staff grievances, assess the nature of the complaint, investigate the complaint further and make decisions regarding the resolution.

The Sub Committee shall report back to the Management Committee regarding any recommendations or action taken.

If the grievance involves the conduct or behaviour of a non-staff member of the Management Committee, that member will be excluded from the meeting but should be afforded the opportunity to present their point of view.

*Step 3*

If the matter remains unresolved the Union in consultation with the worker(s) may lodge a dispute to the Industrial Relations Commission of NSW.

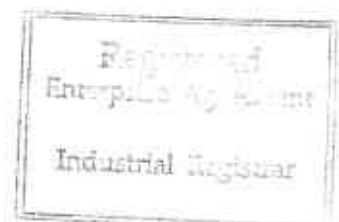
- (h) Where a grievance relates to a change to the existing custom and practice of the Centre, work will continue at the Centre in accordance with existing custom and practice until the grievance process has been exhausted.
- (i) At any stage of the grievance process the parties may agree to asking an independent person from outside the Centre to play a mediatory role.

#### **44 Termination of employment**

- (a) Termination of employment will not be harsh, unfair or unreasonable having regard to all the circumstances.
- (b) A worker will give 2 weeks notice of resignation or retirement.
- (c) Except for misconduct, justifying summary dismissal, a worker will be given at least 4 weeks notice of the date of termination. Where the worker is over 45 years of age they shall receive one week's extra notice, provided they have had two years service.
- (d) Nothing in this clause shall prevent the employer from giving payment in lieu of, and equal in value to, the period of notice in 44 (c).
- (e) Upon termination of employment for any reason the Centre will give the worker a certificate of employment containing the following:
- worker's name
  - period of employment
  - title of position
  - salary scale
  - nature of work, including numbers of staff supervised, if applicable
  - name of employer organisation
  - signature of the Chair or Secretary and dated

#### **45 Counselling and disciplinary procedures**

- (a) Counselling and disciplinary action is aimed at improving the performance of a worker or correcting their behaviour, with a view to maintaining an appropriate standard of service by the Centre. A problem solving approach should be adopted, rather than a punitive one.
- (b) The Centre will ensure that the principles of natural justice are observed and employed at all stages of the counselling and disciplinary process.
- (c) Where the Coordinator or Principal Solicitor are satisfied that the worker's performance or behaviour is unsatisfactory the process set out in this section will be followed and the worker may have a Union representative, a legal advisor, a co-worker or another person of their choice assist them at all stages.
- (d) The worker may lodge a grievance (under the Grievance & Dispute Settling Process) about any action or decision taken under this section.



(e) The Counselling and Disciplinary process

*Step 1 Informal counselling*

The Coordinator or Principal Solicitor will meet with the worker and identify the area of unsatisfactory performance or behaviour. The worker must have outlined to them the standard of performance or behaviour that is expected of them and be given guidance as to how to meet that standard.

It may be appropriate to canvass any training needs or support the worker may need. Follow up sessions may be appropriate and a review period could be set. The worker should have explained to them the implications of failing to meet the required standard of performance or behaviour.

Although the Coordinator or Principal Solicitor may record that the worker was counselled, no record is to be kept of the discussion during the counselling session.

Step 1 may be missed if the issue of a worker's performance or behaviour is serious and demands formal action to be taken.

*Step 2 Formal Counselling*

If the worker's performance or behaviour has failed to improve after step 1, or if the Coordinator or Principal Solicitor believes Step 1 is inappropriate, the matter will be referred to the non- staff Management Committee and the worker will be formally counselled.

The worker will be advised in writing. The notice will state that they will be required to attend a counselling interview, and will state who is to conduct the interview and where and when it is to occur. The notice will also summarise the concerns which are to be discussed. The worker shall have the right to have an independent support person or a representative of the union present at the interview.

Full notes shall be taken at the counselling interview. The main aims of the interview shall be:

- to ensure that the worker is aware of all the concerns of the employer
- to give the worker a reasonable opportunity to respond to any allegations made against him/ her
- to let the worker know what standards of work performance or conduct the employer requires
- to plan how the employer's concerns will be responded to and satisfactorily addressed by the worker.

