

ONSITE WORKERS



Last year \$29.1 million in long service leave entitlements were paid so workers like you could take well-earned holidays.

YOUR LONG SERVICE LEAVE IS IN GOOD HANDS

The 2021 Annual Report of MyLeave (the Construction Industry Long Service Leave Scheme) tabled in Parliament shows that in the financial year ending 30 June 2021 MyLeave maintains a strong financial position, enabling the costs to the construction industry to be minimised whilst ensuring that long service leave benefits are provided for workers.

MyLeave continued to process a significant number of payments to workers and in the 12 months to 30 June 2021, MyLeave made 3,670 worker payments totalling \$29.1 million. This was a decrease on the 2020 level of 5,275 payments totalling \$40.9 million. COVID-19 may have played a role in lower claim numbers due to overseas and interstate travel remaining on hold and an increased demand for construction workers.

3,670 workers took a long service leave benefit

PROGRESS UPDATE: MYLEAVE'S IT SYSTEM AND WORKER PORTAL PROJECT

MyLeave is progressing with development of our new Customer Relationship Management system and our outward facing Worker and Employer portals. We are now able to share some details about the new Worker portal which will change the way you manage and submit your claims in the future.

Once launched, you will be able to submit and manage claims through your MyLeave portal, reset your password, set up third party authorities and provide us with your interstate service statements all in the one place.

To ensure your personal information is secure and nobody is unlawfully claiming your entitlement, multi factor authentication will be required when logging into your account and verification of identify steps will be added as a part of the claims process. Each time you make a claim you will need to verify your identify before we process your claim.


Once finalised and endorsed we will contact you to let you know the next steps.

WHAT HAPPENED IN 2021

 106,287
workers registered in the Scheme

 \$29.1 million
paid in worker benefits

 \$393 million
accrued long service leave liability

 \$668 million
in cash and investments

 3,670
workers received a benefit from the Scheme

 \$9.7 million
Contribution levy income generated from employers

 \$49.81
per year average administrative cost per registered construction industry worker

 5,052
average number of registered employers

 \$3.1 billion
construction worker wages

 16%
investment return



Good to know...

COMMON QUESTIONS

Employees eligible for the Scheme

Only employees working on site in classifications of work listed in a prescribed award are eligible for the Scheme. Workers employed in an employer's own workshop or yard, and administration, clerical and managerial employees are not eligible for the Scheme. If you are unsure of your eligibility, please contact a member of the Compliance and Advisory team at MyLeave.

Left the industry? No longer working as an employee? No longer accumulating service days? What happens to my accumulated service days in the Scheme?

MyLeave define 1 year of service as 220 service days, in an eligible job role in the Construction Industry.

1 year of employment is not necessarily considered to be 1 year of service.

Where an employee has not yet reached an entitlement (7 years of service / 1,540 service days) the following rules apply.

If you have accumulated 1,100 service days or less, your accumulated service days will be held for 2 years.

If you have accumulated 1,101 service days or more, your accumulated service days will be held for 4 years.

If you re-enter the industry as an employee before the time period expires you will not lose any previously accumulated service. If you do not re-enter the industry before the time expires then the service you have accumulated to date will be lost.

MyLeave has no discretion regarding extinguishing service days. The legislation governing the Scheme provides that if an employee does not recommence in the industry as an employee before the time allowed out of the industry expires, then the service days accumulated **must be** cancelled regardless of the circumstances.

If you move to a position, with the same employer, which is not eligible for the Scheme i.e. an administration or managerial role, your employer cannot contribute for you and you will cease to accrue service days with MyLeave. In this situation your long service leave accrual would become the responsibility of your employer under the *Long Service Leave Act 1958* with your service accrual being from the date you started with the company (for long service leave accrual purposes). If you qualify, your employer should pay you direct and can make a claim for recovery for service they have contributed into the Scheme for you. Where you have service from prior employers, if you did not have a standalone entitlement with MyLeave prior to becoming ineligible, those days are subject to MyLeave's deregistration rules and will be extinguished after the appropriate 2- or 4-year period. If you did have a standalone entitlement with MyLeave prior to becoming ineligible, MyLeave will pay you any entitlement that you have from Service Days reported by prior employers.

