

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA05/363

**TITLE:** **Tenant's Union of NSW Enterprise Agreement 2005**

**I.R.C. NO:** IRC5/5956

**DATE APPROVED/COMMENCEMENT:** 30 November 2005 / 30 November 2005

**TERM:** 36

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 6 January 2006

**DATE TERMINATED:**

**NUMBER OF PAGES:** 16

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by Tenant's Union of NSW, located at 68, Bettington Street, Millers Point, NSW 2000, who fall within the coverage of the Social and Community Services Employees (State) Award.

**PARTIES:** Tenants Union of NSW Co-op Ltd -&- the Australian Services Union of N.S.W.

# TENANT'S UNION OF NSW ENTERPRISE AGREEMENT 2005

## PART 1 – COVERAGE AND DEFINITIONS

### 1. PURPOSE, PERSONS BOUND AND DURATION OF THIS AGREEMENT

- 1.1 The purpose of this agreement is to establish the terms and conditions of employment of *employees of* the Tenants' Union NSW.
- 1.2 This Agreement shall apply to and be binding on:
  - (a) The Tenants' Union as the employing body

AND

  - (b) The Australian Services Union
- 1.3 This Agreement will come into effect from the date it is approved by the NSW Industrial Relations Commission and will remain in force for a period of 3 years or until replaced or terminated.
- 1.4 Discussions *BETWEEN THE PARTIES* on a new agreement will commence two months before the nominal expiry date of this agreement.

### 2. DEFINITIONS

*"Employer" means the Tenant's Union of NSW.*

*"Union" means the Australian Services Union of NSW.*

*"The Act" means the Industrial Relations Act 1996.*

*"Parties" means the "Employer" and the "Union" wherever appearing in this Agreement.*

*"Commission" means the Industrial Relations Commission of New South Wales.*

## 2. PART II – ENGAGEMENT OF EMPLOYEES

### 3. TERMS OF ENGAGEMENT

- 3.1 The Tenants' Union shall inform each employee in writing *on engagement*, as to the terms of their engagement, and in particular whether they are a full-time, part-time, fixed term or casual employee.
- 3.2 Casuals shall receive such details in writing only on their initial engagement.
- 3.3 The Tenants' Union shall provide each employee with a job description or duty statement outlining specific duties to be performed, hours of work, and a copy of this agreement upon engagement.
- 3.4 All employees will be subject to a three month probation period. During this time both the Tenants' Union and the employee may terminate this agreement with one week's notice.
- 3.5 All employees employed pursuant to this Agreement other than fixed term or casual employees shall be deemed to have ongoing employment.

### 4. FULL-TIME EMPLOYEES

- 4.1 An employee not specifically engaged on a part-time, casual or fixed term basis shall be a full-time employee.
- 4.2 Full time employees shall be paid a minimum of two hours on each day they work.

## **5. PART-TIME EMPLOYEES**

- 5.1 A part-time employee shall mean a person who works a specified number of regular days and/or minimum number of hours being less than those worked by a full-time employee in a four-week period.
- 5.2 Part-time employees shall be paid a minimum of two hours on each day they work.
- 5.3 Part-time employees shall be paid an hourly rate calculated on the basis of one 35<sup>th</sup> of the appropriate weekly rate prescribed by Clause 21, Rates of Pay
- 5.4 Part-time employees shall be entitled to all benefits under this Agreement on a pro rata basis.

## **6. FIXED TERM EMPLOYEES**

- 6.1 A fixed term employee may be engaged to work on either a full-time or part-time basis:
  - (a) for the completion of a specifically funded task(s) or project; not subject to recurrent funding; or
  - (b) to relieve an employee who is undertaking a specifically funded task(s) or project for a defined period; or
  - (c) to relieve in a vacant position arising from an employee taking leave in accordance with this Agreement; or
  - (d) for the temporary provision of specialist skills that are not available within the organisation for a specified period of time; or
  - (e) to fill short term vacancies during the recruitment and selection process resulting from the cessation of employment of a permanent employee;

