



Australian Capital Territory

Long Service Leave Act 1976 No 27

Republication No 7

Effective: 3 October 2003 – 31 October 2003

Republication date: 3 October 2003

Last amendment made by A2003-45

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Long Service Leave Act 1976* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 3 October 2003. It also includes any amendment, repeal or expiry affecting the republished law to 3 October 2003.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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Long Service Leave Act 1976

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R7
03/10/03

Long Service Leave Act 1976
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Australian Capital Territory

Long Service Leave Act 1976

An Act relating to long service leave

R7
03/10/03

Long Service Leave Act 1976
Effective: 03/10/03-31/10/03

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1 Short title

This Act may be cited as the *Long Service Leave Act 1976*.

U 2 Interpretation for Act

(1) In this Act:

agreement means an industrial agreement made under the *Workplace Relations Act 1996* (Cwlth).

approved training agreement means a training agreement approved by the vocational education and training authority under the *Vocational Education and Training Act 1995*, section 30 (2) (a).

associated company means a company that is, within the meaning of the Corporations Act, section 9, a subsidiary, a holding company or a related body corporate.

authorised officer means a person who is an authorised officer under section 13A.

award means an award or determination under the *Workplace Relations Act 1996* (Cwlth).

award holiday means a day that is, under an award or agreement, a holiday for persons employed in an industry.

casual employee means a person who is, from time to time offered regular and systematic employment on the basis that the offer of employment might be accepted or rejected and in circumstances where it could be expected by that person that further employment of the same type would or might be offered and accepted, but in respect of which there is no certainty about the period over which it would continue to be offered.

continuous service, in relation to an employee, includes—

(a) a period of annual leave or long service leave; and

- (b) a period of leave, not exceeding 14 days in any 1 year, taken on account of illness or injury; and
- (c) a period during which the service of an employee is interrupted or terminated by his or her employer with the intention of avoiding the granting of long service leave; and
- (d) in the case of an employee who commences service with an employer within a period of 12 months from the completion of an apprenticeship, or an approved training agreement, with the employer—the period of the apprenticeship, or an approved training agreement.

determination includes a variation, suspension, interpretation or cancellation of a determination.

employee includes—

- (a) a person who is remunerated at piecework rates; and
- (b) a part-time employee; and
- (c) a casual employee.

minimum retiring age, in relation to a person, means—

- (a) if the person is included in a class of persons in respect of whom a minimum retiring age is fixed by an award or agreement—the age so fixed; and
- (b) in any other case—the age of 65 years.

ordinary remuneration, in relation to an employee, means the sum of—

- (a) the salary or wages payable to the employee; and
- (b) any allowances payable to the employee in respect of skill, qualifications, board and lodging; and
- (c) any amounts payable to the employee under a bonus, performance pay or incentive scheme, being amounts that are

usually paid to the employee with his or her salary or wages;
and

- (d) where the employee is provided with board and lodging by his or her employer, an amount equal to the value of that board and lodging.

salary or wages does not include—

- (a) payments in respect of overtime; or
(b) payments at penalty rates of pay; or
(c) allowances which, under an award or agreement, are not to be taken into account in determining a rate of remuneration in respect of overtime.

trainee means the person who is obliged under a training agreement to undertake training.

training agreement means a written agreement between a trainee and his or her employer, the terms of which are in accordance with the terms determined by the vocational education and training authority under the *Vocational Education and Training Act 1995*, section 33.

- (2) For this Act, the fact that a person is remunerated wholly or partly by commission does not in itself prevent the person from being held to be an employee.
- (3) An employee who—
- (a) is registered under the *Long Service Leave (Building and Construction Industry) Act 1981*; and
- (b) has elected under section 63 of that Act to take long service benefits under that Act in respect of a period specified by the employee;

shall be entitled to receive benefits under this Act if, had a benefit not been received by the employee under the *Long Service Leave*

(Building and Construction Industry) Act 1981, the employee would have been entitled to receive benefits under this Act in respect of the same period.

- (4) An employee who—
- (a) is registered under the *Long Service Leave (Cleaning, Building and Property Services) Act 1999*; and
 - (b) has elected under section 64 of that Act to take long service benefits under that Act in respect of a period stated by the employee;

is entitled to receive benefits under this Act if, had a benefit not been received by the employee under the *Long Service Leave (Cleaning, Building and Property Services) Act 1999*, the employee would have been entitled to receive benefits under this Act in respect of the same period.

