

Authorised Version
Long Service Benefits Portability Act 2018
No. 44 of 2018

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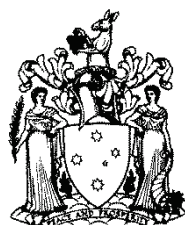
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Authorised Version



Victoria

**Long Service Benefits Portability
Act 2018[†]**

No. 44 of 2018

[Assented to 18 September 2018]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purpose

The main purpose of this Act is to provide portability of long service benefits in certain industries.

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

- (2) If a provision of this Act does not come into operation before 1 July 2019, it comes into operation on that day.

3 Definitions

In this Act—

appointed member, of the Governing Board, means a member of the Governing Board appointed under section 37(2)(a);

approved form means a form approved by the Authority under section 76;

authorised officer means a person appointed under section 59;

Authority means the Portable Long Service Benefits Authority established by section 35;

chairperson means the chairperson of the Governing Board appointed under section 39(1)(a);

cleaning work—see clause 2 of Schedule 2;

community service work—see clause 2 of Schedule 1;

community services sector—see clause 1 of Schedule 1;

contract cleaning industry—see clause 1 of Schedule 2;

contract worker—

- (a) for a covered industry other than the community services sector, has the meaning given by the covered industry schedule for that industry; and
- (b) if regulations referred to in section 79(3) are in effect, has the meaning given in those regulations in

relation to the community services sector;

corresponding law means a law of another State or a Territory that provides for portability of long service benefits in one or more covered industries;

covered industry means each of the following—

- (a) the community services sector;
- (b) the contract cleaning industry;
- (c) the security industry;

covered industry schedule means—

- (a) for the community services sector—Schedule 1;
- (b) for the contract cleaning industry—Schedule 2;
- (c) for the security industry—Schedule 3;

day—

- (a) in relation to a worker covered by an employment agreement, has the same meaning as in the employment agreement; or
- (b) in any other case, means 24 hours;

deputy chairperson means the deputy chairperson of the Governing Board appointed under section 39(1)(b);

employee, for a covered industry, has the meaning given by the covered industry schedule for that industry;

employer, for a covered industry, has the meaning given by the covered industry schedule for that industry;

employers register, for a covered industry, means the register kept under section 7(1)(a) for the industry;

employment agreement—

- (a) in relation to an employee, means the agreement (whether written or oral) under which the employee is employed and includes—
 - (i) a fair work instrument; and
 - (ii) a fair work instrument given continuing effect under the Fair Work Transition Act;
- (b) in relation to a contract worker, means the agreement (whether written or oral) under which the contract worker is engaged;

Fair Work Act means the Fair Work Act 2009 of the Commonwealth;

fair work instrument has the same meaning as in section 12 of the Fair Work Act;

Fair Work Transition Act means the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 of the Commonwealth;

Governing Board means the Portable Long Service Benefits Governing Board established under section 37;

levy means the long service benefits levy imposed by section 29;

long service record means a record referred to in section 34;

member of staff of the Authority means a person referred to in section 48;

ordinary pay, of a worker for a covered industry, has the meaning given in the covered industry schedule for that industry;

person includes an unincorporated association and a partnership;

premises includes—

- (a) any land or structure; and
- (b) any part of an area of land; and
- (c) any part of a structure;

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year;

quarterly return—

- (a) in relation to an employer, means a return by the employer under section 27 for a quarter;
- (b) in relation to a contract worker, means a return by the worker under section 28 for a quarter;

reasonable business grounds includes the following—

- (a) there is no capacity to change the working arrangements of other workers to accommodate the worker taking long service leave at the requested time;
- (b) it is impractical to change the working arrangements of other workers, or recruit new workers, to accommodate the worker taking long service leave at the requested time;

- (c) the long service leave requested by the worker is likely to result in a significant loss in efficiency or productivity;
- (d) the long service leave requested by the worker is likely to have a significant negative impact on customer service;

reciprocal agreement means an agreement under section 75;

reciprocal authority means the entity under a corresponding law that administers the scheme of long service leave benefits established by the law;

reciprocating jurisdiction means another State or a Territory in relation to which a reciprocal agreement is in force;

registered active contract worker—

- (a) for a covered industry other than the community services sector, means a contract worker registered under section 18 who is in the active part of the workers register for the industry; and
- (b) if regulations referred to in section 79(3) are in effect, means a contract worker registered under section 18 who is in the active part of the workers register for the community services sector;

registered active employee, for a covered industry, means an employee registered under section 18 who is in the active part of the workers register for the industry;

registered active employer, for a covered industry, means an employer registered under section 12 who is in the active part of the employers register for the industry;

registered active worker—

- (a) for a covered industry other than the community services sector, means a registered active employee or a registered active contract worker for the industry;
- (b) for the community services sector, means each of the following—
 - (i) a registered active employee for the sector;
 - (ii) if regulations referred to in section 79(3) are in effect, a registered active contract worker for the community services sector;

registrar means the person appointed as registrar under section 47;

security industry—see clause 1 of Schedule 3;

security work—see clause 2 of Schedule 3;

service period—

- (a) for a worker for the community services sector—see clause 7 of Schedule 1;
- (b) for a worker for the contract cleaning industry—see clause 8 of Schedule 2;
- (c) for a worker for the security industry—see clause 8 of Schedule 3;

work—see section 4;

worker—

- (a) for a covered industry other than the community services sector, means an employee or a contract worker for the industry;
- (b) for the community services sector, means each of the following—
 - (i) an employee for the sector;
 - (ii) if regulations referred to in section 79(3) are in effect, a contract worker for the community services sector;

workers register, for a covered industry, means the register kept under section 7(1)(b) for the industry.

4 Meaning of *work*

- (1) Subject to this section, **work**, in a covered industry, means one of the following—
 - (a) community service work;
 - (b) cleaning work;
 - (c) security work.
- (2) **Work** includes work in a covered industry performed outside Victoria only if—
 - (a) for work performed by an employee—
 - (i) the employer gives the Authority a quarterly return under section 27 in relation to the work; and
 - (ii) the employer pays the Authority the levy payable by the employer under section 32(1) for the quarter; and

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- (b) for work performed by a contract worker—
- (i) the contract worker gives the Authority a quarterly return under section 28 in relation to the work; and
 - (ii) the contract worker pays the Authority the levy payable by the contract worker under section 32(2) for the quarter.

Part 2—Long service benefits

5 Entitlement to long service benefits

A worker in a covered industry is entitled to long service benefits in accordance with the applicable covered industry schedule if the worker—

- (a) performs work for a registered active employer for the covered industry; and
- (b) is a registered active worker for the covered industry.

6 Contracting out prohibited

- (1) A provision in a contract of employment that annuls, varies or excludes any provision of this Act is of no effect, regardless of whether the contract was made—
 - (a) before or after the commencement of this Act; or
 - (b) before or after the industry for which the employee is an employee became a covered industry.
- (2) A provision in an agreement for the engagement of a contract worker that annuls, varies or excludes any provision of this Act is of no effect, regardless of whether the agreement was made—
 - (a) before or after the commencement of this Act; or
 - (b) before or after the industry for which the contract worker is a contract worker became a covered industry.
- (3) This section does not affect any provision of a contract or agreement (regardless of whether it was made before or after the commencement of this Act) to the extent of any inconsistency with this Act if, in the opinion of the Industrial

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Part 2—Long service benefits

Division of the Magistrates' Court, the long service benefits are more favourable under the contract or agreement than those provided by this Act.

Part 3—Registration

Division 1—Registers

7 Registers

- (1) The Authority must keep the following registers for each covered industry—
 - (a) an employers register;
 - (b) a workers register.
- (2) Each register must have an active part and an inactive part.
- (3) The registers may be kept in any form, including electronically, that the Authority determines.
- (4) The registrar may—
 - (a) correct a mistake, error or omission in a register; and
 - (b) change a detail included in a register to keep the register up to date.

8 Information to be kept on employers register

The registrar must enter the following information on the employers register for a covered industry in relation to a person the registrar registers as an employer—

- (a) the person's name;
- (b) the person's trading name (if any);
- (c) the person's ABN (if any);
- (d) the address of the person's principal place of business;
- (e) if the person is a corporation—
 - (i) the address of the corporation's registered office; and
 - (ii) the corporation's ACN;

- (f) the day the person became registered under this Act as an employer;
- (g) whether the person is on the active part or inactive part of the register and, if applicable, the date the person was moved to the inactive part of the register;
- (h) any other relevant information the registrar considers appropriate.

9 Information to be kept on workers register

The registrar must enter the following information on the workers register for a covered industry in relation to a person the registrar registers as a worker—

- (a) the person's name, address and date of birth;
- (b) if the person is an employee—the name and address of the principal place of business of each employer for whom the person works;
- (c) if the person is a contract worker—the person's ABN (if any);
- (d) the day the person became registered under this Act as a worker;
- (e) the number of days of service with which the person is credited under this Act;
- (f) the total ordinary pay of the person for work performed;
- (g) the person's entitlement to long service benefits;
- (h) details of any long service benefits taken by the person under this Act, another Act, a corresponding law or a fair work instrument, including—
 - (i) long service leave granted to, or taken by, the person; and

- (ii) payments of long service benefits, or payments for or in lieu of long service leave, made to the person;
- (i) whether the person is on the active part or inactive part of the register and, if applicable, the date the person was moved to the inactive part of the register;
- (j) any other relevant information the registrar considers appropriate.

10 Inspection of registers

- (1) Any person may—
 - (a) inspect the employers register for a covered industry; and
 - (b) on payment of the prescribed fee (if any), obtain a copy of an entry in the register.
- (2) A worker, or a person acting on behalf of a worker, may—
 - (a) inspect an entry in the workers register for a covered industry that relates to the worker; and
 - (b) on payment of the prescribed fee (if any), obtain a copy of the entry.

Division 2—Registration of employers

11 Application by employer for registration

- (1) An employer for a covered industry must apply to the registrar for registration as an employer not later than the end of—
 - (a) the required period for the employer; or

(b) any additional period allowed by the registrar under subsection (4).

Penalty: In the case of an individual, 24 penalty units for each day during which the offence continues;

In the case of a body corporate, 120 penalty units for each day during which the offence continues.

Note

Section 71 applies to an offence against this subsection.

- (2) For the purposes of subsection (1), the ***required period*** is—
- (a) if the employer is an employer in the industry at the commencement of this section—3 months after that commencement; or
 - (b) if the employer is an employer in the industry when the industry becomes a covered industry—3 months after the industry becomes a covered industry; or
 - (c) in any other case—3 months after the employer becomes an employer for the covered industry.
- (3) The application must be in the approved form.
- (4) The registrar may allow an employer an additional period to apply for registration on the employers register if satisfied that the employer has a good reason for requiring additional time to apply.
- (5) If a court finds a person guilty of an offence against subsection (1), the court, in addition to imposing a penalty on the person, may order the person to—

- (a) apply within a specified time to the registrar for registration as an employer for a covered industry; and
- (b) pay the Authority the amount that would have been payable by the person as a levy under this Act if the person had complied with this Act since becoming an employer.

12 Dealing with application for registration as employer

On application by a person under section 11, the registrar must—

- (a) register the person as an employer for the covered industry, in the active part of the employers register, if the registrar is satisfied that the person is an employer for the industry; or
- (b) in any other case—refuse to register the person as an employer for the industry.

13 Notice of registrar decision

- (1) Not later than 7 days after making a decision under section 12 to register or refuse to register a person as an employer, the registrar must give the person written notice of the decision.
- (2) If the decision is to register the person, the notice must state the day on which the registration is effective.
- (3) If the decision is to refuse to register the person, the notice must state the reasons for refusal.

14 Registered active employer to notify change of details

- (1) A registered active employer must give the registrar written notice of any change of the information referred to in section 8(a), (b), (c), (d)

or (e) relating to the employer within 14 days after the change happens.

Penalty: In the case of an individual, 6 penalty units;

In the case of a body corporate,
30 penalty units.

Note

Section 71 applies to an offence against this subsection.

- (2) A registered active employer who ceases to be an employer for a covered industry must give the registrar written notice within 14 days of so ceasing.

Penalty: In the case of an individual, 6 penalty units;

In the case of a body corporate,
30 penalty units.

Note

Section 71 applies to an offence against this subsection.

- (3) Written notice under this section may be given in any manner approved by the registrar.

Example

The registrar could approve written notice to be given by email or by updating an online database.