Provided that the term shall not exceed 12 months in the case of (c), (d) and (e)

- 6.2 A fixed term employee shall not be employed to fill a position previously held by a permanent employee except under circumstances specified in 6.1 above.
- 6.3 This Agreement shall apply to a fixed term employee except to the extent that the Agreement expressly provides that it does not apply.
- 6.4 When offering employment on a fixed term basis, the Tenants' Union shall advise the employee in writing of the temporary nature of the employment, the actual or expected duration of employment, and that employment beyond the period is not expected.
- 6.5 The Tenants' Union and a fixed term employee may agree to the duration of the period of employment being extended once only, provided that any extension will not exceed six months.
- 6.6 If a fixed term employee is subsequently appointed to a full-time or part-time position with the Tenants Union, any period of the fixed term contract completed immediately prior to the commencement of the full-time or part-time position shall be recognised as service with the Tenants' Union for calculating leave entitlements, provided that the employee has not taken or received payment in lieu of those leave entitlements.
- 6.7 Fixed term employees shall be paid a minimum of two hours on each day they work.

## **7. CASUAL EMPLOYEES**

- 7.1 A casual employee shall mean an employee employed to perform work of an irregular nature and for a period of no more than twelve continuous weeks.

- 7.2 A casual employee shall be paid an hourly rate equal to 35<sup>th</sup> of the appropriate weekly rate prescribed by the NSW Community Services Award plus an additional loading of twenty-five (25 %) per cent.
- 7.5 A casual employee shall be paid a minimum of two hours at the appropriate rate for each engagement.

## **1 PART III – HOURS OF WORK**

### **8. HOURS OF WORK**

- 8.1 The ordinary hours of work shall be no more than 140 hours in any four week period or *more than 10 hours on any day*, worked between the hours of 8am and 8pm Monday to Friday.

Employees are expected to work an average 7 hour day and be at work during the core hours of work. Core hours shall be 10.00 am - 12 noon and 2pm- 4.00pm. If for any reason an employee is unable to be present at work by 10.00 am then the employee shall telephone the office prior to 10.00 am and advise when they will be arriving at work.

- 8.3 Employees will seek approval from their supervisor for any absences from work during core hours or periods of leave.
- 8.4 When an employee travels from home to a different work location, any time additional to the time an employee normally travels to reach work will be considered work time.
- 8.5 No employee will be required to work in excess of 4 hours without a meal break.
- 8.6 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 employee and the Centre.
- 8.7 All employees will keep timesheets to record the hours they work.

### **9. FLEX-TIME**

- 9.1 It is acknowledged that in the normal course of work, and as part of their normal duties, employees will sometimes work more or less than a 7 hour day, and the number of hours over or under the 7 hours shall be recorded as flex-time credits or debits on the employee's time sheet.
- 9.3 The number of hours of flex-time accrued by an employee shall not at any one time exceed the number of hours that the employee is contracted to work each week.
- 9.4 If circumstances beyond the employee's control occur and flex-time credits do exceed the limit set in 9.2, this will be negotiated with the Executive Officer, and if not resolved, taken to the Board.
- 9.5 An employee is expected to reduce their accumulated flex-time credits to zero by the end of their employment, and to assist in this the Centre may, in some cases, direct an employee to be absent on flex-time. However, any debit at the end of employment will be deducted from salary.
- 9.6 Where exceptional or unforeseen circumstances have not made it possible for an employee to reduce their flex-time credits to zero the credits will be paid out upon ending employment.
- 9.7 An employee shall not be more than 14 hours in flex-time debit.
- 9.8 Employees will take into account the operational needs of the centre and the requirements of their job in taking advantage of flex-time arrangements.

- 9.9 Employees shall be entitled to take up to one week flex-time leave in conjunction with a period of annual leave.

