

Authorised Version No. 001
Long Service Leave Act 2018

No. 12 of 2018

Authorised Version incorporating amendments as at
1 November 2018

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Authorised Version No. 001
Long Service Leave Act 2018

No. 12 of 2018

Authorised Version incorporating amendments as at
1 November 2018

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to make provision with respect to the long service leave entitlements of certain employees, including public and private sector employees and police officers; and
- (b) to repeal the **Long Service Leave Act 1992**; and
- (c) to make consequential amendments to other Acts.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day to be proclaimed.
- (2) If this Act does not come into operation before 1 November 2018, it comes into operation on that day.

3 Definitions

- (1) In this Act—

authorised officer means a person appointed under section 29;

continuous employment has the meaning given in section 12;

employee includes—

- (a) a person employed by an employer to do any work for hire or reward and includes—
 - (i) an apprentice and any person whose contract of employment requires the person to learn or to be taught an occupation; and
 - (ii) a casual or seasonal employee; and
- (b) a public sector employee within the meaning of section 4(1) of the **Public Administration Act 2004**; and
- (c) a person employed under Part 6 of the **Public Administration Act 2004**; and
- (d) a director of a public entity within the meaning of the **Public Administration Act 2004**; and
- (e) a person appointed under Part 3 of the **Victoria Police Act 2013**; and
- (f) a person appointed as a police reservist under section 103 of the **Police Regulation Act 1958** as in force immediately before the commencement of section 282 of the **Victoria Police Act 2013**;

employer includes—

- (a) a person by whom an employee is employed; and
- (b) in the case of a transfer of assets referred to in section 11, a person who was not an employer at the time of the transfer but who is taken to be an

employee's one employer under that section; and

- (c) in the case of a contract for the performance of work referred to in section 11, a person who was not an employer at the time the contract was entered into but who is taken to be an employee's one employer under that section; and
- (d) a person or body (corporate or unincorporate) nominated by the Governor in Council as the employer of a person referred to in paragraph (b), (c), (d), (e) or (f) of the definition of *employee*;

employment agreement means the agreement (whether written or oral) under which an employee is employed and includes—

- (a) a fair work instrument; and
- (b) a fair work instrument given continuing effect under the Fair Work Transition Act;

Fair Work Act means the Fair Work Act 2009 of the Commonwealth;

fair work instrument has the same meaning as in section 12 of the Fair Work Act;

Fair Work Transition Act means the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 of the Commonwealth;

long service leave record includes any register, certificate, notice, pay sheet or other document relating to an employee's long service leave entitlement;

one employer has the meaning given in section 11;

ordinary pay has the meaning given in section 15(1);

ordinary time rate of pay has the meaning given in section 15(2);

organisation means an association of employees that is registered under the law of any State or Territory or of the Commonwealth;

other Act includes an Act of the Commonwealth and of any State or Territory;

parental leave means—

- (a) maternity leave; and
- (b) paternity leave; and
- (c) adoption leave;

person includes an unincorporated body and a partnership;

reasonable business grounds includes the following—

- (a) there is no capacity to change the working arrangements of other employees to accommodate the employee taking long service leave at the requested time;
- (b) it is impractical to change the working arrangements of other employees, or recruit new employees to accommodate the employee taking long service leave at the requested time;
- (c) the long service leave requested by the employee is likely to result in a significant loss in efficiency or productivity;

- (d) the long service leave requested by the employee is likely to have a significant negative impact on customer service;

Secretary means the Department Head (within the meaning of the **Public Administration Act 2004**) to the Department of Economic Development, Jobs, Transport and Resources.

* * * * *

S. 3(2)
repealed by
No. 44/2018
s. 81(1).

4 Act binds the Crown

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

5 Employees to whom this Act does not apply

This Act does not apply in relation to an employee who—

- (a) is entitled to long service leave under a Victorian Act other than this Act, to the extent of any inconsistency with that other Victorian Act; or
- (b) is entitled to long service leave under an employment agreement (regardless of whether it was made before or after the commencement of this Act), to the extent of any inconsistency with that employment agreement if, in the opinion of the Industrial Division of the Magistrates' Court, the long service leave entitlements are more favourable under that agreement than those provided by this Act; or

- (c) is employed by an employer who was exempted from complying with Division 6 of Part 5 of the **Long Service Leave Act 1992** under section 65 of that Act; or
- (d) is employed under Part 2.3 or 2.4 of the **Education and Training Reform Act 2006**; or
- (e) is entitled under the **Construction Industry Long Service Leave Act 1997** to long service leave and to be paid benefits out of the fund within the meaning of that Act.

Part 2—Long service leave entitlements

6 Entitlement to long service leave

At any time after completing 7 years of continuous employment with one employer, an employee is entitled to an amount of long service leave on ordinary pay equal to 1/60th of the employee's total period of continuous employment less any period of long service leave taken during that period.

7 Long service leave does not include public holidays or annual leave

Long service leave does not include any public holiday occurring, or annual leave taken, during the period when the long service leave is taken.

8 Leave in advance

- (1) An employer may agree to an employee taking long service leave—
 - (a) despite the employee not completing 7 years of continuous employment with the employer; and
 - (b) at any time before the employee becomes entitled to the long service leave.
- (2) If an employee takes long service leave before the employee is entitled to the long service leave, the employee is not entitled to any further long service leave or payment in lieu of long service leave for the period of employment in respect of which the leave in advance was taken.
- (3) If an employee takes long service leave before the employee is entitled to the long service leave and the employee's employment ends, the employer may deduct from any payment payable

to the employee as a result of the ending of the employment an amount equal to the amount paid to the employee for the leave (if any) in respect of which the employee will not become entitled.

9 What happens if employment ends before leave is taken?

- (1) If an employee's employment ends (other than because of the employee's death) before the employee has taken all the long service leave to which the employee is entitled, the employee is taken to have started long service leave on the day that the employment ended.
- (2) On the day referred to in subsection (1), the employee's employer must pay the employee the full amount of the employee's long service leave entitlement as at that day.

Penalty: In the case of a natural person,
12 penalty units for each day during
which the offence continues;

In the case of a body corporate,
60 penalty units for each day during
which the offence continues.

Note

Section 43 applies to an offence against this subsection.