If it is deemed by the employer that there are grounds for the initial complaint against the worker, then a written warning shall be issued to the worker. The warning shall state the specific areas for improvement with specific required standards, and give a time frame for such improvement with a date for review.



At review, one of three courses of action may occur:

- the employer may deem that satisfactory improvement has occurred, and no further review is required.
  
- the employer may issue a second warning again specifying a time frame and review date. It may also specify the consequence of non- improvement such as possible dismissal, or a reduction in privileges etc.
  
- the employer may proceed to dismissal

The Centre is committed to giving workers an appropriate number of warnings with an agreed process and time frame for improvement before proceeding to dismissal.

### *Step3 Dismissal*

Dismissal may proceed if the review indicates that the worker has not satisfactorily addressed the employer's concerns and it is believed that termination is justified. The decision to dismiss after the above process has been carried out can only be made with the approval of an extraordinary meeting of the (non staff) Management Committee.

The worker shall be notified in writing and orally of the decision to dismiss, and will be given a brief and clear statement of reasons for the decision.

#### **46 Summary dismissal**

- (a) Nothing in this Agreement limits the power of the Centre to summarily dismiss a worker for gross misconduct, which may include willful disobedience, dishonesty, fraud, sexual harassment, physical assault, breach of confidentiality or abandonment of employment.

Such a decision to summarily dismiss requires the approval of the Executive of the Management Committee.

#### **47 Organisational Change and Redundancy**

- (a) This clause shall not apply to employees with less than one year's continuous service, and the general obligation on the employer shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employee of suitable alternative employment.
- (b) This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees or employees engaged for a specific period of time or for a specified task or tasks where employment is terminated due to ordinary or customary turnover of labour.

#### **47.1 Introduction of Change**

- (a) Where the employer has made a definite decision to introduce changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the Union.
- (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

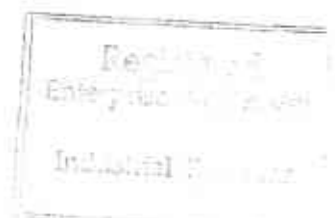
#### **47.2 Employer's duty to discuss change**

- (a) The employer shall discuss with the employees affected and the Union, inter alia, the introduction of the changes, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse affects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/ or the Union in relation to the changes.
- (b) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes.
- (c) For the purpose of such discussion, the employer shall provide to the employees concerned and the Union, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees.

#### **47.3 Discussions before termination**

- (a) Where the employer has made a definite decision that they no longer wish the job the employee has been doing to be done by anyone, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the Union.
- (b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of 47.3 (a) and shall cover any reasons for the proposed termination, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.
- (c) For the purpose of the discussion the employer shall,, as soon as practicable, provide to the employees concerned and the Union all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out.

#### **47.4 Notice for changes in production, program, organisation or structure**





This sub clause sets out the provisions to be applied to terminations by the employer for reasons arising from "production", "program", "organisation" or "structure" in accordance with 47.1.

- (a) In order to terminate the employment of an employee the employer shall give to the employee the following notice:

<u>Period of Continuous Service</u>	<u>Period of Notice</u>
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- (b) In addition to the notice above, employees over 45 years of age at the time of the giving of notice with not less than two years continuous service, shall be entitled to an additional week's notice.
- (c) Payment in lieu of the notice above shall be made if the appropriate notice of period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

#### **47.5 Notice for technological change**

This sub clause sets out the notice provisions to be applied to terminations by the employer for reasons arising "technologically" in accordance with 47.1.

- (a) In order to terminate the employment of an employee the employer shall give to the employee three months notice of termination.
- (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (c) The period of notice required by this sub clause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

#### **47.6 Time Off during the notice period**

- (a) During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

#### **47.7 Employee leaving during the notice period**

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause as those to which the employee would have been entitled had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

#### **47.8 Statement of Employment**

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

#### **47.9 Notice to Centrelink**

Where a decision has been made to terminate the employment of employees, the employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

#### **47.10 Employment Separation Certificate**

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by Centrelink.

