

ABORIGINAL LEGAL SERVICE OF WESTERN AUSTRALIA (INC.)
AGREEMENT 2006/2008

1 - TITLE

This Agreement shall be known as the Aboriginal Legal Service of Western Australia (Inc.) Union Collective Workplace Agreement 2006/2008.

2 - ARRANGEMENT

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3 – PARTIES BOUND

This Union Collective Workplace Agreement (this Agreement) shall apply to and be binding on:

- (a) The Community and Public Sector Union (CPSU); and
- (b) The Aboriginal Legal Service of Western Australia (Inc.)
- (c) Employees of the Aboriginal Legal Service of WA (Inc.).

4 – DURATION OF AGREEMENT

This Agreement shall come into operation on and from the date of lodgement with the Office of Employment Advocate and shall remain in force until 30 June, 2008.

5 – PURPOSE OF THIS AGREEMENT

This Agreement aims to achieve the following:

1. Consistency in the application of employment conditions for all staff employed within the Aboriginal Legal Service of Western Australia (Inc.);
2. Provide a mechanism for the payment of a pay rise to staff;
3. To further the Aboriginal Legal Service's commitment to a family-friendly work place by introducing new arrangements to assist employees with family responsibilities.
4. To further the Aboriginal Legal Service's commitment to providing a safe and healthy work environment for all employees.

6 – DEFINITIONS

“Allied Professional” means non-legal professional employees, eg. Library Services Officer, Journalist, Social Worker.

“Articled Clerk” means a Legal Officer as defined by Part 3 of The Legal Practice Act WA 2003.

“Assistant Managing Solicitor” means a solicitor employed specifically as Assistant Managing Solicitor pursuant to the relevant duty statement as amended from time to time.

“Chairperson” means the duly elected chairperson of the Aboriginal Legal Service of Western Australia Incorporated.

“Chief Executive Officer”, “Deputy Chief Executive Officer” and “Director Legal Services”

mean employees of the Aboriginal Legal Service of Western Australia Incorporated, so designated by the employer.

“Class” means the salary classes as detailed in Attachment A “Salary Schedule”.

“Counsel” means a solicitor employed specifically as Counsel pursuant to the relevant duty statement as amended from time to time.

“Court Officer” means an employee of the Aboriginal Legal Service being an Aboriginal person holding an authority under s.48 Aboriginal Affairs Planning Authority Act 1972 (WA) or any equivalent authority.

“Days” means working days.

“Employee Representative” means a person, including a union representative, whom an employee has chosen to assist, act as an advocate or represent them.

“Employer” means the Aboriginal Legal Service of Western Australia Incorporated.

“Executive Committee Members” means those persons duly elected or otherwise appointed to control the operations of the Aboriginal Legal Service of Western Australia Incorporated.

“Fixed Term Contract” means a contract of employment as specified in clause 9 herein.

“Grades” means the salary grades as detailed in Attachment A “Salary Schedule”.

“Increment” means the various individual rates of pay shown listed vertically within a Grade.

“Leave Loading” means the 14% loading payable over 5 weeks being equivalent to 17.5% payable if annual leave were of 4 weeks duration.

“Legal Officer” means an employee of the Aboriginal Legal Service holding recognised formal legal qualifications who has no restrictions on entitlement to practise.

“Legal Research Officer” means an officer employed specifically as Legal Research Officer pursuant to the relevant duty statement as amended from time to time.

“Legal Service” means the Aboriginal Legal Service of Western Australia Incorporated.

“Managing Officer” means any employee in charge of a unit other than a Senior Managing Officer.

“Officer” or “Employee” means a person employed by the employer on either a permanent, temporary, part-time or casual basis.

“Regional Court Officer” is a Court Officer employed by the Aboriginal Legal Service at an office outside the Perth metropolitan area.

“Replacement Employee” means an employee specifically engaged as a result of an employee proceeding on parental leave.

“Restricted Practice Legal Officer” means a Legal Officer with restrictions on entitlement to practise as itemised in s.16A (1)(2) of (WA) Legal Practitioners Act 1893.

“Senior Allied Professional Officer” means an Allied Professional Officer employed specifically as Senior Allied Professional Officer pursuant to the relevant duty statement as amended from time to time.

“Senior Legal Officer” means a solicitor employed specifically as Senior Legal Officer pursuant to the relevant duty statement as amended from time to time.

“Senior Management” means Chief Executive Officer, Deputy Chief Executive Officer, Director Legal Services or as defined in the Aboriginal Legal Service constitution from time to time.

“Senior Managing Officer” means any employee employed specifically as Senior Managing Officer pursuant to the relevant duty statement as amended from time to time.

“Union” means the Community and Public Sector Union.

7 – CASUAL EMPLOYEES

1. A Casual Employee means a person employed by the employer for a period of less than 6 months. Where the employment continues beyond 6 months, the employee shall be deemed to be a fixed term employee from the end of the 6 month period.
2. A casual employee shall be paid 20 per cent over the rates specified herein for their class of work in lieu of entitlements to annual leave, sick leave, public holidays, and other paid leave entitlements (excluding long service leave) under this Agreement.

8 - PART-TIME EMPLOYEES

1. A part-time employee shall be an employee engaged on a contract of service who works prescribed hours from week to week, unless otherwise agreed between the employer and the employee.
2. Part-time employees shall receive payment for wages and shall accrue annual leave, long service leave, sick leave, on a pro rata basis according to the same proportion as the number of hours worked each week bears to 37.5 and shall be entitled to compassionate/bereavement leave. Aboriginal part-time employees shall be entitled to special Aboriginal leave. In the case of payment for any leave entitlements and in circumstances where the number of hours worked each week varies, such payment shall be calculated according to the arithmetical average, over the period from the last anniversary date, or date of commencement, as the case may be.

9 – FIXED TERM EMPLOYEES

1. Fixed term and specified task employment will only be used where the specific job performed by the employee and/or the specific competencies exercised by the employee are not required on an ongoing basis.
 - a. Fixed term employment is for a fixed period, subject to termination at the stated finish date, except in cases where summary dismissal is lawful in which case no notice will be given.
 - b. Specified task employment is for a specified task where employment will cease on completion of the task, except in cases where summary dismissal is lawful in which case no notice will be given.
2. Unless a fixed term employee is engaged on a casual basis, a fixed term employee shall accrue and be paid for all entitlements prescribed by this Agreement for time worked as if the employee was permanently employed.