## **10. OVERTIME**

- 10.1 Overtime means time worked with the prior authorization of the Executive Officer in excess of the ordinary hours of work specified in this Agreement (see 8.1)
- 10.2 For overtime worked
- (a) Monday to Friday inclusive an employee shall be entitled to time off in lieu of payment for overtime on the basis of one and a half hours for each hour worked
  - (b) On Saturday, an employee shall be entitled to time off in lieu of payment for overtime on the basis of one and a half hours for every hour worked
  - (c) On Sunday an employee shall be entitled to two hours time off in lieu of payment for overtime for every hour worked
  - (d) On a public holiday an employee shall be entitled to two hours time off in lieu of payment for overtime for every hour worked
- 10.3 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 two weeks per year in any year of employment. Time in lieu of payment for overtime must be taken within one year of accrual and shall not accumulate from year to year
- 10.4 The number of time off in lieu of overtime hours accrued by an employee shall not at any one time exceed the number of hours that the employee is contracted to work each week.
- 10.5 Employees shall be entitled to a meal allowance of \$20 after working 8 hours overtime.

## **11. MEAL BREAKS**

- 11.1 A meal break of not less than thirty minutes shall be allowed each day, for lunch and/or dinner. No employee shall be required to work more than four hours continuously without a meal.
- 11.2 Nothing in this clause should be deemed to mean that an employee would be deprived of, nor deprive themselves of a meal break, simply because of pressure of general work.
- 11.3 Where an employee is required to have their meal on the premises including to have a meal with clients that time shall be paid and 11.1 does not apply.
- 11.4 Employees shall be entitled to take a morning tea and afternoon tea break of 10 minutes duration.

## **2 PART IV – WAGES, SUPERANNUATION**

### **12. RATES OF PAY**

- 12.1 Employees shall be paid in accordance with the pay scales set out in the *Social and Community Services Employees (State) Award*.
- 12.2 Employee salaries will be increased in line with any increases in the *Social and Community Services Employees (State) Award*.

### **13. INCREMENTAL PLACEMENT AND ADVANCEMENT**

- 13.1 Employees will be appointed to a level within the appropriate salary grade commensurate with their skills and experience.
- 13.2 Full time, Part time, and Fixed Term employees shall move from level to level within a salary band after each 12 months continuous service.

### **14. HIGHER DUTIES**

- 14.1 An employee who is called upon by the Tenants' Union to perform the duties of another employee in a higher classification under this Agreement for any consecutive 5 days shall be paid for the days on which those duties are performed at a rate not less than the minimum rate prescribed for the higher classification provided that such claims be made by the employee within one month of the cessation of the performance of such duties.
- 14.2 Where a public holiday falls within a period referred to in 14.1, the public holiday shall be considered as time worked in the higher classification.
- 14.3 An employee required to perform the work of another employee shall not suffer any reduction in their wage.
- 14.4 The payment paid in 14.1 shall be considered to be the employee's ordinary rate of pay for all purposes while the employee is in receipt of the higher duties payment.

### **15. SUPERANNUATION**

- 15.1 The Tenants' Union shall contribute to a superannuation fund as specified in clause 15. of this Agreement<sup>8</sup> on behalf of each eligible employee, such superannuation contributions as required to comply with the Superannuation Guarantee (Administration) Act 1992 as amended from time to time
- 15.2 The Tenants' Union shall make application to the Fund as specified in this clause.<sup>8</sup> to become a participating employer in the Fund and shall become a participating employer upon acceptance by the Trustee of the Fund.
- 15.3 The Tenants' Union shall provide each employee who is not a member of the Fund with a membership application form upon commencement of employment.
- 15.4 Each employee shall be required to complete the membership application and the Tenants' Union shall forward the completed application to the Fund by the end of the calendar month of commencement of employment.
- 15.5 An employee may make contributions to the Fund as specified in this clause.<sup>8</sup> in addition to those made by the Tenants' Union
- 15.6 An employee who wishes to make additional contributions must authorise the Tenants' Union in writing to pay into the Fund, from the employee's wages, a specified amount in accordance with the Fund trust deed and rules.
- 15.7 The Tenants' Union must commence making payments into the Fund on behalf of the employee within 14 days of receipt of the written authorization from the employee.
- 15.8 The "Fund" shall mean the Health Staff Superannuation Trust Australia or the Australian Superannuation Savings Employment Trust or any complying Fund.
- 15.9 Superannuation payments will continue to be made on behalf of eligible employees for up to 52 weeks in the event that they are absent from work due to a work related injury or illness and are receiving workers compensation payments.

