

Long Service Leave in Australia

Jurisdiction	Overview of Legislation
NSW <i>Long Service Leave Act 1955</i>	<p>When do employees become entitled to Long Service Leave (LSL)?</p> <ul style="list-style-type: none"> • After 10 years' continuous service, 8.67 weeks (or 2 months) of LSL. • 4.335 weeks after each additional 5 years of service. <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • Any time after 10 years' continuous service, as soon as practicable having regards to the need of the business, at a time agreed by the employer and employee. • LSL can be taken in one continuous period of leave, or if the employer and employee agree: <ol style="list-style-type: none"> 1. where leave owing is 2 months – in two separate periods; 2. where the leave is owing is between 2 months and 19 ½ weeks – in two or three separate periods; 3. where the leave exceeds 19 ½ weeks – in two, three or four separate periods <p>Temporary COVID-19 Amendment</p> <ol style="list-style-type: none"> 4. LSL can be taken for a period of less than one month, if agreed by the employer and employee (effective to 25 September 2020). <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • No. The employer can give notice of one month for a proposed time to take leave, but the employee must agree. <p>Temporary COVID-19 Amendment</p> <ul style="list-style-type: none"> • No. The employer can give notice of less than one month for an employee to take LSL, but the employee must agree (effective to 25 September 2020). <p>What is an employee entitled to on termination of employment?</p> <ul style="list-style-type: none"> • After 10 years' service: payment in lieu for any untaken LSL entitlement. • Between 5 and 10 years of service: pro-rata payment in lieu of LSL if the employment is terminated: <ol style="list-style-type: none"> 1. for any reason other than serious and wilful misconduct; or 2. by the employee on account of illness, incapacity or other pressing domestic necessity.
VIC <i>Long Service Leave Act 2018</i>	<p>When do employees become entitled to LSL?</p> <ul style="list-style-type: none"> • After 7 years' continuous service, 6.0667 weeks of LSL. • The entitlement then continues to accrue on a pro-rata basis. <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • Any time after completing 7 years of continuous service. When an employee applies for LSL the employer must grant the request as soon as practicable unless there is a reasonable business case for refusal. • An employee can request to take LSL at half pay, for twice as long a period. <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • Yes. The employer must provide at least 12 weeks' written notice. An employee can challenge the direction in a court. <p>What is an employee entitled to on termination of employment?</p> <ul style="list-style-type: none"> • After 7 years' continuous employment any unused LSL must be paid.

<p>QLD <i>Industrial Relations Act 2016</i></p>	<p>When do employees become entitled to LSL?</p> <ul style="list-style-type: none"> • After 10 years’ service, 8.667 weeks of LSL. • 4.335 weeks of LSL after each additional 5 years of service (to a total of 13 weeks). <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • An employer and employee may agree when LSL will be taken. <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • Yes. If an agreement to take leave cannot be reached, the employer can decide when the leave will be taken. • The employer must provide at least 3 months’ notice that at least 4 weeks of LSL will be taken. <p>What is an employee entitled to on termination of employment?</p> <ul style="list-style-type: none"> • After more than 10 years’ continuous service any unused LSL must be paid. • Between 7 and 10 years of service, pro-rata payment in lieu of LSL if the employment is terminated for one of the following reasons: <ol style="list-style-type: none"> 1. death of the employee; 2. the employee terminates their employment because of their illness, incapacity or because of a domestic or other pressing necessity; 3. the employer dismisses the employee for a reason other than conduct, capacity or performance; or 4. the employer unfairly dismisses the employee.
<p>SA <i>Long Service Act 1987</i></p>	<p>When do employees become entitled to LSL?</p> <ul style="list-style-type: none"> • After 10 years’ service, 13 weeks of LSL. • 1.3 weeks of LSL after each additional 1 year of additional service. <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • As soon as practicable after the employee becomes entitled to LSL (taking into account the needs of the business). <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • Yes. The employer must give the employee 60 days’ notice of the taking of long service leave. If the employer and employee agree, LSL may be taken earlier than directed, or deferred. <p>What is an employee entitled to on termination of employment?</p> <ul style="list-style-type: none"> • After 10 years of service: payment in lieu for any untaken LSL entitlement. • Between 7 and 10 years of service: 1.3 weeks’ payment for every year of service unless the employment is terminated: <ol style="list-style-type: none"> 1. for serious and wilful misconduct; or 2. the contract is unlawfully terminated by the employee.
<p>WA <i>Long Service Leave Act 1958</i></p>	<p>When do employees become entitled to LSL?</p> <ul style="list-style-type: none"> • After 10 years’ service, 8.667 weeks of LSL. • 4.335 weeks of LSL after each additional 5 years of service. <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • As soon as practicable after the employee becomes entitled to LSL by agreement. • Leave must be taken in a continuous period, or in periods of not less than one week if mutually agreed by the employee and employer. • If the employer has been entitled to LSL for at least one year, the employee can provide 2 weeks’ notice of their intention to take leave, and the employer cannot refuse the request. <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • No. <p>What is an employee entitled to on termination of employment?</p> <ul style="list-style-type: none"> • After 10 years of service: payment in lieu for any untaken LSL entitlement. • Between 7 and 10 years of service: pro-rata unless the employment is terminated for serious and wilful misconduct.