10 - RATES OF PAY

1. Except in respect of junior officers, an officer or employee employed in any of the designations hereunder shall be paid, by payment into a bank/financial institution account, within the following range:

Receptionist	Grade 1 - Years 1-9
Office Staff	Grade 1 - Years 1-9
Clerk	Grade 1 to Grade 3
Legal Secretary	Grade 1 to Grade 2
Community Liaison Officer	Grade 2 to Grade 4
Administrative Officer	Grade 2 to Grade 4
Articled Clerk	Grade 2 – Years 1 - 6
Court Officer	Grade 2 to Grade 3
Court Officer Senior	Grade 4 to Grade 5
Restricted Practice Legal Officer	Grade 3 - Years 1 - 6
Senior Legal Secretary	Grade 3 to Grade 4
Allied Professional Officer	Grade 3 to Grade 5
Legal Officer - Perth	Grade 4 to Grade 6
Legal Officer - Country	Grade 5 to Grade 7
Managing Court Officer	Grade 6 to Grade 7
Senior Administrative Officer	Grade 5 to Grade 7
Senior Allied Professional Officer	Grade 6 to Grade 8
Senior Legal Officer	Grade 6 to Grade 8
Managing Officer	Grade 6 to Grade 8
Senior Managing Officer	Grade 8 to Grade 9
Counsel	Grade 8 to Grade 9
Director, Legal Services	Class 1
Deputy Chief Executive Officer	Class 1
Chief Executive Officer	Class 2

2. (a) Movement within the salary ranges in sub-clause 1 shall be by annual

progression (based on 12 months completed service excluding any periods of leave without pay) to the next salary increment within and between the grades specified and is subject to satisfactory performance appraisal. An employee shall not be denied progression simply because a formal performance appraisal has not been conducted by the employer.

- (b) Employees who have had recent relevant experience may have such experience recognised by the employer when determining the starting salary increment payable to the employee. The onus of proof of previous experience shall rest on the employee and any calculation arising from the production of work records or other documentary evidence shall only apply from the time such proof is supplied. Provided that this sub-clause does not place a mandatory onus upon the employer to recognise prior work experience in every situation.

3. Transitional Arrangements.

It is acknowledged that there are some employees, who, for historical or other reasons are classified at a level higher than the level applicable to the position they occupy.

Notwithstanding any other provisions in this Agreement, except clause 40 (No Reduction), the salary payable to such employees shall be the greater amount applicable to:

- (a) the Award incremental level at which the employee was classified on the day that this Agreement comes into operation, or
- (b) the salary level for the position they occupy.

11 - SUPERANNUATION

The employer shall make superannuation contributions in accordance with the rate of contribution specified in the *Superannuation Guarantee (Administration) Act 1992 (Cth)* into the employer sponsored Superannuation Fund.

12 - HOURS OF DUTY

An employee's hours of duty shall be 37.5 hours per week to be worked by agreement between the employee and employer between the hours of 8:00 am and 6:00 pm Monday to Friday inclusive, provided that no more than 10 hours shall be worked in any one day and a lunch break of not less than 30 minutes be taken between the hours of 11.30am and 2.30pm.

13 - TIME OFF IN LIEU

- 1. Employees shall be granted time off in lieu for approved hours worked in excess of 37.5 hours per week except in respect of emergency duty.
- 2. Wherever reasonably practicable, such leave shall be taken within 2 weeks of having

been accrued.

3. An employee intending to take time off in lieu in excess of 5 days at any one time shall, wherever reasonably practicable, give at least 3 weeks' notice, and the timing of such leave shall be as approved by the employer.
4. Time off in lieu will only be available where the employee's hours have been recorded and certified by the employee's supervisor.
5. Time off in lieu shall be paid at ordinary rates.
6. Time off in lieu shall not be granted against travelling time.

14 - ACTING APPOINTMENT

1. An employee may be requested in writing to relieve a position attracting a higher rate of wage and shall be paid at the Salary Grade designated for that position for the period over which the employee performs the appointment attracting the higher rate. Acting appointments will be made for a minimum period of one week including public holidays.
2. The employee shall be advised of the duties required, the duration of the performance of the acting appointment and the rate of wage payable in accordance with the provisions of this Clause.
3. The rate of wage prescribed by this Clause shall be calculated on a daily basis for the duration of the acting appointment.
4. An employee shall not unreasonably refuse to undertake an acting appointment if requested to do so by the employer.
5. When calculating the amount payable by the employer to the employee for any paid leave entitlements under this Agreement, the employee must have completed 4 weeks of acting in higher duties to attract payment of paid leave entitlements at the higher rate, for leave taken while so acting. The ability of the employee to take leave while acting on higher duties to be negotiated with their supervisor.

15 - CALL OUT DUTY

1. A Court Officer based in the Perth metropolitan area may be required to work up to twenty eight (28) consecutive days callout duty upon a rotational basis.
2. A Court Officer on call out duty in the metropolitan area shall be subject to being called out to duty at any time during the hours of 5.00 pm to 9.00 am on Monday to Friday and at any time from 5.00 pm on Friday to 9.00 am on the following Monday and any public holiday.
3. Court Officers in the metropolitan and regional areas shall also be entitled to accrue time off in lieu subject to clause 12 for approved attendance on call out duty. Each

such attendance, from commencement to completion of a call out, shall attract a minimum of one hour time off in lieu. All such call out duty must have prior approval unless exceptional circumstances prevent approval from being reasonably obtained.

4. Call out duty, in this Clause, means a period of duty not at the normal place of work where the officer is required to remain contactable and available to perform extra duty if required.

16 - ANNUAL LEAVE

1. Each employee shall be entitled to 5 weeks paid leave after each 12 months continuous service and such leave shall be credited monthly. Leave can be taken for such periods of time as chosen by the employee. Annual leave where possible shall ordinarily be taken within one year of accrual.
2. An employee shall, wherever reasonably practicable, give at least 2 weeks' notice of intention to take annual leave, and the timing of such leave shall be as approved by the employer.
3. A leave loading of 14% per cent shall be paid in addition to the ordinary wage payable for annual leave.
4. An employee may, with the approval of the employer, be allowed to take that proportion of the annual leave which has accrued in accordance with the provision of this clause before the completion of 12 months' continuous service provided that at least one portion shall not be less than two consecutive weeks.
5. For the purpose of this clause, service shall be deemed to be continuous notwithstanding:
 - (a) any interruptions or termination of the employment by the Legal Service if such interruption or termination has been made merely with the intention of avoiding obligations with respect to annual leave; or
 - (b) any period of paid authorised leave.
 - (c) where any employee has applied for and been granted leave of absence by the Legal Service without payment for such leave, the period of such leave shall not be taken into account when computing continuous service for the purpose of this Agreement.
6. Any time in respect of which an employee is absent from work, except time for which the employee is entitled to claim paid leave as prescribed by this Agreement shall not count for the purpose of determining an employee's entitlement to annual leave.
7. An employee, before going on annual leave, will be paid such salary they would have received in respect of the ordinary time which they would have worked plus the loading referred to in sub-clause 3 above, had they not been on leave during the

relevant period. Unless otherwise agreed by the employer and the employee, such paid leave shall be paid by the Legal Service prior to the employee proceeding on annual leave.

8. Upon termination, the employee shall be paid pro-rata annual leave (including the loading prescribed by sub-clause 3 above on the basis of 5 weeks pay for each 12 months' of continuous service in respect of each completed week of service for which annual leave has not already been taken.

