
Changes to Victorian long service leave: time to act

June 2018

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In brief

The *Long Service Leave Act 2018 (Vic)* will become law on or before 1 November 2018. It introduces a number of changes to the way long service leave (LSL) has operated in the state of Victoria since the previous Act was introduced in 1992.

Of most significance for the payroll function, the *2018 Act* changes the periods during which LSL accrues, the time at which LSL can be taken and the calculation method where an employee's hours of work change. It does not change the rate at which an employee accrues LSL.

The key changes include:

- LSL will accrue during all paid parental leave and during the first 52 weeks of unpaid parental leave.
- Continuity of employment will no longer be broken where unpaid parental leave exceeds 52 weeks (capped at 104 weeks for casual and seasonal employees).
- Employees will be able to take LSL after 7 years of continuous employment (currently 10 years).
- Employees will be able to take LSL one day at a time (currently LSL has to be taken in longer stretches over a maximum three periods).
- Where an employee's hours of work change during their employment, LSL will be calculated at the highest average over the previous 12 months, five years or the entire period of employment (currently averaged over previous 12 months or five years only).

Now is the time to review employee records, documentation, processes, payroll systems and leave calculators to ensure you are ready to meet your employer obligations under the new legislation.

In detail

The key changes that will impact how LSL is managed and governed by the payroll function are summarised below:

| | Current LSL Act 1992 (Vic) | New LSL Act 2018 (Vic) |
|--|---|---|
| Accrual of LSL during parental leave | <p>Excludes all parental leave (both paid and unpaid) from an employee's period of continuous service. As such, LSL does not accrue during parental leave.</p> <p>Parental leave in excess of 52 weeks breaks continuity of employment, and any accrued LSL entitlements are lost.</p> | <p>Includes any period of paid parental leave and up to 52 weeks (or longer if agreed) of unpaid parental leave in the employee's period of continuous service. As such, LSL accrues during these periods of parental leave.</p> <p>Unpaid parental leave in excess of 52 weeks does not break continuity of employment.</p> |
| Casual and seasonal employees | <p>Parental leave in excess of 52 weeks breaks continuity of employment, and any accrued LSL entitlements are lost.</p> | <p>Up to 104 weeks of paid or unpaid parental leave is included in a casual or seasonal employee's period of continuous service.</p> |
| Right to take LSL | <p>Allows an employee to take LSL after 10 years of continuous service (note, payment of accrued LSL entitlement is made if employment ceases after 7 years of continuous service).</p> | <p>Allows an employee to take LSL after 7 years of continuous service.</p> |
| Period over which LSL taken | <p>Requires an employee to take first 13 weeks of LSL in a single period or over a maximum 3 periods (with the employer's agreement).</p> | <p>Allows an employee to take LSL in as many periods as he or she wishes, provided each period is not less than 1 day.</p> |
| Calculating the rate at which LSL is paid | <p>If an employee does not have a fixed ordinary time rate of pay or normal weekly hours of work (or the normal weekly hours of work are fixed but change in the 12 months prior to taking LSL), LSL is taken to be the average over the:</p> <ul style="list-style-type: none"> - last 12 months; or - last 5 years. | <p>If an employee does not have a fixed ordinary time rate of pay or normal weekly hours of work (or the normal weekly hours of work are fixed but change in the 104 weeks prior to taking LSL), LSL is taken to be the average over the:</p> <ul style="list-style-type: none"> - last 12 months; - last 5 years; or - the whole period of continuous employment. |

The takeaway

There are actions you need to take now to ensure that you are ready to administer the new LSL rules on or before 1 November 2018. Examples include:

- Review and update LSL policies, procedures, processes and manual calculators to reflect the changes. Reconfigure the payroll and HCM systems to ensure LSL accruals and payments are calculated accurately. Undertake appropriate testing to assess accuracy and consistency of configuration and process changes.
- Ensure employee documentation and records are complete and correct for the entire period of employment to support the accurate calculation of future LSL payments.
- At the time the new legislation is introduced, review the status of all employees on parental leave to ensure appropriate transition to entitlements introduced by the new legislation (that is, to include eligible periods of parental leave in the calculation of accrued LSL entitlements).
- Develop communication material so that your employees are informed of the changes in advance of the changes being enacted.

Let's talk

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