- (5) For the purpose of calculating an employee's ordinary remuneration, where, during a year, an employee is remunerated wholly by commission, or partly by salary or wages and partly by commission—
- (a) the employee shall be deemed to have been remunerated wholly by salary or wages throughout the year; and
 - (b) the amount payable for salary or wages to the employee in respect of a week in that year shall be deemed to be the amount calculated by dividing the total amount payable to the employee during that year in respect of commission, or salary or wages and commission, as the case requires, by 52.
- (6) A reference in this Act to a period of service is a reference to a period of continuous service as an employee of a particular employer.
- (7) For the purpose of calculating an employee's period of service, service by the employee as a member of the Defence Force, other than as a member rendering continuous full-time service, shall be

deemed to be service with the person by whom the employee was employed immediately before he or she commenced service in the Defence Force.

- (8) A reference in this Act to a period of service includes a reference to a period for which an employee was temporarily employed outside the ACT.
- (9) For the purpose of calculating an employee's period of service, a period of interruption of service listed as follows does not break the continuity of service and is not to be taken into account in calculating the total period of service:
- (a) a period of interruption of service caused by an industrial dispute where the employee returns to the service of the employer in accordance with the terms of settlement of the dispute;
 - (b) a period during which an employee is stood down by his or her employer because of slackness of trade where the employee is re-employed by the employer within a period of 6 months from the date of the standing down;
 - (c) a period, other than a period referred to in the definition of *continuous service*, paragraph (a) or (b), during which the employee is absent with the leave of his or her employer;
 - (d) a period during which the employee is absent on account of injury arising out of or in the course of his or her employment;
 - (e) any other interruption or termination of service by the employer, other than with the intention of avoiding the granting of long service leave, where the employee returns to the service of the employer within a period of 2 months from the date of commencement of the interruption or termination.

3 Entitlement to long service leave

- (1) An employee who has completed a period of 10 years of service with his or her employer is entitled to long service leave in respect of that period.
- (2) An employee is entitled to long service leave in respect of each consecutive period of 5 years of service completed by the employee after the expiration of the 10th year of service.
- (3) An employee's entitlement to long service leave in respect of a period of service accrues to the employee at the expiration of that period.

4 Amount of long service leave

The amount of long service leave to which an employee is entitled in respect of a period of service shall be calculated—

- (a) in respect of any part of that period that occurred before 11 May 1964—at the rate of $\frac{3}{20}$ of a month's leave per annum; and
- (b) in respect of any part of that period that occurred after 10 May 1964—at the rate of $\frac{1}{5}$ of a month's leave per annum.

6 Grant of leave

- (1) Long service leave to which an employee is entitled under this Act shall be granted by the employer—
 - (a) as soon as practicable after the leave has accrued, having regard to the needs of the employer's establishment; or
 - (b) at such other time or times as are agreed by the employer and the employee.

Maximum penalty: 50 penalty units.

- (2) Unless the employee otherwise agrees, the employer shall give the employee at least 60 days notice in writing of the date from which long service leave is to be taken.

Maximum penalty: 50 penalty units.

- (3) Subject to subsection (4), long service leave shall not be granted in a period of less than 1 month.
- (4) Long service leave may be granted in a period of less than 1 month if the employer and the employee so agree.

7 Payment for leave

- (1) Payment for long service leave shall be made at the rate of an amount equivalent to the ordinary remuneration the employee would have received in respect of the period of leave if he or she had not taken the leave.
- (2) In the case of an employee who is a part-time employee or casual employee, the ordinary remuneration shall be calculated by multiplying the average number of hours worked each week by the employee during the period of 12 months immediately preceding the day on which the employee became entitled to the leave by the ordinary remuneration of the employee on that day.
- (3) If, within the period of 2 years immediately before the date on which an employee becomes entitled to long service leave in respect of a period of service, the employee ceases to be employed full time and is employed part time or as a casual employee, the ordinary remuneration for long service leave shall be calculated by dividing by 5 the total amount of salary or wages paid to the employee in the period of 5 years ending on his or her becoming so entitled.

