

DRAFT SECOND READING SPEECH

Hon Peter Gutwein MP

STATE SERVICE AMENDMENTS (VALIDATION) BILL 2019

Check against delivery

Madam Speaker ...

I move that the State Service Amendment (Validation) Bill 2019 now be read a second time.

This Bill addresses matters related to the accrual of recreation leave for State Service employees under Regulation 21 of the *State Service Regulations 2011*.

Regulation 21 currently limits the amount of recreation leave that can be accrued to a maximum of two years of entitlements. If an employee is unable to take recreation leave for two years due to the operational requirements of the Agency, the Head of Agency is to make arrangements for the leave to be taken in the third year.

Although Regulation 21 formally limits the accrual of recreation leave, it has been longstanding custom and practice across Agencies for recreation leave to be accrued on an ongoing basis and flexibly taken or paid out without this limit being applied.

Agencies have leave management plans in place that aim to keep leave liability below two years of accrued leave entitlements for financial liability and health and wellbeing reasons, but no specific mechanisms were put in place to manage accrual once the limit had been reached.

Under Regulation 21 as it currently stands, employees have no entitlement to accrue additional leave once the maximum limit is reached and therefore any granting of leave and payment by Agencies for such leave has been contrary to Parliamentary authority.

The purpose of this Bill is to reduce inconsistency between Awards and the Regulations and to protect past and present employees who have been permitted to accrue, take or have been paid for recreation leave in excess of the maximum limit.

All Awards provide for recreation leave entitlements but there is some inconsistency as not all Awards mirror Regulation 21. The proposed Bill will rescind Regulation 21 and therefore allow the accrual of recreation leave to be governed by Awards.

If an employee is not covered by an Award or Agreement, or if an employee's Award or Agreement does not set out a provision in relation to recreation leave accrual, section 47AE(8) of the *Industrial Relations Act 1984* will apply.

The Bill will also validate past conduct of Agencies in contravention of Regulation 21. Past and present employees who have previously taken or have been paid in lieu of taking leave which

accrued above the maximum limit will have such leave legally validated to eliminate the risk that those payments may need to be recovered.

The proposed Bill is an effective solution to past payments made to employees. However it does not recognise current balances held by employees, but not yet paid, above the two year limit. It is important that current leave balances held by employees are validated, as this ensures the Bill fulfils the intention of validating past actions in contravention of Regulation 21, and protects employees who have accrued leave beyond the limit. It is especially important that current leave balances held by employees are validated, as COVID-19 has impacted on the amount of planned leave taken by staff.

Therefore I would like to advise the House that it is my intent to move two minor amendments to Clause 5 of the Bill to give full effect to the Bill's intent. The amendments will operate to increase the scope of validation to include accruals for an employee who, immediately before the commencement day of the validating legislation, has accumulated recreation leave that is greater than the employee's maximum entitlement to recreation leave.

I understand that all Members have been provided with an opportunity to be briefed in terms of the proposed amendments.

The Bill, with the addition of the proposed amendments, resolves the issues relating to Regulation 21 as it protects past and present employees and reduces inconsistency and duplication.

I commend the Bill to the House.