

**REGISTER OF  
ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO: EA00/33**

**TITLE: Aids Council of NSW Inc. Enterprise Agreement - 1999**

**I.R.C. NO: 99/6020**

**DATE APPROVED/COMMENCEMENT: 19 November 1999**

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**NEW AGREEMENT OR  
VARIATION: New**

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**DATE TERMINATED:**

**NUMBER OF PAGES: 23**

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** Applies to all employees covered by the Social and Community Services (State) Award and the Social and Community Services - Rates of Pay (State) Award

**PARTIES:** Aids Council of NSW -&- Aids Council of New South Wales, Australian Services Union of N.S.W., Australian Services Union of N.S.W.

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# AIDS COUNCIL OF NSW INC

## ENTERPRISE AGREEMENT - 1999

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## CONTEXT OF AGREEMENT

The AIDS Council of New South Wales (ACON) is a community based organisation responsible for providing education, care and support programs and advocacy within NSW. ACON was established in 1985 by the gay community to respond to the growing concern about AIDS within that community and to the lack of awareness and information available at that time. As a non-government organisation, its development and success has largely been the result of the commitment and efforts of those living with and affected by HIV. The organisation has relied heavily on volunteers to provide education and care programs and their work is closely integrated with that of the paid staff. The organisation has developed close links with gay and lesbian and HIV communities and encourages and supports the involvement of people from these communities to assist with the provision of high quality services and education programs.

These factors combine to make this organisation unique in its policies relating to human resources and work environment.

The ACON strategic plan, Strategic Directions 1998-2001, provides the context for the work of the organisation.

### The Spirit of the Agreement

ACON as an organisation is committed to the health and well being of it's workers and to creating an effective, efficient and healthy workspace which will best serve our clients and communities.

For an environment characterised by rapid change this requires flexibility, accessibility and performance in order to achieve our service delivery objectives.

This agreement therefore also pursues the objectives of staff development, performance monitoring and organisational growth.

1. **TITLE**

This Agreement will be known as the **AIDS Council of NSW Inc. Enterprise Agreement - 1999.**

2. **COVERAGE OF THE AGREEMENT**

- (a) This Agreement relates to all activities conducted by ACON in NSW.
- (b) Excepting those employees referred to in (c) below, all employees of ACON are covered by this Agreement, including employees working for the Sex Workers Outreach Project (SWOP);
- (c) Employees of ACON employed under an individual contract are not covered by this Agreement, except those employees for whom it is a



term of their individual contract that this Enterprise Agreement (in whole or part) is incorporated into that contract.

- (d) This Agreement replaces the ACON Industrial Agreement (1994) and the *Social and Community Services Employees (State) Award* and the *Social and Community Services Employees - Rates of Pay (State) Award*. To the extent of any inconsistency between this Agreement and these Awards, this Agreement will apply.

**3. PARTIES**

The following are parties to this Agreement:

The AIDS Council of NSW Inc;  
The Australian Services Union; and  
Employees.

**4. TERM OF THE AGREEMENT**

This Agreement will apply on and from the date of registration in the Industrial Relations Commission of NSW, and will operate until 31st December, 2000.

**5. DISTRIBUTION OF AGREEMENT**

ACON will ensure that all employees receive a copy of this Agreement.

**6. GENERAL SAVINGS**

Nothing in this Agreement will be deemed or is intended to reduce the terms and conditions of employment, or accrued entitlements to which any employee may have been entitled prior to the making of this Agreement.

## **Engagement of Employees**

**7. TERMS OF ENGAGEMENT**

The employee will be an employee of ACON and as such will be responsible to the Chief Executive Officer or through any person appointed by the Chief Executive Officer.

**8. CONTRACT OF EMPLOYMENT**

- (a) On engagement, the employee will receive a written statement specifying:
- (i) the position's classification and pay rate according to Table One in this Agreement;

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- (ii) whether the employment basis is full-time, part-time, casual or fixed contract;
  - (iii) the period of engagement for casual or fixed contract employees;
  - (iv) the position description; and
  - (v) a copy of this Agreement.
- (b) The position description may be varied, but only after consultation and agreement between the manager and the employee. The employee will be informed in writing of any variation to the position description.

## 9. EMPLOYMENT STATUS

### (a) Full-time Employee

A full-time employee is a person engaged on a full-time basis to work 70 hours per fortnight. A full-time employee is entitled to all the terms and conditions provided in this Agreement.