8 Manner of payment for leave

- (1) Payment in respect of long service leave shall be made—
 - (a) in advance for the whole period of the long service leave;

- (b) at the same times as it would have been made if the employee had not taken the leave and, if the employee so requires, by cheque posted to an address specified by the employee; or
- (c) in such other manner as is agreed by the employer and the employee.

Maximum penalty: 50 penalty units.

- (2) If, after payment in respect of long service leave is made in accordance with subsection (1), the amount of ordinary remuneration payable under an award or agreement to the employee increases, payment of that increase shall—
 - (a) if payment was made under subsection (1) (a)—be made to the employee as soon as practicable on completion of that leave; or
 - (b) if payment was made under subsection (1) (b)—be made to the employee in accordance with that paragraph; or
 - (c) if payment was made under subsection (1) (c)—be made in such manner as is agreed by the employer and the employee, or in the absence of such agreement, as soon as practicable on completion of that leave.
- (3) Payment in lieu of long service leave shall be made—
 - (a) to the employee as soon as practicable after termination of his or her employment; or
 - (b) in the case of a deceased employee, to his or her legal personal representative as soon as practicable after the death of the employee but in any case not later than 12 months after his or her death.

9 Public holidays not to count as leave

- (1) This section applies if a public holiday or an award holiday falls during a period of long service leave taken by an employee.

- (2) The period of long service leave is increased by 1 day for each such holiday.

10 Service not affected by transmission of business

Where, before or after the date of commencement of this Act, a business is transmitted from 1 employer to another and a person who was, immediately before the transmission, an employee of the first employer becomes, immediately after the transmission, an employee of the second employer—

- (a) the period of service of the employee shall be deemed not to have been interrupted; and
- (b) the period of service of the employee with the first employer shall be deemed to be service with the second employer.

10A Continuity of service in certain cases

- (1) Where—
- (a) a contract for the supply of services by 1 party to the contract (the *first contractor*) on behalf of the other party to the contract (the *principal*) has been discharged; and
- (b) the principal enters into another contract with a person other than the first contractor for the supply of those services on its behalf by that other person (the *second contractor*); and
- (c) that other contract imposes an obligation on the second contractor to the effect that, so far as practicable, the second contractor shall employ, in supplying those services, persons whose employment with the first contractor ceased because of the discharge of the firstmentioned contract; and
- (d) under that obligation the second contractor employs such a former employee of the first contractor; and
- this section applies to that former employee.

- (2) Where this section applies to a person, the aggregate of the periods of service by the person for the first contractor and the second contractor shall, for this Act, be taken to be 1 period of service for the second contractor.

11 Service with associated companies

Where, over a continuous period, an employee has been employed by 2 or more companies each of which is an associated company, the employee is entitled to long service leave as if he or she had, during the whole of the period of service, been employed by the company by which he or she is employed at the date at which his or her long service leave accrues.

11A Pay in lieu of long service leave

- (1) For this section, the long service leave credit of a person is the amount of long service leave that has accrued to the person less the amount of long service leave granted to the person.
- (2) Where—
- (a) a person's employment ceases for any reason; and
 - (b) the person had a long service leave credit immediately before the employment ceased;
- the employer shall pay the amount ascertained in accordance with subsection (3)—
- (c) to the person; or
 - (d) if the person is dead—to the legal personal representative of the deceased person.
- (3) The amount payable is an amount that is equal to the amount of ordinary remuneration that, but for the cessation of employment, would have been payable by the employer under section 7 to the person for a period of service equal to the period of the person's

long service leave credit immediately before the cessation of employment.

- (4) For subsection (1), long service leave is to be taken to have accrued in respect of any uncompleted period of 5 years service that commenced immediately after the expiration of the last period of service in respect of which long service leave accrued to the person in the same proportion as the number of years or months of service completed bears to 5 years.

11B Pay for ineligible service after 10 years

- (1) In this section:

period of ineligible service, in relation to a person, means a period of service of not less than 1 year but less than 5 years that commenced immediately after the expiration of the last period of service in respect of which long service leave accrued to the person.

- (2) Where—

- (a) a person's employment ceases for any reason; and
(b) the person had completed a period of ineligible service in that employment;

the employer shall pay the amount ascertained in accordance with subsection (3)—

- (c) to the person; or
(d) if the person is dead—to the legal personal representative of the deceased person.
- (3) The amount payable is an amount that is equal to the amount of ordinary remuneration that, but for the cessation of employment, would have been payable by the employer to the person for a period of service equal to the period that is ascertained by multiplying $\frac{1}{5}$ of a month's leave by the number of years or months of service

completed by the person in the period of ineligible service referred to in subsection (2) (b).