## **16. PAYMENT OF WAGES**

- 16.1 The weekly rate of pay shall be the annual rate of pay divided by 52.14.
- 16.2 All wages shall be paid at least fortnightly by cheque or electronic funds transfer, by agreement between the majority of employees and the Tenants Union.
- 16.3 Wages shall be paid during working hours every second Thursday for the period finishing on the following Friday. The payday shall not be changed without the agreement of a majority of the employees.
- 16.4 In the case of electronic funds transfer, wages shall be transferred to the nominated account by midnight on the nominated payday.
- 16.5 Upon termination, wages and any other monetary entitlement due to an employee shall be paid on the date of termination.
- 16.6 The Tenants' Union may deduct from amounts due to an employee such amounts as authorised in writing by the employee and deductions of income tax required to be made to the Australian Taxation Office.

## **17. TIME AND PAY RECORDS**

- 17.1 In accordance with the provisions of the *Industrial Relations Act 1996 (NSW)* the Tenants' Union shall keep time and pay records relating to employees. Such time and pay records will usually be kept at the place where business is carried out.
- 17.2 Such records shall be kept for a period of at least 6 years.
- 17.3 On pay days the Tenants' Union shall provide each employee with a written statement showing the gross salary including overtime and allowances paid, superannuation paid, the amount deducted for taxation purposes and particulars of other deductions made that have been part of the calculated net amount paid.

## **3 PART V – ALLOWANCES AND AMENITIES**

### **18. FIRST AID ALLOWANCE**

- 18.1 An employee who holds a current first-aid certificate issued by the St. John Ambulance Association or Australian Red Cross Society or equivalent qualification and who is required by the Tenants' Union to be available to perform first-aid duty at their workplace shall be paid an allowance as set out in Social and Community Services Employees(State)Award with a minimum payment of one day.

### **19. MOTOR VEHICLE ALLOWANCE**

- 19.1 Where employees are required by the Tenants' Union to use their motor vehicle in the course of their duty, they shall be paid an amount set out in the NSW Social and Community Services Award for each kilometre traveled during such use.

### **20. EXPENSES**

- 20.1 An employee required to stay away from home overnight shall be reimbursed the cost of pre-approved board, lodging and meals as set out in the Tenants' Union's Travel and Expense Claim Policy. Reasonable proof of expenses incurred is to be provided by the employee to the Tenants Union.
- 20.2 The Tenants' Union shall reimburse all reasonable expenses, including the cost of telephone calls, necessarily incurred by an employee in carrying out their duties subject to reasonable proof of the expenses being incurred being supplied to the Tenants Union.

## **21. AMENITIES**

- 21.1 The Tenants' Union shall provide reasonable toilet and washing facilities for the use of employees in each workplace.
- 21.2 The Tenants' Union shall supply and maintain reasonable heating and cooling appliances for the safe and healthy functioning of the workplace.
- 21.3 The Tenants' Union shall provide reasonable facilities for the taking of meals, including a table and chairs, boiling water, a refrigerator, a suitable place for the storing of utensils and supplies and a sink and running water.
- 21.4 The Tenants' Union shall provide for employees a well furnished rest area.
- 21.5 The Tenants' Union shall maintain all amenities in a safe and hygienic manner and to a reasonable standard.