17 - PERSONAL LEAVE

1. (a) An employee who is unable to attend or remain at their place of employment during ordinary hours of work by reason of personal ill health or injury shall be entitled to payment for such absence in accordance with the following provisions.
- (b) Entitlement to payment for a full-time employee shall accrue weekly at the rate of 1.442 hours per week, such that an employee's maximum annual personal leave entitlement shall be 75 hours. For part-time employees the entitlement in hours to personal leave shall accrue at the rate per week calculated in the following manner:

<u>Hours per week</u>		
37.5	X	1.442

- (c) The rate of pay for an absence in accordance with this clause shall be the employee's ordinary wages that they would have received had they not been on leave. For part-time, temporary, contract and replacement employees, payment shall only be made for rostered ordinary hours they would have worked had they not been on leave in accordance with this clause.
2. Personal leave allowable under this clause is cumulative and must be accurately documented in employee pay records as proof of entitlement.
 3. An employee shall not be entitled to paid personal leave for any period covered by worker's compensation or sickness benefits.
 4. Unless by reason of emergency or hardship it is not reasonably practicable, an employee shall advise the personnel officer of the employee's absence no later than 9.00am on the day of the absence and if possible prior to the commencement of duty of the inability to attend work and the estimated duration of the absence.

5. Paid leave will be granted only on production of a medical certificate or other proof that would satisfy a reasonable person, where the duration of the absence is greater than one day or where the absence occurs on the working day immediately preceding or following a weekend and/or a public holiday.
6. An employee who suffers personal ill health or injury while on annual leave may be paid personal leave in lieu of annual leave subject to:
 - (a) production of a medical certificate where the illness or incapacity is greater than one (1) working day;
 - (b) payment for replaced annual leave shall be at the wage applicable at the time the leave was taken and the annual leave loading prescribed in Clause 16.3 shall have been paid with respect to the replaced annual leave.
7. Clause 17.6 - Personal Leave is subject to Clause 16 - Annual Leave of this Agreement.
8. An employee who has completed 7 years continuous service will upon termination be paid 75% of all outstanding accrued personal leave.

18 - LONG SERVICE LEAVE

Conditions

1. Subject to the conditions hereinafter prescribed all employees employed by the Legal Service shall become entitled to 13 weeks long service leave;
 - (a) after a period of 7 years' continuous service; and
 - (b) after each further period of seven years' continuous service.

The long service leave prescribed in this Clause may, by consent between the employer, the employee and the employee's representative be taken in more than one portion provided that no portion shall be less than two consecutive weeks.
2. For the purpose of these conditions "service" means service as an employee of the Legal Service and shall be deemed to include:
 - (a) absence of the employee on annual leave or public holidays;
 - (b) absence of the employee on paid personal leave or on an approved day off;
 - (c) absence of the employee on approved personal leave without pay except that portion of a continuous absence which exceeds three months;
 - (d) absence of the employee on any other kind of paid leave not mentioned above.
3. The service of an employee shall not be deemed to have been broken:

- (a) by resignation, provided the employee recommences employment with the Legal Service within three months of the day on which the employment was ended as a permanent employee;
 - (b) if the employment is ended by the employer for any reason other than serious misconduct but only if;
 - (i) the employee resumes employment as a permanent employee with the Legal Service not later than 3 months from the day on which employment was ended; and
 - (ii) payment pursuant to Clause 18.8 of these conditions has not been made; or
 - (c) by any absence approved by the employer.
4. Long service leave shall be taken at a time convenient to the employer and employee.
 5. Long service leave must be commenced within 12 months of becoming due unless written permission of the employer concerned is obtained for postponement beyond 12 months.
 6. Any public holiday occurring during an employee's absence on long service leave shall not be deemed to be a portion of the long service leave and extra days in lieu thereof shall be granted.
 7. If an employee who has become entitled to long service leave in accordance with Clause 18.1 of these conditions dies before taking that leave, payment in lieu of that leave shall be made to that employee's estate.
 8. If the employment of an employee ends before they have completed the first or further qualifying periods in accordance with Clause 18.1 of these conditions, payment in lieu of long service leave proportionate to their length of service shall not be made unless the employee;
 - (a) has completed a total of at least five years' continuous service and their employment has been ended by the employer for reasons other than serious misconduct; or
 - (b) has completed a total of not less than five years continuous service and their employment is ended by their employer or at the instigation of the employee on account of incapacity due to old age, ill health or the result of an accident; or
 - (c) has completed a total of not less than five years' continuous service and resigns or whose services are terminated because of her pregnancy and who produces at the time of resignation or termination certification of such pregnancy and the expected date of birth from a qualified medical practitioner; or

- (d) dies after having served continuously for not less than five years before their death.
- 9.
- (a) Subject to the provisions of this clause an employee shall be paid during long service leave at their permanent classified rate of pay.
 - (b) If an employee has been employed in one or more positions each of which carries a higher rate than their permanent classified rate for a continuous period of 6 months ending not earlier than two weeks before the day on which he commences long service leave or is paid pro rata in lieu of leave, the rate which he has received for the greatest proportion of that 6 month period shall, for the purpose of this Clause, be deemed to be their permanent classified rate.
 - (c) If any variation occurs in the rate of wage applicable to an employee during any period when he is on long service leave, the employee's pay while he is on leave shall be varied accordingly and, if the employee has been paid in full for the leave before its commencement payment shall be adjusted as soon as practicable after the employee resumes work.
- 10.
- (a) A part-time employee shall be paid the proportion of the amount that their ordinary hours bear to the ordinary hours of a full-time employee in the same classification.
 - (b) If the hours of a part-time employee have varied they shall be paid a rate based on the average number of hours worked over the full qualifying period.
 - (c) A full-time employee, who, during a qualifying period has been continuously employed on both full-time and part-time employment, may elect;
 - (i) to take three months long service leave at a rate determined by the proportion of service on a part-time basis to that on a full-time basis; or
 - (ii) to take a lesser period than three months calculated by converting the part-time service to equivalent full-time service; or
 - (iii) to work such additional time as will effectively make up the part-time service into full-time service so that the employee qualifies for three months long service leave at the full-time rate of pay.
 - (d) A part-time employee, who, during the qualifying period has been continuously employed on both part-time and full-time employment, shall be paid at a rate determined by the proportion of service on a part-time basis to that on a full-time basis.

11. Where an employee, through personal ill health, is confined to their place of residence or a hospital for a continuous period of 2 days or more during any period of long service leave and such confinement is certified to by a duly qualified medical practitioner, such period shall be considered personal leave and the period during long service leave for which paid personal leave has been approved shall be given as additional long service at a time convenient to the employer and employee.

