

TASMANIA

LONG SERVICE LEAVE AMENDMENT BILL 2011

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LONG SERVICE LEAVE AMENDMENT BILL 2011

*(Brought in by the Minister for Workplace Relations, the
Honourable David James O'Byrne)*

A BILL FOR

An Act to amend the *Long Service Leave Act 1976*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Long Service Leave Amendment Act 2011*.

2. Commencement

This Act commences on 1 July 2012.

3. Principal Act

In this Act, the *Long Service Leave Act 1976** is referred to as the Principal Act.

*No. 95 of 1976

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4. Section 8 amended (Period of long service leave to which employees, other than mining employees, are entitled)

Section 8(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “15” first occurring and substituting “10”;
- (b) by omitting from paragraph (a)(i) “13” and substituting “8 2/3”;
- (c) by omitting from paragraph (a)(i) “15” and substituting “10”;
- (d) by omitting from paragraph (a)(ii) “8 2/3” and substituting “4 1/3”;
- (e) by omitting from paragraph (a)(ii) “10” and substituting “5”;
- (f) by omitting from paragraph (a)(iii) “13” and substituting “8 2/3”;
- (g) by omitting from paragraph (a)(iii) “15” and substituting “10”;
- (h) by omitting from paragraph (b) “15” twice occurring and substituting “10”;
- (i) by omitting from paragraph (b) “13” and substituting “8 2/3”.

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5. Section 9 amended (Payment in lieu of long service leave on death of employee)

Section 9(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “15” and substituting “10”;
- (b) by omitting from paragraph (b) “15” and substituting “10”.

6. Section 12 amended (How and when long service leave shall be taken)

Section 12(10)(a) of the Principal Act is amended as follows:

- (a) by omitting “13” and substituting “8 $\frac{2}{3}$ ”;
- (b) by omitting “8 $\frac{2}{3}$ ” and substituting “4 $\frac{1}{3}$ ”.

7. Section 27 inserted

After section 26 of the Principal Act, the following section is inserted:

27. 2011 transitional arrangements

Schedule 3 has effect.

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8. Schedule 3 inserted

After Schedule 2 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 3 – 2011 TRANSITIONAL
ARRANGEMENTS**

Section 27

1. Interpretation

(1) In this Schedule –

“employee” means an employee who is not a mining employee;

“intermediate continuing employee”, of an employer, means an employee who, immediately before the 2011 transition day, had been in continuous employment with the employer for 9 or more years, but less than 12 years;

“long-term continuing employee”, of an employer, means an employee who, immediately before the 2011 transition day, had been in continuous employment with the employer for 12 or more years;

“new continuing employee”, of an employer, means an employee who, immediately before the 2011 transition day, had been in

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continuous employment with the employer for less than 9 years;

“new long service leave entitlements” means the long service leave entitlements available to and in respect of employees under this Act as amended by the *Long Service Leave Amendment Act 2011*;

“old long service leave entitlements” means the long service leave entitlements available to and in respect of employees under this Act immediately before the 2011 transition day;

“2011 transition day” means the day on which the *Long Service Leave Amendment Act 2011* commences;

“2011 transition period ” means the 12-month period commencing on the 2011 transition day.

- (2) This Schedule prevails over section 8(2) and section 9(2);

2. Transitional arrangements

- (1) In their application to a new continuing employee or long-term continuing employee of an employer, the new long

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service entitlements take effect in all respects on the 2011 transition day.

- (2) In their application to an intermediate continuing employee of an employer, the new long service entitlements take effect on the 2011 transition day, including the entitlements under section 9(2), but the intermediate continuing employee may not actually take or be granted long service leave under the new long service leave entitlements before the 2011 transition period expires.
- (3) However, nothing in subclause (2) is to be taken as preventing an intermediate continuing employee of an employer from applying, during the 2011 transition period, for long service leave under the new long service leave entitlements if the application is in respect of long service leave that would be taken after the 2011 transition period expires.
- (4) To avoid doubt, an employee who has exhausted his or her old long service leave entitlements in respect of any period of continuous employment is not entitled to any further long service leave in respect of that period of continuous employment (or any part of it) under the new long service entitlements.

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9. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.