If for any reason you terminate your employment with that employer, the above rules will apply regarding cancellation of service days from the last Service Days reported for you i.e. after 2 or 4 years.

What happens to the monies paid in by my employers if I leave the Scheme?

The Long Service Leave Scheme is not like a superannuation Scheme. Employees accumulate days of service in the Scheme not monies.

When an employee has accumulated sufficient days of service to obtain a benefit (minimum 7 years of service / 1,540 service days), then that benefit is paid out using ordinary pay rates based on the average weekly rate of pay over the last 220 days of service. The amount paid out is not based on the contributions paid into the Scheme by employers.

Where employees leave the Scheme before attaining a benefit, the service days accumulated to date are lost after the appropriate 2 or 4 year period and any surpluses generated in the Scheme as a result are passed back to employers through the contribution levy payable.

I am an apprentice, am I eligible for the Scheme?

Yes, apprentices in an eligible job role should be included on employer returns with service days accruing towards an entitlement.

When can I apply for long service leave?

As an employee, once you have accumulated 2,200 service days (which is equivalent to 10 years of service), you are entitled to 8½ weeks paid long service leave. You can also request a pro rata (proportional) payout after 7 years of service (1,540 service days).

Note that by claiming a payment on termination of employment you will break your service for long service leave purposes.

This means that you must work a further 7 years in the construction industry before you once again qualify for any further benefit from the Scheme.

Please note that for the initial 10 years of long service leave entitlement (8½ weeks) you can take leave on only 3 occasions and the minimum period of leave is 1 week.

If you move to another State, your WA service can count in that State towards a long service leave benefit.

Please note that you should allow a minimum period of 2 weeks for MyLeave to approve and process your claim.

Can I cash in my long service leave by applying for my long service leave and then continue working?

No. But if you have a minimum of 7 years in the Scheme you can be paid out your accumulated entitlement on termination of your employment.

Audit of entitlement

Please be aware that while we believe your entitlement information is accurate it is subject to final verification with your employers at the time of processing your claim for long service leave payment.

Working Directors

Working Directors are a special category of employee in the Scheme and the definition of 'ordinary rate of pay' poses particular complications regarding the treatment of Working Directors.

For Working Directors, the ordinary rate of pay is the rate of pay being received by Directors as employees of their business. This would be the amount that they receive as wages on a defined, regular, at least monthly basis, for which they pay tax on a PAYG basis, have wage records for and can present an ATO payment summary at the end of each financial year.

One off adjustments during or at the end of the financial year are not included, nor can they be averaged out over the year.

Working Directors who do not draw a regular wage cannot then meet these requirements and their status in the Scheme is in doubt.

Working Directors who are in this situation or are unsure of these arrangements should contact a member of the Compliance and Advisory team at MyLeave on 9476 5400 or for country callers 1800 198 136 to discuss the matter.

Quarterly returns are only to record service days when Working Directors are on site and working in a prescribed classification.

Which firms are required to register with the Scheme?

Any firm that engages employees in the building and construction industry is required by law to register with MyLeave and pay contributions – this includes labour hire agencies. Businesses that have only managerial, office, supervisory or workshop staff are not included.

Businesses that consist only of a sole proprietor or partners that do not employ anyone else are also excluded. To be included, a firm must have employees engaged directly on site in the construction industry.

Employee or subcontractor?

In cases where the situation is not clear, MyLeave has developed guidelines to assist in the determination of the matter.

Also, in February 2022, the High Court of Australia [2022] HCA 1 determined that a labourer engaged by a labour-hire company was an employee and not an independent contractor.

If you have any queries related to these matters, please refer to the guidance material under the "Subcontractor or Employee" section on our website.

www.myleave.wa.gov.au

MANAGE YOUR LONG SERVICE LEAVE ONLINE



Track your Service Records

View your recorded days of service so you can be sure your employer is correctly contributing to MyLeave on your behalf. Service records are updated online on a quarterly basis. An Annual Notice will be sent to you in March each year.