## **4 PART VI – LEAVE**

### **22. SICK LEAVE**

- 22.1 In the event of an employee becoming sick and unfit for duty and certified as such by a duly qualified medical practitioner, they shall be entitled to 15 days leave on full pay for each year of service.
- 22.2 Such leave shall be available from the beginning of each year of service.
- 22.3 For the purpose of this clause, illness shall include stress and mental ill health.
- 22.4 The Tenants' Union may dispense with the requirements of a medical certificate where the absence does not exceed three consecutive days or where in the Tenants Union's opinion circumstances are such not to warrant such requirement.
- 22.5 Each employee shall take all reasonably practicable steps to inform the Tenants' Union of their inability to attend for work and as far as possible state the estimated duration of the absence. Where practicable such notice shall be given within 24 hours of the commencement of such absence.
- 22.6 If the full period of sick leave as described above is not taken in any year, such portion as is not taken shall be cumulative up to four years. There shall be no payment of portions of sick leave not taken on retirement or termination.
- 22.8 Where the employee would be entitled to sick leave in accordance with the provisions set out above but is on annual leave at the relevant time, the Executive Officer may allow the annual leave or part thereof to be converted to sick leave for the period of ill-health if such action is warranted by the circumstances.
- 22.9 In the event of an unexpected and serious illness employees shall be entitled to additional sick leave in accordance with the Tenant's Union sick leave bank policy.

### **23. ANNUAL LEAVE**

- 23.1 Full time and part-time employees shall be entitled to four weeks annual leave with pay after each twelve months of continuous service.
- 23.2 Fixed term employees engaged for more than 12 months are entitled to annual leave in accordance with 23.1. Fixed term employees engaged for less than 12 months are entitled to be paid annual leave on a pro rata basis at the end of their term of employment.



23.3 By mutual agreement between the Tenants' Union and employee annual leave entitlements may be paid prior to taking such leave or in regular installments on normal paydays during the period of such leave.

23.4 All other provisions of the *Annual Holidays Act 1944* shall apply.

## **24. ANNUAL LEAVE LOADING**

24.1 Employees will be paid a loading of 17.5% of their normal weekly pay in addition to their normal weekly pay for the period of annual leave taken:

24.2 The loading is payable in addition to the pay for the period of leave given and taken and due to the employee under the *Annual Holidays Act 1944* and this Agreement.

24.4 Where the employment of an employee is terminated for a cause other than misconduct and at the time of termination the employee has not been given and has not taken the whole of any annual leave to which they are entitled they shall be paid a loading calculated in accordance with 25.1 for such leave.

24.5 No loading is payable on leave owing at the termination of an employee's employment if the employee is terminated for misconduct.

## **25. LONG SERVICE LEAVE**

25.1 Employees shall be entitled to long service leave in accordance with the Long Service Leave Act 1955 (NSW), except that

- i) employees shall be entitled to take 6.5 weeks paid long service leave after each 5 years continuous service up to 15 years of continuous service.
- ii) employees shall be entitled to take 2 weeks paid long service leave for every year of continuous service after 15 years of service

## **27. CALCULATION OF CONTINUOUS SERVICE**

27.1 See Long Service Leave Act 1955.

## **28. PUBLIC HOLIDAYS**

28.1 For the purposes of this clause, the following shall be taken as public holidays on the days so gazetted: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, or any holiday duly proclaimed and observed as a public holiday within the area in which the service is situated.

28.2 Gazetted public holidays shall be allowed to full time, part time and fixed term employees on full pay on those days on which they are normally required to work.

28.3 Where an employee is required to and does work on a public holiday, the employee shall be entitled to two hours time off in lieu of payment for every hour worked.

## **29. LEAVE DURING CHRISTMAS CLOSURE**

29.1 The Centre closes over the Christmas period from Christmas Eve to the first working day after New Year's day. Full-time, part-time and fixed term employees will receive their ordinary weekly pay for this period.