10 What is to happen if the employee dies before leave is taken?

- (1) If an employee dies before taking all the long service leave to which the employee is entitled, the employee's employer must pay to the employee's personal representative the full amount

of the long service leave entitlement still owed to the employee.

Penalty: In the case of a natural person,
12 penalty units for each day during
which the offence continues;

In the case of a body corporate,
60 penalty units for each day during
which the offence continues.

Note

Section 43 applies to an offence against this subsection.

- (2) If, in relation to a prosecution of an offence against this section, the employer alleges that the length of the employee's period of continuous employment with the employer is wrong in the charge-sheet, the employer bears the onus of proving the allegation.
- (3) For the purposes of calculating the amount to be paid under this section—
 - (a) the ordinary pay of the employee is the amount the employee was entitled to receive as at the time of the employee's death for working the employee's normal weekly hours at the employee's ordinary rate of pay; and
 - (b) any average that needs to be taken for the purposes of section 15 or 16 is to be taken over the 52 weeks immediately before the employee's death.

11 Meaning of *one employer*

- (1) This section sets out several situations in which an employee is taken, for the purposes of this Act, to have been employed by one employer despite having been employed during the relevant period by more than one employer in a strict legal sense.

- (2) If an employee is employed by a corporation, the employee is taken to have been employed by the corporation during any period that the employee was employed by—
 - (a) a related body corporate of the corporation (within the meaning of the Corporations Act); or
 - (b) another corporation and—
 - (i) the directors of that other corporation and the employee's present employer were substantially the same; or
 - (ii) that other corporation and the employee's present employer were under substantially the same management.
- (3) If the ownership of a business employing an employee changes but the employment of the employee continues—
 - (a) the employee is taken to have started employment with the new owner on the date on which the employee started employment at that business; and
 - (b) the new owner must not refuse to provide the employee any long service leave to which the employee is entitled, including long service leave which accrued before the change of ownership.
- (4) Subsection (3) applies regardless of whether the change of ownership of the business occurred before or after the commencement of this Act.
- (5) If an employee is dismissed from employment by the owner of a business and is re-employed within 12 weeks after the day of the dismissal by a new owner of the same business to perform work for the new owner which is the same (or substantially

the same) as the work the employee performed for the former owner, the employee is taken—

- (a) to have finished employment with the former owner on the day before the ownership of the business changed; and
 - (b) to have started employment with the new owner on the day the ownership of the business changed; and
 - (c) to have been employed by the new owner from the day on which the employee first started employment at that business.
- (6) If an employee performs duties in connection with any assets used in the carrying on of a business owned by the employee's employer and those assets are transferred to another employer who continues the employment of the employee—
- (a) the employee is taken to have started employment with the new owner on the day on which the employee started employment at that business; and
 - (b) the new owner must not refuse to provide the employee any long service leave to which the employee is entitled, including long service leave which accrued before the transfer.
- (7) Subsection (8) applies if—
- (a) an employee performs duties in connection with any assets used in the carrying on of an employer's business; and
 - (b) the employee is dismissed by that employer; and
 - (c) those assets are transferred to another employer; and

- (d) within 12 weeks after the day of the dismissal, the other employer employs the employee to perform duties in relation to those assets or other assets of a similar kind.
- (8) An employee referred to in subsection (7) is taken—
- (a) to have finished employment with the employee's former employer on the day before the assets were transferred; and
 - (b) to have started employment with the new employer on the day the assets were transferred; and
 - (c) to have been employed by the new employer from the day on which the employee first started employment at that business.
- (9) Subsection (10) applies if—
- (a) an employee performs work in the course of employment with the employee's employer (the *first-mentioned employer*); and
 - (b) the first-mentioned employer enters into a contract with another person (the *second-mentioned employer*) for the performance of work that is the same (or substantially the same) as the work performed for the first-mentioned employer; and
 - (c) as a consequence of that contract, the employee ceases employment with the first-mentioned employer and commences employment with the second-mentioned employer.
- (10) An employee referred to in subsection (9) is taken to have started employment with the second-mentioned employer on the day on

which the employee started employment with the first-mentioned employer.

(11) The second-mentioned employer referred to in subsection (9) must not refuse to provide the employee any long service leave to which the employee is entitled, including long service leave which accrued while the employee was employed by the first-mentioned employer.

(12) In this section—

assets includes tangible and intangible assets;

business includes a trade, process and occupation and any part of a trade, process or occupation and also includes any part of a business;

transfer includes a transmission, conveyance, assignment or succession, whether by agreement or by operation of law.

12 Meaning of *continuous employment*

(1) This section sets out several situations in which an employee is taken, for the purposes of this Act, to be continuously employed.

S. 12(1)
amended by
No. 44/2018
s. 81(2).

(2) An employee's employment is taken to be continuous despite an absence from work caused by the employee taking—

(a) annual leave; or

(b) long service leave; or

(c) paid or unpaid parental leave (other than in the case of a casual or seasonal employee);
or

(d) in the case of a casual or seasonal employee, paid or unpaid parental leave that is not longer than 104 weeks; or

(e) carer's leave; or

(f) leave on account of illness or injury; or

- (g) any other form of leave not referred to in this subsection that is provided for under the relevant employment agreement.
- (3) A casual or seasonal employee's employment is taken to be continuous despite an absence from work that is longer than 12 weeks, starting at the end of a particular instance of employment and ending at the start of another particular instance of employment if—
- (a) the casual or seasonal employee and the employer so agree before the start of the absence; or
 - (b) the absence is due to the terms of engagement of the casual or seasonal employee; or
 - (c) the absence is caused by seasonal factors; or
 - (d) the employee has been employed by the employer on a regular and systematic basis and the employee has a reasonable expectation of being re-engaged by the employer.
- (4) An employee's employment is taken to be continuous despite an absence from work caused by the employer terminating or interrupting the employment with the intention of avoiding an obligation in relation to long service leave.
- (5) An employee's employment is taken to be continuous despite an absence arising solely from the transfer of assets from one employer to another, if the employee usually performs duties which are connected with those assets.
- (6) An employee's employment is taken to be continuous despite an absence from work caused by the termination of the employee's employment—