### (b) Permanent Part-Time Employees

A part-time employee is a person who works a specified number of regular days and hours being less than those worked by a full-time employee per fortnight. A part-time employee is paid at the hourly rate set out in Table One prescribed for the classification of the position.

Unless stated otherwise, a part-time employee is entitled to the provisions of this Agreement on a proportional basis based on hours worked.

### (c) Fixed Contract Employees

A fixed contract employee is a person engaged for a specific period of time, or to perform a specified task or set of tasks. A fixed contract employee is paid at the hourly rate set out in Table One prescribed for the classification of the position.

Unless stated otherwise, a fixed contract employee is entitled to the provisions of this Agreement on a proportional basis.

Unless otherwise stated a fixed contract employee can transfer unused entitlements to a new contract if the employee has been employed for more than six months during the previous twelve months.

### (d) Casual Employees

A casual employee is a person engaged and paid as such.

A casual employee is paid at the hourly rate set out in Table One prescribed for the classification of the position, plus an additional loading of 24.6%. A casual employee

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is not entitled to the benefit of any leave provisions in this Agreement except as provided for in cl 27 (c). Casual rates will only be paid for a period of engagement that is less than one month.

A casual employee is paid a minimum of two hours at the appropriate rate for each engagement.

**10. CONTINUITY OF SERVICE**

Continuous service will be calculated from the first date of employment for casual, part-time and fixed contract employees where employment has been for consecutive periods with breaks of no more than two months.

## **Classifications, Salary and Superannuation**

**11. RATES OF PAY**

- (a) All employees covered by this agreement, except those on an individual contract which specify a precise dollar amount of pay, will receive a 6% increase in salary from 1 July 1999.
- (b) The rates of pay are set out in Table One of this Agreement. To ascertain the equivalent fortnightly rate of a salary the annual rates must be divided by 26.

**12. PAYMENT OF SALARY**

- (a) All salaries are paid fortnightly by electronic funds transfer to a nominated bank, credit union or building society account.
- (b) ACON will take all reasonable steps to ensure salaries are paid into the employee's account on the Thursday immediately prior to the end of the fortnightly pay period.
- (c) ACON will deduct income tax from an employee's pay. Any other deductions will be authorised in writing by the employee.
- (d) All pay variations are normally paid in arrears.
- (e) Casual employees are always paid in arrears.
- (f) On termination, any outstanding salary payments will be paid on the date of termination and by arrangement with the employee.
- (g) Each employee will receive a pay slip which will be set out in accordance with the *Industrial Relations (General) Regulation 1996*.



- (h) Advance payment of salary will only be allowed for the next pay and only for permanent and fixed contract employees. Approval will be at the discretion of the manager on the grounds of financial hardship.
- (i) Remuneration of salary may be in the form of cash and benefits dependent on the classification of the position occupied by the employee. The benefit component will be up to a maximum of forty percent of the rates prescribed in Table One.

**13. SUPERANNUATION**

ACON will contribute and otherwise act in accordance with the requirements of the *Superannuation Guarantee (Administration) Act 1992* and all other relevant legislation affecting superannuation entitlements.

**14. CLASSIFICATIONS AND PROGRESSION**

(a) Classifications

Until ACON has developed a revised classification system as outlined in cl. 48, positions will continue to be classified against the existing ACON Job Classification Table.

(b) Progression

Until such time as a performance appraisal system as outlined in cl. 48 has been developed, incremental progression within the same classification will be automatic on twelve months continuous service in that position or a higher position, subject to the availability of an increment. Continuous service is defined in cl. 10.

**15. HIGHER DUTIES**

- (a) An employee who is required to perform the duties of a higher classified position will be paid at the appropriate classification. The employee will be paid at the higher classification whenever the employee has performed the duties of a higher classified position for five days or more within a three week period.
- (b) Where a position is vacant it will be filled in accordance with ACON's recruitment procedures, the norm of which will be open competition for the position.
- (c) A permanent employee will not be paid at a lower classification if required to perform the duties of a lower classification position.





