

Wageline

Long Service Leave



Queensland Government
Department of Industrial Relations

Long Service Leave

Introduction

Long service leave is a period of paid leave granted to an employee in recognition of a long period of service to an employer. Entitlements for long service leave are provided for in the *Industrial Relations Act 1999*.

The Act provided that a full bench of the Queensland Industrial Relations Commission was to review the entitlement to long service leave before 30 June 2000. This review was carried out and concluded on 27 June 2000 with the release of a written statement that provided support for a number of changes to the entitlement to long service leave.

The Queensland Government decided to amend the Act to give effect to the views and conclusions of the Commission.

This brochure outlines the changes which commenced on 3 June 2001 as well as explaining a number of other issues regarding long service leave entitlements generally.

Who is entitled to long service leave?

The Act provides that all employees in Queensland are entitled to long service leave, subject to certain conditions.

Employees covered by a Federal award which provides for long service leave are entitled to long service leave in accordance with that award.

For the conditions relating to long service leave for casual employees, see below.

How much long service leave are employees entitled to?

As from 3 June 2001 the entitlement to long service leave is 8.6667 weeks on full pay after each period of 10 years continuous service.

(Comparison with previous entitlements: Service prior to 3 June 2001 accumulated an entitlement of 13 weeks for 15 years service. Service prior to 11 May 1964 accumulated an entitlement of 13 weeks for 20 years service.)

After an employee has completed their first 10 years continuous service, they are entitled to take any further long service leave accumulated only after another five years continuous service (i.e. after 15 years continuous service).

(Comparison with previous entitlements: Employees received their first leave entitlement after 15 years service and waited a further 5 years [i.e. 20 years service] before accumulating a further leave entitlement.)

Long service leave entitlements accumulated for such periods but which have not been taken are payable on termination.

Note: Generally, service refers to paid working time and paid leave. Employment is the total period engaged and can include unpaid leave. The long service leave entitlement is based on continuous service with the same employer.

Are employees entitled to proportionate payment of long service leave for shorter periods of service?

As from 3 June 2001, employees are entitled to receive proportionate payment of long service leave on termination of employment after completing 7 years continuous service. This payment is often called pro rata long service leave.

(Comparison with previous entitlements: Employees became entitled to payment of pro rata long service leave on termination of employment after 10 years service.)

However, employees who have completed 7 but less than 10 years continuous service are entitled to pro rata long service leave only if:

- The employee's service is terminated by their death;
- The employee terminates their service because of their illness or incapacity or because of a domestic or other pressing necessity;

- The employer dismisses the employee for a reason other than the employee's conduct, capacity or performance; or
- The employer unfairly dismisses the employee.

How will the most recent amendments affect employees' entitlements to take leave?

For those employees in employment as at 3 June 2001, the amendments provide for the phasing in of the new entitlements. Because of the reduction in time to become entitled to long service leave, the Act provides that only two-thirds of an employee's continuous service completed before 3 June 2001 counts as continuous service. As a result, the date upon which long service leave becomes due is affected.

To calculate long service leave for existing employees at the time of the introduction of the amendments, the total of the reduced service prior to 3 June 2001 and the subsequent period to make up 10 years equivalent service is multiplied by 0.86667 weeks leave for each year to calculate the amount of leave owing.

The following examples illustrate this method.

Example 1

An employee has completed 1 year of service immediately before 3 June 2001. The 1 year counts as 0.6667 (i.e. $(2/3 \times 1)$ years continuous service for working out when the employee may take long service leave.

The employee may take leave after completing another 9.3333 (i.e. $0.6667 + 9.3333 = 10$) years continuous service. The employee's entitlement then will be 8.9556 weeks (i.e. $[1 + 9.3333] \times 0.86667$ weeks).

Example 2

An employee has completed 10 years service immediately before 3 June 2001. The 10 years count as 6.6667 (i.e. $(2/3 \times 10)$ years continuous service for working out when the employee may take long service leave.

The employee may take leave after completing another 3.3333 (i.e. $6.6667 + 3.3333 = 10$) years continuous service. The employee's entitlement then will be 11.5556 weeks (i.e. $[10 + 3.3333] \times 0.86667$ weeks).

