

EARLY CHILDHOOD MANAGEMENT SERVICES (ECMS)

Submission: Long Service Benefits Portability Regulations



ECMS welcomes the opportunity to provide written feedback in relation to Long Service Benefits Portability Regulations

Kim Bertino, May 2019

Introducing ECMS

Early Childhood Management Services (ECMS) is a not for profit organisation which has provided high quality and inclusive early learning and care for Melbourne children, families and communities for more than 22 years. Our almost 70 kindergartens and childcare centres have touched the lives of 6500 children.

ECMS has recently launched its new Vision and Purpose for children and has committed to four key focus areas and strategic goals which will provide a roadmap for the work ECMS will undertake over the next 18 months:

1. A financially sustainable model of operation
2. Connected communities and engaged stakeholders
3. Engaged and empowered workforce
4. Leading through exemplary practice

We are excited at the opportunity to increase the impact we have on positive outcomes for children, particularly during the years of heightened brain development and amongst those who are experiencing vulnerability through a universal access lens.

This submission outlines our key concerns with respect to the Long Service Benefits Portability Regulations (the Regulations) including:

- Lack of genuine consultation
- Inequitable outcomes for the Early Childhood Education (ECE) sector
- Workforce Implications
- Financial and Administrative Burden

Lack of Genuine Consultation

The Long Service Leave Portability Bill was debated in the Upper House in last year, resulting in the removal of ECEC services for consideration at a later date. Minister Mikakos (Early Childhood Education) stated that

“A re-elected Andrews Labour government will work at adding additional parts of the community sector workforce at appropriate times in coming years once the authority and the scheme are up and running. I think it is important, and I put on the record, that further consultation will be undertaken with the early childhood education and care and disability sectors to minimise any cost to employers and to families beyond what they already are required to allocate to long service leave entitlements.”

The ECEC sector has not been invited to contribute to the draft regulations and we consider that the Government has failed in its commitment to genuine consultation. ECMS notes that the draft regulation is virtually identical to that debated last year and is disappointed that the objections raised with respect to the scoping of early childhood education into the scheme have not been met.

Inequitable outcomes for the Early Childhood Education (ECE) sector

The proposed regulations exclude the private sector and in doing so creates a division between the not-for-profit (NFP) and for profit sector. This division discourages the movement of staff between the NFP and for profit organisations. It also creates financial inequity as the inclusion of NFP over for profit will add significant financial burden to NFP given the additional administrative costs of the scheme.

NFP organisations will also incur a financial loss given the inability to recover contributions made for employees who move to the private sector.

Workforce Implications

ECMS is committed to fair and equitable outcomes for all of our employees and raise the following concerns with respect to the implications of the regulations on our ECE workforce.

- Clear tests will need to be developed to support the assessment of which employees are included in the scheme. The lack of clarity encourages an inconsistent application which does not support transparency or equity across the sector. There will be an expectation of staff to carry their service over to another organisation and if the rules have been applied differently, this will give rise to dispute and instability.
- The exclusion of leadership (or indirect roles) is a disincentive for career progression. The loss of entitlements for these staff if they do not return to direct care within the specified four-year period encourages regular movement which is not in keeping with professional growth and a sustainable leadership model.
- As mentioned above, the scope of the regulations also discourages movement between the NFP and for profit sectors.

Financial and Administrative Burden

ECMS is concerned that the financial impact of the scheme has not been fully assessed.

- We believe that the time required for administration has been underestimated and that additional resources and cost will be incurred.
- The lack of access to long service payments which are set aside and unclaimed by our employees will have a significant financial impact.
- There does not appear to be any transparency around the levy applied and it is not clear if this is fair or equitable.
- Additional financial burden will significantly impact the financial sustainability of NFP early childhood education services.

Recommendations

ECMS makes the following recommendations with respect to the regulations:

- *Exclude all ECE services from the scheme until 2022 to allow for full consideration to be given to the entire sector.*
- *Undertake a comprehensive assessment of costs and administrative impact on organisations to ensure adequate funding is provided for administering the scheme.*
- *Review the ability for services to claim contributions made for employees for whom the scheme no longer applies.*
- *Provide further clarity of definition of 'direct' worker and/or develop clear tests to support transparency and decision making.*
- *Delay the implementation of the scheme until 1 January, 2022.*

Response to Consultation Questions

Quarterly Returns

1. Is the prescribed additional information appropriate?

Additional guidelines are required and adequate preparation needs to be allowed for the transition period.

2. Will employers be in a position to provide this additional information?

Current systems will make it difficult to provide the additional information and will impose a requirement for manual calculations incurring an administrative burden and costs to the organisation as well as posing the risk of error.

Disclosure of information

3. Are there any specific matters about privacy of information that you wish to raise as part of this proposed regulation?

No.

Community services sector

4. Do the exposure draft Regulations provide clarity as to the scope of the community services sector, what is community service work, and who is an employer, and an employee for the sector?

The current draft is unclear.

5. Is the list of awards and agreements at clause 9 of the exposure draft Regulations comprehensive? Should any of those awards or agreements be excluded? Should any other awards or agreements be included?

This is clear.

6. Whilst it is proposed that the Regulations operate on and from 1 July 2019, the Regulations bringing children's services, and disability services within the scope of the scheme only operate on and from 1 January 2020. This will enable businesses in those sectors adequate time to prepare for the legislation. Are these appropriate commencement dates?

ECMS recommends a longer transitional period and consideration for additional funding, this being after 1 January, 2022 when other Government initiatives have been implemented.

No double-dipping

7. Does the proposed Regulation adequately address any risk of double-dipping?

Services will rely on the appropriate administration of the Authority to ensure there is no double-dipping.