19 - PARENTAL LEAVE

This clause is subject to the Parental Leave provisions of the Workplace Relations Act 1996

Definitions

1. (a) "Adoption", in relation to a child, is a reference to a child who:
 - (i) is not the natural child or step child of the employee or the employee's spouse;
 - (ii) is less than five years of age; and
 - (iii) has not lived continuously with the employee for a period of six months or more.
- (b) "Continuous service" means service under an unbroken contract of employment and includes:
 - (i) any period of leave taken in accordance with this clause;
 - (ii) any period of part-time employment worked in accordance with this clause; or
 - (iii) any period of leave or absence authorised by the employer by the Agreement.
- (c) "Expected date of birth" means the day certified by a medical practitioner to be the day of which the medical practitioner expects the employee or the employee's spouse, as the case may be, to give birth to a child.
- (d) "Parental leave" means leave provided for by sub-clause (2) of this clause.
- (e) "Spouse" includes a defacto or a former spouse, in the case of Maternity Leave or Paternity Leave, but a defacto spouse only, in the case of Adoption Leave.

Eligibility for Parental Leave

2. An employee who becomes pregnant, upon production to her employer of the certificate required by sub-clause (5) hereof, shall be entitled to a period of up to 52 weeks parental leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of parental leave taken by

the employee's spouse in relation to the same child and apart from parental leave of up to one week at the time of confinement shall not be taken concurrently with parental leave.

Fourteen weeks paid leave shall be granted of which six weeks must be taken in the period immediately prior to the certified expected date of confinement.

Fourteen weeks paid leave shall be granted in the case of Adoption, however it is not necessary for the employee to take this leave six weeks prior to the expected Adoption date.

This leave must be taken in one continuous block and the employee would only receive payment during the weeks that are actually taken as leave.

The employee must have had at least twelve months continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

Entitlement to Parental Leave

3. The employee is entitled to take up to 52 consecutive weeks of unpaid leave in respect of:
 - (a) the birth of a child to the employee or the employee's spouse; or
 - (b) the placement of a child with the employee with a view to the adoption of the child by the employee.
 - (c) An employee is not entitled to take parental leave at the same time as the employee's spouse but this paragraph does not apply to one week's parental leave taken by the male parent immediately after the birth of the child.

Special Adoption Leave

4. The employer shall grant to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee, the employer may require the employee to take such leave in lieu of special leave.

Notice Period

5.
 - (a) The employee shall give the employer at least 10 weeks' notice of their intention to take parental leave.
 - (b) The employee shall notify the employer of the dates on which they wish to start and finish the leave.
 - (c) An employee shall not be in breach of this Clause as a consequence of failure to give the required notice if such failure is occasioned by:
 - (i) the confinement occurring earlier than the expected date; or
 - (ii) the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling

circumstances.

- (d) As soon as practicable an employee shall notify the employer of any change in the information provided pursuant to this Clause.
- (e) An employer by not less than 14 days' notice in writing to the employee, may require a pregnant employee to commence parental leave at any time within the 6 weeks immediately prior to her presumed date of confinement.

Certification

- 6. (a) An employee who has given notice of their intention to take parental leave, other than for adoption, is to provide to the employer a certificate from a medical practitioner stating that the employee or the employee's spouse, as the case may be, is pregnant and the expected date of birth.
- (b) An employee who has given notice of their intention to take parental leave for adoption, is to provide to the employer:
 - (i) a statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or
 - (ii) a statement from the appropriate government authority confirming that the employee is to have custody of the child pending an application for an adoption order.

Notice of Spouse's Parental Leave

- 7. (a) An employee who has given notice of their intention to take parental leave and who is actually taking parental leave is to notify the employer of particulars of any period of parental leave taken or to be taken by the employee's spouse in relation to the same child.
- (b) Any notice given under paragraph (a) may either be in a form acceptable to the employer or shall be supported by a statutory declaration by the employee as to the truth of the particulars notified, including:
 - (i) That the period of paternity leave is being taken by the employee for the purpose of becoming the primary care-giver of the child;
 - (ii) Particulars of any period of parental leave sought, or taken by the employee's spouse; and
 - (iii) For the period of the parental leave the employee will not engage in any conduct inconsistent with the employee's contract of employment.

Transfer to a Safe Job

8. Where in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to the job until the commencement of maternity leave.

If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a registered medical practitioner. Such leave shall be treated as maternity leave for the purposes of sub-clauses (12),(13),(14) and (15) hereof.

Maternity Leave Before and After Confinement

9. A female employee who has given notice of her intention to take parental leave, other than for an adoption, shall ordinarily commence the leave six weeks before the expected date of birth and end the leave eight weeks after the day on which the birth has taken place. Provided that an employee may apply to the employer to continue or resume duty in respect of any period closer to the expected date of birth and the employer may approve the application, provided the application is supported by the certificate of a registered medical practitioner indicating that the employee is fit for duty.

Variation of Period of Parental Leave

10. An employee may at any time whilst absent from duty on parental leave, make application to extend or reduce the period referred to in the original application, but so that the amended period complies with the requirements of sub-clauses (2) and (8) of this clause and the employer may grant permission in accordance with the amended application.

Cancellation of Parental Leave

11. (a) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.
- (b) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed four weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

Special Maternity Leave and Personal Leave

12. (a) Where the pregnancy of an employee not then on maternity leave terminates after twenty eight weeks other than by birth of a living child then:
- (i) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work, or

- (ii) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid personal leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.
- (b) Where an employee then on maternity leave suffers illness related to her pregnancy, she may take such paid personal leave as to which she is entitled and such further unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid personal leave, special maternity leave and maternity leave shall not exceed twelve months.
- (c) For the purposes of sub-clauses (2), (8), (12), (14) and (15) hereof, maternity leave shall include special maternity leave.
- (d) An employee returning to work after the completion of a period of leave taken pursuant to this sub-clause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who has transferred to a safe job pursuant to sub-clause (7), to the position she held immediately before such transfer.

Where such position no longer exists but there are other positions available, for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly as comparable in status and salary to that of her former position.

Parental Leave and Other Leave Entitlements

- 13. (a) Nothing contained in this clause prevents the grant of accrued annual leave or long service leave to an employee in respect of the whole or any part of the period referred to in sub-clause (2) of this clause.
- (b) Except by reason of the grant of accrued annual leave or long service leave an employee is not entitled to salary in respect of the period of absence from duty permitted in accordance with this clause.
- (c) Subject to the provisions of sub-clause (11) absence of an employee which has been permitted in accordance with the provisions of this clause shall not be deemed absence on sick leave.

Return to Work after Parental Leave

- 14. (a) An employee shall confirm their intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of parent leave.
- (b) An employee, upon expiration of the notice required by paragraph (a) hereof, shall be entitled to the position which they held immediately before proceeding on parental leave or, in the case of an employee who was transferred to a safe job pursuant to sub-clause (7), to the position which they held immediately

before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which they are capable of performing, the employee shall be entitled to a position as nearly as comparable in status and salary or wage to that of the former position.

Effect of Parental Leave on Employment

15. Notwithstanding any Agreement or other provision to the contrary, absence on parental leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any relevant Agreement or Agreement.

Termination of Employment

16. (a) An employee on parental leave may terminate their employment at any time during the period of leave by notice given in accordance with this Agreement.
- (b) An employer shall not terminate the employment of a employee on the ground of pregnancy or absence on parental leave, but otherwise the rights of an employee in relation to termination of employment are not hereby affected.