Example 3

An employee has completed 13 years service immediately before 3 June 2001. The 13 years count as 8.6667 (i.e. $(2/3 \times 13)$) years continuous service for working out when the employee may take long service leave.

The employee may take leave after completing another 1.3333 (i.e. $8.6667 + 1.3333 = 10$) years continuous service. The employee's entitlement then will be 12.4222 weeks (i.e. $[13 + 1.3333] \times 0.86667$ weeks).

These provisions would not reduce any entitlement that an employee has already accumulated (e.g. leave for employees with 15 years or more service) prior to 3 June 2001.

The phasing-in provisions outlined above do not apply to the calculation of pro rata long service leave payments made on termination of employment.

Note: See the tables at the end of this brochure for more extensive examples on calculation of leave entitlements.

Are casual employees entitled to long service leave?

Prior to 23 June 1990, casual employees only gained an entitlement to long service leave in certain exceptional circumstances.

As from 23 June 1990, an employee who is regularly employed by the same employer for at least 32 hours in each consecutive period of four weeks has an entitlement to long service leave.

On 30 March 1994, the legislation was amended so that all continuous service after that date is taken into account in calculating long service leave entitlements. This continuous service may be broken by a break of more than 3 months between the end of one employment contract and the start of the next employment contract.

In the case of casual employees who qualified for long service leave in accordance with any previous legislation, each period is totalled and taken into account.

How is payment for long service leave calculated?

Other than casual and regular part-time employees

Long service leave is paid at the ordinary rate (i.e. excluding overtime and penalty payments) current for the period of the leave. If an employee is paid above the award rate then the long service leave is to be paid at the higher rate.

Casual and regular part-time employees

The number of hours leave to which a casual or regular part-time employee is entitled is calculated by dividing the total ordinary hours worked during the period of service by 52, and multiplying this amount by 8.6667/10 (8.6667 weeks long service leave is due after 10 years service).

Example of Calculation: A casual or regular part-time employee who worked 15,600 ordinary hours during a 10 year period of service and was paid an hourly rate of \$12 at the time of taking leave would be entitled to be paid:

$$\begin{aligned} & \frac{(15600 \times 8.6667)}{(52 \quad 10)} \times \$12 \\ & = \$3,120.01 \end{aligned}$$

If the employer and the casual or regular part-time employee agree, the entitlement can be taken in the form of a full-time equivalent. Where an award provides for a 40-hour week, 260 hours leave could be taken as 6½ weeks leave.

Do periods of absence from work count towards service?

Generally, only periods of paid leave are used in calculating the period of service to determine a long service leave entitlement. However, long service leave continues to accumulate during absences on WorkCover.

Can service be broken by a period of absence from work?

The long service leave entitlement is based on a period of continuous service. The continuity of service may be broken by absence from work. However, the following does not break continuity of the employee's service:

- absence from work on leave granted by the employer, including such absences through illness or injury;
- termination of the employee's service because of illness or injury, provided the employee is re-employed by the same employer and the employee has not engaged in other work during the absence;
- termination of the employee's employment if the employee is re-employed by the same employer within three months; and
- interruption or termination of an employee's service due to an industrial dispute or slackness in business or trade if the employee is re-employed by the same employer.

Can long service leave transfer from one employer to another?

The Act provides for certain leave entitlements to transfer from one employer to another when a transfer of a calling takes place. For example, when a business changes hands or is sold and the new employer continues to employ any existing staff, responsibility for long service leave entitlements accumulated with the previous employer transfers to the new employer.

A 'transferred' employee is entitled to all long service leave accumulated for the total period of their employment - including long service leave accumulated with the previous employer.

The transfer of entitlement also occurs if an employee is dismissed at the time the business changes hands or within the preceding month and is subsequently employed by the new employer within three months.

How do public holidays affect a period of long service?

Long service leave is exclusive of public holidays. Therefore any public holidays falling within a period of long service must be added to the leave.

When can an employee take long service leave?

The time and manner of taking long service leave should be agreed between the employer and employee.

Where agreement can't be reached, the employer can - with at least three months notice - require an employee to take at least four weeks long service leave.

Can payments be made instead of leave?