#### **47.11 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties for reasons set out in 47.1, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may at the employer's option make payment in lieu thereof an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

#### **47.12 Severance Pay**

Where an employee is to be terminated pursuant to 47.3 of this clause, subject to further order of the NSW Industrial Relations Commission the employer shall pay the employee the following severance pay in respect of a continuous period of service:

- (a) If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

<u>Years of Service</u>	<u>Under 45 years of Age Entitlement</u>
Less than 1 year	nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- (b) Where an employee is 45 years or over, the entitlement shall be in accordance with the following scale:

<u>Years of Service</u>	<u>45 years of Age and over Entitlement</u>
Less than 1 year	nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

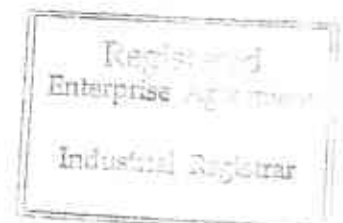
- (c) "Weeks Pay" means the all purpose rate of pay for the employee concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over-Award payments, shift penalties and allowance, paid in accordance with the Award.

#### **47.13 Incapacity to Pay**

- (a) Subject to an application by the employer and further order of the NSW Industrial Relations Commission, the employer may pay a lesser amount (or no amount) of severance pay than that contained in 47.12.
- (b) The Commission shall have regard to such financial and other resources of the employer as the Commission thinks relevant, and the probable effect paying the amount of severance pay in 47.12 will have on the employer.

#### **47.14 Alternative Employment**

Subject to an application by the employer and further order of the NSW Industrial Relations Commission, the employer may pay a lesser amount (or no amount) of severance pay than that contained in 47.12 if the employer obtains acceptable alternative employment for an employee.



#### **48 Union membership**

- (a) The Centre supports the role of the Union in representing workers and will encourage all existing and new workers to be members of the Union, and will provide all new workers with a Union membership application.
- (b) The Centre will not obstruct legitimate union activity by workers or a Union official, will allow a reasonable time for union activities on paid time, including Union conferences or representative committees, and will not disadvantage or victimise workers involved in legitimate industrial action.
- (c) The Centre will not refuse a worker access to payroll deductions to the Union.

#### **ANTI DISCRIMINATION CLAUSE**

1. It is the intention of the parties to this Agreement to seek to achieve the object in Sec 3 (f) of the Industrial Relations Act 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.

2. It follows that in fulfilling their obligations under the grievance procedure set out in Part VII of this Agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfillment of these obligations for the parties to make application to vary any provision of the Agreement which, by its term or operation, has a direct or indirect discriminatory effect.

3. Under the Anti- Discrimination Act 1977 it is unlawful to victimise an employee because the employee has made or may make or has been involved in complaint of unlawful discrimination or harassment.

4. Nothing in this clause is to be taken to affect:

- (a) any conduct or act which is specifically exempted from anti- discrimination legislation;
- (b) offering or providing junior rates of pay to persons under 21 years of age;
- (c) any act or practice of a body established to propagate religion which is exempted under sec. 56 (d) of the Anti- Discrimination Act 1977;
- (d) a party to this Agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

5. This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

**Table 1 - Miscellaneous allowances and payments**

Motor vehicle allowance	48 cents per kilometre
Meal allowances	
(a) Breakfast	<b>\$8.25</b>
(b) Lunch	<b>\$13.75</b>
(c) Dinner	<b>\$19.25</b>

**SIGNATORY PAGE**

Signed for and on behalf of  
**ILLAWARRA LEGAL CENTRE**  
by [name and position of signatory]

*J Stubbs*  
JUDITH STUBBS  
Chairperson  
19/2/03

Signed for and on behalf of  
**AUSTRALIAN SERVICES UNION of NSW**  
by [name and position of signatory]

*Luke Foley*  
Luke Foley  
Secretary  
10/3/03.