- (a) at the initiative of the employer or the employee, if the employee is re-employed by the employer within 12 weeks after the termination; or
 - (b) because of the expiration of a specified term of an employment contract, if the employee is re-employed by the employer within 12 weeks after the expiration; or
 - (c) because the employee's apprenticeship to an employer is completed, if the employee is re-employed by the employer within 52 weeks after the end of the apprenticeship.
- (7) An employee's employment is taken to be continuous despite the employer standing down the employee—
- (a) during industrial action if the employee cannot be usefully employed because of the industrial action; or
 - (b) because of a breakdown of machinery or equipment for which the employer cannot reasonably be held responsible if the employee cannot be usefully employed because of the breakdown; or
 - (c) because of a stoppage of work for any cause for which the employer cannot reasonably be held responsible if the employee cannot be usefully employed because of the stoppage.
- (8) An employee's employment is taken to be continuous despite any interruption arising directly or indirectly from an industrial dispute.
- * * * * *
- S. 12(7)
substituted by
No. 44/2018
s. 81(3).**
- S. 12(8)
substituted by
No. 44/2018
s. 81(3).**
- S. 12(9)
repealed by
No. 44/2018
s. 81(3).**

S. 12(10)
renumbered
as s. 12(9) by
No. 44/2018
s. 81(4)(a).

(9) In this section—

industrial action means any of the following kinds of action—

- (a) the performance of work by an employee in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work by an employee, the result of which is a restriction or limitation on, or a delay in, the performance of the work;
- (b) a ban, limitation or restriction on the performance of work by an employee or on the acceptance of, or offering for, work by an employee;
- (c) a failure or refusal by employees to attend for work or a failure or refusal to perform any work at all by employees who attend for work;
- (d) an employer prevents an employee from performing work under the employee's contract of employment without terminating that contract.

S. 12(11)
renumbered
as s. 12(10) by
No. 44/2018
s. 81(4)(b)(i),
amended by
No. 44/2018
s. 81(4)(b)(ii).

(10) Despite anything to the contrary in subsection (9), ***industrial action*** does not include the following—

- (a) action by employees that is authorised or agreed to by the employer of the employees;
- (b) action by an employer that is authorised or agreed to by, or on behalf of, employees of the employer;
- (c) action by an employee if—
 - (i) the action was based on a reasonable concern of the employee about an imminent risk to the employee's health or safety; and

- (ii) the employee did not unreasonably fail to comply with a direction of the employer to perform other available work, whether at the same or another workplace, that was safe and appropriate for the employee to perform.

13 Periods of absence from work that are taken to be periods of employment when calculating the length of a period of continuous employment

- (1) The following periods of absence from work referred to in section 12 are taken to be periods of employment when calculating the length of an employee's period of continuous employment—
 - (a) a period of paid leave;
 - (b) if a period of unpaid leave is less than or is 52 weeks, that period;
 - (c) if a period of unpaid leave is more than 52 weeks, the initial 52 weeks;
 - (d) if a period of unpaid leave is more than 52 weeks, the entire period of unpaid leave if—
 - (i) the period of absence is taken to be a period of employment in accordance with the relevant employment agreement; or
 - (ii) the employer and the employee agreed in writing before the leave was taken that the period is taken to be a period of employment; or
 - (iii) the leave is taken on account of illness or injury or is any other form of leave provided for under the relevant employment agreement;

- (e) a period of absence arising from—
 - (i) an interruption to, or termination of, employment caused by the employer with the intention of avoiding an obligation in relation to long service leave; or
 - (ii) the transfer of assets from one employer to another if the employee usually performs duties which are connected with those assets.
- (2) If an employee enters into a contract of employment with an employer within 52 weeks after completing an apprenticeship with the employer, the period of apprenticeship is taken to be a period of employment when calculating the length of the employee's period of continuous employment.

14 Periods of absence from work not taken to be periods of employment when calculating the length of a period of continuous employment

The following periods of absence from work referred to in section 12 are not taken to be periods of employment when calculating the length of an employee's period of continuous employment—

- (a) a period of unpaid leave in excess of 52 weeks (other than the initial 52 weeks) unless—
 - (i) the period of absence is taken to be a period of employment in accordance with the relevant employment agreement; or
 - (ii) the employer and the employee agreed in writing before the leave was taken that the period is taken to be a period of employment; or
-

- (iii) the unpaid leave is taken on account of illness or injury or is any other form of leave provided for under the relevant employment agreement;
- (b) an absence following the ending of the employee's employment described in section 12(6)(a) or (b);
- (c) an absence caused by an employer standing down the employee described in section 12(7)(a), (b) or (c);
- (d) an interruption described in section 12(8).

S. 14(c)
amended by
No. 44/2018
s. 81(5)(a).

S. 14(d)
inserted by
No. 44/2018
s. 81(5)(b).

15 Meaning of *ordinary pay* and *ordinary time rate of pay*

- (1) For the purposes of this Act, and subject to this section, *ordinary pay*—
 - (a) means the pay that an employee is entitled to receive on the day on which the employee starts long service leave, calculated on the employee's normal weekly hours at the employee's ordinary time rate of pay; and
 - (b) includes the cash value of any board or lodging that an employee receives from the employee's employer.
- (2) If an ordinary time rate of pay is not fixed for an employee's work under the relevant employment agreement, the employee's *ordinary time rate of pay* is the greatest of the following—
 - (a) the average weekly rate earned by the employee in the 52 weeks immediately before the employee starts long service leave;

- (b) the average weekly rate earned by the employee in the 260 weeks immediately before the employee starts long service leave;
- (c) the average weekly rate earned by the employee during the employee's period of continuous employment with the employer immediately before the employee starts long service leave.

