

Can employees have their long service leave given to them in advance?

A period of long service leave may be granted in advance by agreement of the parties.

For how long must an employer keep LSL records?

An employer must keep LSL records for an employee for seven years after employment ends. Records must be kept in the form prescribed by the Department of Innovation, Industry and Regional Development. The template form is available on the web site www.workforce.vic.gov.au. Failure by an employer to keep these records may result in a criminal conviction and penalties in the Magistrate's Court.

Can an employee claim long service leave entitlements if the company is liquidated?

If a business is liquidated, an employee should urgently contact the liquidator to be paid from the assets as a creditor of the business. If these assets are insufficient to pay an employee's long service leave entitlement, a federal government scheme might apply. The General Employee Entitlements and Redundancy Scheme (GEERS) may pay entitlements where an employee is dismissed due to an employer's insolvency. Call the GEERS hotline on 1300 135 040 for information on this scheme.

What happens if an employee is owed long service leave and the employer fails to pay?

A former employee may lodge a complaint with Workforce Victoria for an alleged breach of the LSL Act. Workforce Victoria may assist in the recovery of unpaid entitlements.

An employee is able to seek recovery of money owed under the LSL Act in the Magistrate's Court. The proceeding must, however, commence within six years of the employee's entitlement arising.

After finishing work, how long must an employee wait before getting their final long service leave payment?

LSL is to be paid in full to an employee on their final day of employment. Failure by an employer to pay in full may result in a criminal conviction and penalties in the Magistrate's Court.

Here's a quick way to find out how much long service leave you've got.

Visit our easy-to-use online calculator at www.business.vic.gov.au/lslcalculator

If you're covered by the State Long Service Leave Act, it only takes a few steps on the Victorian Government's online calculator to figure out your entitlement.

Workforce Victoria
Department of Innovation,
Industry and Regional Development
www.workforce.vic.gov.au



Quick answers
to Victoria's
Long Service Leave



What is long service leave?

Long service leave is a period of paid leave awarded to an employee in recognition for a long period of service with one employer.

The entitlement is 13 weeks leave on full pay after 15 years. Employees are entitled to further leave of 4.3 weeks after each subsequent 5 years of continuous employment.

Employees who started after 1 January 2006 are entitled to 8.66 weeks leave after 10 years.

Existing employees have an entitlement to long service leave at less than 15 years, according to a phasing-in formula.

Long service leave laws in Victoria

In Victoria, long service leave is regulated by the Long Service Leave Act 1992 (LSL Act).

Who does it apply to?

Most Victorian employees are covered by the LSL Act.

An employee is defined as a person employed by an employer to do any work for hire or reward, and includes an apprentice or trainee.

Full time, part time, casual and seasonal employees all accrue long service leave.

The LSL Act does not apply to employees who are covered by a federal award or workplace agreement where that award or agreement contains its own long service leave provisions. If the relevant award or agreement is silent on long service leave, the LSL Act applies.

It is important to check if the Victorian LSL Act applies, or if a federal award or agreement provides the entitlement. This can be done by calling the Workplace Infoline on 1300 363 264.

On termination of employment

Pro rata entitlements are paid out after 7 years on termination of employment by either the employee or the employer.

How is payment for long service leave calculated?

The calculation is the total number of weeks' employment divided by 60 and multiplied by the ordinary weekly pay at the time the leave is taken, or the employee ceases employment.

Where an employee's hours vary from week to week or where the employee's hours have changed over the last 12 months, the employee's hours for calculating long service leave will be averaged over the preceding 12 months, or the preceding five years, whichever average hours are the greater. The payment will be made using the last hourly rate for ordinary time.

If no ordinary time rate of pay applies, such as when an employee is paid a commission or bonus, then the greater average weekly rate earned in the last 12 months or preceding five years will be used.

What is the entitlement to long service leave?

Long service leave accrues at the rate of one week for each 60 weeks of employment with one employer, that is, at approximately 0.866 weeks per year.

Taking long service leave – when and how

The LSL Act provides that the employee has an entitlement to take leave. The actual date the leave commences should be agreed between the employer and the employee.

The period of leave can be split into no more than 3 periods.

Can long service leave be 'cashed out' rather than taken as a break from work?

No. An employee cannot 'cash out' their long service leave. It is an offence under the LSL Act to give or receive payment instead of the employee actually taking the break from work. This does not apply when an employee finally ceases work at a business.

Does time spent on leave count towards continuous employment for the purpose of accruing long service leave?

Most forms of paid and unpaid leave, except unpaid parental leave, will count toward the period of employment (unless the employee requests otherwise).

Does time spent on sick leave or WorkCover count towards continuous employment for the purpose of accruing long service leave?

Any absence from work, of not more than 48 weeks in any year on account of illness or injury, is to be counted as part of the period of employment. Any absence for that reason, in excess of 48 weeks in any year, is not to be counted. Illness or injury leave may be paid or unpaid and includes a WorkCover absence.

How do public holidays affect long service leave?

A public holiday falling within the period of leave will now be added to the period of leave. This is the same way that public holidays during a period of annual leave are treated.

Can a person who is on long service leave be employed during the period of long service leave?

No. It is an offence to work while on long service leave or to employ someone who is on long service leave.

