

Northern Territory of Australia LONG SERVICE LEAVE ACT FREQUENTLY ASKED QUESTIONS

Who is covered by the Long Service Leave Act? The Long Service Leave Act (the Act) applies to all employees who are **not** covered by an award, industrial workplace, certified agreement, or whose award or certified agreement makes no provision for long service leave, or who do not have an Agreement or Contract which covers the subject of long service leave. *[section.6 of the Act refers]* The Act does not apply to Northern Territory Public Sector or Australian Government employees .

How do I know if I am covered by an Award, or Industrial Agreement? You could ask your employer or Union or you can contact the Australian Government Workplace Authority information line on 1300 363 264.

I am a casual employee, do I have an entitlement to long service leave? Yes casual employees are entitled to long service leave. *[section 7 of the Act refers]*

What is the long service leave entitlement? Long service leave matures when you have completed **10 years** continuous service with your employer. Further entitlement to long service leave matures after completing each subsequent **5 years** of continuous service with that employer. On maturity of your long service leave and you will be entitled to **1.3 weeks** long service leave for **each completed year of service**. *[section 8 of the Act refers]*

Am I entitled to receive a payment in lieu of long service leave before I have completed ten years service? If you **choose to resign from your job** and you **have less than 10 years service**, you are **not** entitled to a pro-rata payment for long service leave. However under certain circumstances, you are entitled to receive a payment in lieu for pro-rata long service leave at **1.3 weeks for each completed year of service** if you have **between 7 and not more than 10 years** continuous service and you cease employment because:

- You have reached the age at which you may retire; or
- Your employer terminates your employment for a reason other than serious misconduct (eg redundancy); or
- You have an illness, incapacity or domestic or other pressing necessity which prevents you from being able to work. *[section 10(2) of the Act refers]*

What is the age of retirement? If your award, agreement or contract does not provide an age of retirement, then it is generally considered to be the age at which a person can access the aged pension under the **Social Security Act**. Under the **Social Security Act** men are eligible for the age pensions at age 65, and women age and depending on their date of birth, **women** qualify for the age pension as follows:

Date of Birth	Qualification Age
Before 30 June 1944	63
1 July 1944 to 31 December 1945	63.5
1 January 1946 to 30 June 1947	64
1 July 1947 to 31 December 1948	64.5
1 January 1949 and later	65

By 2014, the minimum qualifying age for women will be 65 years, making it the same for everyone.

Am I entitled to pro-rata LSL if I am sacked for misconduct? If you are sacked for misconduct and have less than 10 years continuous service you are not entitled to payment of pro-rata Long Service Leave. *[section 10(2) of the Act refers]*

When must I take the long service leave? Usually the time for using leave is by mutual agreement between you and your employer, however the employer can require the you to take your long service leave entitlement, but they must give you 2 months' notice. *[section 8(6) of the Act refers]*

Do I need to take the leave in one block? Leave should normally be taken in one continuous period unless agreed by you and your employer, in which case it can not be taken in more than 3 separate periods of not less than 4 weeks each. *[section 8(6)(b) of the Act refers]*

Can I cash in my long service leave entitlement without having to take the leave? No. *[section 10(4) of the Act refers]*

How much do I get paid when I am on long service leave? Generally payment for long service leave is based on your current rate of pay and the average number of hours per week you have worked. It does not include overtime, penalties, district allowance, site allowance etc. Section 11 of *the Act* contains detailed information and examples of how to calculate pay for Long Service Leave.

What happens to my long service leave accrual when the business I work for is bought by someone else and I continue working for the new owner? Where the business is transferred from one employer to another, the transfer shall be deemed not to have broken the continuity of employment and will continue to count toward the accrual of your long service leave entitlement. *[section 12(8) of the Act refers]*

Do public holidays and weekends extend the period of my long service leave? No. Public holidays and weekends are deemed to be part of the long service leave. *[section 9 of the Act refers]*

Do I get payment for part years completed? No. The entitlement is for completed years of service only. *[section 8 of the Act refers]*

If I have been on workers compensation or leave without pay during my employment will that count towards my period of service for long service leave? Absence on workers compensation and unpaid leave will not break the continuity of your period of employment, but will not count as service towards the accrual of your long service leave.

If I believe I am entitled to long service leave and/or a pro-rata payment, but my employer disagrees, what do I do? Contact the Office of the Commissioner for Public Employment for assistance.

You can download a copy of the Long Service Leave Act at

<http://www.nt.gov.au/dcm/legislation/current.html>

For further information and assistance contact the

Office of the Commissioner for Public Employment on 89995511