If permitted under their industrial instrument (e.g. an award or agreement approved by the Commission), an employee may make an agreement with their employer to receive payment for all or part of their long service leave entitlement instead of taking the leave. Any such agreement must be in writing and signed by the employee and the employer.

If the employee is not covered by an industrial instrument or if the applicable industrial instrument does not provide for payment of long service leave instead of taking the leave, the employee may make application to the Commission for an order to make such a payment.

The Commission may make such an order only if satisfied that the payment should be made on compassionate grounds or on the ground of financial hardship.

What time and wages records are used to calculate long service leave entitlements?

As long service leave entitlements are based on continuous service it is important that complete and accurate time and wages records are kept by the employer (see General Industrial Relations Information on Employment, another brochure in this series).

An employer is required to keep a record of the total number of ordinary hours worked by each casual employee during the period 1 July to 30 June each financial year.

Portable Long Service Leave for the Building and Construction Industry

In addition to the long service leave provisions under the industrial relations legislation, PORTABLE long service leave is available to building and construction industry employees (apprentices, casuals and full-time workers).

This enables employees to work for many employers and gain their long service leave benefit from the Portable Long Service Leave Scheme. If you are in the building industry and would like to talk to someone about the Scheme, phone QLeave toll free on 1800 803 491.

TABLE 1

Use this table to calculate long service leave entitlements for employees who started employment before 3 June 2001 and had less than 15 years continuous service at that date.

The phasing-in provisions in this table are not applicable to the calculation of pro rata long service leave payable on termination of employment. Please use Table 2 for the calculation of pro rata long service leave.

1	2	3
Years of service as at 3 June 2001	Years of service reduced to two-thirds to allow phasing-in ($\frac{2}{3} \times \text{Col 1}$)	Additional years of service that must be worked before leave can be taken ($10 - \text{Col 2}$)
0	0.0000	10.0000
1	0.6667	9.3333
2	1.3333	8.6667
3	2.0000	8.0000
4	2.6667	7.3333
5	3.3333	6.6667
6	4.0000	6.0000
7	4.6667	5.3333
8	5.3333	4.6667
9	6.0000	4.0000
10	6.6667	3.3333
11	7.3333	2.6667
12	8.0000	2.0000
13	8.6667	1.3333
14	9.3333	0.6667
15	10.0000	0.0000

4	5
Total years of service worked before leave can be taken (Col 3 + Col 1)	Total weeks leave entitlement when qualifying period reached (Col 4 x 0.86667)
10.0000	8.6667
10.3333	8.9556
10.6667	9.2445
11.0000	9.5334
11.3333	9.8222
11.6667	10.1112
12.0000	10.4000
12.3333	10.6889
12.6667	10.9778
13.0000	11.2667
13.3333	11.5556
13.6667	11.8445
14.0000	12.1334
14.3333	12.4222
14.6667	12.7112
15.0000	13.0001

TABLE 2

Use this table to calculate:

- long service leave for employees who started employment before 3 June 2001 and had 15 years continuous service or more at that date; and
- pro rata long service payable on termination of employment.

This table may also be used to calculate long service leave for a further period of employment after becoming entitled to a first period of long service leave (see examples 2 and 5 on the following pages).

Entitlement for completed years and months of service

Completed

Years

	0	1	2	3	4	5
0	-	0.0722	0.1444	0.2167	0.2889	0.3611
1	0.8667	0.9389	1.0111	1.0834	1.1556	1.2278
2	1.7333	1.8055	1.8777	1.9500	2.0222	2.0944
3	2.6000	2.6722	2.7444	2.8167	2.8889	2.9611
4	3.4667	3.5389	3.6111	3.6834	3.7556	3.8278
5	4.3333	4.4055	4.4777	4.5500	4.6222	4.6944
6	5.2000	5.2722	5.3444	5.4167	5.4889	5.5611
7	6.0667	6.1389	6.2111	6.2834	6.3556	6.4278
8	6.9333	7.0055	7.0777	7.1500	7.2222	7.2944
9	7.8000	7.8722	7.9444	8.0167	8.0889	8.1611
10	8.6667	8.7389	8.8111	8.8834	8.9556	9.0278
11	9.5333	9.6055	9.6777	9.7500	9.8222	9.8944
12	10.4000	10.4722	10.5444	10.6167	10.6889	10.7611
13	11.2667	11.3389	11.4111	11.4834	11.5556	11.6278
14	12.1333	12.2055	12.2777	12.3500	12.4222	12.4944
15	13.0000	-	-	-	-	-