## Hours of Work

### 16. HOURS OF WORK

- (a) A full time employee is expected to work 70 hours per fortnight, normally 7 hours per day and normally between the hours of 9.00 am to 10.00 pm, Monday to Friday.
- (b) Where an employee is required to work regularly outside these hours, the normal hours of work for that position will be noted in the job description.
- (c) An employee can negotiate flexible hours of work with their manager subject to the need for:
  - (i) agreement between both parties
  - (ii) accountability for the hours worked
  - (iii) hours worked to be within 70 hours per fortnight.
- (d) In considering flexible hours of work, the manager and employee will consider internal and external client service requirements, team requirements and the individual employee's needs.
- (e) Should an employee and their manager be unable to agree on the appropriate pattern of work hours, the matter may be referred to the manager's supervisor for resolution.
- (f) Following the registration of this agreement, ACON will review the employees' job descriptions in order to make clear normal hours. If current employees normal hours are changed then the following will apply while the employee is in that position:
  - (i) hours previously counted as time and a half for time in lieu purposes will continue to be counted in that way for the purpose of calculating hours worked, or
  - (ii) as otherwise mutually agreed.
- (g) Where the normal hours of work as specified in the job description fall after 10.00 pm and before 9.00 am each hour after 10.00 pm shall count as one and a half hours for the purpose of calculating hours worked.

### 17. SERVICE HOURS

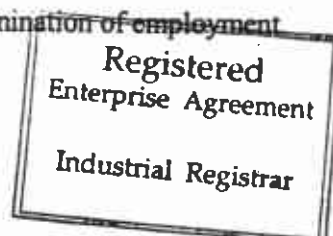
As a service provider, ACON is committed to ensuring access to services for clients between the hours of 9:00 am and 6:00 pm.

### 18. ADDITIONAL HOURS

- (a) Additional hours may, from time to time, be required in the interests of meeting an unforeseen work requirement. Additional hours are defined as:



- (i) time worked in addition to the employee's ordinary 70 hours of work between the hours of 9.00 am to 10.00 pm, Monday to Friday inclusive or as specified in the job description; or
  - (ii) time worked outside the hours of 9.00 am to 10.00 pm, Monday to Friday inclusive, when these are not the normal hours of the position.
- (b) ACON views the use of additional hours on a regular basis as a management issue which may compromise the health of employees and the organisation. Additional hours may, therefore, only be worked with the agreement of or at the specific request of the manager.
- (c) In lieu of payment for additional hours worked, an employee is entitled to time off in lieu equivalent to:
- (i) 1 hour (or part thereof) for each additional hour (or part thereof) worked in accordance with (a)(i) above; and
  - (ii) 1.5 hours (or part thereof) for each additional hour (or part thereof) worked in accordance with (a)(ii) above.
  - (iii) Hours worked on a public holiday as defined in clause 24 will be treated as additional hours under (a)(ii) above.
- (d) A manager must give the employee 24 hours' notice that additional hours are required, unless in an emergency situation or otherwise by agreement.
- (e) Where a manager requires an employee to work additional hours, the employee may decline to work additional hours only where it is unreasonable to work such additional hours.
- (f) Accrued time off in lieu should be taken as soon as practicable after the hours have been worked in maximum units of one day unless otherwise approved by the Chief Executive Officer.
- (g) An employee may not hold a balance of more than 28 hours accrued time in lieu. If an employee's accrued time in lieu is at, or approaching the amount of 14 hours, the employee and the employee's manager will agree on a time frame for taking time in lieu.
- (h) The accrual of time in lieu above 28 hours will only be allowed with the approval of the Chief Executive Officer.
- (i) Records of all time in lieu owing to employees and taken by employees will be maintained by ACON.
- (j) Untaken time in lieu will be paid out on termination of employment



**19. ADDITIONAL TRAVEL TIME**

Additional travel time from the employee's usual place of residence to a location other than that designated in the position description will be considered work time.

**20. TIME AND WAGES RECORDS**

ACON will keep and maintain time and wages records in accordance with the Industrial Relations (General) Regulation 1996.

**21. MEAL AND REST BREAKS**

- (a) An employee will not be required to work more than 5 hours without a meal break of at least 30 minutes.
- (b) Periods of 10 minutes will be allowed for morning and afternoon tea.

## LEAVE

For the purposes of determining leave entitlements, a permanent employee is any employee who is not a casual employee. Where an employee works less 70 hours per fortnight the employee is entitled to the leave entitlements on a proportional basis.

**22. ANNUAL LEAVE**

- (a) A full time employee is entitled to 20 days annual leave in accordance with the *Annual Holidays Act, 1944*.
- (b) Pursuant to cl. 22 (a), an employee must utilise annual leave within 6 months of the leave becoming an entitlement. Accrual of leave beyond this period may only be approved by the Chief Executive Officer.
- (c) A leave loading of 17.5 % of the employee's ordinary weekly rate of pay will apply for the period of the leave. The loading is to be calculated in relation to any period of annual leave to which the employee has become entitled, and where the annual leave is taken in separate periods, then in relation to each separate period.
- (d) On termination of employment by either party for other than misconduct, an employee is entitled to be paid annual leave loading on annual leave accrued. Where termination is for reason of misconduct, annual leave loading will not be paid.