16 Normal weekly hours if none fixed or hours changed

- (1) This section applies if—
 - (a) no normal weekly number of hours of work is fixed for an employee's work under the relevant employment agreement; or
 - (b) the normal weekly number of hours of work is fixed but is changed one or more times during the 104 weeks immediately before the employee starts long service leave.
- (2) The employee's normal weekly number of hours of work is taken to be the greatest of the following—
 - (a) in relation to the 52 weeks immediately before the employee starts long service leave, the average weekly number of hours calculated in accordance with the following formula—

$$A = \frac{(B + C)}{(52 - D)}$$

where—

A is the employee's average weekly number of hours;

B is the number of hours the employee worked during the 52 weeks;

C is the number of hours in respect of which the employee took paid leave during the 52 weeks;

D is the number of weeks the employee took unpaid leave during the 52 weeks;

- (b) in relation to the 260 weeks immediately before the employee starts long service leave, the average weekly number of hours calculated in accordance with the following formula—

$$A = \frac{(B + C)}{(260 - D)}$$

where—

A is the employee's average weekly number of hours;

B is the number of hours the employee worked during the 260 weeks;

C is the number of hours in respect of which the employee took paid leave during the 260 weeks;

D is the number of weeks the employee took unpaid leave during the 260 weeks;

- (c) in relation to the employee's last period of continuous employment immediately before the employee starts long service leave, the average weekly number of hours calculated in accordance with the following formula—

$$A = \frac{(B + C)}{(D - E)}$$

where—

- A** is the employee's average weekly number of hours;
- B** is the number of hours the employee worked during the last period of continuous employment;
- C** is the number of hours in respect of which the employee took paid leave during the last period of continuous employment;
- D** is the number of weeks of the employee's last period of continuous employment;
- E** is the number of weeks the employee took unpaid leave during the last period of continuous employment.

17 Normal weekly hours and ordinary time rate of pay if working in suitable employment or absent due to workplace illness or injury

- (1) This section applies if an employee is—
 - (a) working in suitable employment (within the meaning of section 3 of the **Workplace Injury Rehabilitation and Compensation Act 2013**); or
 - (b) absent from work because of a workplace illness or injury and is in receipt of any compensation in the form of weekly payments from the Victorian WorkCover Authority for that illness or injury.

- (2) An employee's normal weekly hours and ordinary time rate of pay are to be taken to be the greater of the following—
- (a) the employee's normal weekly hours and ordinary time rate of pay immediately before the employee starts long service leave;
 - (b) the employee's normal weekly hours and ordinary time rate of pay immediately before the employee developed the relevant illness or suffered the relevant injury.

Note

Section 16 may apply when determining an employee's normal weekly hours.

18 Employee may make request for long service leave

- (1) An employee may make a request to the employee's employer to take long service leave for a period of not less than 1 day.
- (2) An employer must grant an employee's request to take long service leave as soon as practicable after receiving the request unless the employer has reasonable business grounds for refusing the request.

19 Employer may direct employee to take long service leave

- (1) An employer may direct an employee to take long service leave at a specified time and for a specified period by giving the employee at least 12 weeks' written notice.
- (2) Subject to an order of the Industrial Division of the Magistrates' Court, an employee must comply with a direction given under subsection (1).

20 Payment while on long service leave

- (1) An employer must give an employee the pay to which the employee is entitled in respect of long service leave in any way and at any time that is agreed to by the employee and the employer before the start of the long service leave.

Penalty: In the case of a natural person,
12 penalty units for each day during
which the offence continues;

In the case of a body corporate,
60 penalty units for each day during
which the offence continues.

Note

Section 43 applies to an offence against this subsection.

- (2) If no agreement exists, an employer must give an employee the pay to which the employee is entitled in respect of long service leave in one of the following ways—

(a) pay in full when the employee starts the long service leave;

(b) pay at the same time and in the same manner as if the employee were not taking long service leave.

Penalty: In the case of a natural person,
12 penalty units for each day during
which the offence continues;

In the case of a body corporate,
60 penalty units for each day during
which the offence continues.

Note

Section 43 applies to an offence against this subsection.

21 Pay increases while on leave

- (1) If the ordinary pay of an employee who is on long service leave increases, the employee is entitled to be paid at the increased rate from the time of the increase.
- (2) If the employee was paid in full at the start of the long service leave or was paid in advance with respect to any period of the long service leave, the employer must pay the additional amount resulting from the increase as soon as that period ends.

Penalty: In the case of a natural person,
12 penalty units for each day during
which the offence continues;

In the case of a body corporate,
60 penalty units for each day during
which the offence continues.

22 Leave at half pay

- (1) An employee may request the employer to grant the employee a period of long service leave—
 - (a) twice as long as the period to which the employee would otherwise be entitled; and
 - (b) at a rate of pay equal to half the employee's ordinary pay.
- (2) An employer must grant a request made under subsection (1) unless the employer has reasonable business grounds for refusing the request.

23 Contracting out prohibited

- (1) A provision in an employment agreement that annuls, varies or excludes any provision of this Act or of the **Long Service Leave Act 1992** is of no effect, regardless of whether the employment

agreement was made before or after the commencement of this Act.

- (2) This section does not affect any provision of an employment agreement (regardless of whether it was made before or after the commencement of this Act), to the extent of any inconsistency with this Act if, in the opinion of the Industrial Division of the Magistrates' Court, the long service leave entitlements are more favourable under the agreement than those provided by this Act.

Part 3—Enforcement

Division 1—Industrial Division of the Magistrates' Court

24 Jurisdiction of the Industrial Division of the Magistrates' Court

- (1) The Industrial Division of the Magistrates' Court has—
 - (a) jurisdiction to deal with an application as to whether an employee is entitled to long service leave; and
 - (b) jurisdiction to deal with an application as to whether an employee (or an employee's personal representative) is entitled to a payment in lieu of long service leave; and
 - (c) jurisdiction to deal with an application as to an employer's refusal to grant long service leave under section 18(2); and
 - (d) jurisdiction to deal with an application as to a direction to take long service leave under section 19(1), including the length of long service leave; and
 - (e) jurisdiction to deal with an application as to the rate of ordinary pay of an employee for the purposes of calculating a long service leave entitlement; and
 - (f) jurisdiction to deal with an application as to an employer's refusal to grant a request under section 22(2); and
 - (g) jurisdiction to deal with an application as to payment of any amount owing to the employee (or the employee's personal representative) under this Act within the 6 years immediately before the day on which the application is made; and

- (h) any other jurisdiction given to it by or under this or any other Act.
- (2) An employee (or an employee's personal representative) may apply to the Industrial Division of the Magistrates' Court for an order in relation to any matter referred to in subsection (1).
- (3) In determining an application under this section, the Industrial Division of the Magistrates' Court may take into account all the relevant circumstances, including the needs of the employee and the business needs of the employer.
- (4) The Industrial Division of the Magistrates' Court may make an order in relation to any matter referred to in subsection (1) and may award costs to any party to the application and assess the amount of those costs.
- (5) The Chief Magistrate, together with 2 or more Deputy Magistrates, may jointly make rules of court for or with respect to any matter relating to the practice and procedure of the Industrial Division of the Magistrates' Court.