29.2 This leave is not annual leave and cannot be deferred to another date.

### **30. PERSONAL/CARER'S LEAVE**

- 30.1 An employee with responsibilities in relation to a class of person set out in (c) (ii) who needs their care and support shall be entitled to use, in accordance with this subclause, any sick leave, annual leave, flex time, time off in lieu of overtime, special leave or unpaid leave entitlement for absences to provide care and support for such persons when they are ill.
- 30.2 The employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
- 30.3 The entitlement to use sick leave in accordance with this subclause is subject to:
- (a) the employee being responsible for the care or support of the person concerned; and
  - (b) the person concerned being:
    - (i) a spouse of the employee; or
    - (ii) a de facto spouse, who lives with the first mentioned person as the partner of that person on a bona fide domestic basis although not legally married to that person; or
    - (iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
    - (iv)
    - (v) a relative of the employee who is a member of the same household, where for the purpose of this paragraph:
      - 1. "relative" means a person related by blood, marriage or affinity
      - 2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
      - 3. "household" means a family group living in the same domestic dwelling.
- 30.4 An employee shall, wherever practicable, give the Tenants' Union notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence.

### **31. BEREAVEMENT LEAVE**

- 31.1 An employee other than a casual employee shall be entitled to up to five days Bereavement Leave without deduction of pay on each occasion of the death of a person prescribed in 30.3(b).
- 31.2 The employee must notify the Tenants' Union as soon as practicable of the intention to take Bereavement Leave and will, if required by the Tenants Union, provide to the satisfaction of the Tenants Union, proof of death.
- 31.4 An employee shall not be entitled to Bereavement Leave under this clause during any period in respect of which the employee has been granted other leave.
- 31.5 Bereavement Leave may be taken in conjunction with other leave. Where such other available leave is to be taken in conjunction with Bereavement Leave, consideration will be given to the circumstances of the employee and the reasonable operational requirements of the Tenants Union.

### **32. PARENTAL LEAVE**

- 32.1 Parental leave is maternal leave, paternal leave or adoption leave.

- 32.2 After 12 months service employees shall be entitled to a total of 52 weeks parental leave in connection with the birth or adoption of a child in accordance with *Industrial Relations Act 1996 (NSW)* except that .
- (a) An employee who is a primary caregiver shall be entitled to 12 weeks leave on full pay with the remainder of the 52 weeks being unpaid;
  - (b) An employee who is not the primary caregiver of the child shall be entitled to parental leave for a period of 52 weeks with 4 of those weeks to be on full pay; and
  - (c) An employee shall not be entitled to combine the paid leave entitlements under sections 32 a) and b) in any one period of parental leave.
- 32.3 Following agreement with the Executive Officer, employees may elect to take paid parental leave at half pay.
- 32.4 The Tenants' Union will make efforts to accommodate employees who wish to return to work on reduced hours after parental leave subject to the operational requirements of the Centre.

### **33. LEAVE WITHOUT PAY**

- 33.1 Employees shall be entitled to 10 days unpaid leave in each 12 months of service, to be taken at such time as may be agreed with the Executive Officer, otherwise upon reasonable notice to the Executive Officer.
- 33.2 Requests for unpaid leave for periods longer than 2 week must be approved in advance by the Board of Directors.
- 33.3 No reasonable request for leave without pay shall be refused.
- 33.4 The maximum period of leave without pay shall be 1 year.

### **34. JURY SERVICE**

- 34.1 A full-time, part-time or fixed term employee required to attend for jury service during their ordinary working hours shall be reimbursed by the Tenants' Union an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on jury service.
- 34.2 An employee shall notify their Tenants' Union as soon as possible of the date upon which they are required to attend for jury service. Further the employee shall give the Tenants' Union documentary proof of their attendance, the duration of such attendance and the amount received in respect of such jury service.

### **35. STUDY LEAVE**

- 35.1 Employees shall be entitled to up to 5 hours per week study leave in accordance with the Tenants' Union's Study Leave Policy.

### **36. LEAVE TO ATTEND UNION COURSES AND MEETINGS *and other matters.***

- 36.1 One person employed at the Centre each year shall be entitled to three days paid leave to attend Trade Union training courses.
- 36.2.1 The employee shall be entitled to take 2.5 hours per month without loss of pay for the purpose of attending union meetings.
- 36.3 If an employee authorizes the employer to do so, the employer shall deduct union dues from the employees salary and forward them to the nominated union.