**23. LONG SERVICE LEAVE**

- (a) An employee is entitled to accrue long service leave at the rate of three months for every ten years service.
- (b) On retirement or termination, a permanent employee will be entitled to be paid long service leave after five years of service on a pro-rata basis of three months for every



ten years service. Where termination is for reason of misconduct, pro rata long service leave accrued for between five and ten years service will not be paid.

- (c) In all other respects, an employee is entitled to long service leave in accordance with the *Long Service Act 1955*.

#### 24. PUBLIC HOLIDAYS

- (a) A full-time employee is entitled to all public holidays without loss of pay. For the purposes of this clause a public holiday will be a day duly proclaimed as such by the NSW Government.
- (b) A Part-time employee or fixed term employee is entitled to a public holiday without loss of pay when the public holiday falls on days which the employee would ordinarily have worked as a part of ordinary hours.
- (c) Casual employees are not entitled to any payment for a public holidays unless the holiday is worked by the casual employee.

#### 25. NATIONAL DAYS, CULTURAL OR RELIGIOUS DAYS OF SIGNIFICANCE.

An employee is entitled to take up to ten days as national days, cultural or religious days of significance. These days are to be nominated, and can be taken as allowed by cl 16 or by forms of leave otherwise provided in this agreement.

#### 26. SICK LEAVE

- (a) An employee is entitled to 12 days sick leave on ordinary pay for each year of service.
- (b) An employee will take all reasonable steps to notify his or her manager of an absence and of the likely duration of the absence. Where possible this notification will be given within 3 hours of the beginning of the absence.
- (c) Proof of illness or injury will be furnished through a medical certificate after three days' absence from normal duties.
- (d) If the full period of sick leave is not taken in any year, the whole or any untaken portion will be cumulative from year to year to a maximum of 30 days.
- (e) Where an existing sick leave entitlement is in excess of 30 days at the date of this agreement, the employee will not accrue any additional sick leave until the entitlement has reduced to a level below 30 days.
- (f) There will be no pay out of unused accrued sick leave on termination.

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(g) Provided that a medical certificate is supplied, an employee's annual leave will be re-credited if the employee takes sick leave during annual leave.

(h) **Leave in Advance**

Permanent employees will be entitled to thirty-five hours sick leave in advance at the discretion of the manager. A medical certificate must be provided for such leave:

(i) **Additional Leave for Employees with HIV**

An employee with HIV is entitled to a further 20 days sick leave on ordinary pay for each year of service, after other sick leave has been used. This entitlement is not cumulative. An employee with HIV seeking extended sick leave will be granted leave without pay if sick leave and other additional sick leave are not available.

(j) **Other Additional Sick Leave**

(i) Where an employee experiences a chronic illness, or undergoes a medical or surgical intervention that may require a period of leave in excess of their current entitlement, the employee may submit a request for additional support to their manager. The support offered would not generally exceed 30 days.

(ii) Where an employee has requested additional sick leave as outlined in cl. 26 (j) (i) and feels the process has produced an inequitable result, the employee may request a further review by a panel consisting of the Chief or Deputy Executive Officer, a staff or union representative and any advocate chosen by the employee.

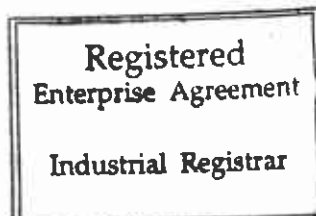
**27. PERSONAL AND CARER'S LEAVE**

(1) **Use of Sick Leave**

(a) An employee other than a casual employee, with responsibilities in relation to a person set out in cl. 27(1)(c)(ii), who needs the employee's care and support, shall be entitled to use any current or accrued sick leave entitlement provided for in cl. 26 to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

(b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave where another person has taken leave to care for the same person.

(c) The entitlement to use sick leave in accordance with this subclause is subject to:



- (i) the employee being responsible for the care of the person concerned; and
  - (ii) the person concerned being:
    - (A) a partner, who for the purposes of this paragraph includes a same sex partner, de facto partner or spouse of the employee; or
    - (B) 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 partner of the employee; or
    - (C) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
      - 1. "relative" means a person related by blood, marriage or affinity;
      - 2. "affinity" means a relationship that one partner, has to blood relatives of the other; and
      - 3. "household" means a group living in the same domestic dwelling; or
    - (D) a close friend.
- (d) An employee shall, wherever practicable, give ACON prior notice of the intention to take leave, the name of the person requiring care and that persons 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 absence.