25 Proceedings for offences to be brought in Industrial Division of the Magistrates' Court

- (1) If a person is charged with an offence against this Act, the charge must be heard, and all penalties recovered, before the Industrial Division of the Magistrates' Court.
- (2) Despite anything to the contrary in any Act, the jurisdiction of the Industrial Division of the Magistrates' Court in relation to any matter referred to in subsection (1) is exclusive.

- (3) Nothing in this section deprives a person of any right that the person has under the **Criminal Procedure Act 2009**—
- (a) to appeal to the County Court against any sentence imposed by the Industrial Division of the Magistrates' Court; or
 - (b) to appeal to the Supreme Court, on a question of law, from a final order of the Industrial Division of the Magistrates' Court.

26 Recovery of money owed

- (1) For the purposes of this Act, money owed for long service leave by an employer to an employee (or to an employee's personal representative) is taken to be arrears of pay.
- (2) An employee to whom money is owed by an employer for long service leave under this Act or any other Act, or under an employment agreement or order made under this Act or any other Act, may commence a proceeding in the Industrial Division of the Magistrates' Court to recover the money owing.
- (3) An organisation may, if requested to do so by an employee who is, or is eligible to become, a member of the organisation, commence a proceeding in the Industrial Division of the Magistrates' Court to recover money owed to the employee for long service leave.
- (4) A proceeding under this section must be commenced within 6 years after the employee's entitlement to the money arises.
- (5) Before a proceeding may be commenced under this section, the employee or organisation, as the case may be, must give the employer a written demand for the money owed.

- (6) The Industrial Division of the Magistrates' Court may order an employer to pay interest in accordance with subsection (7) in addition to any other amount to which the employee is entitled if it is satisfied that the employer—
- (a) had reasonable notice of the employee's claim; and
 - (b) had no reasonable grounds on which to dispute the claim; and
 - (c) in the circumstances should have paid the claim without the need for a proceeding being commenced to establish the validity of the claim.
- (7) The interest must not be greater than the rate fixed under section 2 of the **Penalty Interest Rates Act 1983** that applies at the time the order is made.
- (8) If a claim is made under this section by an employee's personal representative, subsections (6) and (7) apply despite anything to the contrary in section 29 of the **Administration and Probate Act 1958**.
- (9) In this section—
employee includes a former employee;
employer includes a former employer.

27 Order for reimbursement, reinstatement and compensation

- (1) If an employer is found to have contravened section 36, the Industrial Division of the Magistrates' Court may—
- (a) order the employer to pay the employee a specified sum by way of reimbursement for the remuneration lost by the employee; and

- (b) subject to subsection (2), order that the employee be reinstated in the employee's former position or a similar position.
- (2) If the adverse action constituting the contravention referred to in subsection (1) was the dismissal of the employee and the Industrial Division of the Magistrates' Court considers that it would be impracticable to reinstate the employee, the Court may order the employer to pay the employee an amount of compensation not exceeding the amount of remuneration of the employee during the 52 weeks immediately before the employee's dismissal.
- (3) An order under subsection (1)(a) or (2) is taken to be a judgment debt due by the employer to the employee and may be enforced in the Industrial Division of the Magistrates' Court accordingly.
- (4) The amount of remuneration that would have been payable to an employee in respect of any period that the employer fails to give effect to an order under subsection (1)(b) is recoverable as a debt due to the employee by the employer in any court of competent jurisdiction.
- (5) In this section—
employee includes a former employee;
employer includes a former employer.

28 Order for payment of arrears or compensation on conviction

- (1) If the Industrial Division of the Magistrates' Court finds an employer guilty of an offence against this Act and that the employer owes an amount to the employee in relation to long service leave, the Court may order the employer to pay the employee any amount still owing to the employee, in addition to imposing a penalty for the offence.

- (2) If the Industrial Division of the Magistrates' Court finds a person (other than an employer) guilty of an offence against a provision that is specified in section 43(2), the Court may order the person to pay an employee compensation equivalent to the amount still owing to the employee as a result of the offence, in addition to imposing a penalty for the offence.
- (3) Section 26(6), (7) and (8) applies to this section.
- (4) An order under this section may be enforced as if it were an order made by the Industrial Division of the Magistrates' Court in a civil proceeding.
- (5) If an amount referred to in subsection (1) or (2) remains to be paid after all reasonable means of civil enforcement have been tried, the order may be enforced as if it were a penalty imposed by the Industrial Division of the Magistrates' Court.
- (6) Nothing in this section limits an employee's rights under section 26, and nothing in that section limits the power of the Industrial Division of the Magistrates' Court under this section.
- (7) In this section—
employee includes a former employee;
employer includes a former employer.

Division 2—Authorised officers

29 Appointment of authorised officers

- (1) The Secretary may, by instrument, appoint a person employed under Part 3 of the **Public Administration Act 2004** as an authorised officer for the purposes of this Act.
- (2) An authorised officer is subject to the Secretary's directions in the performance of the authorised officer's functions or in the exercise of the authorised officer's powers under this Act.

- (3) A direction under subsection (2) may be of a general nature or may relate to a specified matter or to a specified class of matter.

30 Identity cards

- (1) An authorised officer must be issued with an identity card in the form approved by the Secretary.
- (2) The identity card must bear a photograph and the signature of the authorised officer.
- (3) An authorised officer must produce the authorised officer's identity card for inspection—
- (a) before exercising a power under this Act, other than a requirement made by post, e-mail or other electronic communication; and
 - (b) at any time during the exercise of a power under this Act, if asked to do so.

Penalty: 10 penalty units.

31 Power to require information or documents

- (1) For the purpose of monitoring compliance with this Act and the regulations, an authorised officer may by written notice require a person, within a reasonable period specified in the notice—
- (a) to give the authorised officer any information that the authorised officer requires; or
 - (b) to produce to the authorised officer a document in the custody or control of the person.
- (2) A notice under subsection (1) must—
- (a) warn the person that a refusal or failure to comply with the notice, without reasonable excuse, is an offence; and

- (b) if directed to a natural person, inform the person that the person may refuse or fail to produce documents (other than a record or other document that the person is required to keep under this Act) or provide information if producing the document or providing the information would tend to incriminate the person.
- (3) An authorised officer may inspect, and make copies of or take extracts from, a document produced to the authorised officer under subsection (1).