15 Moving person from active part of employers register

- (1) The registrar may move a person from the active part of the employers register for a covered industry to the inactive part of the register if—

- (a) the registrar is satisfied that the person is not an employer for the covered industry and that the person's application for registration should have been refused; or

- (b) the person stops engaging workers to perform work in the covered industry and applies to the registrar to be moved to the inactive part of the register.
- (2) An application under subsection (1)(b) must be in the approved form.
- (3) If a person is moved under subsection (1)—
 - (a) the person stops being a registered active employer on the day the person is moved; but
 - (b) the person remains liable to pay any levy payable under this Act that had not been paid before that day.

Division 3—Registration of workers

16 Application by worker for registration

- (1) A person may apply to the registrar for registration as a worker for a covered industry.
- (2) The application must be in the approved form.

17 Application by employer for registration of employee

- (1) This section applies if a person—
 - (a) is an employee of an employer for a covered industry; and
 - (b) is not registered on the workers register for the covered industry; and
 - (c) does not apply under section 16 for registration before the end of the relevant period.

- (2) For the purposes of subsection (1), the *relevant period* is—
- (a) if the person is an employee of the employer at the commencement of this section—3 months after that commencement; or
 - (b) if the person is an employee of the employer when the industry becomes a covered industry—3 months after the industry becomes a covered industry; or
 - (c) in any other case—3 months after the person becomes an employee of the employer.
- (3) The employer must apply for registration of the employee on the workers register for the covered industry when the employer next submits a quarterly return.
- (4) The application must be in the approved form.

18 Dealing with application for registration as worker

- (1) This section applies if—
- (a) a person applies under section 16 for registration as a worker for a covered industry; or
 - (b) an employer applies under section 17 for the registration of a person as a worker for a covered industry.
- (2) The registrar must—
- (a) register the person as a worker for the covered industry, in the active part of the workers register, if the registrar is satisfied that the person is a worker for the industry; or
 - (b) in any other case—refuse to register the person as a worker for the industry.

19 Notice of registrar decision

- (1) Not later than 7 days after making a decision under section 18 to register or refuse to register a person as a worker, the registrar must give written notice of the decision to—
 - (a) the applicant for registration; and
 - (b) for an application by an employer—the person in relation to whom the application was made.
- (2) If the decision is to register the person, the notice must state the day on which the registration is effective.
- (3) If the decision is to refuse to register the person, the notice must state the reasons for refusal.

20 Registrar may register worker without application

The registrar may register a person as a worker for a covered industry if—

- (a) the person is not registered as a worker for the industry; and
- (b) the registrar—
 - (i) becomes aware of information (other than because of an application under section 16) indicating that the person is, or was, a worker for the industry; and
 - (ii) is satisfied that the person should be registered as a worker for the industry.

21 Moving person from active part of workers register

- (1) The registrar may move a person from the active part of the workers register for a covered industry to the inactive part of the register if the person has not been credited under this Act or a corresponding law with at least one day of service

for 4 consecutive years, unless the person satisfies the registrar that the person is still working in the industry.

- (2) The registrar may move a person under subsection (1) only after—
 - (a) the registrar has given written notice to the person inviting the person to submit evidence to the registrar, within 28 days of the notice, that the person is still working in the industry; and
 - (b) the registrar has considered any evidence submitted by the person in that period.
- (3) If a person is moved under subsection (1)—
 - (a) the person stops being a registered active worker on the day the person is moved; and
 - (b) the person is not entitled to apply for long service leave, or to be paid long service benefits or an amount in lieu of long service leave, for any days of service entered in the register before the day the person stopped being a registered active worker.
- (4) However, subsection (3)(b) does not apply if the person is entitled to—
 - (a) payment of long service benefits under clause 11 of Schedule 1; or
 - (b) payment in lieu under—
 - (i) clause 15 of Schedule 2; or
 - (ii) clause 15 of Schedule 3.

22 Moving person back to active part of workers register

- (1) The registrar must move a person from the inactive part of the workers register for a covered industry to the active part of the register if—

- (a) the person has been moved from the active part to the inactive part under section 21(1); and
 - (b) the Authority is satisfied that the person has been, or should have been, credited with a period of service under this Act or a corresponding law within the period of 4 years ending on the day on which the person was moved to the inactive part of the register.
- (2) If a person is moved to the active part of the workers register under subsection (1), this Act applies in relation to the person as if the person had not been moved to the inactive part of the register.
 - (3) On application by a person, the registrar may move the person from the inactive part of the workers register for a covered industry to the active part of the register if the registrar is satisfied that the person is again employed or engaged in the covered industry.
 - (4) An application under subsection (3) must be in the approved form.

Division 4—Recognition of service

23 Application and relevant day

- (1) This Division applies to a covered industry other than the community services sector.
- (2) In this Division—
relevant day means—
 - (a) for the contract cleaning industry—the day on which Schedule 2 comes into operation;
 - (b) for the security industry—the day on which Schedule 3 comes into operation;

- (c) in any other case—the day on which the industry becomes a covered industry.

24 Service credits—service before relevant day

- (1) On application by a registered active worker for a covered industry, the registrar may credit the worker with one day of service in the workers register for the industry for each day or part day of service in the industry in the 12 month period immediately before the relevant day, if the registrar is satisfied that the person was employed or engaged in the industry at the time.
- (2) An application under subsection (1) must be made within 12 months after the relevant day.

25 Service credits—employee's service before registration

- (1) This section applies in relation to an employee's service in a covered industry for work done in the industry on or after the relevant day and no earlier than 4 years before the employee became a registered active employee for the industry.
- (2) The registrar may credit the employee with one day of service in the workers register for the industry for each day or part day of the service if the employee's employer has, in relation to the employee for that day, given the Authority—
 - (a) a quarterly return that includes the employee; and
 - (b) payment of the levy under section 32(1) for the return.
- (3) If subsection (2) does not apply, the registrar may credit the employee with one day of service in the workers register for the industry for each day or part day of the service if the registrar is satisfied that the person was employed in the industry.

26 Service credits—contract worker's service before registration

- (1) This section applies in relation to a contract worker's service in a covered industry for work done in the industry on or after the relevant day and no earlier than 12 months before the worker became a registered active worker for the industry.
- (2) The registrar may credit the worker with one day of service in the workers register for the industry for each day or part day of the service if—
 - (a) either—
 - (i) the worker has, in relation to that day, given the Authority a quarterly return under section 28; or
 - (ii) the registrar is satisfied that the worker worked in the industry on that day; and
 - (b) the worker has paid the levy determined under section 31 in relation to that day.

Part 4—Quarterly returns, levies and record keeping

Division 1—Quarterly returns

27 Quarterly returns by employers

- (1) A person who is a registered active employer for a covered industry at any time during a quarter must give the Authority a return that includes the required information, not later than—
- (a) one month after the end of the quarter; or
 - (b) the end of any additional period allowed by the registrar under subsection (3).

Penalty: In the case of an individual, 24 penalty units for each day during which the offence continues;

In the case of a body corporate, 120 penalty units for each day during which the offence continues.

Note

Section 71 applies to an offence against this subsection.

- (2) For the purposes of subsection (1), the ***required information*** is—
- (a) the name of each of the employer's workers who performed work for the employer during the quarter; and
 - (b) for each of the employer's workers—
 - (i) the total ordinary pay paid or payable by the employer to the worker for work performed during the quarter; and
 - (ii) the number of days or part days during the quarter to which the pay relates; and
 - (c) any other prescribed information.

- (3) On payment of the prescribed fee (if any), the registrar may allow a person an additional period to give a return to the Authority under this section if satisfied that the person has a good reason for requiring additional time.

28 Quarterly returns by contract workers

- (1) A person who is a registered active contract worker for a covered industry at any time during a quarter may give the Authority a return that includes the required information, not later than—
- (a) one month after the end of the quarter; or
 - (b) the end of any additional period allowed by the registrar under subsection (3).
- (2) For the purposes of subsection (1), the *required information* is—
- (a) the number of days or part days during the quarter on which the worker performed work in the covered industry; and
 - (b) the worker's total ordinary pay for the work performed during the quarter; and
 - (c) any other prescribed information.
- (3) On payment of the prescribed fee (if any), the registrar may allow a person an additional period to give a return to the Authority under this section if satisfied that the person has a good reason for requiring additional time.

Division 2—Levies

29 Imposition of levy

- (1) A long service benefits levy is imposed on—
 - (a) the ordinary pay of each employee for a covered industry; and
 - (b) the ordinary pay of each contract worker for a covered industry.
- (2) The levy referred to in subsection (1)(a) is payable by the employee's employer for the covered industry.
- (3) The levy referred to in subsection (1)(b) is payable by the contract worker.

30 Amount of levy—employers

- (1) The amount of levy payable by an employer for each employee for a covered industry is the percentage of the employee's ordinary pay determined by the Governing Board from time to time.
- (2) The amount of the levy determined under subsection (1)—
 - (a) must not exceed 3% of the employee's ordinary pay; and
 - (b) may vary—
 - (i) according to the covered industry; and
 - (ii) within each covered industry, according to different circumstances.

- (3) As soon as practicable after determining the levy or any change to the levy for a covered industry under this section, the Authority must notify all registered active employers for the covered industry of the levy or change, in the manner determined by the Authority.
- (4) A change to the levy may take effect only for the following or a subsequent quarter after the quarter in which the change is determined.

31 Amount of levy—contract workers

- (1) The amount of levy payable by a contract worker for a covered industry is the percentage of the contract worker's ordinary pay determined by the Governing Board from time to time.
- (2) The amount of the levy determined under subsection (1)—
 - (a) must not exceed 3% of the contract worker's ordinary pay; and
 - (b) may vary—
 - (i) according to the covered industry; and
 - (ii) within each covered industry, according to different circumstances.
- (3) As soon as practicable after determining the levy or any change to the levy for a covered industry under this section, the Authority must notify all registered active contract workers for the covered industry of the levy or change, in the manner determined by the Authority.
- (4) A change to the levy may take effect only for the following or a subsequent quarter after the quarter in which the change is determined.

32 Payment of levy

- (1) At the time an employer for a covered industry makes a quarterly return, the employer must pay the Authority the amount of levy payable under section 30 for each employee of the employer for the quarter to which the return relates.

Penalty: In the case of an individual, 24 penalty units;

In the case of a body corporate,
120 penalty units.

Note

Section 71 applies to an offence against this subsection.

- (2) At the time a contract worker for a covered industry makes a quarterly return, the contract worker must pay the Authority the amount of levy payable under section 31 for the quarter to which the return relates.

33 Unpaid levy

- (1) Interest is payable on an amount of unpaid levy owing to the Authority at the rate fixed from time to time under section 2 of the **Penalty Interest Rates Act 1983** and calculated from the date on which the amount becomes due until the date on which the amount is paid or recovered.
- (2) The Authority may recover an amount of unpaid levy owing to the Authority, and any interest owing to the Authority under subsection (1), as a debt in a court of competent jurisdiction.

Division 3—Record keeping

34 Employers to keep long service records

- (1) An employer for a covered industry must keep a written record of the required information for each worker of the employer.

- (2) For the purposes of subsection (1), the *required information* is—
- (a) the worker's name and date of birth; and
 - (b) the nature of the work performed by the worker; and
 - (c) the worker's ordinary pay for each quarter; and
 - (d) the number of days or part days worked by the worker in each quarter; and
 - (e) the date when the worker began service with the employer; and
 - (f) long service benefits given to the worker under this Act, another Act, a corresponding law or a fair work instrument, including—
 - (i) long service leave granted to, or taken by, the worker; and
 - (ii) payments for, or in lieu of, long service leave made to the worker; and
 - (iii) any other long service benefits paid or given to the worker; and
 - (g) if the worker stops service with the employer—the date the worker stops service.

Note

See section 66 for offences concerning long service records.

Part 5—Administration

Division 1—Portable Long Service Benefits Authority

35 Establishment of Portable Long Service Benefits Authority

- (1) The Portable Long Service Benefits Authority is established.
- (2) The Authority—
 - (a) is a body corporate with perpetual succession; and
 - (b) has an official seal; and
 - (c) may sue and be sued; and
 - (d) may acquire, hold and dispose of real and personal property; and
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the official seal of the Authority affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (4) The official seal of the Authority—
 - (a) must be kept in the custody determined by the Governing Board; and
 - (b) must not be used except as authorised by the Governing Board.