11C Pro rata long service leave entitlement

(1) Where—

(a) a person's employment is terminated—

- (i) by the person because of illness or incapacity or a domestic or other pressing necessity of such a nature to justify the termination; or
- (ii) by the person upon or after attaining the minimum retiring age; or
- (iii) by the death of the person; or
- (iv) by the employer for a reason other than the person's serious and wilful misconduct; and

(b) the person had completed a period of service in that employment of at least 5 years but less than 10 years;

the employer shall pay the amount ascertained in accordance with subsection (2)—

- (c) to the person; or
- (d) if the person is dead—to the legal personal representative of the deceased person.

(2) The amount payable is an amount that is equal to the amount of ordinary remuneration that, but for the cessation of employment, would have been payable by the employer to the person for a period of service equal to the period that bears to 2 months the same proportion as the number of years or months of service completed by the person bears to 10 years.

11D Calculation of ordinary remuneration

For section 11A, 11B or 11C, the amount of ordinary remuneration that, but for the cessation of employment by a person, would have been payable by the employer to the person for a period of service referred to in that section shall be calculated—

- (a) at the rate at which ordinary remuneration was payable to the person immediately before the cessation of employment; and
- (b) if the person was a part-time employee or casual employee immediately before the cessation of employment—on the basis that during that period of service the person would have been employed for the number of hours per week that is equal to the average number of hours per week for which the employee was employed during the period of 12 months immediately before the cessation of employment.

12 Long service leave records

- (1) An employer shall, in respect of each person employed by him or her, keep a record showing particulars of—
 - (a) the name, occupation and classification of the employee; and
 - (b) whether the employee is full-time, part-time or casual; and
 - (c) the employee's ordinary remuneration, including the base rate of pay and any loading payable to the employee, and the purpose of the loading; and
 - (d) the number of hours worked each week by the employee; and
 - (e) the date on which the employee commenced service; and
 - (f) the period of any annual leave taken by the employee; and
 - (g) the employee's entitlement to long service leave; and
 - (h) long service leave granted, or payment in lieu of leave made, to the employee; and

- (i) where the person has ceased to be employed by the employer—the date on which, and manner in which, he or she so ceased to be employed; and
- (j) the date of birth of the employee as provided by the employee; and
- (k) if overtime may be paid under the award to the employee—
 - (i) the number of hours worked by the employee during each day; and
 - (ii) when the employee started and ceased work; and
- (l) the name of each award or agreement under which the employee has entitlements.

Maximum penalty: 20 penalty units.

- (2) An employer shall retain a record referred to in subsection (1)—
 - (a) in the case of records relating to an employee whose service is terminated by death—for a period of 7 years after the date on which all moneys owing to his or her legal personal representative are paid; and
 - (b) in any other case—for a period of 7 years after the date on which the service of the person to whom the record relates is terminated.

Maximum penalty: 20 penalty units.

- (3) Subject to subsection (4), an employer shall, at the request of an authorised officer, make available for inspection by the authorised officer a record kept or retained for this section.

Maximum penalty: 50 penalty units.

- (4) An employer is not required by subsection (3) to make a record available for inspection otherwise than at a place of business of the employer during the hours during which the employer's business is normally conducted at that place.

13 Registrar of Long Service Leave

- (1) There shall be a Registrar of Long Service Leave.
- (2) In addition to performing the functions of the registrar under this Act, the registrar shall perform such other functions as the Minister directs.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (3) The chief executive shall create and maintain an office in the public service the duties of which include performing the functions of the Registrar of Long Service Leave.
- (4) The registrar shall be the public servant for the time being performing the duties of the public service office referred to in subsection (3).

13A Authorised officers

- (1) There shall be 1 or more authorised officers for this Act.
- (2) The chief executive may create and maintain 1 or more offices in the public service the duties of which include performing the functions of an authorised officer.
- (3) The following persons shall be authorised officers:
 - (a) any public servant for the time being performing the duties of a public service office referred to in subsection (2);
 - (b) any other person (including an officer of the Australian Public Service constituted under the *Public Service Act 1999* (Cwlth)) appointed, in writing, by the chief executive.