32 Retention of documents

- (1) An authorised officer may retain a document produced to the authorised officer for the period necessary to monitor compliance with this Act and the regulations.
- (2) During the period that the authorised officer retains a document, the authorised officer must permit the person otherwise entitled to its possession to inspect it and make copies of or take extracts from it.

33 Confidentiality

- (1) An authorised officer must not, except to the extent necessary to monitor compliance with this Act and the regulations, give to any other person, whether directly or indirectly, any information acquired by the authorised officer in performing that function.

Penalty: 60 penalty units.

- (2) Subsection (1) does not apply to the giving of information—
 - (a) to a court or tribunal in the course of a legal proceeding; or
 - (b) pursuant to an order of a court or tribunal; or

- (c) to the extent reasonably required to enable the investigation or the enforcement of a law of Victoria or of any other State or a Territory or of the Commonwealth; or
- (d) with the written authority of the Secretary; or
- (e) with the written authority of the person to whom the information relates.

Division 3—Offences

34 Payments in lieu forbidden

- (1) An employer must not give an employee a payment in lieu of long service leave, or in lieu of any part of long service leave, except as permitted under this or any other Act or under the relevant fair work instrument.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Note

Section 43 applies to an offence against this subsection.

- (2) An employee must not accept any payment in lieu of long service leave, or in lieu of any part of long service leave, except as permitted under this or any other Act or under the relevant fair work instrument.

Penalty: 12 penalty units.

35 Offences concerning working during long service leave

- (1) An employee who is on long service leave must not work for hire or reward in relation to the hours during which the employee is taking long service leave.

Penalty: 12 penalty units.

- (2) A person must not knowingly employ another person for hire or reward in relation to the hours during which that other person is taking long service leave.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

36 Adverse action taken against employee

- (1) An employer must not take adverse action against an employee because the employee is entitled to long service leave or any other entitlement under this Act.

Penalty: In the case of a natural person,
12 penalty units for each day during which the offence continues;
In the case of a body corporate,
60 penalty units for each day during which the offence continues.

Note

Section 43 applies to an offence against this subsection.

- (2) An employer must not take adverse action against an employee because the employee seeks to exercise the employee's entitlement to long service leave or to any other entitlement under this Act.

Penalty: In the case of a natural person,
12 penalty units for each day during which the offence continues;
In the case of a body corporate,
60 penalty units for each day during which the offence continues.

Note

Section 43 applies to an offence against this subsection.

- (3) An employer must not take adverse action against an employee because the employee makes an enquiry as to the employee's entitlement to long service leave or any other entitlement under this Act.

Penalty: In the case of a natural person,
12 penalty units for each day during
which the offence continues;

In the case of a body corporate,
60 penalty units for each day during
which the offence continues.

Note

Section 43 applies to an offence against this subsection.

- (4) An employer must not take adverse action against an employee because the employee applies to the Industrial Division of the Magistrates' Court for an order in relation to a direction to take long service leave under section 19(1), including the length of long service leave.

Penalty: In the case of a natural person,
12 penalty units for each day during
which the offence continues;

In the case of a body corporate,
60 penalty units for each day during
which the offence continues.

Note

Section 43 applies to an offence against this subsection.

- (5) In a proceeding for an alleged contravention of subsection (1), (2), (3) or (4), the onus of proving that the adverse action by the employer was not actuated by any reason referred to in subsection (1), (2), (3) or (4), as the case may be, lies on the employer.
- (6) For the purposes of this section, an employer takes *adverse action* against an employee if the employer—
- (a) dismisses the employee; or
 - (b) injures the employee in the employee's employment; or
 - (c) alters the position of the employee to the employee's prejudice; or
 - (d) discriminates between the employee and other employees of the employer; or
 - (e) knowingly or recklessly makes a false representation about the employee's long service leave entitlements.

37 Offences concerning long service leave records

- (1) An employer must keep a long service leave record in the form approved by the Secretary.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Notes

- 1 Section 51 provides that the Secretary may approve a form for long service leave records.
- 2 Section 43 applies to an offence against this subsection.

- (2) An employer must keep a long service leave record relating to an employee during the employee's period of continuous employment by the employer.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Notes

- 1 Section 43 applies to an offence against this subsection.
 - 2 Section 11 sets out several situations in which an employee is taken, for the purposes of this Act, to have been employed by one employer despite having been employed during the relevant period by more than one employer in a strict legal sense.
- (3) An employer must keep a long service leave record relating to an employee for at least 7 years after the employee stops working for the employer.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Note

Section 43 applies to an offence against this subsection.

- (4) An employer must keep a long service leave record so that it is able to be readily produced to an authorised officer if the authorised officer requires its production.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

- (5) A person must not make, without reasonable excuse, any false or misleading statement in, or any material omission from, a long service leave record.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Note

Section 43 applies to an offence against this subsection.

- (6) An employer must not refuse a request by an employee (or an employee's personal representative) to provide the employee (or the personal representative) with a copy of a long service leave record relating to the employee.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

- (7) Despite anything to the contrary in this or any other Act, a proceeding for an offence against this section may be commenced by filing a charge sheet at any time within 6 years after the date on which the offence is alleged to have been committed.

- (8) In this section—

employee includes a former employee;

employer includes a former employer.

38 Failing to produce documents or giving false or misleading documents

- (1) A person must not, without reasonable excuse, fail to comply with a notice to produce documents or provide information under section 31.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Note

Section 43 applies to an offence against this subsection.

- (2) A person must not produce a document to an authorised officer that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Note

Section 43 applies to an offence against this subsection.

39 Protection against self-incrimination

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information, produce a document or do any other thing that the person is required to do by or under this Act, if the giving of the information, production of the document or doing of the thing would tend to incriminate the person.
- (2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a record or other document that the

person is required to keep under this Act, if the production of the record or other document would tend to incriminate the person.