36 Functions of Authority

The Authority has the following functions—

- (a) administering this Act, including—
 - (i) administering long service benefits schemes in covered industries; and

- (ii) making payments under this Act; and
- (iii) keeping registers under this Act; and
- (iv) resolving disputes as to the timing of taking long service leave;
- (b) consulting other industries that may be affected by decisions made under this Act in relation to covered industries;
- (c) any other functions conferred on the Authority under this or any other Act.

Division 2—Governing Board

37 Portable Long Service Benefits Governing Board

- (1) The Authority has a governing body known as the Portable Long Service Benefits Governing Board.
- (2) The Governing Board consists of—
 - (a) not more than 9 persons appointed by the Minister, of whom—
 - (i) at least one is appointed to represent an organisation representing employers for a covered industry; and
 - (ii) at least one is appointed to represent an organisation representing employees for a covered industry; and
 - (iii) at least 2 do not represent an organisation representing employers or employees for a covered industry but, in the Minister's opinion, have the necessary skills, qualifications and experience to be members of the Governing Board; and

- (b) the registrar.

Note

The registrar is a non-voting member—see section 43(3).

- (3) In appointing members of the Governing Board, the Minister must ensure that, as far as practicable—
- (a) there is equal representation of organisations representing employers and employees; and
 - (b) collectively the members have skills or experience in relation to the following—
 - (i) legal practice;
 - (ii) finance or accounting;
 - (iii) public administration or governance.

38 Functions of the Governing Board

- (1) The Governing Board—
- (a) is responsible for the governance, strategic planning and risk management of the Authority; and
 - (b) may perform the functions and exercise the powers of the Authority.
- (2) All acts and things done in the name of, or on behalf of, the Authority by or with the authority of the Governing Board are taken to have been done by the Authority.

39 Chairperson and deputy chairperson

- (1) The Minister must appoint—
- (a) one member of the Governing Board referred to in section 37(2)(a)(iii) to be the chairperson; and

- (b) one member of the Governing Board referred to in section 37(2)(a)(iii) to be the deputy chairperson.
- (2) A person appointed as chairperson or deputy chairperson ceases to hold that office on ceasing to be a member of the Governing Board.
- (3) The deputy chairperson must act as chairperson—
 - (a) if the office of chairperson is vacant; or
 - (b) during any period when the chairperson is absent; or
 - (c) if the chairperson is, for any other reason, unable to attend meetings of the Governing Board or otherwise unable to perform the duties of the office.
- (4) While the deputy chairperson is acting as chairperson, the deputy chairperson—
 - (a) has and may exercise all the powers, and must perform all the duties and functions, of the chairperson; and
 - (b) is entitled to be paid the remuneration and allowances to which the chairperson would have been entitled.

40 Conditions of office for appointed members

- (1) An appointed member of the Governing Board—
 - (a) holds office for the period, not exceeding 3 years, specified in the instrument of appointment; and
 - (b) holds office on the terms and conditions (including remuneration and allowances) specified in the instrument of appointment; and
 - (c) is eligible for reappointment; and

- (d) in respect of the office of member of the Governing Board, is subject to the **Public Administration Act 2004** (other than Part 3 of that Act).
- (2) An instrument of appointment may specify other terms and conditions of appointment not inconsistent with this Act.

41 Vacancies, resignations and removal from office

- (1) The office of an appointed member of the Governing Board becomes vacant if the member—
 - (a) becomes an insolvent under administration; or
 - (b) is convicted or found guilty of—
 - (i) an indictable offence; or
 - (ii) an offence which, if committed in Victoria, would be an indictable offence; or
 - (c) is absent from 2 consecutive meetings of the Governing Board without the approval of the Governing Board; or
 - (d) resigns under subsection (2); or
 - (e) is removed from office under subsection (3).
- (2) An appointed member of the Governing Board may resign from office by delivering a signed letter of resignation to the Minister.
- (3) The Minister may remove an appointed member of the Governing Board from office if the member—
 - (a) becomes incapable of performing the member's duties; or
 - (b) is negligent in the performance of those duties; or

- (c) engages in improper conduct; or
- (d) fails to disclose a pecuniary interest as required by section 45; or
- (e) is no longer suitable to hold office as a member of the Governing Board; or
- (f) in the case of a member appointed under section 37(2)(a)(i), ceases to represent an organisation representing employers for a covered industry; or
- (g) in the case of a member appointed under section 37(2)(a)(ii), ceases to represent an organisation representing employees for a covered industry.

42 Validity of acts or decisions

An act or a decision of the Governing Board is not invalid by reason only of—

- (a) any vacancy in the office of a member; or
- (b) any defect or irregularity in, or in connection with, the appointment of a member.

43 Proceedings of the Governing Board

- (1) Meetings of the Governing Board must be held at the times and places determined by the Governing Board and the chairperson, or in the chairperson's absence the deputy chairperson, must preside.
- (2) The quorum of the Governing Board is two-thirds of the total number of appointed members of the Governing Board for the time being, of whom one must be the chairperson or deputy chairperson.
- (3) The registrar does not have a vote on a question arising at a meeting.

- (4) A question arising at a meeting must be determined by a two-thirds majority of the total number of appointed members of the Governing Board for the time being.
- (5) The person presiding at a meeting has a deliberative vote only.
- (6) A meeting of the Governing Board may be conducted by telephone, closed-circuit television or other means of communication that does not require the physical presence of each member of the Governing Board in the same room.
- (7) The person presiding at a meeting must ensure that accurate minutes of the meeting are kept.
- (8) Subject to this Act, the Governing Board may regulate its own procedure.

44 Resolutions without meetings

- (1) The Governing Board may—
 - (a) determine that it may make a proposed resolution without a meeting; and
 - (b) determine a method by which members of the Governing Board are to indicate agreement with any proposed resolution.
- (2) The Governing Board is taken to have made a resolution at a meeting if—
 - (a) without meeting, a two-thirds majority of the total number of appointed members of the Governing Board for the time being indicate agreement with the resolution; and
 - (b) that agreement is indicated in accordance with the method determined by the Governing Board under subsection (1)(b); and

- (c) all the members of the Governing Board were informed of the proposed resolution, or reasonable efforts were made to inform the members of the proposed resolution.
- (3) An appointed member of the Governing Board is not entitled to vote on a proposed resolution under this section if the member would not have been entitled to vote on that resolution if the matter had been considered at a meeting of the Governing Board.

Note

The registrar is not entitled to vote—see section 43(3).

- (4) The Governing Board must keep a record of the resolutions made in accordance with this section.

45 Pecuniary interests of members of the Governing Board

- (1) A member of the Governing Board who has a pecuniary interest in a matter being considered or to be considered by the Governing Board, as soon as practicable after the relevant facts have come to the member's knowledge, must disclose the nature of that interest at a meeting of the Governing Board.

Penalty: 60 penalty units.

- (2) If the chairperson has a pecuniary interest in a matter being considered or to be considered by the Governing Board, the chairperson, as soon as practicable after the relevant facts come to the chairperson's knowledge, must disclose the nature of that interest to the Minister.

Penalty: 60 penalty units.

- (3) The person presiding at a meeting at which a disclosure is made under this section must cause a record of the disclosure to be made in the minutes of the meeting.

- (4) Subject to subsection (5), a member of the Governing Board who has made a disclosure under subsection (1) or (2) must not be present during any deliberation with respect to, or in the case of an appointed member vote on, the matter in respect of which the disclosure is made.

Penalty: 60 penalty units.

- (5) Subsection (4) does not apply if a member has made a disclosure to the Governing Board and the Governing Board resolves that the member may be present during any deliberation with respect to, or in the case of an appointed member vote on, the matter in respect of which the disclosure is made.

46 Personal immunity

- (1) An appointed member of the Governing Board is not personally liable for anything done or omitted to be done in good faith—
- (a) in the performance of a function under this Act; or
 - (b) in the reasonable belief that the act or omission was in the performance of a function under this Act.
- (2) The registrar is not personally liable for anything done or omitted to be done in good faith—
- (a) in the performance of a function under this Act, either as a member of the Governing Board or as the registrar; or
 - (b) in the reasonable belief that the act or omission was in the performance of a function under this Act, either as a member of the Governing Board or as the registrar.
- (3) Any liability resulting from an act or omission that, but for subsection (1) or (2), would attach to a person attaches instead to the Authority.

Division 3—Registrar, staffing and other matters

47 Registrar

- (1) The chairperson must appoint as registrar a person employed by the chairperson under Part 3 of the **Public Administration Act 2004**.

Note

The registrar is a member of the Governing Board but does not have a vote—see sections 37(2)(b) and 43(3).

- (2) Despite subsection (1), the Secretary to the Department of Economic Development, Jobs, Transport and Resources may appoint a person employed under Part 3 of the **Public Administration Act 2004** to be the registrar until the chairperson makes the first appointment under subsection (1).
- (3) Subject to and in accordance with directions given to the registrar by the Governing Board, the registrar is responsible to the Governing Board for the administration of the day-to-day management of the affairs of the Authority.

48 Staff

- (1) There may be employed under Part 3 of the **Public Administration Act 2004** any persons that are necessary for the purposes of performing the functions of the Authority.
- (2) The Authority may enter into agreements or arrangements for the use of the services of any staff of a Department, statutory authority or other public body.

49 Delegation

- (1) The Governing Board, by instrument, may delegate any function of the Governing Board or the Authority, other than this power of delegation, to the registrar.

- (2) The registrar, by instrument, may delegate any function of the registrar, other than this power of delegation, to a member of staff of the Authority.

50 Improper use of information

A person who is, or has been, an appointed member of the Governing Board, the registrar, an authorised officer or a member of staff of the Authority must not make improper use of any information acquired in the course of the person's duties to obtain, directly or indirectly, any pecuniary or other advantage for themselves or for any other person.

Penalty: 60 penalty units.

51 Disclosure of information to other entities and authorities

- (1) The Authority may disclose information in relation to an employer's compliance with this Act—
- (a) to a Victorian government entity for the purpose of the performance of a function of the entity under a law of Victoria; or
 - (b) to a Commonwealth government entity for the purpose of the performance of a function of the entity under a law of the Commonwealth.
- (2) The Authority may disclose information in relation to a registered active worker's credit for service and long service benefits to a reciprocal authority for the purpose of the performance of—
- (a) a function of the Authority under this Act; or
 - (b) a function of the reciprocal authority under a corresponding law.

(3) In this section—

Commonwealth government entity means—

- (a) the office of the Fair Work Ombudsman; or
- (b) a prescribed entity;

Victorian government entity means—

- (a) the Victorian WorkCover Authority; or
- (b) Victoria Police; or
- (c) a prescribed entity.

Division 4—Finance

52 Money of Authority

- (1) The money of the Authority consists of—
 - (a) levy amounts paid to the Authority; and
 - (b) proceeds from investments by the Authority; and
 - (c) other amounts received by the Authority.
- (2) The money may be used for—
 - (a) payment of long service benefits; and
 - (b) payment of expenses incurred in the administration of this Act, including the remuneration and allowances of members of the Governing Board and payments relating to the employment of staff of the Authority; and
 - (c) payments for investments by the Authority; and
 - (d) other payments authorised under this Act or the regulations.

53 Separate and common funds

- (1) The Authority must establish and keep a separate fund in relation to each covered industry.
- (2) The funds must be kept and applied in such a way that enables the money of the Authority that relates to each covered industry to be separately identified.
- (3) However, the Authority may establish a common fund—
 - (a) to pay the expenses of the Authority that relate to more than one covered industry; or
 - (b) to invest the money of the Authority in an investment for more than one covered industry.

54 Actuarial investigation of funds

- (1) The Governing Board must appoint a person (an *actuary*) who is recognised as an actuary and holds qualifications the Governing Board considers suitable to carry out investigations under this section.
- (2) The actuary must investigate the state and adequacy of the money and funds of the Authority—
 - (a) at the request of the Governing Board; and
 - (b) at least once every 3 years.
- (3) The actuary must—
 - (a) report the outcome of each investigation to the Governing Board; and
 - (b) state in the report an opinion about whether the rates of levies payable under this Act should be reduced, increased or stay the same; and
 - (c) give a copy of the report to the Minister.