Replacement Employees

17. (a) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave.
- (b) Before an employer engages a replacement employee under this sub-clause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (c) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee , the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (d) Provided that nothing in this sub-clause shall be construed as requiring an employer to engage a replacement employee.
- (e) A replacement employee shall not be entitled to any of the rights conferred by this clause where the employment continues beyond the twelve months qualifying period.
- (f) The provisions of this sub-clause shall apply to a replacement employee notwithstanding the provisions of Clause 38-Termination Notice.

20 – CARER’S LEAVE

Use of Personal Leave

1. An employee with responsibilities in relation to either members of their immediate family or members of their household who need their care and support shall be entitled to use, in accordance with this sub-clause, any accrued personal leave entitlement for

absences to provide care and support for such persons when they are ill and /or an unexpected emergency affecting the household or family member.

2. The employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
3. The entitlement to use personal leave in accordance with this sub-clause is subject to:
 - (a) the employee being responsible for the care of the person concerned; and
 - (b) the person concerned being either:
 - (i) a member of the employee's immediate family; or
 - (ii) a member of the employee's household.
 - (c) the term "*immediate family*" includes:
 - (i) a spouse (including a 'former spouse', a defacto spouse and a former defacto spouse) of the employee. A defacto spouse, in relation to a person, means a person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and
 - (ii) a child or an adult child (including an adopted child, a step child or an ex nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.
4. The employee shall, wherever practicable, give the employer 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. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of the absence.

Unpaid Leave for Family Purpose

5. An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family member who is ill.

21 - STUDY LEAVE

1. Upon receipt of an application the employer, at Senior Management's discretion, may grant an employee absence from duty without loss of pay for the purpose of attending a course of study designed to enhance the employee's knowledge or skills relative to the employer's service.
2. Employees required to attend courses developed and conducted by the employer ("In Service" courses) shall be paid for such time and may be reimbursed reasonable

expenses incurred by their attendances.

3. The granting of leave in accordance with sub-clause 21.1 is to be on an annual or semester basis and a fresh application must be made at the conclusion of each such period.
4. Where an employee undertakes a course of study, relevant to their employment and approved by the employer, any tuition fees incurred may be paid by the employer.
5. Study leave for employees to attend full-time studies at an approved tertiary institution may be granted provided that:-
 - (a) outside funding is provided for a replacement for the period of the study leave through an approved program or training scheme;
 - (b) the employee agrees to the conditions applicable to the approved program or training scheme;
 - (c) the employee may take leave without pay for the period of the study leave.
6. All other entitlements pursuant to this Agreement and/or contract of employment are not affected and/or suspended by this clause.
7. An employee who has been granted study leave without pay shall not accrue paid leave entitlements prescribed by this Agreement during the period which the employee is on study leave without pay.
8. Notwithstanding any other provisions in this Agreement, permanent employees successfully completing law studies who are on a higher rate of pay than that designated for their new position will have their salary capped until such time as the incremented salary for the position is greater than their capped salary.

22 - COMPASSIONATE / BEREAVEMENT LEAVE

1. Up to 5 days compassionate leave per occasion, including travel time, shall be granted:
 - (a) to enable an employee to spend time with a member of the employee's immediate family or household who contracts or develops a personal illness, or sustains a personal injury, that poses a serious threat to his/her life. The leave can be taken at any time while the injury or illness persists:
 - (b) after the death of:
 - (i) the spouse or defacto spouse of an employee;
 - (ii) the child or step-child of an employee;
 - (iii) the parent or step-parent of an employee;
 - (iv) a person who, immediately before that person's death, lived with the

employee as a member of the employee's family; or

- (v) a person where a close family relationship can be demonstrated to the satisfaction of the employer;
2. Compassionate/bereavement leave is not to be taken during a period of any other leave.

23 - SPECIAL ABORIGINAL LEAVE

Management may upon sufficient cause being shown, grant an employee leave of absence with pay without deduction from any leave entitlements for attendance at Aboriginal ceremonial activities or on business connected with other Aboriginal agencies.

24 – UNPAID LEAVE

Upon receipt of an application for unpaid leave the employer, at Senior Management's discretion, may grant an employee unpaid leave for a period not exceeding twelve months and only after any entitlements to annual leave, long service leave and TOIL have been exhausted.

25 - JURY SERVICE

1. An employee summoned as a juror shall promptly notify the Chief Executive Officer or the Director Legal Services.
2. An employee who attends as a juror during any period in which the employee would otherwise be required to perform the duties of the employee's position, being a performance of those duties during the ordinary hours of duty shall be granted leave of absence with full pay for that period.
3. Any employee who, on any day, attends as juror during a period referred to in sub-clause (2) hereof shall pay to the Legal Service any amount received by the employee as fees for the employee's attendance as a juror on that day as the employer and the employee thinks reasonable, having regard to any expenses incurred by the employee in respect of that attendance.
4. If there is a dispute with the operation of this clause then the provisions of Clause 34-Dispute Avoidance/Settlement Procedures shall apply.

26 - PUBLIC HOLIDAYS

1. An employee shall be entitled to paid public holidays as designated by the Federal Government from time to time and National Aboriginal and Islanders Day as declared by the National Aborigines and Islanders Day Observance Committee.

These holidays shall be granted, and any other days which by Act of Parliament or Proclamation may be created as public holidays in each employee's usual area of employment, or such other days as are generally observed in the locality of employment as a substitute for or in addition to any of the days above.

2. An employee who is not normally required to work on a day upon which a Public Holiday falls shall not be entitled to payment for that day in accordance with sub-clause 26.1 of this Agreement. However, if the employee is required to work on a public holiday, the employer is not required to pay any penalty, bonus or allowance in respect of any work done on that public holiday.

27- ALLOWANCES

1. **Air-conditioning**

Unless otherwise stated in this Clause, allowances payable should be assessed and paid and be not less than the amounts provided for in the Policy and Procedures Manual current on the date of registration of this Agreement.

2. **Annual Leave Airfares**

Upon completion of each twelve month period of service, an employee proceeding on annual leave shall on request to Management be granted an economy return airfare to their place of recruitment or if the employee elects, the value of an airfare to a destination other than their place of recruitment, up to a maximum of a return airfare to their place of recruitment. This provision shall include airfares for dependent spouses and dependents. This condition will only apply to employees employed in Esperance, Kalgoorlie, Broome, Carnarvon, Derby, Fitzroy Crossing, Halls Creek, Kununurra, Laverton, Newman, Meekatharra, Roebourne, South Hedland, Warburton and such other places as agreed from time to time by the employee and the employer.

3. **District Allowance**

Unless otherwise stated in this Clause, allowances payable should be assessed and paid and be not less than the amounts provided for in the Policy and Procedures Manual current on the date of registration of this Agreement.

4. **Duty Court Allowance**

Unless otherwise stated in this Clause, allowances payable should be assessed and paid and be not less than the amounts provided for in the Policy and Procedures Manual current on the date of certification of this Agreement.

