|  |
| --- |
| Long Service Leave in Victoria |
| Fact Sheet No. 10Parental leave |



The new Long Service Leave Act 2018 (LSL Act 2018) commenced operation on 1 November 2018. It replaces the Long Service Leave Act 1992, following a legislative review, and broad industry and community consultation. The LSL Act 2018 brings long service leave into line with community standards, is easier to understand, and is fairer and more flexible.

The LSL Act 2018 covers most Victorian employees. However, the LSL Act 2018 will not apply to certain employees who are covered by federal enterprise agreements or pre-reform awards, or by other Victorian legislation that includes long service leave entitlements, e.g. the Construction Industry Long Service Leave Act 1997 administered by CoINVEST for workers in the construction industry.

**This fact sheet is a summary only and must be read in conjunction with more detailed information including the Comprehensive Guide to the Long Service Leave Act 2018 and the LSL Act 2018 to establish whether it applies to your individual circumstances.**

#### Parental leave

Parental leave is an entitlement under provisions of the Fair Work Act 2009. Parental leave does not break continuity of employment.

The LSL Act 2018 ensures that paid and unpaid parental leave will not break continuous employment, i.e. when an employee returns from a period of parental leave they will not have to re-start accruing long service leave from day one. In this respect, paid and unpaid parental leave will be treated the same as other forms of paid and unpaid leave.

#### How parental leave counts towards long service leave

All paid parental leave counts towards the period of employment for long service leave purposes. As well as not breaking an employee’s continuous employment, the first 52 weeks of unpaid parental leave counts towards the period of employment. For example, in the case of an employee who works for 4 years, then takes a year off on unpaid parental leave and then returns to work for another 4 years, the employee will have accrued long service leave over 9 years of continuous employment, which includes the one year of unpaid parental leave.

#### Unpaid parental leave exceeding 52 weeks

In certain circumstances periods of unpaid parental leave exceeding 52 weeks will also count as employment. This could include where the employee’s contract of employment or award or enterprise agreement provides for a longer period of parental leave to count as employment for long service leave purposes, or where the employer and employee have made an agreement in writing to provide for a longer period to count. Any other form of unpaid leave provided for under the relevant oral or written employment agreement (including unpaid parental leave) may also count towards the period of employment, and the accrual of long service leave.

#### Unpaid parental leave taken before 1 November 2018

Transitional provisions in the new LSL Act 2018 mean that certain absences from work (including unpaid parental leave) that occur before 1 November 2018 are to be treated as if they were absences under the previous Act.

If the LSL Act 2018 commences during an employee’s absence on unpaid parental leave, only that part of the period of unpaid absence occurring on and from 1 November 2018 counts towards the employee’s period of employment for the purposes of accruing long service leave. Any part of the period of unpaid parental leave occurring before that date will not count. By way of example, if an employee commenced 12 months unpaid parental leave on 1 July 2018, the first four months of that leave will not be counted as service, but the final eight months of leave (that is, the period after 1 November 2018) will count towards the period of employment for the purposes of accruing long service leave.

#### For more information, see our Comprehensive Guide

The Victorian Government has published a Comprehensive Guide to the Victorian Long Service Leave Act 2018. This replaces the 1992 version and will make it easy for employers and employees to understand their rights and obligations.

The 2018 Comprehensive Guide is available to download at [business.vic.gov.au/longserviceleave](file:///%5C%5Cinternal.vic.gov.au%5CDPC%5CHomeDirs1%5Cviche8a%5CDesktop%5CLSL%20Factsheets%5Cbusiness.vic.gov.au%5Clongserviceleave) or call 1800 287 287 for a copy.

#### Wage Inspectorate contact details

Website [business.vic.gov.au/longserviceleave](https://business.vic.gov.au/longserviceleave)

Email longserviceleave@dpc.vic.gov.au

Phone 1800 287 287

Facsimile 9651 9703

Wage Inspectorate Victoria

Department of Premier and Cabinet

GPO Box 2392

Melbourne VICTORIA 3001

*These documents are for information purposes only. The documents do not constitute legal advice and should not be relied upon as legal advice. Should you have any concerns or queries regarding the application of the material to your individual circumstances, you should seek your own independent legal advice.*

*The State of Victoria, as represented by the Department of Premier and Cabinet and its employees, endeavours to keep information accurate and up to date, however, does not guarantee the accuracy, reliability or currency of the material and disclaims all liability for any loss or damage caused directly or indirectly from or in connection with the use of or reliance upon the information contained within these documents.*