Part 6—Dispute resolution and enforcement

Division 1—VCAT reviews

55 Review by VCAT

- (1) A person whose interests are affected by any of the following decisions may apply to VCAT for review of the decision—
 - (a) a decision of the registrar to refuse to register a person on the employers register or workers register for a covered industry;
 - (b) a decision of the registrar to move a person from the active part of the employers register or workers register for a covered industry to the inactive part of that register;
 - (c) a decision of the registrar to refuse to move a person from the inactive part of the employers register or workers register for a covered industry to the active part of that register;
 - (d) a decision of the registrar in relation to the service for which a worker is entitled to be credited;
 - (e) a refusal by the Authority to pay a long service benefit, or make a payment for or on behalf of long service leave, under this Act;
 - (f) a refusal by the Authority to pay a person under this Act on behalf of a reciprocal authority;
 - (g) a refusal by the Authority to reimburse an employer under—
 - (i) clause 23 of Schedule 2; or
 - (ii) clause 23 of Schedule 3.

- (2) An employer or contract worker for a covered industry may apply to VCAT for review of a decision of the Governing Board determining or changing the rate of levy payable by the employer or contract worker.

56 Time limit for applying for review

An application for review under section 55 must be made within 28 days after the later of—

- (a) the day on which the relevant decision is made; or
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

Division 2—Industrial Division of the Magistrates' Court

57 Proceedings for offences to be brought in Industrial Division of the Magistrates' Court

- (1) If a person is charged with an offence against this Act, the charge must be heard, and all penalties recovered, before the Industrial Division of the Magistrates' Court.
- (2) Despite anything to the contrary in any Act, the jurisdiction of the Industrial Division of the Magistrates' Court in relation to any matter referred to in subsection (1) is exclusive.
- (3) Nothing in this section deprives a person of any right that the person has under the **Criminal Procedure Act 2009**—

- (a) to appeal to the County Court against any sentence imposed by the Industrial Division of the Magistrates' Court; or
- (b) to appeal to the Supreme Court, on a question of law, from a final order of the Industrial Division of the Magistrates' Court.

58 Order for payment to worker on finding of guilt

- (1) If the court finds an employer for a covered industry guilty of an offence against this Act and that the employer has failed to pay all or any part of a levy payable by the employer under this Act in relation to a worker, the court may order the employer to pay the worker an amount equivalent to the amount the Authority would have paid the worker if the employer had paid the levy, less any amount paid by the Authority to the worker.
- (2) If the court finds a person (other than an employer) guilty of an offence against a provision specified in section 71, the court may order the person to pay a worker an amount that the Authority would have paid the worker but for the offence, less any amount paid by the Authority to the worker.
- (3) Making an order under subsection (1) or (2) is in addition to imposing a penalty for the offence.
- (4) An order under this section may be enforced as if it were an order made by the court in a civil proceeding.
- (5) Interest is payable on an amount ordered to be paid under subsection (1) or (2) at the rate fixed from time to time under section 2 of the **Penalty Interest Rates Act 1983** and calculated from the date on which the amount is ordered to be paid until the date on which the amount is paid or recovered.

- (6) If an amount referred to in subsection (1) or (2) remains to be paid after all reasonable means of civil enforcement have been tried, the order may be enforced as if it were a penalty imposed by the court.
- (7) In this section—
- court* means the Industrial Division of the Magistrates' Court;
- employer* includes a former employer;
- worker* includes a former worker.

Division 3—Authorised officers

59 Appointment of authorised officers

- (1) The chairperson may, by instrument, appoint a person employed under Part 3 of the **Public Administration Act 2004** as an authorised officer for the purposes of this Act.
- (2) An authorised officer is subject to the Authority's directions in the performance of functions or exercise of powers under this Act.
- (3) A direction under subsection (2) may be of a general nature or may relate to a specified matter or to a specified class of matter.

60 Identity cards

- (1) The Authority must issue an authorised officer with an identity card in the approved form.
- (2) The identity card must bear a photograph and the signature of the authorised officer.
- (3) An authorised officer must produce the authorised officer's identity card for inspection—
- (a) before exercising a power under this Act, other than a requirement made by post, email or other electronic communication; and

- (b) at any time during the exercise of a power under this Act, if asked to do so.

Penalty: 10 penalty units.

61 Power to require information or documents

- (1) For the purpose of monitoring compliance with this Act and the regulations, an authorised officer may by written notice require a person, within a reasonable period specified in the notice—
 - (a) to give the authorised officer any information that the authorised officer requires; or
 - (b) to produce to the authorised officer a document in the custody or control of the person.
- (2) A notice under subsection (1) must—
 - (a) warn the person that a refusal or failure to comply with the notice, without reasonable excuse, is an offence; and
 - (b) if directed to an individual, inform the person that the person may refuse or fail to produce documents (other than a record or other document that the person is required to keep under this Act) or provide information if producing the document or providing the information would tend to incriminate the person.

Note

See section 67 for offences related to giving information or producing documents.

- (3) An authorised officer may inspect, and make copies of or take extracts from, a document produced to the authorised officer under subsection (1).

62 Retention of documents

- (1) An authorised officer may retain a document produced to the authorised officer for the period necessary to monitor compliance with this Act and the regulations.
- (2) During the period that the authorised officer retains a document, the authorised officer must permit the person otherwise entitled to its possession to inspect it and make copies of or take extracts from it.

63 Confidentiality

- (1) An authorised officer must not, except to the extent necessary to monitor compliance with this Act and the regulations, give to any other person, whether directly or indirectly, any information acquired by the authorised officer in performing a function under this Act.

Penalty: 60 penalty units.

- (2) Subsection (1) does not apply to the giving of information—
 - (a) to a court or tribunal in the course of a legal proceeding; or
 - (b) in accordance with an order of a court or tribunal; or
 - (c) to the extent reasonably required to enable the investigation or the enforcement of a law of Victoria or of any other State or a Territory or of the Commonwealth; or
 - (d) with the written authority of the registrar; or
 - (e) with the written authority of the person to whom the information relates.

Division 4—Offences

64 Adverse action taken against worker

- (1) An employer for a covered industry must not take adverse action against a worker of the employer because the worker is entitled to long service benefits under this Act.

Penalty: In the case of an individual, 12 penalty units for each day during which the offence continues;

In the case of a body corporate,
60 penalty units for each day during which the offence continues.

Note

Section 71 applies to an offence against this subsection.

- (2) An employer for a covered industry must not take adverse action against a worker of the employer because the worker seeks to exercise the worker's entitlement to long service benefits under this Act.

Penalty: In the case of an individual, 12 penalty units for each day during which the offence continues;

In the case of a body corporate,
60 penalty units for each day during which the offence continues.

Note

Section 71 applies to an offence against this subsection.

- (3) An employer for a covered industry must not take adverse action against a worker of the employer because the worker makes an enquiry as to the worker's entitlement to long service benefits under this Act.

Penalty: In the case of an individual, 12 penalty units for each day during which the offence continues;

In the case of a body corporate,
60 penalty units for each day during which the offence continues.

Note

Section 71 applies to an offence against this subsection.

- (4) An employer for a covered industry must not take adverse action against a worker of the employer because the worker applies to the Authority for a determination as to the taking of long service leave under this Act.

Penalty: In the case of an individual, 12 penalty units for each day during which the offence continues;

In the case of a body corporate,
60 penalty units for each day during which the offence continues.

Note

Section 71 applies to an offence against this subsection.

- (5) In a proceeding for an alleged contravention of subsection (1), (2), (3) or (4), the onus of proving that the adverse action by the employer was not actuated by any reason referred to in subsection (1), (2), (3) or (4), as the case may be, lies on the employer.

- (6) For the purposes of this section, an employer takes *adverse action* against a worker if the employer—
- (a) dismisses the worker or terminates their engagement; or
 - (b) injures the worker in the worker's employment or engagement; or
 - (c) alters the position of the worker to the worker's prejudice; or
 - (d) discriminates between the worker and other workers of the employer; or
 - (e) knowingly or recklessly makes a false representation about the worker's entitlement to long service benefits.

65 Offence to refuse to comply with Authority's determination

An employer for a covered industry must comply with a determination of the Authority as to the taking of long service leave under this Act.

Penalty: In the case of an individual, 12 penalty units for each day during which the offence continues;

In the case of a body corporate, 60 penalty units for each day during which the offence continues.

Note

Section 71 applies to an offence against this section.

66 Offences concerning long service records

- (1) An employer for a covered industry must keep a long service record relating to a worker during the worker's service with the employer.

Penalty: 24 penalty units in the case of an individual;

120 penalty units in the case of a body corporate.

Note

Section 71 applies to an offence against this subsection.

- (2) An employer for a covered industry must keep a long service leave record relating to a worker for at least 7 years after the worker stops working for the employer.

Penalty: 24 penalty units in the case of an individual;

120 penalty units in the case of a body corporate.

Note

Section 71 applies to an offence against this subsection.

- (3) A person must not make, without reasonable excuse, any false or misleading statement in, or any material omission from, a long service record.

Penalty: 24 penalty units in the case of an individual;

120 penalty units in the case of a body corporate.

Note

Section 71 applies to an offence against this subsection.

- (4) An employer for a covered industry must not refuse a request by a worker (or a worker's personal representative) to provide the worker

(or the personal representative) with a copy of a long service record relating to the worker.

Penalty: 24 penalty units in the case of an individual;

120 penalty units in the case of a body corporate.

Note

Section 71 applies to an offence against this subsection.

(5) Despite anything to the contrary in this or any other Act, a proceeding for an offence against subsection (1), (2), (3) or (4) may be commenced by filing a charge-sheet at any time within 6 years after the date on which the offence is alleged to have been committed.

(6) In this section—

employer includes a former employer;

worker includes a former worker.

67 Failing to produce documents or giving false or misleading documents

(1) A person must not, without reasonable excuse, fail to comply with a notice to produce documents or provide information under section 61.

Penalty: 24 penalty units in the case of an individual;

120 penalty units in the case of a body corporate.

Note

Section 71 applies to an offence against this subsection.

(2) A person must not produce a document to an authorised officer under section 61 that the person knows to be false or misleading in a material particular without indicating the respect in which

it is false or misleading and, if practicable, providing the correct information.

Penalty: 24 penalty units in the case of an individual;

120 penalty units in the case of a body corporate.

Note

Section 71 applies to an offence against this subsection.

68 Protection against self-incrimination

- (1) It is a reasonable excuse for an individual to refuse or fail to give information, produce a document or do any other thing that the individual is required to do by or under this Act, if the giving of the information, production of the document or doing of the thing would tend to incriminate the individual.
- (2) Despite subsection (1), it is not a reasonable excuse for an individual to refuse or fail to produce a record or other document that the individual is required to keep under this Act, if the production of the record or other document would tend to incriminate individual.

69 Who can prosecute under this Act?

- (1) A prosecution for an offence against this Act may only be brought by—
 - (a) the Authority; or
 - (b) a person who is authorised by the Authority to bring a prosecution.
- (2) An authorisation under subsection (1)(b)—
 - (a) must be in writing; and
 - (b) may be given generally, or only in relation to a particular case or cases, or a particular class of case or cases; and

- (c) may be revoked by the Authority at any time by written notice.
- (3) The revocation of an authorisation does not affect a proceeding commenced by a person before that person's authorisation was revoked unless the notice of revocation states otherwise.
- (4) In a prosecution for an offence under this Act, the Industrial Division of the Magistrates' Court must presume, in the absence of evidence to the contrary, that the prosecutor is authorised to bring the prosecution.
- (5) A prosecution may only be conducted by—
 - (a) the Authority; or
 - (b) the person authorised under subsection (1)(b) to bring the prosecution; or
 - (c) an Australian lawyer briefed by the Authority or the person authorised to bring the prosecution.

70 Imputing conduct to bodies corporate or other employer

- (1) For the purposes of this Act, any conduct engaged in or on behalf of a body corporate or other employer by an employee, agent or officer of the body corporate or other employer (as the case may be) acting within the actual or apparent scope of employment or apparent authority of the employee, agent or officer, is taken to be conduct also engaged in by the body corporate or employer.
- (2) In this section, *officer* has the same meaning given by section 9 of the Corporations Act.

**71 Criminal liability of officers of bodies corporate—
accessorial liability**

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer—
- (a) authorised or permitted the commission of the offence by the body corporate; or
 - (b) was knowingly concerned in any way (whether by act or omission) in the commission of the offence by the body corporate.
- (2) For the purposes of subsection (1), the following provisions are specified—
- (a) section 11(1);
 - (b) section 14(1);
 - (c) section 14(2);
 - (d) section 27(1);
 - (e) section 32(1);
 - (f) section 64(1);
 - (g) section 64(2);
 - (h) section 64(3);
 - (i) section 64(4);
 - (j) section 65;
 - (k) section 66(1);
 - (l) section 66(2);
 - (m) section 66(3);
 - (n) section 66(4);
 - (o) section 67(1);
 - (p) section 67(2).