5. **In-Charge Allowance**
Court Officers in charge of country offices, or country officers where no solicitor is in the office for 5 or more days, are to be paid an “In Charge” allowance at the rate of \$100.00 per week.
6. **Metropolitan Court Officer Allowance**
Court Officers in the metropolitan office who are required to work callout duty in addition to ordinary hours of work shall be entitled to an allowance of \$100.00 for each week of call out duty.
7. **Motor Vehicle Allowance**
Unless otherwise stated in this Clause, allowances payable should be assessed and paid and be not less than the amounts provided for in the Policy and Procedures Manual current on the date of registration of this Agreement.
8. **Regional Court Officers Allowance**
Unless otherwise stated in this Clause, allowances payable should be assessed and paid and be not less than the amounts provided for in the Policy and Procedures Manual current on the date of registration of this Agreement.
9. **Removal Expenses**
Unless otherwise stated in this Clause, allowances payable should be assessed and paid and be not less than the amounts provided for in the Policy and Procedures Manual current on the date of registration of this Agreement.
10. **Security Alarm Call Out**
A staff member required to be on call to attend security alarm call outs should be entitled to an allowance of \$100.00 for each week required to be on call.
11. **Travel Allowance**
An allowance of \$10.00 per hour will be paid to employees required to travel before 8:00am or after 6:00pm for the time spent travelling before 8:00am or after 6:00pm Monday to Friday, or for any time spent travelling on a Saturday or Sunday or public holiday. Travel Allowance is not payable for travel time to and from the employees residence and their usual place of work.

28 - HEALTH

1. **Immunisation**
All employees may if they elect have full immunisation against Hepatitis (of all variants), and such other ailments as agreed from time to time and the full costs of such immunisation shall be borne by the employer.
2. **First Aid**
The employer shall provide funding to any employee who wishes to undertake First Aid Certification and shall cover any costs associated with such Certification.
3. **Smoking**

The parties acknowledge that smoking is an unsafe and unhealthy practice. It is noted that smoking in the work place is forbidden by law, as it represents a proven danger to the smoker and to others.

Consistent with the above, and with the commitment of the Aboriginal Legal Service to providing a safe and healthy work environment for all employees, smoking is prohibited within the work place and all other common areas, including the public entrances to all ALS premises.

29 – ANTI-DISCRIMINATION PROVISION

The parties in this Agreement agree that:

1. it is their intention to respect and value the diversity of the workforce by helping to prevent and eliminate discrimination in the organisation on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin; and
2. any dispute concerning these provisions and their operation may be progressed through the dispute resolution procedure in this Agreement; and
3. nothing in these provisions allows any treatment that would otherwise be prohibited by anti-discrimination provisions in applicable Commonwealth or State legislation; and
4. nothing in these provisions prohibits:
 - (a) any discriminatory conduct (or conduct having a discriminatory effect) that is based on the inherent requirements of a particular position; or
 - (b) any discriminatory conduct (or conduct having a discriminatory effect) if:
 - (i) the employee is a member of staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed; and
 - (ii) the conduct was in good faith to avoid injury to the religious susceptibilities of that religion or creed.

30 – FREEDOM OF ASSOCIATION

The employer recognises that employees are free to choose to join a union. Irrespective of that choice employees will not be disadvantaged or discriminated against in respect of their employment under this agreement. Employees who choose to be members of a union have the right to participate in union activities during an employees mealtime or other breaks, and have their industrial interests represented by that union.

31 – EMPLOYEE CHOICE

To protect the terms and conditions of employees covered by this agreement, the parties agree that all new employees will be offered the choice of being employed under the terms of this agreement.

32 – RETAINING MATURE AGE WORKERS

The employer recognises that with the continued ageing of the Australian workforce, management and work practices should optimise the contribution of mature age employees, and encourage those who are making a valuable contribution to stay longer in the workforce.

In keeping with the employer's commitment to work/life balance, flexible working arrangements such as part-time work and the use of a variety of leave provisions can be suitable for use by mature age employees as a means to assist their transition to retirement. Employees are encouraged to explore these flexibilities as a means of extending their working lives. Subject to operational requirements, Senior Management may favourably consider flexible working arrangements as a means of retaining mature age employees who might otherwise choose to leave the ALSWA.

33 – MATTERS COVERED BY THIS AGREEMENT

To assist in the understanding and application of this agreement, an employee bound by this agreement may invite an employees representative involved in the negotiation of this agreement to attend the workplace to hold discussions with interested persons about matters covered by or arising from this agreement. After invitation, the employer may allow access and will facilitate such discussions (eg by providing access to a room), provided that such discussions will only take place during an employees mealtime or other breaks.

34 - DISPUTES AVOIDANCE/SETTLEMENT PROCEDURES

The following procedure is to be implemented in relation to any question, dispute or difficulty arising under this Agreement.

The parties agree that regardless of where or how a work related grievance or dispute is initiated, it will be progressed through the following procedure. The parties undertake to ensure this will occur. If either party believes that the dispute is urgent or that one of the parties is unreasonably delaying the process, then the matter can be referred by either party to the AIRC.

1. The stages of discussion will be:
 - (a) An aggrieved employee shall raise the matter in dispute formally with their supervisor, senior officer or section head as the case may be and, at the discretion of the employee, in the presence of the employee's representative.
 - (b) If not resolved, the matter shall be referred to a conference of the employer nominee on the site and, if requested by the employee, a representative of the employee's choice which can mean a union representative.
 - (c) Should the matter remain unresolved, a further meeting shall be convened between a representative of the employer and, if requested by the employee, a representative of the employee's choice which can mean a union representative.
 - (d) If the dispute remains unresolved after the above negotiation process is exhausted, the parties may jointly or individually refer the matter to the Australian Industrial Relations Commission pursuant to s.709 of The Workplace Relations Act for conciliation and, if conciliation fails, arbitration.
2. While a matter is being dealt with in accordance with this clause, neither party shall pursue industrial action in relation to that matter which hinders or obstructs the continuance of work in accordance with this Agreement.
3. Where the issue relates to a change of work or management practice, the pre existing practice shall be allowed to continue until the issue is addressed by the steps outlined in sub-clause 1 above. Neither party shall be prejudiced as to the final settlement by the continuance of work in accordance with this sub-clause.
4. To facilitate prompt implementation of these procedures each party shall undertake to notify the other at the earliest possible time of circumstances that might reasonably constitute potential for an industrial dispute. Provided that nothing in these procedures shall be construed to restrict informal resolution of procedures in the workplace.
5. (a) Throughout these procedures, all relevant facts shall be clearly identified and documented. Should unusual circumstances prevail, the above procedures may be waived by the joint agreement of all parties as represented by the employee's representative (or nominee) or the employer (or nominee).