(2) Unpaid Leave for Family Purpose

An employee may elect, with the consent of ACON, to take unpaid leave, annual leave, an Agency Day or accrued time in lieu for the purpose of providing care and support to a person as defined in cl. 27(1)(c)(ii) who is ill.

**28. BEREAVEMENT LEAVE**

- (a) A permanent employee will be entitled to 3 days' paid leave for each bereavement of a significant other. A significant other is defined as a close friend, partner or family member ie. spouse, defacto spouse, parent (natural, foster, parent-in-law or step-parent), grandparent, sibling, or child (natural, foster or adopted).

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- (b) Reasonable evidence of the reason for this leave will be provided to the manager on request.

**29. AGENCY DAYS**

- (a) A permanent employee will be entitled to a maximum of 5 days' paid leave per year to utilise for personal purposes as required.
- (b) Leave under 29(a) must be utilised in single day units, except for:
  - (i) the ordinary working days falling between Christmas Day and New Year's Day in the immediately succeeding year, where up to three consecutive days may be utilised; or
  - (ii) other special circumstances as approved by their Director.
- (c) Where an employee is required to work the days between Christmas Day and New Year's Day, the employee will be entitled to have up to three consecutive Agency Days at another time.
- (d) Agency days cannot be carried from one year to another and will not be paid out on termination.

**30. LEAVE WITHOUT PAY**

- (a) An employee will be entitled to five days' unpaid leave in each twelve months of service at mutually agreed times. This leave shall not be cumulative.
- (b) Where a permanent employee has completed at least 12 months' continuous service, leave without pay may be granted for a period of not more than 52 weeks if a good and sufficient reason is shown. Such leave will not be available unless the employee has first exhausted any accumulated Annual Leave or Long Service Leave. Such leave will be authorised by the Deputy Executive Officer in consultation with the Director or Manager. Subject to the foregoing conditions, such leave will not be unreasonably withheld. Leave without pay will not break continuity of service but will not count as service for the purpose of accrual of entitlements or incremental increases.

**31. JURY LEAVE**

- (a) Where an employee is required to attend jury service during ordinary working hours, ACON will reimburse an amount equal to the difference between the fee paid by the court and the employee's ordinary pay for the day.



- (b) The employee will notify his or her manager of the date of jury service as soon as possible and will provide evidence of attendance, duration of attendance and the amount of the fee paid by the court.

**32. EDUCATION LEAVE**

- (a) A full-time permanent employee will be entitled to a maximum of 16 days per year to attend courses of study approved by ACON. The actual hours approved will depend on study time of the employee and work requirements.
- (b) Unused leave will not accrue beyond the calendar year and will not be paid out on termination.
- (c) Leave may be utilised as required by the employee.
- (d) An employee will be entitled to paid leave to attend examinations approved by ACON. Leave will cover travel time and duration of examination.

**33. PARENTAL LEAVE**

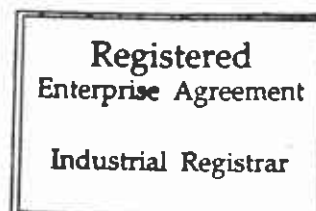
- (a) An employee is entitled to parental leave in accordance with the *Industrial Relations Act 1996*. Subject to cl 33 (b) such leave is unpaid.
- (b) An employee who is entitled to parental leave in cl. 33(a), is entitled to 12 weeks' paid leave in addition to any other paid leave entitlement or accrual to run concurrent with any period of parental leave.
- (c) A period of paid leave under cl. 33(b) must be commenced within 12 weeks on either side of the expected date of birth.
- (d) The employee can be paid normally each fortnight or request payment at half the employee's ordinary rate of pay for twice the period of the paid leave entitlement.
- (e) **Returning to work on a part-time basis**

Where practicable and subject to the agreement of the manager, a full-time employee may return to work on a part-time basis.

## **Allowances and Amenities**

**34. ALLOWANCES AND EXPENSES**

ACON will reimburse all reasonable expenses incurred by an employee in the course of his or her duty, provided that proof of expenses is supplied, and prior approval has been granted by the manager.





**35. PAGER ALLOWANCE**

A pager allowance as prescribed in Table 2 of this agreement, will be paid to an employee who is required to carry a pager to attend to client needs. The allowance is paid for the full year provided the employee is rostered for duty for at least 26 weeks of the year.