13B Identity cards

- (1) The chief executive shall issue to the registrar an identity card that specifies the registrar's name and office, and on which appears a recent photograph of the registrar.
- (2) The chief executive shall issue to a delegate of the registrar with any delegated powers of an authorised officer an identity card that specifies the delegate's name and delegated office, and on which appears a recent photograph of the delegate.
- (3) The chief executive shall issue to an authorised officer an identity card that specifies the authorised officer's name and office, and on which appears a recent photograph of the authorised officer.
- (4) On ceasing—
 - (a) to occupy, or to act in, the office of the registrar; or
 - (b) to be a delegate of the registrar with any delegated powers of an authorised officer; or
 - (c) to occupy, or to act in, an office of authorised officer;

a person shall not, without reasonable excuse, fail to return his or her identity card to the chief executive.

Maximum penalty: 1 penalty unit.

13C Powers of entry of authorised officers

- (1) Subject to subsection (2), if an authorised officer has reasonable grounds for believing that it is necessary to do so for this Act an authorised officer may, at any time, enter premises of an employer and exercise the powers referred to in subsection (4).
- (2) An authorised officer shall not enter premises under subsection (1) without the consent of the employer.
- (3) An authorised officer who enters premises under subsection (1) is not authorised to remain on the premises, and a person is not

required to comply with a requirement made by an authorised officer under subsection (4), if, on request by the employer, or the person in charge of the premises, the authorised officer does not produce his or her identity card.

- (4) An authorised officer who enters premises under subsection (1) may—
- (a) require the employer to make available for inspection records required to be kept under this Act; and
 - (b) make copies of, or take extracts from records referred to in paragraph (a).

13D Complaints

- (1) Where a written complaint is made to the registrar by an employee, the registrar shall refer the complaint to an authorised officer.

Note If a form is approved under s 17 (Approved forms) for a complaint, the form must be used.

- (2) Where a complaint made by an employee—

- (a) is made to an authorised officer; or
- (b) is referred to an authorised officer under subsection (1);

the authorised officer may, by notice in writing, require the complainant and the employer to whom the complaint relates, to attend a conference at a place, date and time specified in the notice to endeavour to resolve the complaint.

- (3) A conference shall be conducted in such a manner as the authorised officer thinks fit.
- (4) Except with the consent of the authorised officer—
- (a) a natural person is not entitled to be represented at a conference by another person; and

(b) a body of persons (whether incorporated or unincorporated) is not entitled to be represented at a conference by a person other than a member, officer or employee of the body.

(5) In this section:

complaint means a complaint by an employee concerning his or her entitlements under this Act.

13E Notice to comply with Act

An authorised officer may, if satisfied having regard to the relevant circumstances of a particular case that it is necessary to do so, by notice in writing, require an employer, within 28 days after the date of the notice, to comply with the Act.

13F Review of directions by registrar

- (1) An employer may apply to the registrar for a review of a requirement made of him or her under section 13E.
- (2) An application shall be in writing.
- (3) The registrar may uphold, revoke or vary the terms of, the requirement.
- (4) Where the registrar makes a decision under subsection (3), the registrar shall give notice in writing of his or her decision to the applicant.

13G Review of decisions

- (1) Application may be made to the administrative appeals tribunal for a review of a decision of the registrar under section 13F.
- (2) A notice under section 13F (4) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25 (1).

13H Obstructing etc authorised officers

- (1) A person shall not, without reasonable excuse, obstruct or hinder an Authorised officer in the exercise of his or her powers under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person shall not, without reasonable excuse, contravene a requirement made under section 13E.

Maximum penalty: 50 penalty units.

13J Liability

An action or other proceeding, civil or criminal, does not lie against the registrar or an authorised officer for or in relation to any act done, or omission made, in good faith in connection with his or her powers under this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

13K Delegation by registrar

The registrar may delegate to any person any of the registrar's powers under this Act, other than the registrar's powers under section 13F.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

14 No contracting out

- (1) Subject to subsection (2), this Act has effect notwithstanding any award or agreement to the contrary.
- (2) Nothing in this Act affects the operation of an award or agreement to the extent that the award or agreement confers upon an employee

rights that are more advantageous to the employee than the rights conferred upon the employee by this Act.