- (3) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (4) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.
- (5) In this section—
- body corporate* has the same meaning as corporation has in section 57A of the Corporations Act;
- officer*, in relation to a body corporate, means—
- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
- (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.
- (6) This section does not affect the operation of section 323 or 324 of the **Crimes Act 1958**.

72 Offences by unincorporated associations

A proceeding for an offence against this Act by an unincorporated association may be brought against any or all members of the committee of management or other governing body of the association.

73 Evidentiary certificates

In a proceeding for an offence against section 27(1), a certificate signed, or appearing to be signed, by or on behalf of the registrar to the effect of any of the following is evidence of the matters stated in the certificate—

- (a) that the registrar had, or had not, under section 27(3) allowed a stated person an additional stated period to give the Authority a quarterly return for a stated quarter;
- (b) that a stated person had, or had not, given a quarterly return to the Authority for a stated quarter on or before a stated date.

Part 7—General

74 Review of Act

- (1) The Minister must review this Act to determine whether—
 - (a) the policy objectives of this Act remain valid; and
 - (b) the terms of this Act remain appropriate for securing those objectives.
- (2) A review is to be undertaken as soon as possible after—
 - (a) the 3rd anniversary of the commencement of this Act; and
 - (b) the 7th anniversary of the commencement of this Act.
- (3) The Minister must cause a report on the outcome of each review to be laid before each House of Parliament within 6 months after the review is completed.

75 Reciprocal agreements for corresponding laws

- (1) On the recommendation of the Governing Board, the Minister may enter into an agreement with the Minister of another State or a Territory who administers a corresponding law in relation to long service benefits for persons performing work in a covered industry.
- (2) Without limiting subsection (1), the agreement may provide for—
 - (a) payments of long service benefits or payments for or in lieu of long service leave; and
 - (b) the exchange of information about credit for service and entitlements to long service benefits between the Authority and the

reciprocal authority under the corresponding law; and

- (c) anything else in relation to long service benefits that the Minister considers appropriate.

76 Approved forms

The Authority may approve forms to be used for the purposes of this Act.

77 Waiver of fees

The registrar may waive all or any part of a fee payable under this Act.

78 Supreme Court—limitation of jurisdiction

It is the intention of section 57 to alter or vary section 85 of the **Constitution Act 1975**.

79 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations may—
 - (a) be of general or limited application;
 - (b) differ according to differences in time, place or circumstances;
 - (c) confer a discretionary authority or impose a duty on a specified person or body or class of persons or bodies;
 - (d) provide in a specified case or class of cases for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations—

- (i) whether unconditionally or on specified conditions; and
 - (ii) either wholly or to any extent that is specified.
- (3) Without limiting subsection (1), the regulations may provide that this Act applies to individuals who perform work in the community services sector for another person for fee or reward on the individual's own account, or classes of such individuals, and, for that purpose, the regulations may—
- (a) define those individuals or classes of individuals as contract workers; and
 - (b) modify the operation of the other provisions of this Act in their application to contract workers in the community services sector.

Part 8—Amendment of other Acts

80 Amendment of Public Administration Act 2004

After section 16(1)(kd) of the **Public Administration Act 2004** insert—

"(ke) the chairperson within the meaning of the **Long Service Benefits Portability Act 2018** in relation to the Portable Long Service Benefits Authority;"

81 Amendment of Long Service Leave Act 2018

(1) Section 3(2) of the **Long Service Leave Act 2018** is **repealed**.

(2) In section 12(1) of the **Long Service Leave Act 2018** omit "even though in a strict legal sense it could be said that the employee's employment was interrupted".

(3) For section 12(7), (8) and (9) of the **Long Service Leave Act 2018** substitute—

"(7) An employee's employment is taken to be continuous despite the employer standing down the employee—

- (a) during industrial action if the employee cannot be usefully employed because of the industrial action; or
- (b) because of a breakdown of machinery or equipment for which the employer cannot reasonably be held responsible if the employee cannot be usefully employed because of the breakdown; or
- (c) because of a stoppage of work for any cause for which the employer cannot reasonably be held responsible if the employee cannot be usefully employed because of the stoppage.

- (8) An employee's employment is taken to be continuous despite any interruption arising directly or indirectly from an industrial dispute."
- (4) In section 12 of the **Long Service Leave Act 2018**—
- (a) in subsection (10), for "(10)" **substitute** "(9)";
 - (b) in subsection (11)—
 - (i) for "(11)" **substitute** "(10)";
 - (ii) for "(10)" **substitute** "(9)".
- (5) In section 14 of the **Long Service Leave Act 2018**—
- (a) in paragraph (c), for ", (8) or (9)." **substitute** "(a), (b) or (c)";
 - (b) after paragraph (c) **insert**—

"(d) an interruption described in section 12(8)."

82 Repeal of Part

This Part is **repealed** on 1 April 2020.

Note

The repeal of this Part does not affect the continuing operation of the amendment made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Schedule 1—Community services sector

Sections 3, 21(4)(a)

Part 1—Community services sector

1 What is the *community services sector*?

The *community services sector* is—

- (a) in relation to Victoria—the sector in which community service work is performed; and
- (b) in relation to a reciprocating jurisdiction—the community services sector or community sector industry within the meaning of the corresponding law of that jurisdiction.

2 What is *community service work*?

- (1) Subject to subclause (2), *community service work* is work that provides—
 - (a) training and employment support, or employment placement, for persons with a disability or other persons who are vulnerable, disadvantaged or in crisis; or
 - (b) financial support or goods for the assistance of persons with a disability or other persons who are vulnerable, disadvantaged or in crisis; or
 - (c) accommodation, or accommodation-related support services, for persons with a disability or other persons who are vulnerable, disadvantaged or in crisis; or
 - (d) home care support services for persons with a disability or other persons who are vulnerable, disadvantaged or in crisis; or

- (e) other support services for—
 - (i) persons with a disability or their carers;
or
 - (ii) persons who are vulnerable,
disadvantaged or in crisis; or
 - (f) community legal services, community education and information services, or community advocacy services; or
 - (g) community development services; or
 - (h) fundraising assistance for community groups; or
 - (i) services providing assistance to particular cultural or linguistically diverse communities; or
 - (j) a service, or a service of a class, the provision of which is prescribed to be community service work.
- (2) *Community service work* does not include—
- (a) an activity that is funded by the National Disability Insurance Scheme within the meaning of the National Disability Insurance Scheme Act 2013 of the Commonwealth, unless such an activity, or class of activity, is prescribed to be community service work; or
 - (b) a service provided by an entity that is a licensed children's service under the **Children's Services Act 1996** or an approved provider under the Education and Care Services National Law (Victoria), unless such a service, or class of service, is prescribed to be community service work; or

- (c) an activity, or class of activity, prescribed not to be community service work.

3 Who is an *employer*?

- (1) Subject to subclause (2), an *employer* for the community services sector is—
 - (a) a non-profit entity that employs one or more individuals to perform community service work; or
 - (b) an entity for profit that employs one or more individuals to perform community service work for persons with a disability; or
 - (c) a person who is, or is a member of a class, prescribed to be an employer for the community services sector.
- (2) However, the following are not employers for the community services sector—
 - (a) the Commonwealth;
 - (b) the State;
 - (c) an entity that has a governing body appointed under an Act of the Commonwealth or the State;
 - (d) a municipal council or other public statutory body;
 - (e) a public health service or a public hospital under the **Health Services Act 1988**;
 - (f) a person who is, or is a member of a class, prescribed not to be an employer for the community services sector.
- (3) In this clause—

entity for profit means a corporation that, or individual who, is not a non-profit entity;

non-profit entity means—

- (a) a corporation—
 - (i) that is not carried on for the profit or gain of its individual members; and
 - (ii) that by the terms of its constituent documents, is prohibited from making a distribution to its members, whether in money, property or otherwise; or
- (b) an individual carrying on a business or other activity for a purpose that does not include the profit or gain of the individual.

4 Who is an *employee*?

- (1) Subject to subclause (2), an *employee* for the community services sector is an individual employed by an employer for the sector (whether in Victoria or elsewhere) and includes an individual employed on a casual basis.
- (2) The following are not employees for the community services sector—
 - (a) if the employer operates a business in addition to being a licensed children's service under the **Children's Services Act 1996** or an approved provider under the Education and Care Services National Law (Victoria)—an individual employed by the employer unless the individual's role is to care for children or coordinate the care of children for the licensed children's service or approved provider;

- (b) if the employer is a community health centre registered under section 48 of the **Health Services Act 1988**—an individual employed by the employer unless the individual's role is to carry out community service work at the community health centre;
- (c) if the employer provides services for persons with a disability—an individual employed by the employer whose primary role is to provide health services to those persons;
- (d) an individual to whom any of the following awards or agreements apply—
 - (i) the Aged Care Award 2010, as amended and in force from time to time;
 - (ii) a prescribed award or agreement;
- (e) an individual who is, or is a member of a class, prescribed not to be an employee for the community services sector.

Part 2—Crediting service

5 What is *recognised service*?

- (1) In this Schedule—

recognised service, for a registered active worker for the community services sector, means the total number of days or part days of service credit for all of the service periods of the worker less any days of service credit for which the worker has received a long service benefit payment.

- (2) A registered active worker for the community services sector is taken to have completed a year of recognised service for each 365 days of recognised service.

6 Crediting service

- (1) Subject to Part 4, a registered active worker for the community services sector is to be credited in the workers register for the sector with one day of service for each day (including a day when the worker does not perform community service work) in each service period of the worker on or after the worker's registration day.

Example

The worker must be credited with one day of service for each day in a service period even if the worker only performs community service work one day a week during that period.

- (2) However, the registrar must not enter more than 365 days of service in the workers register for the worker for a financial year.

Note

Part 4 contains ancillary provisions for working out the service credits for a worker for the community services sector. Clause 14 specifies periods of absence from work that are taken to be days of service and periods of absence from work that are taken not to be days of service.

7 What is a *service period*?

- (1) A *service period* for a person who is a registered active worker for the community services sector is a continuous period—
 - (a) beginning on the later of—
 - (i) the day when the person becomes a worker for the sector; and
 - (ii) the day on which this Schedule comes into operation; and

- (b) ending on the day when the person stops being a worker for the sector.
- (2) For the purposes of subclause (1)(b), a person stops being an employee for an employer for the sector at the end of a quarter if—
- (a) for an employee who was an employee of only one employer for the sector in the quarter—the employer's quarterly return for the following quarter shows no ordinary pay for the employee; or
 - (b) for an employee who was an employee of 2 or more employers for the sector in the quarter—none of the employers' quarterly returns for the following quarter shows ordinary pay for the employee.
- (3) Despite subclause (1), a registered active worker's service period is not taken to end if a person stops being a worker—
- (a) because of incapacity for an injury for which the worker is entitled to compensation under the **Workplace Injury Rehabilitation and Compensation Act 2013**; or
 - (b) because the worker has been dismissed by an employer to ensure that the worker is not entitled to long service benefits while in the employer's employment.
- (4) This clause is subject to Part 4.

Note

Part 4 contains ancillary provisions for working out the service period for a worker for the community services sector. Clause 14 sets out situations in which a period of absence is taken to be a day of service for crediting service.

Part 3—Long service benefits

8 Entitlement to long service benefit payment

- (1) At any time after completing 7 years of recognised service, a registered active worker for the community services sector is entitled to payment of a long service benefit equal to 1/60th of the worker's total period of recognised service less any long service benefit paid during that period.
- (2) The amount of the benefit is to be calculated on the basis of the worker's ordinary pay at the time the application for payment is made.
- (3) The regulations may prescribe the method by which the amount of the benefit is to be determined.

9 What is *ordinary pay*?

- (1) Subject to this clause, the *ordinary pay* of a registered active worker for the community services sector is the salary or wages paid or payable to the worker for work performed in the sector.
- (2) A worker's *ordinary pay* includes compensation payments under the **Workplace Injury Rehabilitation and Compensation Act 2013** or any other payments in the nature of compensation for injury suffered in relation to work.
- (3) A worker's *ordinary pay* does not include—
 - (a) amounts paid to the worker for—
 - (i) working overtime; or
 - (ii) reimbursement for expenses incurred by the worker; or

- (iii) the use of materials, equipment or a motor vehicle provided by the worker; or
- (b) allowances paid to the worker, including shift allowances and allowances for travel, meals or protective clothing; or
- (c) amounts paid to the worker on termination of employment, including—
 - (i) payment in lieu of notice; and
 - (ii) lump sum payment for accrued leave; and
 - (iii) redundancy; or
- (d) superannuation contributions made by the worker's employer.