40 Who can prosecute under this Act?

- (1) A prosecution for an offence against this Act may only be brought by a person employed in the Department of Economic Development, Jobs, Transport and Resources under Part 3 of the **Public Administration Act 2004** who is authorised by the Minister or the Secretary to bring a prosecution.
- (2) An authorisation—
 - (a) must be in writing; and
 - (b) may be given generally, or only in relation to a particular case or cases, or a particular class of case or cases; and
 - (c) may be revoked by the person who gave it at any time by written notice.
- (3) The revocation of an authorisation does not affect a proceeding commenced by a person before that person's authorisation was revoked unless the notice of revocation states otherwise.
- (4) In a prosecution for an offence under this Act, the Industrial Division of the Magistrates' Court must presume, in the absence of evidence to the contrary, that the prosecutor is authorised to bring the prosecution.
- (5) A prosecution may only be conducted by—
 - (a) the person authorised to bring the prosecution; or
 - (b) an Australian lawyer briefed by the person authorised to bring the prosecution.

41 Judicial notice of signatures

All courts must take judicial notice of—

- (a) the signature of a person who is, or was at the time the signature purports to have been made, the Minister, the Secretary or an employee to whom section 40(1) applies; and
- (b) the fact that a person referred to in paragraph (a) held the position the person purported to hold at the time the signature purports to have been made.

42 Imputing conduct to bodies corporate or other employer

- (1) For the purposes of this Act, any conduct engaged in or on behalf of a body corporate or other employer by an employee, agent or officer of the body corporate or other employer (as the case may be) acting within the actual or apparent scope of employment or apparent authority of the employee, agent or officer, is conduct also engaged in by the body corporate or employer.
- (2) In this section, *officer* has the same meaning given by section 9 of the Corporations Act.

43 Criminal liability of officers of bodies corporate—accessorial liability

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer—
 - (a) authorised or permitted the commission of the offence by the body corporate; or
 - (b) was knowingly concerned in any way (whether by act or omission) in the commission of the offence by the body corporate.

- (2) For the purposes of subsection (1), the following provisions are specified—
- (a) section 9(2);
 - (b) section 10(1);
 - (c) section 20(1);
 - (d) section 20(2);
 - (e) section 34(1);
 - (f) section 36(1);
 - (g) section 36(2);
 - (h) section 36(3);
 - (i) section 36(4);
 - (j) section 37(1);
 - (k) section 37(2);
 - (l) section 37(3);
 - (m) section 37(5);
 - (n) section 38(1);
 - (o) section 38(2);
 - (p) section 50(1).
- (3) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (4) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

(5) In this section—

body corporate has the same meaning as corporation has in section 57A of the Corporations Act;

officer, in relation to a body corporate, means—

- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
 - (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.
- (6) This section does not affect the operation of section 323 or 324 of the **Crimes Act 1958**.

44 Offences by unincorporated associations

A proceeding for an offence against this Act by an unincorporated association may be brought against any or all members of the committee of management or other governing body of the association.

Part 4—Preservation of superior long service leave entitlements

45 Application of Part

This Part applies despite anything to the contrary in this Act.

46 Definition of *award*

In this Part—

award—

- (a) has the same meaning as it had in the Workplace Relations Act 1996 of the Commonwealth as in force immediately before 27 March 2006; and
- (b) includes a term of an award that was a common rule in Victoria under section 141, 142 or 493A of the Workplace Relations Act 1996 of the Commonwealth as in force immediately before 27 March 2006; and
- (c) in relation to an employee and the employee's employer, means an award—
 - (i) that was binding on the employer immediately before 27 March 2006 or would have been binding had the employer been an employer in the relevant industry at that time; and
 - (ii) to which the employee's employment was subject immediately before 27 March 2006 or would have been subject had the employee been employed by the employer at that time.

47 Preservation

- (1) If, immediately before 27 March 2006, an award provided a long service leave entitlement that was more beneficial to an employee in any respect than the entitlement provided in Part 5 of the **Long Service Leave Act 1992**, the employee is entitled under this Act to that superior entitlement instead of the employee's relevant entitlement under this Act.
- (2) Subsection (1) applies to an employee whether or not the employee was employed immediately before 27 March 2006.

Part 5—Preservation of accrued long service leave entitlements

48 Definitions for this Part

In this Part—

award has the same meaning as it has in Part 4;

protected accrued long service leave entitlement in relation to an employee means an entitlement to long service leave—

- (a) that accrued by operation of an award that has subsequently been varied, set aside, ceased to have effect or was revoked under Part 10 of the Workplace Relations Act 1996 of the Commonwealth; or
- (b) that accrued by operation of an award that is no longer applicable to that employee under Division 5 of Part 11 of the Workplace Relations Act 1996 of the Commonwealth; or
- (c) that accrued by operation of an employment agreement that has subsequently been terminated under—
 - (i) Division 9 of Part 8 of the Workplace Relations Act 1996 of the Commonwealth; or
 - (ii) section 170MH of the Workplace Relations Act 1996 of the Commonwealth as continued in operation by clause 2(1)(k) of Schedule 7 to that Act; or

- (d) that accrued by operation of an agreement that is no longer applicable to that employee under Division 3 or 4 of Part 11 of the Workplace Relations Act 1996 of the Commonwealth.

49 Protection of accrued entitlements

An employee who is or was at any time entitled to a protected accrued long service leave entitlement is entitled to the benefit of that entitlement under this Act regardless of the status of the award or agreement under which that entitlement accrued.

Part 6—Disclosure requirements for workplace agreements

50 Disclosure of modified or removed long service leave entitlements

- (1) At least 7 days before entering into an employment agreement that would modify or remove an employee's entitlements under this Act, the employer must notify the employee in writing of the modification or removal (as the case may be).

Penalty: 12 penalty units in the case of a natural person;
60 penalty units in the case of a body corporate.

Note

Section 43 applies to an offence against this subsection.

- (2) For the purposes of subsection (1), the notice must state whether the proposed agreement modifies or removes any of the following entitlements under this Act—
- (a) an entitlement to long service leave on completing 7 years of continuous service;
 - (b) any entitlement arising from the operation of section 47 or 49.

Part 7—General

51 Long service leave records

- (1) The Secretary may—
 - (a) approve the form in which long service leave records must be kept; and
 - (b) specify the details to be included in long service records.
- (2) The Secretary must ensure that—
 - (a) the approved form and any specified details referred to in subsection (1) are published on the Internet site of the Department of Economic Development, Jobs, Transport and Resources; and
 - (b) a notice of the approved form and any specified details is published in the Government Gazette.

52 Supreme Court—limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the bringing before the Supreme Court of a proceeding or matter of a kind referred to in section 25(1) of this Act.

