

LONG SERVICE BENEFITS PORTABILITY BILL 2018

(Amendments made by the Legislative Council)

1. Clause 2, line 10, omit "April" and insert "July".
2. Clause 3, page 4, line 25, omit all words and expressions on this line.
3. Clause 5, omit this clause.
4. Clause 75, line 9, omit "The" and insert "A".
5. Clause 75, lines 10 and 11, omit "after the 3rd anniversary of the commencement of this Act" and insert—
 - "after—
 - (a) the 3rd anniversary of the commencement of this Act;
and
 - (b) the 7th anniversary of the commencement of this Act".
6. Clause 75, line 13, omit "the" and insert "each".

NEW CLAUSE

7. Insert the following New Clause to follow clause 81—

"AA Amendment of Long Service Leave Act 2018

- (1) Section 3(2) of the **Long Service Leave Act 2018** is **repealed**.
- (2) In section 12(1) of the **Long Service Leave Act 2018** **omit** "even though in a strict legal sense it could be said that the employee's employment was interrupted".
- (3) For section 12(7), (8) and (9) of the **Long Service Leave Act 2018** **substitute—**
 - "(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."

(4) In section 12 of the **Long Service Leave Act 2018**—

- (a) in subsection (10), for "(10)" **substitute** "(9)";
- (b) in subsection (11)—
 - (i) for "(11)" **substitute** "(10)";
 - (ii) for "(10)" **substitute** "(9)".

(5) In section 14 of the **Long Service Leave Act 2018**—

- (a) in paragraph (c), for ", (8) or (9)." **substitute** "(a), (b) or (c)";
- (b) after paragraph (c) **insert**—
 - "(d) an interruption described in section 12(8)".

8. Clause 82, omit this clause.

9. Schedule 1, page 66, lines 18 to 20, omit all words and expressions on these lines and insert—

"(2) **Community service work** does not include—

- (a) an activity that is funded by the National Disability Insurance Scheme within the meaning of the National Disability Insurance Scheme Act 2013 of the Commonwealth, unless such an activity, or class of activity, is prescribed to be community service work; or
- (b) a service provided by an entity that is a licensed children's service under the **Children's Services Act**

1996 or an approved provider under the Education and Care Services National Law (Victoria), unless such a service, or class of service, is prescribed to be community service work; or

(c) an activity, or class of activity, prescribed not to be community service work."

10. Schedule 1, page 66, lines 24 to 31, omit all words and expressions on these lines and insert—
 - "(a) a non-profit entity that employs one or more individuals to perform community service work; or".
11. Schedule 1, page 70, line 11, omit "15" and insert "14".
12. Schedule 1, page 70, line 13, omit "clause 16 specifies".
13. Schedule 1, page 71, lines 21 and 22, omit "worker's service period is taken to be continuous" and insert "period of absence is taken to be a day of service for crediting service".
14. Schedule 1, page 75, lines 3 to 33, page 76, lines 1 to 35 and page 77, lines 1 to 22, omit all words and expressions on these lines.
15. Schedule 1, page 77, line 25, before "The" insert "(1)".
16. Schedule 1, page 77, line 26, omit "referred to in clause 14".
17. Schedule 1, page 78, line 25, omit "assets." and insert "assets;".
18. Schedule 1, page 78, after line 25 insert—
 - "(f) any other period of absence that the employer and worker agree to being credited as days of service of the worker.
 - (2) Any periods of absence from work other than a period referred to in subclause (1) are taken not to be days of service for the purpose of crediting the days of service of a worker for the community services sector."
19. Schedule 1, page 78, lines 26 to 35 and page 79, lines 1 to 18, omit all words and expressions on these lines.
20. Schedule 2, page 85, line 22, omit "22" and insert "21".
21. Schedule 2, page 85, line 24, omit "clause 23 specifies".

22. Schedule 2, page 86, lines 35 and 36, omit "an employee's service period is taken to be continuous" and insert "a period of absence is taken to be a day of service for crediting service".
23. Schedule 2, page 94, lines 19 to 34, page 95, lines 1 to 35, page 96, lines 1 to 35 and page 97, lines 1 to 17, omit all words and expressions on these lines.
24. Schedule 2, page 97, line 21, omit "referred to in clause 21".
25. Schedule 2, page 98, line 22, omit "assets." and insert "assets;".
26. Schedule 2, page 98, after line 22 insert—
 - (f) any other period of absence that the employer and worker agree to being credited as days of service of the worker.
 - (2) Any periods of absence from work other than a period referred to in subclause (1) are taken not to be days of service for the purpose of crediting the days of service of a worker for the contract cleaning industry."
27. Schedule 2, page 98, line 23, omit "(2)" and insert "(3)".
28. Schedule 2, page 98, lines 30 to 36 and page 99, lines 1 to 21, omit all words and expressions on these lines.
29. Schedule 2, page 100, line 23, omit "24" and insert "22".
30. Schedule 3, page 106, line 22, omit "22" and insert "21".
31. Schedule 3, page 106, line 24, omit "clause 23 specifies".
32. Schedule 3, page 107, lines 35 and 36, omit "an employee's service period is taken to be continuous" and insert "a period of absence is taken to be a day of service for crediting service".
33. Schedule 3, page 115, lines 14 to 34, page 116, lines 1 to 34, page 117, lines 1 to 34 and page 118, lines 1 to 15, omit all words and expressions on these lines.
34. Schedule 3, page 118, line 19, omit "referred to in clause 21".
35. Schedule 3, page 119, line 18, omit "assets." and insert "assets;".
36. Schedule 3, page 119, after line 18 insert—

"(f) any other period of absence that the employer and worker agree to being credited as days of service of the worker.

(2) Any periods of absence from work other than a period referred to in subclause (1) are taken not to be days of service for the purpose of crediting the days of service of a worker for the security industry."

37. Schedule 3, page 119, line 19, omit "(2)" and insert "(3)".
38. Schedule 3, page 119, lines 26 to 31 and page 120, lines 1 to 21, omit all words and expressions on these lines.
39. Schedule 3, page 121, line 25, omit "24" and insert "22".

Certified -

Clerk of the Legislative Council