<p>TAS <i>Long Service Leave Act 1976</i></p>	<p>When do employees become entitled to LSL?</p> <ul style="list-style-type: none"> • After 10 years’ service, 8.667 weeks of LSL. • 4.335 weeks of LSL after each additional 5 years of service. <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • As soon as practicable after the employee becomes entitled to LSL, or later by agreement. If an agreement cannot be reached, WorkSafe Tasmania can be asked to adjudicate. • LSL must be taken in one period unless the employer and employee agree otherwise. <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • No. <p>What is an employee entitled to on termination of employment?</p> <ul style="list-style-type: none"> • After 10 years of service: payment in lieu for any untaken LSL entitlement. • Between 7 and 10 years of service: pro-rata payment in lieu of LSL if the employment is terminated for one of the following reasons: <ol style="list-style-type: none"> 1. the employee reaches retirement age (60 years for women, 65 years for men) 2. death of the employee: 3. the employee terminates their employment because of their illness, incapacity or because of a domestic or other pressing necessity; 4. the employer dismisses the employee for a reason other than serious and wilful misconduct.
<p>NT <i>Long Service Leave Act 1981</i></p>	<p>When do employees become entitled to LSL?</p> <ul style="list-style-type: none"> • After 10 years’ service, 13 weeks of LSL. • 6.5 weeks of LSL after each additional 5 years of service. <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • The employer can grant the LSL as soon as practicable after the employee becomes entitled to LSL, or on a date agreed by employee and employer. • LSL can be taken in one continuous period or in no more than three periods of at least four weeks each. <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • Yes. • If an agreement cannot be reached as to when the LSL is taken, the employer must provide at least 2 months’ notice of the commencement date the employee shall take LSL. <p>What is an employee entitled to on termination of employment?</p> <ul style="list-style-type: none"> • After 10 years of service, payment in lieu for any untaken LSL entitlement if: <ol style="list-style-type: none"> 1. the employee reaches retirement age; 2. the employee terminates their employment because of their illness, incapacity or because of a domestic or other pressing necessity; 3. the employer dismisses the employee for a reason other than serious and wilful misconduct.
<p>ACT <i>Long Service Leave Act 1976</i></p>	<p>When do employees become entitled to LSL?</p> <ul style="list-style-type: none"> • After 7 years’ service, 6.0667 weeks of LSL. • 1/5 of a month after each additional 1 year of service. <p>When can an employee take LSL?</p> <ul style="list-style-type: none"> • If an employee is entitled to 4 weeks or more of LSL, the employer must grant the LSL as soon as practicable after the employee becomes entitled to the LSL, having regards to the need of the business, or at another agreed time. <p>Can the employee be directed to take LSL?</p> <ul style="list-style-type: none"> • Yes. • If an agreement to LSL cannot be reached, an employer must provide 60 days’ notice to the employee, unless the employee agrees to a shorter or longer period of notice. <p>What is an employee entitled to on termination of employment?</p>

	<ul style="list-style-type: none">• Between 5 and 7 years of service, pro-rata payment in lieu of LSL (for each completed year and month of service) if the employment is terminated for one of the following reasons:<ol style="list-style-type: none">1. the employee reaches retirement age;2. death of the employee;3. the employee terminates their employment because of their illness, incapacity or because of a domestic or other pressing necessity;4. the employer dismisses the employee for a reason other than serious and wilful misconduct.
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