### **37. OTHER LEAVE**

- 37.1 Employees shall be entitled to 3 days Special Leave per annum for leave for, moving days, cultural and religious holidays, other personal reasons subject to approval by the Executive Officer.
- 37.2 An additional day's holiday may be taken in each twelve months of employment at a time agreed between the Tenants' Union and the employee. This is to be observed in lieu of an Annual Union Picnic Day

## **5 PART VII – GRIEVANCE AND DISPUTE SETTLING PROCEDURE, TERMINATION, ORGANISATIONAL CHANGE AND REDUNDANCY**

### **38. GRIEVANCE AND DISPUTE SETTLING PROCEDURE**

- 38.1 Any dispute or grievance by an Employee (*or a party to this Agreement*) arising out of the interpretation or *application of any provision* of this Agreement or any other working conditions or complaints shall be dealt with in the following manner:-
- (a) In the first instance, the employee shall attempt to resolve the grievance with their immediate supervisor.
  - (b) Where any such attempt at settlement has failed, or where the dispute or grievance is of such a nature that direct discussion between the employee and her/his supervisor would be inappropriate, the employee shall attempt to solve the grievance directly with the Executive Officer.
  - (c) Where the dispute or grievance is of such a nature that the dispute or grievance involves the Director or where direct discussion between the employee and the Director would be inappropriate, the matter will be referred to the Chairperson of the Board.
  - (d) Any such meeting will be held as soon as possible after notification by the employee or their representative of the grievance or dispute or within a time frame agreed between both parties.
- 38.2 The employee may consult with any employee and/or have another employee, union representative or agent as the case may be to assist them at any stage of this process.
- 38.3.1 While the above procedure is being followed work shall continue normally. No party shall be prejudiced as to the final settlement by the continuation of work.
- 38.3.2 If the grievance or dispute is one between the parties to this Agreement involving any of the matters contained in the preamble to clause 38 the parties shall:
- (a) meet as soon as practicable (but no later than 7 days from written notification of the matter in dispute to the other party) and attempt to resolve the matter,
  - (b) emphasis will be placed on a negotiated settlement. However, if the negotiation process is unsuccessful, either party may refer the matter to the Industrial Relations Commission of New South Wales for conciliation or arbitration or other settlement as determined by the Commission. The parties agree that they will implement any settlement made under this clause.

### **39. TERMINATION OF EMPLOYMENT**

- 39.1 Nothing in this clause shall prevent the summary dismissal of an employee for misconduct.

39.2 Except for misconduct, justifying summary dismissal, the services of an employee shall be terminated by an Tenants' Union only by notice as prescribed by the following:

<u>Years of Continuous Service</u>	<u>Notice Required</u>
Not more than 1 years	at least one week
More than 1 but not more than 3 years	at least two weeks
More than 3 but not more than 5 years	at least three weeks
More than 5 years	at least four weeks

39.3 Where an employee is over 45 years of age they shall receive in addition to the above table, one week's extra notice, provided the employee has had two years service.

39.4 Nothing in this clause shall prevent the Tenants' Union from giving payment in lieu of, and equal in value to, the period of notice in 48.2(a).

39.5 An employee may terminate their service by giving the Tenants' Union two weeks notice or by forfeiture of two weeks pay in lieu of notice.

## **40. ORGANISATIONAL CHANGE AND REDUNDANCY**

### **40.1 Application**

- (a) This clause shall apply in respect of full time and part time persons employed under this Agreement.
- (b) Notwithstanding anything contained elsewhere in this Agreement, this clause shall not apply to employees with less than one year's continuous service, and the general obligation on the Tenants' Union 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 employees of suitable alternative employment.
- (d) Notwithstanding anything contained elsewhere in this Agreement, 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, apprentices or employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to ordinary and customary turnover of labour.

