



The Official Newsletter of MyLeave



WORKERS

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advice for all your MyLeave activities.

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Your long service Leave is in good hands

Our 2023 Annual Report tabled in Parliament shows in the financial year (ending 30 June 2023) that we maintain a strong financial position. This enables the costs to the construction industry to remain under the long-term cost whilst ensuring that long service leave benefits are provided for workers.

We continue to process a significant number of payments to workers and in the 12 months (ending 30 June 2023), we made 4,540 worker payments totalling \$39.8 million. This was an increase on the 2022 level of 4,242 payments totalling \$36.1 million.

What happened in 2023



123,100
registered workers



4,540
workers received a
benefit from MyLeave



5,368
average number of
registered employers



\$39.8 million
paid in worker benefits



\$5.5 million
contribution levy income
generated from employers



\$4.2 billion
construction
worker wages



\$445 million
accrued long service leave liability



\$608 million
in cash and investments



\$52.21 per year
average administrative cost per
registered construction industry worker



8.9% investment return



Last year **\$39.8 million** in long service leave entitlements were paid so workers like you could take well-earned holidays.
4,540 workers took a long service leave benefit.

A proud Industry
Partner of MATES
in Construction



GOOD TO KNOW...

Common questions

Which workers are eligible for MyLeave?

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

Left the industry? No longer eligible? No longer accumulating service days? What happens to my accumulated service days?

Our legislation defines 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 a worker 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 between 1,101 and 1,539 service days, your accumulated service days will be held for 4 years.

If you re-enter the industry as a worker before the above periods expire you will not lose any previously accumulated service. If you do not re-enter the industry before the above periods expire then the service you have accumulated to date will be lost.

MyLeave has no discretion regarding extinguishing service days. The legislation governing MyLeave provides that if a worker does not recommence in the industry as a worker 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 MyLeave (i.e. an administration or managerial role), your employer cannot contribute for you, and you will cease to accrue service days with us. 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 to MyLeave for you.

Where you have service from prior employers, if you did not have a standalone entitlement with us prior to becoming ineligible, those days are subject to our deregistration rules and will be extinguished after the appropriate 2- or 4-year period.

If you did have a standalone entitlement with us prior to becoming ineligible, we 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 industry?

MyLeave is not like superannuation. Workers accumulate days of service, not monies so no funds are allocated against a worker's account.

When a worker 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 in by employers.

Where workers leave the industry or become ineligible before attaining an entitlement, the service days accumulated to date are lost after the appropriate 2- or 4-year period. Any surpluses generated are offset against MyLeave's total long service leave entitlements for workers and assist in reducing the contribution levy payable by employers.

I am an apprentice, am I eligible for MyLeave?

Yes, apprentices in an eligible classification of work should be included on employer returns with service days accruing towards an entitlement. There is no cost to your employer while you are an apprentice.

When can I apply for long service leave?

As a worker in WA, 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) with the approval of your employer.

Note: 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 MyLeave.

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 10 – 15 business days for us to process and pay 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 reached an entitlement by accruing 7 years of service with us, 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

Are you a working director?

If your pay arrangements, role in the company, or circumstances have changed over the years, speak with our Compliance and Advisory team to ensure you are still eligible.

Working Directors are a special category of worker in MyLeave and the definition of "Ordinary Rate of Pay" creates complexities regarding the treatment of Working Directors.

The contribution rate is based on the 'ordinary rate of pay' paid to a worker for ordinary hours of work doing on-site construction work.

For Working Directors, the 'ordinary rate of pay' is the rate of pay being received by Directors as workers of their firm. This would be the amount that they receive as wages on a defined, regular, at least monthly basis, that they pay tax on a Pay As You Go (PAYG) basis, have wage records for (pay slips), can present an ATO payment summary at the end of each financial year, and evidence regular payment of wages from the business bank account into their personal bank account.

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 receive a regular wage cannot meet these requirements, and their eligibility status is in doubt.

Working Directors who are in this situation or who are unsure of these arrangements should contact MyLeave to discuss the matter.

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

Supervisors

Workers performing the role of "Supervisor" are only eligible if they are principally employed to perform work that aligns with those of a Foreman under clause 5.1 of the Foreman (Building Trades) Award 1991 or perform work within Schedule A of the Building and Construction General On-site Award 2020.

Eligibility is assessed on the substantial duties of the Worker aligning with a classification of work under a Prescribed Award, not the Workers job title.

Supervisors whose time is predominantly spent on-site and mainly engaged for the supervision of employees doing construction work and who's duties align to that of a Foreman would usually be eligible for MyLeave.

Supervisors whose time is predominantly spent off-site and who's duties more align to that of a Manager, Project Manager, or Superintendent would not usually be eligible for MyLeave.

Which firms are required to register with MyLeave?

Any firm that engages workers in the building and construction industry is required by law to register with MyLeave and pay contributions – this includes labour hire agencies and those who do maintenance work. Businesses that have only managerial, office, supervisory, yard, 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 workers engaged directly on-site in the construction industry.

Subcontractor or Employee?

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

In February 2022, the High Court of Australia [2022] HCA 1 determined that a labourer engaged by a labour-hire company was a worker 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 us for you. 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 us 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. We cannot 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 15 business days.

Update your Contact details

You need to advise us of any changes to your contact details. 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 lodge a days of service query through your online 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?

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

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 / 7 years of service) required to obtain an entitlement, regardless of the circumstances, you are not entitled to any payment. We have 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 contact us 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, where the service on the Annual Notices from WA and interstate adds up to a minimum of 7 years of service, and the service is deemed to be 'continuous' under each States rules, then you can make a claim via us.

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

Number of Registered Workers

2018	112,245	
2019	107,873	
2020	106,392	
2021	106,287	
2022	111,281	
2023	123,100	

Number of LSL Claims Paid

2018	5,445	
2019	5,808	
2020	5,275	
2021	3,670	
2022	4,242	
2023	4,540	

Value of LSL Claims Paid

2018	\$43.7 million	
2019	\$44.5 million	
2020	\$40.9 million	
2021	\$29.1 million	
2022	\$36.1 million	
2023	\$39.8 million	

Contact Us

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Telephone:	(08) 9476 5400 Mon - Fri 8:00am to 4:30pm
Freecall:	1800 198 136 Mon - Fri 8:00am to 4:30pm
Address:	3rd Floor, 50 Colin Street West Perth WA 6005
Postal Address:	PO Box 1333 West Perth WA 6872

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.leaveplus.com.au
Tasmania	www.tasbuild.com.au
South Australia	www.portableleave.org.au

Who's on the Board

Susan Barrera

Chair

Representing Workers

Steve McCartney

Chris Prast

Kari Pnacek

Representing Employers

Joanne Alilovic

John Gelavis

Kate Schick

myleave.wa.gov.au



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