**36. TRAVEL AND RELATED EXPENSES**

(a) ACON will reimburse travel expenses at the rates prescribed in Table Two of this Agreement when an employee is required by ACON to travel other than to and from the usual place of employment.

(b) An employee required to work until or beyond 10.00 pm will be entitled to a paid taxi fare to his or her home.

(c) If an employee is required by ACON to use his or her vehicle, an allowance at the rates prescribed in Table Two of this Agreement will be paid. Vehicles used under this clause must be covered by comprehensive insurance. If an accident or damage occurs to a vehicle being used under this clause, ACON will cover the cost of any excess.

(d) **Telephone**

If an employee is required by ACON to use his or her home telephone, the cost of those calls identified as made on behalf of ACON will be reimbursed.

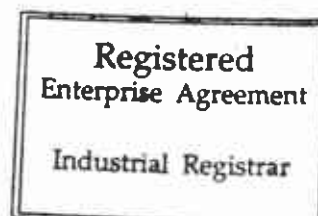
**37. FIRST AID**

If an employee who holds a current first-aid certificate issued by the St John's Ambulance Association or Australian Red Cross Society or equivalent qualification, is required by ACON to perform first-aid duty, an allowance at the rate prescribed in Table Two of this Agreement will be paid.

**38. EMPLOYEE TRAINING AND DEVELOPMENT**

(a) ACON is committed to ensuring staff receive appropriate opportunities for learning and development to become better qualified and competent to carry out their current and future responsibilities in the organisation. Learning and development resources will therefore be allocated based on organisational priorities and individual development needs.

(b) An employee nominated by the Union will be entitled to 5 days' paid leave per annum to attend Trade Union Training Authority courses. Attendance will be at the convenience of ACON. An employee will give at least 2 weeks' notice of attendance at such courses.



**39. OCCUPATIONAL HEALTH AND SAFETY**

- (a) ACON will provide a safe workplace and safe systems of work for all employees in accordance with the *Occupational Health and Safety Act 1983*.
- (b) ACON does not permit smoking in the workplace.
- (c) When employees are required to wear protective clothing or uniforms, ACON will supply, repair or replace such clothing. This clothing will remain the property of ACON.

**40. AMENITIES**

ACON will provide:

- reasonable toilet and washing facilities.
- reasonable heating and cooling for the safe and healthy functioning of the workplace.
- reasonable kitchen and staff amenities.
- a rest area for employees.
- space for a Union notice board.

## **Employment Relations**

ACON recognises that from time to time situations will arise that require the manager to intervene in order to ensure the workplace is safe and harmonious and the services provided to our clients remain of a high standard. The nature of the intervention will vary with respect to the behaviour or situation in question.

**41. PERFORMANCE MANAGEMENT**

- (a) ACON will develop a performance appraisal system during the period of this Agreement as outlined in cl. 48.
- (b) As well as a performance appraisal system to be developed, employees will be provided with regular and timely feedback by their manager. This feedback will recognise an employee's achievements and skill as well as to identify potential for further development or improvement in the work performance of the employee.
- (c) Where a manager has concerns regarding the work performance of an employee, the Manager will notify their Director or the Deputy Executive Officer of their concerns. The manager and the employee will also:
  - (i) clarify and document the standard of work required
  - (ii) clarify and document how the performance of the employee does not comply with this standard
  - (iii) design a learning and development plan for improving performance within a reasonable time

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- (iv) monitor and review this plan and the work performance of the employee on a regular basis.
- (d) The objective of this process is on improving performance through learning and development within a reasonable specified time period.
- (e) Where work performance does not improve to the desired level within the timeframe required, then their Director or the Deputy Executive Officer may instigate Disciplinary Procedures as outlined in cl. 42.

#### 42. DISCIPLINE PROCEDURE

- (a) Where concerns about an employee's conduct and or work performance have not been resolved under routine supervision, or where routine supervision may not be appropriate, the following procedure shall apply to ensure all employees are treated fairly and with respect.
- (b) From the commencement of the following procedure, all parties understand that the procedure may result in termination of an employee's employment, and that serious misconduct may result in instant dismissal at any time.
- (c) The employee will be entitled to have a union representative or nominee present during any of the following stages:
  - (i) A meeting will be arranged between the employee and the Chief Executive Officer, or nominee, to address the perceived unsatisfactory conduct or work performance. Prior to this meeting, the employee will be given written details of the perceived unsatisfactory conduct;
  - (ii) The employee will be asked to give an explanation or present any mitigating circumstances regarding perceived unsatisfactory conduct at the meeting;
  - (iii) After the employee has been given the opportunity to give an explanation, the Chief Executive Officer, or nominee, will consider the explanation having regard to all the circumstances of the case and decide an appropriate response which may include one or more of the following:
    - no further action is to be taken; or
    - a period of review is to be arranged to allow the employee the opportunity to meet and maintain the appropriate standard; or
    - training or other learning as directed is required; or
    - the employee is suspended on pay as per cl. 42.(e); or
    - a written warning is issued under cl. 42.(d); or
    - other action is to be taken. The employee will be informed of such other action at the time a decision is made; or
    - the employee is to be dismissed as per cl. 42.(f) or following failure to comply with a written warning under cl. 42(d).