10 Determination and payment of long service benefit

- (1) A registered active worker for the community services sector may apply to the Authority, in the approved form, for—
 - (a) a determination as to whether the worker is entitled to a long service benefit under clause 8; and
 - (b) if the worker is so entitled—payment of the benefit.
- (2) Within 21 days after the date of the application, the Authority must—
 - (a) determine whether the worker is entitled to a long service benefit under clause 8; and
 - (b) notify the worker in writing of the determination; and
 - (c) if the worker is entitled to a benefit—pay the benefit to the worker.

11 Entitlement to payment of benefit on leaving the community services sector or death

- (1) This clause applies if a registered active worker for the community services sector who is entitled to long service benefits permanently leaves the sector or dies before being paid all the long service benefits to which the worker is entitled.
- (2) On application by the worker or, in the case of death, by the worker's personal representative, the Authority must pay the worker or representative an amount in respect of the long service benefits to which the worker is entitled as at the date of leaving the sector or death, calculated in accordance with the regulations.

12 Payment by Authority on reciprocal authority's behalf

- (1) This clause applies to a registered active worker for the community services sector who has an entitlement to long service benefits under this Act and a corresponding law.
- (2) The worker may apply to the Authority for payment of a long service leave benefit entitlement worked out in accordance with the corresponding law.
- (3) The Authority must pay the worker the amount of the entitlement worked out in the way stated in the corresponding law if the Authority is authorised by the reciprocal authority to make the payment.

13 Payment by reciprocal authority on Authority's behalf

- (1) This clause applies if, under a corresponding law, a reciprocal authority pays to a person an amount that, but for the payment, would have been payable for an entitlement to long service benefits under this Act for work performed in the community services sector.

- (2) If the Authority is notified about the payment and is satisfied that the payment was properly made, the Authority must reimburse the reciprocal authority the amount paid.
- (3) If the Authority makes a reimbursement under subclause (2), the obligation of the Authority to make the payment to the person for the entitlement is discharged.

Part 4—Ancillary provisions for working out service

14 Periods of absence from work taken to be days of service for crediting service

- (1) The following periods of absence from work are taken to be days of service for the purpose of crediting the days of service of a worker for the community services sector—
 - (a) a period of paid leave;
 - (b) if a period of unpaid leave is less than or is 52 weeks, that period;
 - (c) if a period of unpaid leave is more than 52 weeks, the initial 52 weeks;
 - (d) if a period of unpaid leave is more than 52 weeks, the entire period of unpaid leave if—
 - (i) the period of absence is taken to be a period of employment in accordance with the relevant employment agreement; or
 - (ii) the employer and the worker agreed in writing before the leave was taken that the period is taken to be a period of employment; or

- (iii) the leave is taken on account of illness or injury or is any other form of leave provided for under the relevant employment agreement;
 - (e) a period of absence arising from—
 - (i) an interruption to, or termination of, employment caused by the employer with the intention of avoiding an obligation in relation to long service benefits; or
 - (ii) the transfer of assets from one employer to another if the worker usually performs duties which are connected with those assets;
 - (f) any other period of absence that the employer and worker agree to being credited as days of service of the worker.
- (2) Any periods of absence from work other than a period referred to in subclause (1) are taken not to be days of service for the purpose of crediting the days of service of a worker for the community services sector.

Part 5—General

15 No double-dipping

- (1) If a registered active worker for the community services sector has an entitlement to long service leave, or the payment of long service benefits, under a fair work instrument, the entitlements of the worker and the obligations of the employer and the Authority under this Act are to be determined in accordance with the regulations.
- (2) Regulations made for the purposes of subclause (1) must give effect to the following principles—

- (a) a worker is not to be entitled to both long service leave under a fair work instrument and payment of a long service benefit under this Act in respect of the same service period;
 - (b) an employer is not to be required to pay a worker for long service leave under a fair work instrument and to pay a levy under this Act for the worker in respect of the same service period;
 - (c) the Authority is not to be required to pay a long service benefit to a worker under this Act and to reimburse an employer for long service leave granted to the worker under a fair work instrument in respect of the same service period.
- (3) To avoid doubt, the regulations may modify the operation of the other provisions of this Act for the purpose of giving effect to the principles set out in subclause (2).

16 Annual statement

- (1) Within 30 days after the end of each financial year, the Authority must give each registered active worker for the community services sector a statement setting out—
- (a) the amount of levy paid under this Act in respect of the worker; and
 - (b) the worker's current entitlement (if any) to long service benefits under this Act; and
 - (c) any other prescribed information.
- (2) The statement may be given in any manner determined by the Authority.

Schedule 2—Contract cleaning industry

Sections 3, 21(4)(b)(i), 55(1)(g)(i)

Part 1—Contract cleaning industry

1 What is the *contract cleaning industry*?

The *contract cleaning industry* is—

- (a) in relation to Victoria—the industry in which employers provide cleaning work to other people through the provision of workers' services; and
- (b) in relation to a reciprocating jurisdiction—the contract cleaning industry within the meaning of the corresponding law of that jurisdiction.

2 What is *cleaning work*?

- (1) Subject to this clause, *cleaning work* is—
 - (a) work that has, as its only or main function, the bringing of premises into, or keeping of premises in, a clean condition; or
 - (b) an activity, or an activity of a class, prescribed to be cleaning work.
- (2) *Cleaning work* includes the cleaning of a swimming pool and the grounds surrounding the swimming pool.
- (3) *Cleaning work* does not include—
 - (a) the removal of waste from commercial waste receptacles; or
 - (b) the bringing of grounds surrounding a building or house into, or keeping the grounds in, a clean condition; or
 - (c) work of a cleaning nature performed on a building or house under construction; or

- (d) work of a gardening nature, including the removal or alteration of vegetation; or
- (e) an activity, or an activity of a class, prescribed not to be cleaning work.

3 Who is an *employer*?

- (1) Subject to this clause, an *employer* for the contract cleaning industry is a person engaged in the industry in Victoria who employs someone else (whether in Victoria or elsewhere) to perform work in the industry.
- (2) Also, a person is an *employer* for the contract cleaning industry if—
 - (a) the person employs or engages someone else (a *worker*) to perform work in the industry for another person engaged in the industry in Victoria for fee or reward; and
 - (b) there is no contract to perform the work between the worker and the person for whom the work is performed.
- (3) However, the following are not employers for the contract cleaning industry—
 - (a) the Commonwealth;
 - (b) the State;
 - (c) an entity that has a governing body appointed under an Act of the Commonwealth or the State;
 - (d) a municipal council or other public statutory body;
 - (e) a person who is, or is a member of a class, prescribed not to be an employer for the contract cleaning industry.

4 Who is an *employee*?

- (1) Subject to subclause (2), an *employee* for the contract cleaning industry is an individual employed by an employer for the industry (whether in Victoria or elsewhere) and includes—
 - (a) an apprentice and any individual whose employment agreement requires the individual to learn or be taught cleaning work; and
 - (b) an individual employed on a casual or seasonal basis.
- (2) An individual is not an employee for the contract cleaning industry if—
 - (a) the individual's name is included on the register of workers kept by the trustee in accordance with the trust deed under the **Construction Industry Long Service Leave Act 1997**; or
 - (b) the individual is, or is a member of a class, prescribed not to be an employee for the contract cleaning industry.

- (3) In this clause—

trust deed and *trustee* have the same meaning as in the **Construction Industry Long Service Leave Act 1997**.

5 Who is a *contract worker*?

- (1) Subject to subclause (2), a *contract worker* for the contract cleaning industry is an individual who performs work in the industry for another person for fee or reward on the individual's own account.

- (2) An individual is not a ***contract worker*** for the contract cleaning industry if—
- (a) the individual's name is included on the register of working sub-contractors kept by the trustee in accordance with the trust deed under the **Construction Industry Long Service Leave Act 1997**; or
 - (b) the individual is, or is a member of a class, prescribed not to be a contract worker for the contract cleaning industry.
- (3) Despite subclause (1) or clause 4, the following are taken to be contract workers rather than employees—
- (a) the directors of a company whose only employees or contract workers are directors, if each of the directors participates in the management of the company or shares in its profits;
 - (b) the partners of a partnership.
- (4) In this clause—
trust deed and ***trustee***—see clause 4(3).

Part 2—Crediting service

6 What is *recognised service*?

- (1) In this Schedule—
recognised service, for a registered active worker for the contract cleaning industry, means the total number of days or part days of service credit for all of the service periods of the worker less any days of service credit for which the worker—
- (a) has been granted long service leave; or
 - (b) has received a payment in lieu of long service leave.

- (2) A registered active worker for the contract cleaning industry is taken to have completed a year of recognised service for each 365 days of recognised service.

7 Crediting service

- (1) Subject to Part 4, a registered active worker for the contract cleaning industry is to be credited in the workers register for the industry with one day of service for each day (including a day when the worker does not perform cleaning work) in each service period of the worker on or after the worker's registration day.

Example

The worker must be credited with one day of service for each day in a service period even if the worker only performs cleaning work one day a week during that period.

- (2) However, the registrar must not enter more than 365 days of service in the workers register for the worker for a financial year.

Note

Part 4 contains ancillary provisions for working out the service credits for a worker for the contract cleaning industry. Clause 21 specifies periods of absence from work that are taken to be days of service and periods of absence from work that are taken not to be days of service.

8 What is a *service period*?

- (1) A *service period* for a person who is a registered active worker for the contract cleaning industry is a continuous period—
 - (a) beginning on the day when the person becomes a worker for the industry; and
 - (b) ending on the day when the person stops being a worker for the industry.

- (2) For the purposes of subclause (1), a person stops being an employee for an employer for the industry at the end of a quarter if—
- (a) for an employee who was an employee of only one employer for the industry in the quarter—the employer's quarterly return for the following quarter shows no ordinary pay for the employee; or
 - (b) for an employee who was an employee of 2 or more employers for the industry in the quarter—none of the employers' quarterly returns for the following quarter shows ordinary pay for the employee.
- (3) Despite subclause (1), a registered active worker's service period is not taken to end if a person stops being a worker—
- (a) because of incapacity for an injury for which the worker is entitled to compensation under the **Workplace Injury Rehabilitation and Compensation Act 2013**; or
 - (b) for a worker who is an employee—because the employee has been dismissed by an employer to ensure that the employee does not take long service leave while in the employer's employment; or
 - (c) for a worker who is a contract worker—because the worker's engagement by an employer is ended to ensure that the worker does not take long service leave while engaged by the employer.
- (4) This clause is subject to Part 4.

Note

Part 4 contains ancillary provisions for working out the service period for a worker for the contract cleaning industry. Clause 21 sets out situations in which a period of absence is taken to be a day of service for crediting service.

Part 3—Long service benefits

Division 1—Entitlement to leave

9 Entitlement to long service leave

At any time after completing 7 years of recognised service, a registered active worker for the contract cleaning industry is entitled to an amount of long service leave equal to 1/60th of the worker's total period of recognised service less any period of long service leave taken during that period.

10 Long service leave does not include public holidays or annual leave

Long service leave does not include any public holiday occurring, or annual leave taken, during the period when the long service leave is taken.

11 When is long service leave to be taken?

- (1) A registered active worker for the contract cleaning industry may make a request to the employer to take long service leave for a period of not less than one day.
- (2) The employer must grant the worker's request as soon as practicable after receiving it unless the employer has reasonable business grounds for refusing the request.
- (3) If the employer refuses the request, the worker may apply to the Authority for a determination under subclause (5).
- (4) As soon as practicable after receiving an application under subclause (3), the Authority must—
 - (a) notify the employer in writing of the application; and

- (b) invite the employer to make a written submission within 14 days of the notification.
- (5) After considering any submission received from the employer within the period referred to in subclause (4)(b) and any submission made by the worker, the Authority must make a written determination as to the taking of the requested leave, including the timing and length of the leave, and notify the worker and the employer in writing of the determination.

Note

Non-compliance with the determination is an offence—see section 65.

12 Entitlement to payment in lieu of leave on leaving the contract cleaning industry or death

- (1) This clause applies if a registered active worker for the contract cleaning industry who is entitled to long service leave permanently leaves the industry or dies before taking all the long service leave to which the worker is entitled.
- (2) The worker or, in the case of death, the worker's personal representative, is entitled to payment in lieu of the long service leave to which the worker is entitled as at the date of leaving the industry or death.

