

Important Changes to Long Service Leave in Victoria

The new *Long Service Leave Act 2018 (Vic)* has replaced the *Long Service Leave Act 1992 (Vic)* and changed entitlements of all employees in Victoria (unless they are specifically excluded from the operation of the Act). The aim of the new Act is to make it easier for all employees, including casuals, to accumulate and access their Long Service Leave (LSL).

In particular, the new laws under the 2018 Act are a huge win for women, parents and carers across Victoria, who will continue to accrue LSL while on unpaid parental leave for a period of up to 52 weeks.

Below are the changes which came into effect on **1 November 2018**:

Entitlement to LSL

An employee is entitled to take LSL after 7 years of continuous service with one employer. Employees now don't have to wait until they've completed 10 years of continuous service to be able to take their LSL. Employees are now able to take LSL after 7 years of continuous service. The LSL accrual rate of 1/60th of the period of continuous employment remains unchanged.

Flexibility in LSL periods

An employee is entitled to request LSL for a period of not less than 1 day, and an employer must grant an employee's request to take LSL as soon as practicable after receiving the request unless there are reasonable business grounds to refuse. Employees can now request a period of LSL of not less than 1 day and employers must accept this unless there are reasonable grounds for refusal. This change aligns LSL more closely with other leave entitlements.

Unpaid Parental Leave

Any period of unpaid parental leave up to 52 weeks will count as service, where any period beyond 52 weeks will not count as service but will not break continuity of employment. Employers must now count periods of unpaid parental leave (of up to 52 weeks) when determining the length of continuous employment.

Business transfers

The definition of 'assets' has been amended to include both tangible and intangible assets. There is now more scope for employees to be considered as being employed by 'one employer', as the definition of 'assets' has now been extended to cover situations where only intellectual property is transferred.

Employment ending by resignation or termination

The employment is taken to be continuous despite an absence from work caused by termination of the employment at the initiative of the employer, or the employee (i.e. resignation), if the employee is re-employed by the employer within 12 weeks after cessation

of employment. Resignation from employment is now also deemed to be continuous service if the employee is re-employed within 12 weeks.

Change of hours

If an employee's working hours have changed during the last 104 weeks (2 years) immediately before taking LSL, the employee's hours for the purpose of calculating LSL will be the greater of the average hours worked over the:

- a. past 52 weeks (1 year)
- b. past 260 weeks (5 years); or
- c. last period of continuous employment.

Taking adverse action against an employee due to the entitlement of LSL may result in a penalty of:

- a. 12 penalty units in the case of a natural person; and
- b. 60 penalty units in the case of a body corporate, for each day during which the offence continues.

It's important that employers are aware of their obligations under the new legislative change. Non-compliance may lead to companies facing civil penalties.

For more information on the LSL changes in Victoria please phone the Australian Childcare Alliance Victoria Telephone Advisory Service on 1300 854 690 and quote your member number.