- (b) Wherever reasonably practicable, but without hindering this dispute avoidance/settlement procedure, both parties shall respect the confidential nature of all documentation received, collected or compiled as a result of the procedure outlined by this Clause.
6. Any dispute about the application or interpretation of any matter contained in this agreement may be referred by either party or their representative to the AIRC pursuant to s.709 of the Workplace Relations Act for conciliation and/or arbitration.
 7. For the purposes of s.711 of the Workplace Relations Act the parties agree that the AIRC may give all such directions and do all such things as are necessary for the just resolution or determination of the dispute, subject to s.711(2). This may include but is not limited to
 - (i) Taking evidence on oath or affirmation;
 - (ii) Conducting a hearing;
 - (iii) Holding a ballot of affected employees where in the opinion of the AIRC such ballot may assist in the resolution of the dispute;
 - (iv) Conducting any part of the proceedings or deliberations in private;
 - (v) Meeting with any party separately during a conciliation but with the knowledge of the other party;
 - (vi) Summoning to appear before the AIRC any party to the dispute, witnesses or persons whose presence the AIRC believes would help in the resolution or determination of the dispute;
 - (vii) Compelling the production of documents that relate to the dispute;
 - (viii) Determining the dispute in the absence of any party or person who has been notified of the dispute or who has been summonsed to appear;
 - (ix) Convening a compulsory conference;
 - (x) Giving directions in the course of or for the purpose of procedural matters relating to the dispute.
 8. The AIRC shall act according to equity, good conscience and the merits of the case without regard to technicalities and legal form.
 9. The AIRC shall apply the rules of natural justice, and shall ensure the parties have a reasonable opportunity to be heard. To avoid doubt, the AIRC may conduct a hearing.
 10. A participant may be represented before the AIRC in conciliation and/or arbitration under this clause on the basis set out in s.100 of the Workplace Relations Act.
 11. Any decision or direction the AIRC makes in relation to the dispute shall be accepted

by all affected persons, and the parties agree to comply with any direction or request, be it final or procedural. Where relevant, a decision shall be accepted as settlement of the dispute, subject to any legal right of appeal or review which might exist.

12. All persons involved in the conciliation and/or arbitration shall participate in good faith.
13. The outcome of any arbitration by the AIRC shall be in writing and accompanied by written reasons unless it is agreed between the parties that reasons are not required.
14. To assist in the decision making process, the proceedings before the AIRC may be recorded and transcribed by the AIRC.
15. Unless otherwise agreed each party shall bear their own costs except that the costs (if any) of the AIRC conciliation and/or arbitration process, including any ballot of employees shall be paid by the employer.
16. The parties agree that any decision which alters the rights or responsibilities of the parties to the agreement are enforceable in a Court of competent jurisdiction.
17. Notwithstanding the above, the parties may agree to submit the dispute to a body or person other than the AIRC. To avoid doubt, an attempt to reach such an agreement is not a condition precedent to referring the dispute to the AIRC. Where the parties agree to submit the dispute to another body or person, the parties agree that:
 - (i) all of the above provisions apply;
 - (ii) references to the AIRC in the above provisions will be read as a reference to the agreed body or person; and
 - (iii) all obligations and requirements on the parties and other relevant persons in the above provisions shall be complied with.

35 - DISCIPLINARY PROCEDURES

Where the employer seeks to discipline an employee, the following steps shall be observed.

- (a) in the event that an employee commits an act of alleged misconduct, the employer (or nominee) shall notify the employee in writing and counsel the employee so that the employee understands the nature and implications of their alleged conduct. The employer shall thereafter give a reasonable period of time to the employee to respond to the allegations;
- (b) any disciplinary decision of the employer (or nominee) shall be set out in writing and personally given to the employee and shall state the date that any disciplinary action is to take effect.
- (c) An employee may appeal against a decision to take disciplinary action. Such an appeal must be made in writing to the employer (or nominee) within 5 working days of

- the date that the determination first came to the attention of the employee;
- (d) where an appeal is lodged, the employer or employee (or their respective nominee) may immediately notify the union;
 - (e) within five (5) days after lodgement of an appeal, the parties shall convene a Disciplinary Review Committee (DRC), comprising the employer (or nominee), the employee's representative or other person chosen by the employee, and an agreed third party;
 - (f) the DRC shall operate as expeditiously as possible and may determine that the original decision be affirmed, cancelled or varied;
 - (g) the DRC shall determine its own method of operation and shall inform itself in any manner it thinks fit;
 - (h) in the event of the inability of the DRC to reach a unanimous decision on an appeal referred to it within 10 days of referral, then the majority decision shall prevail.
 - (i) a decision to take disciplinary action shall be stayed pending the determination of an appeal by a DRC. Where a determination is made to take disciplinary action, the action shall be effective at the date that the DRC's determination is made or at the date specified in the notice issued under sub-clause (c), whichever is later;

36 - REDUNDANCY & CHANGE

1. Introduction to Change

(a) **Employer's Duty to Notify**

Where an employer has made a definite decision to introduce major changes in their organisation, community program, structure, production, or technology or any other operational reason, which are likely to have a significant effect upon employees, then the employer shall at the earliest opportunity notify the employees who may be affected by the proposed changes.

“Significant effects” shall include:

- (i) Major changes in the composition or size of the work-force.
- (ii) Major changes in the skills required to perform the work.
- (iii) The elimination or diminution of job opportunities, promotion or tenure.
- (iv) A significant alteration in the hours of work.
- (v) The need for retraining of the work-force.
- (vi) Transfer of full-time employees to other work or locations.

- (vii) Restructuring the work-force.

Provided that where this Agreement makes provisions for the alteration of any of the matters referred to herein, such alteration shall be deemed not to have significant effect.

(b) Employer's Duty to Discuss Change

The employer shall discuss with employee, and where they choose, employee's representatives, the introduction of the changes referred to in 36.1 hereof. Discussions shall be held to avert or mitigate the adverse effects of any significant changes upon the employees, and prompt consideration shall be given by the employer to matters raised by the employee's representative in relation to the changes.

Discussion about significant changes shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in Clause 36.1 hereof.

For the purposes of such discussions, the employer shall provide in writing to the employees concerned and the employee's representative, 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 employer shall not be required to disclose confidential information which would be unfavourable to the employer's legitimate interests.

2. Redundancy

(a) Discussions

Where an employer has made a definite decision to make a particular job redundant, and this diminution of employment is not due to the ordinary and customary turnover of labour, and this decision may lead to the termination of employment, then the employer shall hold discussions with the employees directly affected and, if they choose, the employee's representative.

These discussions shall take place as soon as is practicable after the employer has made a definite decision upon staff redundancy, pursuant to this clause. These discussions shall cover any reasons for the proposed terminations, measures to avoid or minimise the terminations, and measures to mitigate any adverse effects of any terminations upon the employees concerned.

At the time of redundancy the employee will be paid the following:

- (a) The payments outlined in clause (c); and
- (b) A \$4,500.00 gross payment to allow the employee to conduct their own job search programme; and
- (c) The equivalent of three weeks pay; and

(d) Payment in lieu of notice as outlined in Clause 37.