Division 2—Payments

13 What is *ordinary pay*?

- (1) Subject to this clause, the *ordinary pay* of a registered active worker for the contract cleaning industry is the salary or wages, and allowances (including shift allowances, however described), paid or payable to the worker for work performed in the industry.

- (2) A worker's *ordinary pay* includes compensation payments under the **Workplace Injury Rehabilitation and Compensation Act 2013** or any other payments in the nature of compensation for injury suffered in relation to work.
- (3) A worker's *ordinary pay* does not include—
- (a) amounts paid to the worker for—
 - (i) working overtime; or
 - (ii) reimbursement for expenses incurred by the worker; or
 - (iii) the use of materials, equipment or a motor vehicle provided by the worker; or
 - (b) allowances paid to the worker for travel, meals or protective clothing; or
 - (c) amounts paid to the worker on termination of employment, including—
 - (i) payment in lieu of notice; and
 - (ii) lump sum payment for accrued leave; and
 - (iii) redundancy; or
 - (d) superannuation contributions made by the worker's employer.

14 Payments for leave

- (1) This clause applies to—
- (a) a registered active employee for the contract cleaning industry who has been granted long service leave under clause 11; and
 - (b) a registered active contract worker for the contract cleaning industry who is entitled to long service leave for work performed in the industry.

- (2) The employee or contract worker may apply to the Authority, in the approved form, for payment for the leave.
- (3) The Authority must pay the applicant the amount payable under clause 16 if the Authority is satisfied that—
 - (a) the applicant is entitled to long service leave under this Act for work performed in the contract cleaning industry; and
 - (b) the applicant has been granted leave by the applicant's employer.
- (4) The Authority must pay an amount payable under this clause not later than 21 days after the date of the application.

15 Payment in lieu of leave

- (1) If a registered active worker for the contract cleaning industry, or the worker's personal representative, is entitled to payment in lieu of long service leave under this Act, the worker or personal representative may apply to the Authority, in the approved form, for the payment.
- (2) An application by a registered active worker who leaves the contract cleaning industry because of total incapacity must be accompanied by a certificate of a registered medical practitioner certifying that the worker is totally incapacitated for employment or engagement in the industry.
- (3) An application by a registered active worker who leaves the contract cleaning industry for reasons other than total incapacity must be accompanied by a statutory declaration by the applicant stating that the applicant—

- (a) has permanently left the contract cleaning industry; and
 - (b) does not intend to return to work in the industry.
- (4) The Authority must pay the applicant the amount payable under clause 16 if the Authority is satisfied that the applicant is entitled to payment in lieu of long service leave under this Act for work performed in the contract cleaning industry.

16 How are payments calculated?

For the purposes of clauses 14 and 15, the amount payable to a registered active worker or the worker's personal representative for, or in lieu of, long service leave is—

- (a) for any part of the entitlement to long service leave accrued as an employee—the amount calculated in accordance with clause 17; and
- (b) for any part of the entitlement to long service leave accrued as a contract worker—the amount calculated in accordance with clause 18.

17 Calculating leave payments for service as an employee

- (1) The amount payable for long service leave for service accrued as a registered active employee for the contract cleaning industry must be calculated—
- (a) on the lesser of—
 - (i) the number of days of long service leave granted to the employee under clause 11; and

- (ii) the number of days of the employee's remaining long service leave credit on the workers register for the contract cleaning industry; and
 - (b) on the basis of the employee's ordinary pay at the time the leave commences.
- (2) The amount payable in lieu of long service leave for service accrued as a registered active employee for the contract cleaning industry must be calculated—
 - (a) on the number of days of the employee's remaining long service leave credit on the workers register for the contract cleaning industry; and
 - (b) on the basis of the employee's ordinary pay immediately before the employee left the industry or died.

18 Calculating leave payments for service as a contract worker

- (1) The amount payable for long service leave, or for payment in lieu of long service leave, for service accrued as a registered active contract worker for the contract cleaning industry is the total of the following for the service—
 - (a) amounts paid by the worker to the Authority under section 32(2); and
 - (b) interest at the determined rate calculated from the date of receipt of each amount paid under section 32(2) until the designated day for the leave.
- (2) The Governing Board must determine an interim rate of interest from time to time before the determination of the rate under subclause (3).

- (3) As soon as practicable after the end of each financial year the Governing Board must determine the rate of interest for that financial year to be—
- (a) if the contract cleaning industry funds invested made a return—75% of the rate of the return for the financial year; or
 - (b) if the funds did not make a return or made a loss—nil.
- (4) In this clause—

designated day means—

- (a) if the worker is taking long service leave—the day the leave begins; or
- (b) if the worker is being paid in lieu of long service leave—the day the payment is made;

determined rate means the rate of interest determined under subclause (2) or (3) as applicable.

19 Payment by Authority on reciprocal authority's behalf

- (1) This clause applies to a registered active worker for the contract cleaning industry who has a long service leave entitlement under this Act and a corresponding law.
- (2) The worker may apply to the Authority for payment of a long service leave entitlement worked out in accordance with the corresponding law.
- (3) The Authority must pay the worker the amount of the entitlement worked out in the way stated in the corresponding law if the Authority is authorised by the reciprocal authority to make the payment.

20 Payment by reciprocal authority on Authority's behalf

- (1) This clause applies if, under a corresponding law, a reciprocal authority pays to a person an amount that, but for the payment, would have been payable for a long service leave entitlement under this Act for work performed in the contract cleaning industry.
- (2) If the Authority is notified about the payment and is satisfied that the payment was properly made, the Authority must reimburse the reciprocal authority the amount paid.
- (3) If the Authority makes a reimbursement under subclause (2), the obligation of the Authority to make the payment to the person for the entitlement is discharged.

Part 4—Ancillary provisions for working out service

21 Periods of absence from work taken to be days of service for crediting service

- (1) The following periods of absence from work are taken to be days of service for the purpose of crediting the days of service of a worker for the contract cleaning industry—
 - (a) a period of paid leave;
 - (b) if a period of unpaid leave is less than or is 52 weeks, that period;
 - (c) if a period of unpaid leave is more than 52 weeks, the initial 52 weeks;
 - (d) if a period of unpaid leave is more than 52 weeks, the entire period of unpaid leave if—

- (i) the period of absence is taken to be a period of employment or engagement in accordance with the relevant employment agreement; or
 - (ii) the employer and the worker agreed in writing before the leave was taken that the period is taken to be a period of employment or engagement; or
 - (iii) the leave is taken on account of illness or injury or is any other form of leave provided for under the relevant employment agreement;
- (e) a period of absence arising from—
- (i) an interruption to, or termination of, employment or engagement caused by the employer with the intention of avoiding an obligation in relation to long service leave; or
 - (ii) the transfer of assets from one employer to another if the worker usually performs duties which are connected with those assets;
- (f) any other period of absence that the employer and worker agree to being credited as days of service of the worker.
- (2) Any periods of absence from work other than a period referred to in subclause (1) are taken not to be days of service for the purpose of crediting the days of service of a worker for the contract cleaning industry.
- (3) If a worker enters into an employment agreement with an employer within 52 weeks after completing an apprenticeship with the employer, the period of apprenticeship is taken to be a period of employment or engagement when calculating

the length of the worker's period of continuous employment or engagement.

Part 5—Benefits under other laws

22 Benefits under other laws—election

- (1) A registered active worker for the contract cleaning industry must elect the law under which long service benefits are to be taken if the worker is eligible both for long service benefits under this Act and long service benefits under one or more of the following—
 - (a) the **Long Service Leave Act 2018**;
 - (b) a corresponding law;
 - (c) a fair work instrument or a fair work instrument given continuing effect under the Fair Work Transition Act.
- (2) If so, the worker must nominate to the Authority in writing—
 - (a) the law or instrument under which the worker elects to take the long service benefits; and
 - (b) the service period, or part of the service period, for which the election is made.
- (3) If the Authority receives a written nomination, the Authority must—
 - (a) remove from the relevant workers register credit for service equal to the service period, or part of the service period, nominated; and
 - (b) keep a record of the credit for service removed.

23 Benefits under other laws—reimbursement of employer

- (1) This clause applies if—
 - (a) a registered active worker for the contract cleaning industry has made an election under clause 22; and
 - (b) an employer for the contract cleaning industry pays the worker an amount under the law or instrument under which the worker has elected to take long service benefits.
- (2) The Authority may reimburse the employer the amount paid under the law or instrument under which the worker has elected to take long service benefits, less any amount outstanding that is payable by the employer to the Authority, if—
 - (a) the employer applies to the Authority; and
 - (b) the Authority is satisfied that the amount paid by the employer was properly paid under the law or instrument.

Schedule 3—Security industry

Sections 3, 21(4)(b)(ii), 55(1)(g)(ii)

Part 1—Security industry

1 What is the *security industry*?

- (1) The *security industry* is—
 - (a) in relation to Victoria—the industry in which security activities are undertaken by persons licensed to undertake them under the **Private Security Act 2004**; and
 - (b) in relation to a reciprocating jurisdiction—the security industry within the meaning of the corresponding law of that jurisdiction.

- (2) In this clause—

security activity has the same meaning as in the **Private Security Act 2004**.

2 What is *security work*?

- (1) Subject to subclause (2), *security work* is—
 - (a) work performed in the security industry; or
 - (b) an activity, or an activity of a class, prescribed to be security work.
- (2) *Security work* does not include an activity, or an activity of a class, prescribed not to be security work.

Examples

- 1 The following are examples of activities that would be security work—
 - (a) protecting, guarding or watching property;
 - (b) acting as a bodyguard;
 - (c) acting as a crowd controller;
 - (d) installing, servicing or repairing security equipment;
 - (e) providing training in relation to private security.

- 2 The following are examples of activities that would not be security work—
- (a) installing a lock as part of work as a builder;
 - (b) cutting unrestricted keys;
 - (c) operating a prison or other correctional facility;
 - (d) selling self-install security systems.

3 Who is an *employer*?

- (1) Subject to this clause, an *employer* for the security industry is a person engaged in the industry in Victoria who employs someone else (whether in Victoria or elsewhere) to perform work in the industry.
- (2) Also, a person is an *employer* for the security industry if—
 - (a) the person employs or engages someone else (a *worker*) to perform work in the industry for another person engaged in the industry in Victoria for fee or reward; and
 - (b) there is no contract to perform the work between the worker and the person for whom the work is performed.
- (3) However, the following are not employers for the security industry—
 - (a) the Commonwealth;
 - (b) the State;
 - (c) an entity that has a governing body appointed under an Act of the Commonwealth or the State;
 - (d) a municipal council or other public statutory body;
 - (e) a person who is, or is a member of a class, prescribed not to be an employer for the security industry.

4 Who is an *employee*?

- (1) Subject to subclause (2), an *employee* for the security industry is an individual employed by an employer for the industry (whether in Victoria or elsewhere) and includes—
 - (a) an apprentice and any individual whose employment agreement requires the individual to learn or be taught security work; and
 - (b) an individual employed on a casual or seasonal basis.
- (2) An individual is not an *employee* for the security industry if—
 - (a) the individual's name is included on the register of workers kept by the trustee in accordance with the trust deed under the **Construction Industry Long Service Leave Act 1997**; or
 - (b) the individual is, or is a member of a class, prescribed not to be an employee for the security industry.
- (3) In this clause—

trust deed and *trustee* have the same meaning as in the **Construction Industry Long Service Leave Act 1997**.

5 Who is a *contract worker*?

- (1) Subject to subclause (2), a *contract worker* for the security industry is an individual who performs work in the industry for another person for fee or reward on the individual's own account.

- (2) An individual is not a *contract worker* for the security industry if—
- (a) the individual's name is included on the register of working sub-contractors kept by the trustee in accordance with the trust deed under the **Construction Industry Long Service Leave Act 1997**; or
 - (b) the individual is, or is a member of a class, prescribed not to be a contract worker for the security industry.
- (3) Despite subclause (1) or clause 4, the following are taken to be contract workers rather than employees—
- (a) the directors of a company whose only employees or contract workers are directors, if each of the directors participates in the management of the company or shares in its profits;
 - (b) the partners of a partnership.
- (4) In this clause—
trust deed and *trustee*—see clause 4(3).

Part 2—Crediting service

6 What is *recognised service*?

- (1) In this Schedule—
recognised service, for a registered active worker for the security industry, means the total number of days or part days of service credit for all of the service periods of the worker less any days of service credit for which the worker—
- (a) has been granted long service leave; or
 - (b) has received a payment in lieu of long service leave.