### **40.2 Introduction of Change**

- (a) Where the Tenants' Union 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 Tenants' Union shall notify the employees who may be affected by the proposed changes and the Union to which they belong.
- (b) **"Significant effects"** include termination of employment, major changes in the composition, operation or size of the Tenants Union'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.
- (c) Provided that where the Agreement makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

### **40.3 Tenants Union's duty to discuss change**

- (a) The Tenants' Union shall discuss with the employees affected and the Union, inter alia, the introduction of the changes referred to in 40.2(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees,

and shall give prompt consideration to matters raised by the employees and/or 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 Tenants' Union to make the changes referred to in 40.2(a).
- (c) For the purpose of such discussion, the Tenants' Union 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 provided that the Tenants' Union shall not be required to disclose confidential information the disclosure of which would adversely affect the Tenants Union.

#### **40.4 Discussions before termination**

- (a) Where the Tenants' Union has made a definite decision that they no longer wish the job the employee has been doing to be done by anyone, pursuant to 40.2(a), and that decision may lead to the termination of employment, the Tenants' Union 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 Tenants' Union has made a definite decision which will invoke the provision of 40.4(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 Tenants' Union 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. Provided that any Tenants' Union shall not be required to disclose confidential information the disclosure of which would adversely affect the Tenants Union.

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

This subclause sets out the provisions to be applied to terminations by the Tenants' Union for reasons arising from "production", "program", "organisation" or "structure" in accordance with 40.2(a).

- (a) In order to terminate the employment of an employee the Tenants' Union 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 the 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.

#### **40.6 Notice for technological change**

This subclause sets out the notice provisions to be applied to terminations by the Tenants' Union for reasons arising "technologically" in accordance with 40.2(a).

- (a) In order to terminate the employment of an employee the Tenants' Union 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 subclause to be given shall be deemed to be service with the Tenants' Union 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.

#### **40.7 Time off during the notice period**

- (a) During the period of notice of termination given by the Tenants Union, 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 Tenants Union, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

#### **40.8 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 Tenants' Union until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

#### **40.9 Statement of employment**

The Tenants' Union 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.

#### **40.10 Notice to Centrelink**

Where a decision has been made to terminate the employment of employees, the Tenants' Union 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.

#### **40.11 Employment Separation Certificate**

The Tenants' Union 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.

#### **40.12 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties for reasons set out in 40.2(a), 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 Tenants' Union may at the Tenants Union'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.

#### 40.13 Severance Pay

Where an employee is to be terminated pursuant to 40.4 of this clause, the Tenants' Union 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 Tenants' Union 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-Agreement payments, shift penalties and allowance, paid in accordance with the Agreement.

## 6 PART VIII – MISCELLANEOUS PROVISIONS

### 41. CHILDCARE

In the circumstances where no other arrangements can be made, an employee responsible for the care of a child shall be entitled to bring the child to work, where this does not conflict with the performance of the employee's duties or the duties of other employees

### 42. OCCUPATIONAL HEALTH AND SAFETY

The Tenants' Union will work together with employees to ensure compliance with the NSW *Occupational Health and Safety Act 2000* and *Occupational Health and Safety Regulation 2001* to achieve a high standard in health and safety management performance.

### 43. ANTI-DISCRIMINATION

- 43.1 It is the intention of the parties bound by this Agreement to seek to achieve the object in Section 3(f) of the *Industrial Relations Act 1996 (NSW)*, to prevent and eliminate discrimination in the workplace on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibility as a carer.



- 43.2 Accordingly, in fulfilling their obligations under the dispute resolution procedure, the parties must take all reasonable steps to ensure that neither the Agreement provisions nor their operation are directly or indirectly discriminatory in their effects.
- 43.3 Under the *Anti-Discrimination Act, 1997 (NSW)*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 43.4 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 56(d) of the *Anti-Discrimination Act 1977 (NSW)*,
  - (d) a party to this Agreement from pursuing matters of unlawful discrimination in any state or federal jurisdiction.

**44. EMPLOYEE'S INDEMNITY**

The Tenants' Union shall be responsible in accordance with the *Employees' Liability Act 1991* to indemnify employees against liability for fault (as defined in that Act) arising out of the performance of work by the employee.

**45. LABOUR FLEXIBILITY**

The Tenants' Union may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training.