PLUS

Entitlement for completed weeks and days of service

Completed

Weeks

Completed Days

	0	1	2	3	4	5	6
0	-	0.0024	0.0048	0.0072	0.0095	0.0119	0.0143
1	0.0167	0.0191	0.0215	0.0238	0.0262	0.0286	0.0310
2	0.0333	0.0357	0.0381	0.0404	0.0428	0.0452	0.0476
3	0.0500	0.0524	0.0548	0.0571	0.0595	0.0619	0.0642
4	0.0667	0.0691	0.0715	0.0738	-	-	-

Completed Months

6	7	8	9	10	11
0.4333	0.5056	0.5778	0.6500	0.7222	0.7944
1.3000	1.3723	1.4445	1.5167	1.5889	1.6611
2.1666	2.2389	2.3111	2.3833	2.4555	2.5277
3.0333	3.1056	3.1778	3.2500	3.3222	3.3944
3.9000	3.9723	4.0445	4.1167	4.1889	4.2611
4.7666	4.8389	4.9111	4.9833	5.0555	5.1277
5.6333	5.7056	5.7778	5.8500	5.9222	5.9944
6.5000	6.5723	6.6445	6.7167	6.7889	6.8611
7.3666	7.4389	7.5111	7.5833	7.6555	7.7277
8.2333	8.3056	8.3778	8.4500	8.5222	8.5944
9.1000	9.1723	9.2445	9.3167	9.3889	9.4611
9.9666	10.0389	10.1111	10.1833	10.2555	10.3277
10.8333	10.9056	10.9778	11.0500	11.1222	11.1944
11.7000	11.7723	11.8445	11.9167	11.9889	12.0611
12.5666	12.6389	12.7111	12.7833	12.8555	12.9277
-	-	-	-	-	-

Examples

Entitlements accruing before 3 June 2001

1. An employee who achieved 15 but less than 20 years continuous service **before 3 June 2001** is entitled to 13 weeks long service leave only (before 3 June 2001 employees were entitled to 13 weeks leave after 15 years service but did not accrue any additional entitlement until completion of a further 5 years service).
2. An employee who achieved 20 years or more continuous service **before 3 June 2001** is entitled to 13 weeks long service leave plus additional leave for any period of service in excess of 15 years calculated in accordance with Table 2 (ie. if the total service was 21 years 3 months the entitlement would be 13 weeks + 5.4167 weeks [entitlement for 6 years 3 months] = 18.4167 weeks long service leave).
3. An employee whose employment was terminated after achieving 10 but less than 15 years continuous service **before 3 June 2001** is entitled to pro rata long service leave payment on termination calculated in accordance with Table 2 (before 3 June 2001 these were the qualifying periods for payment of pro rata long service leave on termination of employment). This entitlement does not apply if the employee was dismissed for serious misconduct.

Entitlements accruing on or after 3 June 2001

4. An employee who commences employment **on or after 3 June 2001** and achieves 10 but less than 15 years continuous service is entitled to 8.6667 weeks long service leave only (from 3 June 2001 employees are entitled to 8.6667 weeks leave after 10 years service but do not accrue any additional entitlement until completion of a further 5 years service).
5. An employee who commences employment **on or after 3 June 2001** and achieves 15 years or more continuous service is entitled to 13 weeks long service leave plus additional leave for any period of service in excess of 15 years calculated in accordance with Table 2 (ie. if the total service was 17 years 3 months the entitlement would be 13 weeks + 1.95 weeks [entitlement for 2 years 3 months] = 14.95 weeks long service leave). Remember, only two-thirds of an employee's service before 3 June 2001 counts in working out when leave becomes due.
6. An employee whose employment is terminated after achieving 7 years continuous service **on or after 3 June 2001** is entitled to pro rata long service leave payment on termination calculated in accordance with Table 2. This entitlement is subject to several conditions if the total service is less than 10 years – see page 3 of this brochure.

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For specific information on matters discussed in this publication please refer to the Queensland *Industrial Relations Act 1999*.

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