- (2) A registered active worker for the security industry is taken to have completed a year of recognised service for each 365 days of recognised service.

7 Crediting service

- (1) Subject to Part 4, a registered active worker for the security industry is to be credited in the workers register for the industry with one day of service for each day (including a day when the worker does not perform security work) in each service period of the worker on or after the worker's registration day.

Example

The worker must be credited with one day of service for each day in a service period even if the worker only performs security work one day a week during that period.

- (2) However, the registrar must not enter more than 365 days of service in the workers register for the worker for a financial year.

Note

Part 4 contains ancillary provisions for working out the service credits for a worker for the security industry. Clause 21 specifies periods of absence from work that are taken to be days of service and periods of absence from work that are taken not to be days of service.

8 What is a *service period*?

- (1) A *service period* for a person who is a registered active worker for the security industry is a continuous period—
- (a) beginning on the day when the person becomes a worker for the industry; and
 - (b) ending on the day when the person stops being a worker for the industry.

- (2) For the purposes of subclause (1), a person stops being an employee for an employer for the industry at the end of a quarter if—
- (a) for an employee who was an employee of only one employer for the industry in the quarter—the employer's quarterly return for the following quarter shows no ordinary pay for the employee; or
 - (b) for an employee who was an employee of 2 or more employers for the industry in the quarter—none of the employers' quarterly returns for the following quarter shows ordinary pay for the employee.
- (3) Despite subclause (1), a registered active worker's service period is not taken to end if a person stops being a worker—
- (a) because of incapacity for an injury for which the worker is entitled to compensation under the **Workplace Injury Rehabilitation and Compensation Act 2013**; or
 - (b) for a worker who is an employee—because the employee has been dismissed by an employer to ensure that the employee does not take long service leave while in the employer's employment; or
 - (c) for a worker who is a contract worker—because the worker's engagement by an employer is ended to ensure that the worker does not take long service leave while engaged by the employer.
- (4) This clause is subject to Part 4.

Note

Part 4 contains ancillary provisions for working out the service period for a worker for the security industry. Clause 21 sets out situations in which a period of absence is taken to be a day of service for crediting service.

Part 3—Long service benefits

Division 1—Entitlement to leave

9 Entitlement to long service leave

At any time after completing 7 years of recognised service, a registered active worker for the security industry is entitled to an amount of long service leave equal to 1/60th of the worker's total period of recognised service less any period of long service leave taken during that period.

10 Long service leave does not include public holidays or annual leave

Long service leave does not include any public holiday occurring, or annual leave taken, during the period when the long service leave is taken.

11 When is long service leave to be taken?

- (1) A registered active worker for the security industry may make a request to the employer to take long service leave for a period of not less than one day.
- (2) The employer must grant the worker's request as soon as practicable after receiving it unless the employer has reasonable business grounds for refusing the request.
- (3) If the employer refuses the request, the worker may apply to the Authority for a determination under subclause (5).
- (4) As soon as practicable after receiving an application under subclause (3), the Authority must—
 - (a) notify the employer in writing of the application; and

- (b) invite the employer to make a written submission within 14 days of the notification.
- (5) After considering any submission received from the employer within the period referred to in subclause (4)(b) and any submission made by the worker, the Authority must make a written determination as to the taking of the requested leave, including the timing and length of the leave, and notify the worker and the employer in writing of the determination.

Note

Non-compliance with the determination is an offence—see section 65.

12 Entitlement to payment in lieu of leave on leaving the security industry or death

- (1) This clause applies if a registered active worker for the security industry who is entitled to long service leave permanently leaves the industry or dies before taking all the long service leave to which the worker is entitled.
- (2) The worker or, in the case of death, the worker's personal representative, is entitled to payment in lieu of the long service leave to which the worker is entitled as at the date of leaving the industry or death.

Division 2—Payments

13 What is *ordinary pay*?

- (1) Subject to this clause, the *ordinary pay* of a registered active worker for the security industry is the salary or wages, and allowances (including shift allowances, however described), paid or payable to the worker for work performed in the industry.

- (2) A worker's *ordinary pay* includes compensation payments under the **Workplace Injury Rehabilitation and Compensation Act 2013** or any other payments in the nature of compensation for injury suffered in relation to work.
- (3) A worker's *ordinary pay* does not include—
- (a) amounts paid to the worker for—
 - (i) working overtime; or
 - (ii) reimbursement for expenses incurred by the worker; or
 - (iii) the use of materials, equipment or a motor vehicle provided by the worker; or
 - (b) allowances paid to the worker for travel, meals or protective clothing; or
 - (c) amounts paid to the worker on termination of employment, including—
 - (i) payment in lieu of notice; and
 - (ii) lump sum payment for accrued leave; and
 - (iii) redundancy; or
 - (d) superannuation contributions made by the worker's employer.

14 Payments for leave

- (1) This clause applies to—
- (a) a registered active employee for the security industry who has been granted long service leave under clause 11; and
 - (b) a registered active contract worker for the security industry who is entitled to long service leave for work performed in the industry.

- (2) The employee or contract worker may apply to the Authority, in the approved form, for payment for the leave.
- (3) The Authority must pay the applicant the amount payable under clause 16 if the Authority is satisfied that—
 - (a) the applicant is entitled to long service leave under this Act for work performed in the security industry; and
 - (b) the applicant has been granted leave by the applicant's employer.
- (4) The Authority must pay an amount payable under this clause not later than 21 days after the date of the application.

15 Payment in lieu of leave

- (1) If a registered active worker for the security industry, or the worker's personal representative, is entitled to payment in lieu of long service leave under this Act, the worker or personal representative may apply to the Authority, in the approved form, for the payment.
- (2) An application by a registered active worker who leaves the security industry because of total incapacity must be accompanied by a certificate of a registered medical practitioner certifying that the worker is totally incapacitated for employment or engagement in the industry.
- (3) An application by a registered active worker who leaves the security industry for reasons other than total incapacity must be accompanied by a statutory declaration by the applicant stating that the applicant—

- (a) has permanently left the security industry;
and
 - (b) does not intend to return to work in the industry.
- (4) The Authority must pay the applicant the amount payable under clause 16 if the Authority is satisfied that the applicant is entitled to payment in lieu of long service leave under this Act for work performed in the security industry.

16 How are payments calculated?

For the purposes of clauses 14 and 15, the amount payable to a registered active worker or the worker's personal representative for, or in lieu of, long service leave is—

- (a) for any part of the entitlement to long service leave accrued as an employee—the amount calculated in accordance with clause 17; and
- (b) for any part of the entitlement to long service leave accrued as a contract worker—the amount calculated in accordance with clause 18.

17 Calculating leave payments for service as an employee

- (1) The amount payable for long service leave for service accrued as a registered active employee for the security industry must be calculated—
- (a) on the lesser of—
 - (i) the number of days of long service leave granted to the employee under clause 11; and
 - (ii) the number of days of the employee's remaining long service leave credit on the workers register for the security industry; and

- (b) on the basis of the employee's ordinary pay at the time the leave commences.
- (2) The amount payable in lieu of long service leave for service accrued as a registered active employee for the security industry must be calculated—
 - (a) on the number of days of the employee's remaining long service leave credit on the workers register for the security industry; and
 - (b) on the basis of the employee's ordinary pay immediately before the employee left the industry or died.

18 Calculating leave payments for service as a contract worker

- (1) The amount payable for long service leave, or for payment in lieu of long service leave, for service accrued as a registered active contract worker for the security industry is the total of the following for the service—
 - (a) amounts paid by the worker to the Authority under section 32(2); and
 - (b) interest at the determined rate calculated from the date of receipt of each amount paid under section 32(2) until the designated day for the leave.
- (2) The Governing Board must determine an interim rate of interest from time to time before the determination of the rate under subclause (3).
- (3) As soon as practicable after the end of each financial year the Governing Board must determine the rate of interest for that financial year to be—

- (a) if the security industry funds invested made a return—75% of the rate of the return for the financial year; or
 - (b) if the funds did not make a return or made a loss—nil.
- (4) In this clause—
- designated day* means—
- (a) if the worker is taking long service leave—the day the leave begins; or
 - (b) if the worker is being paid in lieu of long service leave—the day the payment is made;
- determined rate* means the rate of interest determined under subclause (2) or (3) as applicable.

19 Payment by Authority on reciprocal authority's behalf

- (1) This clause applies to a registered active worker for the security industry who has a long service leave entitlement under this Act and a corresponding law.
- (2) The worker may apply to the Authority for payment of a long service leave entitlement worked out in accordance with the corresponding law.
- (3) The Authority must pay the worker the amount of the entitlement worked out in the way stated in the corresponding law if the Authority is authorised by the reciprocal authority to make the payment.

20 Payment by reciprocal authority on Authority's behalf

- (1) This clause applies if, under a corresponding law, a reciprocal authority pays to a person an amount that, but for the payment, would have been

payable for a long service leave entitlement under this Act for work performed in the security industry.

- (2) If the Authority is notified about the payment and is satisfied that the payment was properly made, the Authority must reimburse the reciprocal authority the amount paid.
- (3) If the Authority makes a reimbursement under subclause (2), the obligation of the Authority to make the payment to the person for the entitlement is discharged.

Part 4—Ancillary provisions for working out service

21 Periods of absence from work taken to be days of service for crediting service

- (1) The following periods of absence from work are taken to be days of service for the purpose of crediting the days of service of a worker for the security industry—
 - (a) a period of paid leave;
 - (b) if a period of unpaid leave is less than or is 52 weeks, that period;
 - (c) if a period of unpaid leave is more than 52 weeks, the initial 52 weeks;
 - (d) if a period of unpaid leave is more than 52 weeks, the entire period of unpaid leave if—
 - (i) the period of absence is taken to be a period of employment or engagement in accordance with the relevant employment agreement; or

- (ii) the employer and the worker agreed in writing before the leave was taken that the period is taken to be a period of employment or engagement; or
 - (iii) the leave is taken on account of illness or injury or is any other form of leave provided for under the relevant employment agreement;
 - (e) a period of absence arising from—
 - (i) an interruption to, or termination of, employment or engagement caused by the employer with the intention of avoiding an obligation in relation to long service leave; or
 - (ii) the transfer of assets from one employer to another if the worker usually performs duties which are connected with those assets;
 - (f) any other period of absence that the employer and worker agree to being credited as days of service of the worker.
- (2) Any periods of absence from work other than a period referred to in subclause (1) are taken not to be days of service for the purpose of crediting the days of service of a worker for the security industry.
- (3) If a worker enters into an employment agreement with an employer within 52 weeks after completing an apprenticeship with the employer, the period of apprenticeship is taken to be a period of employment or engagement when calculating the length of the worker's period of continuous employment or engagement.

Part 5—Benefits under other laws

22 Benefits under other laws—election

- (1) A registered active worker for the security industry must elect the law under which long service benefits are to be taken if the worker is eligible both for long service benefits under this Act and long service benefits under one or more of the following—
 - (a) the **Long Service Leave Act 2018**;
 - (b) a corresponding law;
 - (c) a fair work instrument or a fair work instrument given continuing effect under the Fair Work Transition Act.
- (2) If so, the worker must nominate to the Authority in writing—
 - (a) the law or instrument under which the worker elects to take the long service benefits; and
 - (b) the service period, or part of the service period, for which the election is made.
- (3) If the Authority receives a written nomination, the Authority must—
 - (a) remove from the relevant workers register credit for service equal to the service period, or part of the service period, nominated; and
 - (b) keep a record of the credit for service removed.

23 Benefits under other laws—reimbursement of employer

- (1) This clause applies if—
 - (a) a registered active worker for the security industry has made an election under clause 22; and

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- (b) an employer for the security industry pays the worker an amount under the law or instrument under which the worker has elected to take long service benefits.
- (2) The Authority may reimburse the employer the amount paid under the law or instrument under which the worker has elected to take long service benefits, less any amount outstanding that is payable by the employer to the Authority, if—
- (a) the employer applies to the Authority; and
 - (b) the Authority is satisfied that the amount paid by the employer was properly paid under the law or instrument.
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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

† *Minister's second reading speech—*

Legislative Assembly: 28 March 2018

Legislative Council: 9 May 2018

The long title for the Bill for this Act was "A Bill for an Act to provide portability of long service benefits in certain industries and to amend other Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 28 March 2018

Legislative Council: 9 May 2018

Absolute majorities:

Legislative Assembly: 1 May 2018

Legislative Council: 4 September 2018