16 Application of Act

- (1) Subject to subsection (2), this Act does not apply to or in relation to a period of service served before the date of commencement of this Act if, before that date, the service of the employee was terminated otherwise than for the purpose of avoiding the granting of long service leave.
- (2) Where—
 - (a) an employee ceased to be an employee during the period that commenced on 1 January 1975 and ended on the day immediately preceding the day on which this Act came into operation; and
 - (b) the employee would, if this Act had been in force on the day on which he or she ceased to be an employee, have been entitled to long service leave, or to payment in lieu of long service leave, on that day;

the employee is entitled to payment, in lieu of long service leave, in respect of the period of leave to which he or she would have been so entitled if this Act had been in force on that day.

- (3) Long service leave granted, or payment in lieu of long service leave made, before the date of commencement of this Act—
 - (a) shall be deemed to be leave granted, or payment made, under this Act; and
 - (b) shall be deducted from any leave or payment to which the employee would be entitled under this Act.

17 Approved forms

- (1) The registrar may, in writing, approve forms for this Act.

- (2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

18 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Long Service Leave Ordinance 1976 No 27* (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989 No 21*, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before becoming Territory enactment

Long Service Leave Act 1976 No 27

notified 16 June 1976
commenced 16 June 1976

as amended by

Long Service Leave (Amendment) Ordinance 1978 No 20

notified 8 August 1978
commenced 8 August 1978

Long Service Leave (Amendment) Ordinance 1981 No 24

notified 10 September 1981
commenced 10 September 1981

Ordinances Revision (Companies Amendments) Ordinance 1982 No 38 sch 4

notified 30 June 1982
commenced 1 July 1982 (s 2)

Long Service Leave (Amendment) Ordinance 1987 No 73

notified 22 December 1987
commenced 1 January 1988 (s 2)

**Self-Government (Consequential Amendments) Ordinance 1989
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz No S164)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

Legislation after becoming Territory enactment**Statute Law Revision (Miscellaneous Provisions) Act 1993 No 1 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)
sch 1 commenced 1 March 1993

Statute Law Revision (Penalties) Act 1994 No 81 sch

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2 (1))
sch commenced 29 November 1994 (s 2 (2) and see Gaz 1994 No S269)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Statute Law Revision Act 1995 No 46 sch

notified 18 December 1995 (Gaz 1995 No S306)
sch commenced 18 December 1995 (s 2)

Long Service Leave (Amendment) Act 1997 No 68

notified 9 October 1997 (Gaz 1997 No S300)
ss 1-3 commenced 9 October 1997 (s 2 (1))
remainder commenced 17 December 1997 (s 2 (2) and Gaz 1997 No S416)

**Long Service Leave (Cleaning, Building and Property Services) Act
1999 No 85 s 69**

notified 23 December 1999 (Gaz 1999 No S65)
pt 1, pt 2 commenced 23 December 1999 (s 2 (1))
s 69 commenced 23 June 2000 (s 2 (3))

Endnotes

4 Amendment history

Legislation (Consequential Amendments) Act 2001 No 44 pt 229

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 229 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.35

notified 5 September 2001 (Gaz 2001 No S65)
amnds commenced 5 September 2001 (s 2 (1))

Vocational Education and Training Act 2003 A2003-37 sch 2 pt 2.5

notified LR 8 September 2003
s 1, s 2 commenced 8 September 2003 (LA s 75 (1))
sch 2 pt 2.5 commences 1 November 2003 (s 2)

Long Service Leave Legislation Amendment Act 2003 A2003-45 pt 2

notified LR 2 October 2003
s 1, s 2 commenced 2 October 2003 (LA s 75 (1))
pt 2 commenced 3 October 2003 (s 2)

4 Amendment history

Interpretation for Act

s 2 am 1981 No 24 s 2; 1987 No 73 s 4; 1997 No 68 s 4; 1999 No 85 s 69; ss renum R6 LA
def **agreement** am 1997 No 68 s 4
def **approved training agreement** ins 1997 No 68 s 4
om A2003-37 amdt 2.10
def **approved training contract** ins A2003-37 amdt 2.11
def **associated company** am 1982 No 38 sch 4; 1995 No 46 sch; 1997 No 68 s 4
def **authorised officer** ins 1997 No 68 s 4
def **award** am 1997 No 68 s 4
sub 2001 No 56 amdt 3.445
def **casual employee** ins 1997 No 68 s 4
def **continuous service** am 1997 No 68 s 4; A2003-37 amdt 2.12
def **determination** sub 1989 No 38 sch 1
def **employee** sub 1981 No 24 s 21; 1997 No 68 s 4
def **minimum retiring age** am 1987 No 73 s 4
def **ordinary remuneration** am 1997 No 68 s 4
def **trainee** ins 1997 No 68 s 4
am A2003-37 amdt 2.13

