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| Long Service Leave in Victoria |
| Fact Sheet No. 4Long service leaveCasual and seasonal employees |



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.**

#### Casual, seasonal and fixed term employees accrue long service leave

The LSL Act entitles full time, part time, casual, seasonal and fixed term employees to long service leave where their employment has been ‘continuous’. Under the Act, this means that there must not be an absence of more than 12 weeks between any two instances of employment, unless:

* the employee and the employer so agree before the start of the absence, or
* the absence is in accordance with the terms of the engagement, or
* the absence is caused by seasonal factors, or
* the employee has been employed on a regular and systematic basis and has a reasonable expectation of being re-engaged.

#### Long service leave accrual for casual or seasonal employees and parental leave

Under the new Act, a casual or seasonal employee can take up to 104 weeks paid or unpaid parental leave before their continuous employment may be interrupted.

#### Calculation of entitlement (*also see* ‘Ordinary Pay’ Fact Sheet No. 7)

Casual and seasonal employees accrue long service leave in the same way as part-time and full-time employees, accruing one week of long service leave for every 60 weeks continuous employment. The calculation of the amount paid will take account of the varying hours of work. An employee is entitled to be paid their long service leave based on their ‘ordinary pay’. Under the LSL Act 2018, the ordinary pay is the actual pay received by an employee for working his or her normal weekly hours and ordinary time rate of pay at the time the leave is taken or is to be paid out on termination.

#### Casuals or employees who do not have normal weekly hours

If an employee changes their weekly hours in the last 2 years or does not have fixed hours of work, as is the case for casual employees, the employee’s hours of work are averaged for the purposes of calculating long service leave.

The Act sets out a detailed formula to assist in the averaging calculation. See ‘Ordinary Pay’ fact sheet no.7.

#### Averaging ordinary time rate of pay

Once the average weekly hours are calculated, these are paid at the employee’s ordinary time rate of pay. If the employee does not have an ‘ordinary rate’, perhaps due to being paid partially on commission or paid piece work rates (see Calculation of entitlement fact sheet for more detailed information) then averaging requirements apply. A casual employee’s ordinary rate includes the casual loading. The rate will be the greatest of the average earned over either the last 52 weeks, 260 weeks or entire period of employment.

#### 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 or call 1800 287 287 for a copy.

#### Wage Inspectorate contact details

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