(b) Transfer to Lower Paid Duties

Where an employee is transferred to lower paid duties for reasons set out in Clause 36.1 hereof, the employee shall be entitled to the same period of notice of transfer as they would have been entitled to if their employment had in fact been terminated; and the employer may at the employer's option, make payment in lieu of the amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks of notice still owing.

(c) Severance Pay

In addition to the period of notice prescribed for ordinary termination an employee whose employment is terminated for redundancy, shall be entitled to the following amounts of severance pay in respect of a continuous period of service:

Period of Continuous Service	Severance
For each completed year of continuous service up to five years	4 weeks pay
For each completed year of continuous service thereafter, plus pro-rata payment for each month of continuous service since the last completed year of continuous service	3 weeks pay

For employees over fifty years of age, four weeks pay for each year of service beyond fifty years of age, including pro-rata adjustment for each completed month of continuous service since the last completed year of continuous service

“Pay” means the ordinary time rate of pay, including district allowance, for the employee concerned.

Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

Severance pay shall be in addition to all other entitlements under this Agreement.

An employer, in a particular redundancy case, may make application to the Australian Industrial Relations Commission to have the general severance pay prescribed above varied if the employer obtains alternative employment for the employee.

(d) Employee Leaving During Notice.

An employee whose employment is terminated for reasons set out in Clause 37.1 hereof, may terminate their employment during the period of notice without prejudice to any entitlement otherwise accruing under this clause.

(e) Time Off During Notice Period

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, for the purpose of seeking other employment.

The employee may be required by the employer to produce proof of attendance at an interview or other activities undertaken in seeking employment before receipt of payment for the time absent.

(f) Employees with less than one year's service

This Clause shall not apply to employees with less than 1 year's continuous service and the general obligation on employers should be no more than to give relevant 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.

(g) Employees exempted

This Clause does 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.

(h) While normally employees are not entitled to pro-rate long service leave until they have accrued seven years continuous service, employees retrenched under this Agreement shall on termination receive payment for an amount equivalent to pro-rata long service leave after one year's continuous service.

37 – TERMINATION NOTICE

1. This contract of service may be terminated on any day by one party giving to the other party notice in writing in accordance with the following scale:

Period of Continuous Service with Employer	Period of Notice
Not more than 1 year	At Least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks

More than 5 years

At least 4 weeks

The employer shall increase the period of notice by one week if the Employee is over 45 years of age and has completed two years continuous service with the Employer

The contract shall expire at the end of the notice period.

2. Payment of remuneration in lieu of the period of notice specified in sub clause (1), may be made by the employer to the employee and in such case the Contract of Service shall expire at the time written notice of termination is provided.
3. If the employee does not give the required notice, or having given or being given the required notice, leaves before the end of the period of notice, the employee forfeits the entitlement to any monies owing to the employee under this Agreement, for a maximum amount equal to the difference between the amount of required notice and the actual notice given at the appropriate rate of pay for the notice period.
4. Nothing in this sub-clause affects the employer's right to dismiss the employee without notice for conduct which justifies instant dismissal or otherwise where it would be unreasonable for the employer to continue the employment during the notice period.
5. Where the employee is dismissed in accordance with sub-clause 4 then notwithstanding sub-clause 1, they shall only be entitled to be paid for the time worked up until the time of dismissal.
6. All books of account, records, papers, correspondence and other documents concerning or containing any reference to the employer or the employer's business shall be returned to the employer whenever required by the employer to do so and in any event, immediately upon the termination of the employee's employment.
7. Notwithstanding the foregoing, the contract of service of a temporary employee shall be daily terminable by one week's notice or by the payment or forfeiture of one weeks' wages.
8. Notwithstanding the foregoing, the contract of service of a casual employee shall be daily terminable by one day's notice or by the payment or forfeiture of one day's wages.
9. An employee may be engaged on a probationary period of up to three months, during which time it will be possible for either the employer or the employee to terminate the contract of service with one week's written notice without giving any reasons

10. The employer shall be under no obligation to pay for any day where the employee is absent from work on a day where their attendance is required, except where the employee is entitled to paid leave under the provisions of this Agreement, or such leave as is otherwise justified or authorised in law.
11. The employer may direct an employee to carry out such duties as are within the employee's skill, competence and training, or are otherwise reasonable.

38 – GIVING PRIMACY TO THE PARTIES IN AN AGREEMENT

To maintain the integrity of the agreement reached between the parties the parties agree to meet and confer about a relevant matter where the Office of the Employment Advocate removes any clause from this agreement or advises that the clause is not enforceable, or amendments to legislation or regulations undermine the operation of a clause or make a clause not enforceable.

39 - NO EXTRA CLAIMS

Parties to the agreement shall not make extra claims that affect employees' terms and conditions of employment over the life of the agreement.

40 - NO REDUCTION

No employee who at the date of this Agreement is in receipt of a higher rate of pay or condition than is herein provided shall have their pay or conditions reduced as a consequence of this Agreement.

Signed on behalf of the parties:

 Dennis Eggington
 Chief Executive Officer
 Aboriginal Legal Service of WA (Inc)

 Representative of the
 Community and Public Sector Union
 PSU Group, WA Branch

 Date

 Date

SALARY SCHEDULE (ATTACHMENT A)

JUNIORS

At 16 Years	\$15,054.00
At 17 Years	\$17,368.00
At 18 Years	\$20,150.00
At 19 Years	\$23,218.00
At 20 Years	\$26,000.00

LSO GRADE 1

1st Year	\$29,744.00
2nd Year	\$30,498.00
3rd Year	\$31,356.00
4th Year	\$32,240.00
5th Year	\$32,968.00
6th Year	\$33,878.00
7th Year	\$34,112.00
8th Year	\$34,372.00
9th Year	\$35,620.00

LSO GRADE 2

1st Year	\$36,556.00
2nd Year	\$37,492.00
3rd Year	\$38,506.00
4th Year	\$39,156.00
5th Year	\$40,144.00

LSO GRADE 3

1st Year	\$42,016.00
2nd Year	\$43,134.00
3rd Year	\$44,304.00
4th Year	\$45,526.00

LSO GRADE 4

1st Year	\$47,736.00
2nd Year	\$48,984.00
3rd Year	\$49,946.00

LSO GRADE 5

1st Year	\$52,520.00
2nd Year	\$54,366.00
3rd Year	\$56,316.00
4th Year	\$58,292.00

LSO GRADE 6

1st Year	\$61,542.00
2nd Year	\$63,752.00
3rd Year	\$66,040.00
4th Year	\$68,458.00

LSO GRADE 7

1st Year	\$72,176.00
2nd Year	\$74,750.00
3rd Year	\$77,532.00

LSO GRADE 8

1st Year	\$82,108.00
2nd Year	\$85,358.00
3rd Year	\$89,830.00

LSO GRADE 9

1st Year	\$95,446.00
2nd Year	\$99,164.00
3rd Year	\$103,454.00

CLASS 1

\$135,000.00

CLASS 2

\$150,000.00