Check your Annual Notice is correct

Check your Annual Notice carefully to ensure your service records are correct. Notify MyLeave immediately if there are any problems as employers are only required to keep pay records for 7 years. It can be extremely difficult to verify claims of service if the required records are no longer available. MyLeave will not accept claims for large periods of past unallocated service with an employer which cannot be verified against employer records.

Start your long service leave application

If you are planning to take long service leave download a claim form online via the 'Publications and Forms' link. Once we receive your application, we will do our best to get your long service leave payment to you as quickly as possible.

Get your claim in early, as in peak periods like Christmas, processing times can exceed 3 weeks.

Update your Contact details

You need to advise MyLeave of any change of your contact details as soon as possible. If we can't get in touch with you then it is not possible for us to send you your Annual Notice.



Hot Topics



What do I do if I think that I have missing service?

Please contact us as soon as you notice that an employer has not contributed to MyLeave on your behalf. You can lodge a days of service query through your online web portal or using a days of service query form from our website. Service older than 7 years is unlikely to be located and verified so please let us know about missing service as soon as possible so that we have the best chance of ensuring that you get your full entitlement.

What are the benefits of the Scheme?

The benefits are 8½ weeks leave after 10 years (2,200 service days) of service.

When you have accumulated 7 years of service (1,540 service days) a pro rata (proportional) benefit of 6 weeks can be

claimed. You may take this leave with the approval of your employer. Benefits continue to accrue until entitlement is utilised or claimed upon termination as a lump sum payment.

If you have not accumulated the minimum number of service days (1,540 or 7 years of service) required to obtain a benefit under the Scheme, regardless of the circumstances, you are not entitled to any payment from the Scheme. MyLeave has no discretion in this matter.

Interstate service - portability between States

All construction industry long service Schemes are party to a reciprocal arrangement. This covers all States and Territories except the Christmas and Cocos Keeling Islands. Please refer to MyLeave regarding service on Christmas and Cocos Keeling Islands if this is applicable to you.

This arrangement allows you to accumulate service no matter which State you have worked in. When you are eligible for a payment in the State you are currently working in you then make a claim in that State.

For example, if you are currently working in WA and previously had service in another State Scheme, where the service on the Annual Notices from WA and interstate add up to a minimum of 7 years of service and the service is deemed to be 'continuous' under the Scheme's rules, then you can make a claim via MyLeave.

If you are working in another State, please note that minimum service requirements and breaks in service rules before an entitlement is due vary from State to State and you should check what the requirements are in the State you are currently working in.

NUMBER OF EMPLOYEES REGISTERED



NUMBER OF LSL CLAIMS PROCESSED



VALUE OF LSL CLAIMS PAID



CONTACTING THE BOARD

Website: www.myleave.wa.gov.au
 Email: hi@myleave.wa.gov.au
 Telephone: (08) 9476 5400
 Freecall: 1800 198 136 Mon - Fri 8:00am to 4:30pm
 Facsimile: (08) 9321 5404
 Address: 3rd Floor, 50 Colin Street, West Perth WA 6005
 Postal Address: PO Box 1333 West Perth WA 6872

WHO'S ON THE BOARD

Ms Susan Barrera
Chair

Representing employees
Mr Mick Buchan
Mr Steve McCartney
Ms Lisa Judge

Representing employers
Ms Joanne Alilovic
Mr John Gelavis
Ms Kate Schick

Board Members appointment term expires 24 September 2023

INTERSTATE SCHEME WEBSITES

Northern Territory www.ntbuild.com.au
 Queensland www.qleave.qld.gov.au
 New South Wales www.longservice.nsw.gov.au
 Australian Capital Territory www.actleave.act.gov.au
 Victoria www.coinvest.com.au
 Tasmania www.tasbuild.com.au
 South Australia www.portableleave.org.au