def **training agreement** ins 1997 No 68 s 4
om A2003-37 amdt 2.14

Entitlement to long service leave

s 3 sub 1987 No 73 s 5
am 1997 No 68 s 5

Amount of long service leave

s 4 sub 1987 No 73 s 5

Entitlement to payment in lieu of payment

s 5 am 1978 No 20
om 1987 No 73 s 5

Grant of leave

s 6 am 1978 No 20; 1994 No 81 sch; 1997 No 68 s 6

Payment for leave

s 7 am 1997 No 68 s 7

Manner of payment for leave

s 8 am 1978 No 20; 1994 No 81 sch; 1997 No 68 s 8; ss renum
R6 LA

Public holidays not to count as leave

s 9 sub A2003-45 s 4

Continuity of service in certain cases

s 10A ins 1987 No 73 s 6

Pay in lieu of long service leave

s 11A ins 1987 No 73 s 7
am 1997 No 68 s 9

Pay for ineligible service after 10 years

s 11B ins 1987 No 73 s 7
am 1997 No 68 s 10

Pro rata long service leave entitlement

s 11C ins 1987 No 73 s 7
am 1997 No 68 s 11; A2003-45 s 5

Calculation of ordinary remuneration

s 11D ins 1987 No 73 s 7
am 1997 No 68 s 12

Long service leave records

s 12 am 1978 No 20; 1994 No 81 sch; 1997 No 68 s 13; pars renum
R6 LA

Registrar of Long Service Leave

s 13 sub 1994 No 97 sch pt 1; 1997 No 68 s 13
am 2001 No 44 amdt 1.2680, amdt 1.2681

Endnotes

4 Amendment history

Authorised officers

s 13A ins 1997 No 68 s 14

Identity cards

s 13B ins 1997 No 68 s 14

Powers of entry of authorised officers

s 13C ins 1997 No 68 s 14

Complaints

s 13D ins 1997 No 68 s 14
am 2001 No 44 amds 1.2682-1.2685

Notice to comply with Act

s 13E ins 1997 No 68 s 14

Review of directions by registrar

s 13F ins 1997 No 68 s 14

Review of decisions

s 13G ins 1997 No 68 s 14

Obstructing etc authorised officers

s 13H ins 1997 No 68 s 14

Liability

s 13J ins 1997 No 68 s 14
am 2001 No 44 amdt 1.2686, amdt 1.2687

Delegation by registrar

s 13K ins 1997 No 68 s 14

Offence

s 15 om 1978 No 20

Approved forms

s 17 om 1993 No 1 sch 1
ins 2001 No 44 amdt 1.2688

Regulation-making power

s 18 am 1989 No 38 sch 1
sub 1997 No 68 s 15; 2001 No 44 amdt 1.2688

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	ord 1989 No 38	31 May 1991
2	Act 1993 No 1	31 August 1993
3	Act 1994 No 97	31 January 1995
4	Act 1995 No 46	30 November 1996
5	Act 1997 No 68	31 December 1997
6	A2001-56	23 January 2002

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

**Vocational Education and Training Act 2003 A2003-37
sch 2 pt 2.5**

Part 2.5 Long Service Leave Act 1976

[2.10] Section 2 (1), definition of *approved training agreement*

omit

[2.11] Section 2 (1), new definition of *approved training contract*

insert

Endnotes

6 Uncommenced amendments

approved training contract—see the *Vocational Education and Training Act 2003*, dictionary.

[2.12] Section 2 (1), definition of *continuous service*, paragraph (d)

substitute

- (d) for an employee who begins service with an employer within a period of 12 months from the end of an apprenticeship, or an approved training contract, with the employer—the period of the apprenticeship or approved training contract.

[2.13] Section 2 (1), definition of *trainee*

omit

a training agreement

substitute

an approved training contract

[2.14] Section 2 (1), definition of *training agreement*

omit

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