- (iv) If dismissal is contemplated, and before a final decision is made, a further meeting will be held between the Chief Executive Officer and the employee during which the parties can negotiate resignation. If the parties cannot agree then Chief Executive Officer may dismiss the employee.

**(d) Written Warning**

A written warning may be issued pursuant to cl. 42.(c) (iii). Examples of unsatisfactory conduct that may warrant a warning include, but are not limited to:

- breach of safety regulations;
- negligence or failure to comply with ACON's policies and procedures;
- unsatisfactory attendance, punctuality or timeliness;
- refusal to obey a lawful and reasonable instruction;
- verbal abuse of another person at work;
- failure to notify ACON of an unauthorised absence.

The written warning must advise the employee to improve or cease the conduct of concern, and that failure to do so may result in dismissal. If there is any further breach after a written warning has been issued, the employee may be dismissed from employment if warranted in the circumstances in accordance with the procedure outlined in cl. 42.(c) (iii) and cl 42(f).

**(e) Suspension**

An employee may be suspended with pay pending an inquiry or decision on a particular case. This may occur when an incident usually warranting instant dismissal has occurred and mitigating circumstances might apply. Prior to suspension the employee concerned will be asked to provide his or her account of the incident in writing.

The parties are committed to ensuring the inquiry is completed or decision is made swiftly.

**(f) Instant Dismissal**

Serious misconduct may result in instant dismissal by the Chief Executive Officer. Nothing in this Agreement will restrict ACON's right to dismiss an employee without notice for misconduct which justifies instant dismissal.

Examples of serious misconduct include, but are not limited to:

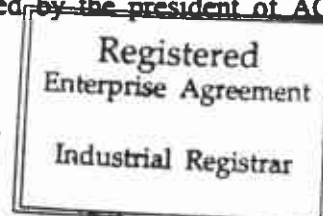
- gross negligence in the performance of work;
- breach of information considered confidential by ACON;
- serious breach of the ACON Client Code of Practice;
- assault, intimidation or offensive or insulting behaviour including harassment of another person at the workplace;



- unsolicited or unwelcome physical contact of another person at work;
- intoxication at work due to alcohol, or drugs which have not been prescribed for medical purposes;
- falsification or destruction of records;
- dishonesty, theft, unauthorised possession, of property belonging to ACON, other employees or visitors;
- wilful, malicious or negligent damage to property or equipment belonging to ACON, other employees or visitors;
- illegal or fraudulent acts whilst on the organisation's business;
- working on an outside and/or unauthorised project while on ACON's business or during paid work time.

#### 43. GRIEVANCE RESOLUTION

- (a) Subject to the *Industrial Relations Act 1996 (NSW)*, a grievance is a complaint or concern made by an individual or group in an organisation about a work issue, including any act, omission, situation or decision.
- (b) Where a grievance occurs between employees, or between a manager and employee(s), the following procedure will apply:
- (i) Where the grievance is between 2 or more employees, the employees shall at first attempt to resolve it themselves.
  - (ii) Should the matter remain unresolved, the employee(s) and their immediate supervisor shall attempt to solve the grievance.
  - (iii) Should the matter remain unresolved, or where discussion with the immediate supervisor would be inappropriate, the employee(s) will notify the Deputy Executive Officer or the Director, Organisational Services of the grievance. If the grievance is against the Deputy Executive Officer or the Director, Organisational Services, the grievance shall go to the Chief Executive Officer. If the grievance is with the Chief Executive Officer then the grievance shall go to the President of ACON, who may nominate a person to handle the grievance.
  - (iv) The recipient of a grievance shall consider and either reply directly stating his or her reasons or arrange a meeting with the employee within 7 days of the notification, or as otherwise agreed, to attempt a resolution of the grievance.
- (c) The employee will be entitled to have a union representative or nominee present during any of these stages.
- (d) The final resolution of grievances will be the responsibility of the Chief Executive Officer, unless it is a grievance being handled by the president of ACON or his nominee.