53 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or that is necessary to be prescribed to give effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.

54 Transitional regulations

- (1) The Governor in Council may make regulations containing provisions of a transitional nature, including matters of an application or savings nature, arising as a result of the enactment of this Act, including any repeals and amendments made by or as a result of the enactment of this Act.
- (2) Regulations made under this section may—
 - (a) have a retrospective effect to a day on or after a date not earlier than the day on which this Act comes into operation; and
 - (b) be of limited or general application; and
 - (c) differ according to time, place or circumstance; and
 - (d) leave any matter or thing to be decided by a specified person or class of person.
- (3) Regulations under this section have effect despite anything to the contrary in any Act (other than this Act or the **Charter of Human Rights and Responsibilities Act 2006**) or in any subordinate instrument.
- (4) Sections 6 and 7 of the **Subordinate Legislation Act 1994** do not apply to any regulations made under this section.
- (5) This section expires on the second anniversary of the day on which this Act comes into operation.

Part 8—Repeal of Long Service Leave Act 1992 and savings and transitional provisions

55 Definitions

(1) In this Part—

1992 Act means the **Long Service Leave Act 1992**;

2018 Act means the **Long Service Leave Act 2018**.

(2) A word or expression that is defined in the 1992 Act and is used in this Part in relation to the 1992 Act has the same meaning as is given in the 1992 Act.

56 Long Service Leave Act 1992 repealed

(1) The **Long Service Leave Act 1992** is **repealed**.

(2) On and from the commencement of the 2018 Act, any reference in any Act (other than the 2018 Act or a regulation under the 2018 Act), regulation, subordinate instrument or other document whatsoever to the 1992 Act is to be construed as a reference to the 2018 Act, unless the contrary intention appears.

(3) Nothing in this section limits or otherwise affects the operation of the **Interpretation of Legislation Act 1984**.

57 Transitional provisions

(1) Despite anything to the contrary in section 13 of the 2018 Act, any interruption to an employee's employment caused by an absence from work not referred to in section 62(2) or (3) or 62A(1) of the 1992 Act is taken to interrupt an employee's continuous employment for the purposes of

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Part 8—Repeal of Long Service Leave Act 1992 and savings and transitional provisions

section 12 of the 2018 Act if the absence started before the commencement of the 2018 Act.

- (2) If the 2018 Act commences during an employee's absence from work and that absence is a type of absence that was not counted as part of the period of the employee's continuous employment under section 62, 62A or 63 of the 1992 Act but is taken to be a period of employment under section 13 of the 2018 Act, only that part of the period of absence occurring on and from the commencement of the 2018 Act is taken to be a period of employment under section 13 of that Act.

Part 9—Consequential amendments of other Acts and repeal of this Part

58 Education and Training Reform Act 2006

In section 5.5.5(3) of the **Education and Training Reform Act 2006**, for "section 160 of the **Long Service Leave Act 1992**" substitute "section 26 of the **Long Service Leave Act 2018**".

59 Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016

In section 49(2) of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**, for "Long Service Leave Act 1992" substitute "Long Service Leave Act 2018".

60 Outworkers (Improved Protection) Act 2003

- (1) In section 3 of the **Outworkers (Improved Protection) Act 2003**, in the definition of *relevant industrial legislation*, for paragraph (b) substitute—

"(b) the **Long Service Leave Act 2018**";.

- (2) For section 4(2)(c) of the **Outworkers (Improved Protection) Act 2003**, substitute—

"(c) the **Long Service Leave Act 2018**";.

61 Pre-school Teachers and Assistants (Leave) Act 1984

- (1) For section 4(1)(b) of the **Pre-school Teachers and Assistants (Leave) Act 1984** substitute—

"(b) under the **Long Service Leave Act 2018** (except section 6)—".

Long Service Leave Act 2018

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Part 9—Consequential amendments of other Acts and repeal of this Part

- (2) In section 4(2)(b) of the **Pre-school Teachers and Assistants (Leave) Act 1984**, for "Division 6 of Part 5 of the **Long Service Leave Act 1992**" substitute "the **Long Service Leave Act 2018**".
- (3) In section 5(d) of the **Pre-school Teachers and Assistants (Leave) Act 1984**, for "section 60(6) of the **Long Service Leave Act 1992**" substitute "section 11(6) of the **Long Service Leave Act 2018**".

62 Repeal of this Part

This Part is **repealed** on 1 June 2019.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by this Part (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 24 August 2017

Legislative Council: 8 March 2018

The long title for the Bill for this Act was "A Bill for an Act to make provision for the long service entitlements of certain employees, to repeal the **Long Service Leave Act 1992**, to make consequential amendments to various other Acts and for other purposes."

The **Long Service Leave Act 2018** was assented to on 15 May 2018 and came into operation on 1 November 2018: section 2(2).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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Endnotes

2 Table of Amendments

This publication incorporates amendments made to the **Long Service Leave Act 2018** by Acts and subordinate instruments.

Long Service Benefits Portability Act 2018, No. 44/2018

<i>Assent Date:</i>	18.9.18
<i>Commencement Date:</i>	S. 81 on 1.11.18: Special Gazette (No. 497) 23.10.18 p. 1
<i>Current State:</i>	This information relates only to the provision/s amending the Long Service Leave Act 2018

3 Amendments Not in Operation

This publication does not include amendments made to the **Long Service Leave Act 2018** by the following Act/s.

Long Service Leave Act 2018, No. 12/2018

<i>Assent Date:</i>	15.5.18
<i>Commencement Date:</i>	Ss 54(5), 62 on 1.11.18: s. 2(2)
<i>Note:</i>	S. 62 repeals Pt 9 (ss 58–62) on 1.6.19; s. 54(5) provides that s. 54 expires on 1.11.20
<i>Current State:</i>	This information relates only to the provision/s amending the Long Service Leave Act 2018

At the date of this publication, the following provisions amending the **Long Service Leave Act 2018** were Not in Operation:

Amending Act/s:

Long Service Leave Act 2018, No. 12/2018

54 Transitional regulations

- (5) This section expires on the second anniversary of the day on which this Act comes into operation.

62 Repeal of this Part

This Part is **repealed** on 1 June 2019.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by this Part (see section 15(1) of the **Interpretation of Legislation Act 1984**).

4 Explanatory details

No entries at date of publication.