

RESOURCE SHEET:

## CASUAL STAFF AND LONG SERVICE LEAVE

One of the most frequently asked questions of the Network SA telephone advisory service relates to casual employee entitlements to long service leave.

Although casuals are not entitled to annual leave or sick leave, there may be instances where they have had 7 continuous years service with an employer on a series of contracts of service and have built up an entitlement to long service leave.

If they have 7 to 10 years **continuous service**, they would usually receive this entitlement on termination of their service. If they reach 10 completed years, then they have an entitlement that they can take as leave, or have all or part of it paid out in lieu, subject to agreement between the employer and the employee.

Employees who are covered by the Child Care (SA) Award and the Clerks (SA) Award derive their entitlements from the Long Service Leave Act, 1987. To find out whether a particular employee has earned an entitlement, an employer must determine if the criteria in the Long Service Leave Act have been satisfied.

Breaks in service may potentially break the continuity and destroy the employee's entitlement.

The Act, in Section 6, determines which types of breaks do not affect continuity, and also whether the period of absence due to the break from employment is treated as service or not for the purposes of the Act.

There have been a number of cases in the Industrial Relations Court where the interpretation of Section 6 of the Act has been at issue in determining an entitlement.

In one particular case (not in child care), a casual had worked most weekdays for 15 years. He took leave of absence now and then but was always told before he left when he was to report again for work.

Breaks generally were no more than single day absences on some Mondays.

There were some periods of unpaid leave during this time, sometimes up to four weeks in length, which were held to fall within s.6(1)(f) "absence of the worker from work on any other kind of leave;"

Although the duration of the 4 week breaks were not taken into account in calculating the period of the worker's service, it was not considered to break the continuity of service and this casual was granted long service leave.

Generally, if an employee is an irregular casual, it is unlikely that they would satisfy the criteria.

**Network SA conducts Long Service Leave workshops from time to time for a small fee. If you are interested in attending, call 8445 8128 to obtain a registration form.**

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