- (e) While the above procedure is being followed, work will continue normally where it is agreed there is an existing practice, but in other cases work will continue on the manager's instruction. No party will be prejudiced as to the final settlement by continuation of work.

#### 44. TERMINATION OF EMPLOYMENT

- (a) Where an employment is terminated under clauses 41, 42 or 45, ACON will give written notice in accordance with the following table. ACON may pay out the period of notice.

Period of Continuous Service	Notice Period	
	Under 45 years	45 years and over
Less than 1 year	2 weeks	2 weeks
1 year and less than 3 years	2 weeks	3 weeks
3 years and less than 5 years	3 weeks	4 weeks
5 years and over	4 weeks	5 weeks

- (b) Employees may terminate employment by giving two weeks written notice or forfeiture of two weeks pay in lieu of notice.
- (c) An employee with more than 2 months service on leaving or being dismissed will, on request, be given a certificate of service in writing. This document will contain information as to the nature and period of employment.

#### 45. REDUNDANCY

- (a) In the event of an employee's position being made redundant, and the employee(s) affected being retrenched as a result, a level of severance payments will be made to the employee(s) in accordance with the *Employment Protection Act 1982* as amended.

- (b) Discussions before Termination

Employment will not be terminated without first examining the possibility of alternative employment. A period of annual leave, other leave entitlement or leave without pay must be considered where continued employment is not immediately available but it is known that it will become available in due course. Where alternative employment is not available an employee may be terminated as a result of a redundant position.



(c) **Preferential Employment**

- (i) An employee who has been made redundant will be given preference when applying for a vacant position provided that the employee has received a satisfactory performance appraisal and has demonstrated the ability to do the job.
- (ii) paragraph (i) will not apply if the employee has taken severance pay.
- (iii) Cl. 45 (c)(i) will apply to employees with more than 12 months' continuous service, other than casual employees.

(d) **Employee Leaving During Notice**

A redundant employee may terminate his or her employment during the period of notice without loss of severance payments. The employee will not be entitled to payment for the notice period not worked.

(e) **Time Off During Notice Period**

An employee will be entitled to one day per week during the period of notice for the purpose of seeking alternative employment. If more than one day is required the employee must produce proof of employment-seeking activity.

(f) **Incapacity to Pay**

Where ACON has insufficient funds to provide severance payments for a particular redundant position ACON can apply to the Industrial Relations Commission of NSW to seek exemption in whole or part from payment.

**46. EMPLOYEE'S INDEMNITY AGAINST CIVIL LIABILITY**

An employee is indemnified in accordance with the *Employees' Liability (Indemnification of Employer) Act 1982*.

**47. STAFF AND UNION CONSULTATION**

- (a) ACON is committed to open and co-operative relations between employees, unions, management and the Board. The organisational structure for consultation is the Joint Consultative Committee (JCC) which represents the right and opportunity for consultation prior to decision making by management which affects staff entitlements or employment.
- (b) JCC operation and membership will be as documented in the JCC Constitution.
- (c) Employee representatives of the JCC will be provided with two hours per week for the purpose of consulting with their constituents.

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- (d) Union representatives will be provided with two hours per week for conducting union business.

## IMPLEMENTATION OF OTHER AGREED INITIATIVES

### 48. PERFORMANCE APPRAISAL AND CLASSIFICATION SYSTEMS

- (a) Without further claim for a pay rise beyond the 6% pay rise under this Agreement, the parties commit to develop the following initiatives for implementation in January 2000:
  - (i) a performance appraisal system that will provide professional and personal development for employees to better equip them in the achievement of organisational objectives as well as providing the means for an annual performance based review of salaries.
  - (ii) a new classification system with a reduced number of classification levels.
- (b) ACON commits to ensuring consensus support for both initiatives by the full JCC prior to their introduction.
- (c) ACON will ensure that no employee is financially disadvantaged by the introduction of these initiatives.

### 49. COMMITMENT OF THE PARTIES.

The parties commit to making no further claim for a pay rise for ACON's employees until the arrangements under cl 48 are implemented.

### 50. SIGNATORIES TO THE AGREEMENT

Signed for and on behalf of the AIDS Council of NSW Inc:

Signature: Robert Green Date: 11/10/99  
Name and occupation: ROBERT GREEN ACON CEO

For and on behalf of the Australian Services Union:

Signature: Alison Peters Date: 6/10/99  
Name and occupation: ALISON PETERS UNION OFFICIAL

