



AUSTRALIAN CAPITAL TERRITORY (“ACT”) COMMUNITY SECTOR PORTABLE LONG SERVICE LEAVE SCHEME (“The Scheme”)

EFFECTIVE FROM 1 JULY 2010¹

Introduction

The Scheme will commence on 1 July 2010 and will provide portable long service leave entitlements to employees undertaking relevant work across the ACT community sector for any employer within that industry.

The ACT Long Service Leave Authority (“the Authority”) will be responsible for managing the Scheme and receiving payments from employers within the community sector industry.

For the purposes of this legislation the scope and definition of the Scheme will cover work carried out in the ACT community Sector including child care but not including aged care. It also includes interstate based organizations that are working within the ACT.

It is compulsory for all relevant employers and their employees to be registered with the Authority.

The first employers’ returns and payments will be due in October 2010 and this return and payment will cover the July 2010 to September 2010 quarter.

¹ The content of this paper has been provided by the ACT Long Service Leave Authority.

Employee Entitlements

- 8.67 weeks leave after 10 years service in the industry;
- Pro rata payment after:
 - 5 years service within the scheme;
 - 55 days of service within the scheme if:
 - Leaving industry due to incapacity,
 - Prescribed retirement age is reached, or
 - Death (payment to estate)

Does an employee's existing LSL entitlements transfer from the employer to the Authority?

No. All existing LSL liabilities and funds to cover those liabilities are retained by the employer.

However once the Scheme commences and quarterly levy payments are made, the employer incurs no new LSL liability.

Employers' Contribution Levy

1.67% of ordinary wages. Levy contributions are GST exempt.

Employer Reimbursements

Where employer payments to employees relate to a combination of long service leave accrued prior and post 1 July 2010, the Authority will reimburse employers for that portion of the payment that relates to long service leave accrued post 1 July 2010.

All long service leave payments to employees solely relates to service accrued post 1 July 2010 will be paid directly by the Authority.

Frequency of Employer returns and Levy Payments

Employers must submit returns and make Levy Payments quarterly in arrears:

- July to September – returns and levy payments are due by the end of October;
- October to December – returns and levy payments are due by the end of January;

- January to March – returns and levy payments are due by the end of April; and
- April to June – returns and levy payments are due by the end of July.

Method of submitting returns

- E-mail based form;
- spreadsheet – electronic data interface;
- Web – once new IT system is implemented;
- Paper, if requested.

Employer Penalties

- Late submission of Return information - \$100 per month or part thereof;
- Late Payment of levy associated with quarterly return - \$100 per month or part thereof.

Information provided by the Authority to Employers

- Quarterly return;
- Quarterly newsletter;
- Annual certificates:
 - Name of each employee
 - Number of days credited to each employee (total and previous financial year)
 - Total of all levy amounts paid in the previous financial year.

Information provided by the Authority to Employees

Annual certificates, which incorporate:

- Number of days of service credited (total and previous financial year);
- Total ordinary remuneration during the previous financial year;
- Name of each employer

Registered Contractors Levy (if required)

1.67% of ordinary wages

Registered Contractors entitlement (if required)

Total amount paid to the Authority plus interest calculated in accordance with legislation.

Maximum break in service or employment in the Industry

Over 4 years with employees with less than 5 years service being deregistered.

Minimum Period of Leave

Two (2) Weeks.

Payment in lieu of taking paid LSL

No

Pro rata payments

After 5 years

Days of service required for 1 year's credit

365 days

Reciprocal Agreement with other States and Territories

Yes if other jurisdictions implement a similar scheme

Calculation of Entitlement

Years/days of service paid at the highest weekly wage for the most recent, 2 4 and 20 quarters

Backdating of Service Accrued and Levy Payments

Yes but only for service post 1 July 2010

Authority Inspection Powers

The Authority has a broad range of powers, including:

- Entry to employer premises;
- Right of access to and examination of employment records; and
- Right to take copies of records.

Decisions reviewable by ACT Civil and Administrative tribunal (“ACAT”)

- Registration;
- Crediting prior Service
- Record of Service

Legislation gives ACAT the power to enforce all provisions.

Public Holidays

Public Holidays falling during a period of long service leave are to be paid or accounted for by the employer and not the Authority

Actuarial Reviews of the Scheme

There will be:

- yearly reviews in respect to the confirmation of liabilities for Financial Statements. These will be “peer” reviews done by another actuary.
- 3 yearly reviews for the confirmation of actuarial assumptions and the adequacy of the Employers’ Contribution Levy rate.

Taxation of Long service Leave Payments

Leave taken is normally debited against the most recently accrued long service leave.

However leave accrued prior to 1 July 2010 can be exhausted initially where a claim encompasses all pre 1 July 2010 or a combination of pre and post 1 July 2010 entitlements.

Taxation on all payments made by the Authority, except for re-imbursments to employers, is:

- calculated by the Authority;
- withheld from the employee payment; and
- paid directly to the ATO by the Authority.

The Authority forwards an annual Payment Summary the employee and a yearly payment summary to the ATO.

WHAT DO UNITING CHURCH EMPLOYERS AND EMPLOYEES BASED WITHIN THE ACT NEED TO DO?

All Uniting Church employers based within the ACT who operate within the community sector need to register their organization and employees with the Authority.

This registration must be completed before 1 July 2010.

The Authority is currently conducting information sessions for all ACT employers, and it is strongly recommended that Uniting Church employers attend these briefings to better understand their obligations under this legislation.

To find out more about:

- information sessions;
- whether your organization is impacted by this change to legislation;
- how to register your organization;

please contact the Authority direct on 02 6247 3900