



Australian Capital Territory

# Long Service Leave (Portable Schemes) Amendment Act 2013

A2013-49

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Australian Capital Territory

# Long Service Leave (Portable Schemes) Amendment Act 2013

A2013-49

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An Act to amend the *Long Service Leave (Portable Schemes) Act 2009*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Long Service Leave (Portable Schemes) Amendment Act 2013*.

**2 Commencement**

This Act commences on 1 January 2014.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

**3 Legislation amended**

This Act amends the *Long Service Leave (Portable Schemes) Act 2009*.

**4 What is a covered industry?  
Section 6, notes**

*substitute*

*Note 1* **Building and construction industry**—see sch 1, s 1.1.

*Note 2* **Contract cleaning industry**—see sch 2, s 2.1.

*Note 3* **Community sector industry**—see sch 3, s 3.1.

*Note 4* **Security industry**—see sch 4, s 4.1.

**5 Who is an employer?  
Section 7 (1) (b)**

*omit*

section 11 (Declarations by Minister—coverage of Act)

*substitute*

section 12 (Declarations by Minister—additional coverage of Act)

**6 Section 7 (2) and note**

*substitute*

- (2) Also, a person is an **employer** for a covered industry if—
- (a) the person employs or engages someone else (a **worker**) to carry out work in the industry for another person engaged in the industry in the ACT for a fee or reward; and
  - (b) there is no contract to carry out the work between the worker and the person for whom the work is carried out.

*Note* This section does not make an employment agent the employer of those for whom the agency finds work if the workers are engaged directly by the person for whom the work is to be carried out.

**7 New section 7 (3) (ea)**

*insert*

- (ea) a person declared not to be an employer for the industry under section 13;

**8 Section 7 (3), new note**

*insert*

*Note 2* Power to make a statutory instrument (including a regulation) includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

**9**      **Who is a *worker*?**  
**Section 8, note**

*omit*

s 11

*substitute*

s 12

**10**     **Section 8, new note**

*insert*

*Note 2*    An individual may be declared by the Minister not to be an employee or a contractor for a covered industry (see s 13).

**11**     **Who is an *employee*?**  
**Section 9 (1)**

*substitute*

- (1) An individual is an ***employee*** for a covered industry if the individual—
- (a) is—
    - (i) employed by an employer for the industry (whether in the ACT or elsewhere); or
    - (ii) declared to be an employee for the industry under section 12; and
  - (b) is not declared not to be an employee for the industry under section 13.



**12 Section 9 (2), note**

*omit*

s 11 (3)

*substitute*

s 12 (5)

**13 Who is a *contractor*?  
Section 10 (1)**

*substitute*

- (1) An individual (other than an employee) is a ***contractor*** for a covered industry if—
- (a) the individual—
    - (i) carries out work in the industry for another person for fee or reward on the individual’s own account; or
    - (ii) is declared to be a contractor for the industry under section 12; and
  - (b) the individual is not declared not to be a contractor for the industry under section 13.

**14 Sections 11 to 13**

*substitute*

**11 What is *work*?**

In this Act:

***work***, in a covered industry—

- (a) means one of the following:
  - (i) building and construction work;

- (ii) cleaning work;
- (iii) community sector work;
- (iv) security work;
- (v) work, or an activity, declared to be work under section 12; but

*Note 1* **Building and construction work**—see sch 1, s 1.2.

*Note 2* **Cleaning work**—see sch 2, s 2.2.

*Note 3* **Community sector work**—see sch 3, s 3.2.

*Note 4* **Security work**—see sch 4, s 4.2.

- (b) includes work in a covered industry carried out outside the ACT only if—
  - (i) if the work is carried out by an employee—the employer—
    - (A) gives the authority a quarterly return under section 49 in relation to the work; and
    - (B) pays the authority the levy payable by the employer under section 50 for the quarter; and
  - (ii) if the work is carried out by a contractor—the contractor—
    - (A) gives the authority a quarterly return under section 54 in relation to the work; and
    - (B) pays the authority the levy payable by the contractor under section 55 for the quarter; and
- (c) does not include work or an activity declared not to be work for the industry under section 13.

## 12 Declarations by Minister—additional coverage of Act

- (1) This section applies if the Minister is satisfied on reasonable grounds that the Act should apply to a person or work or an activity to which the Act does not apply.
- (2) The Minister may declare, for this Act—
  - (a) a person to be an employer for a covered industry; or
  - (b) a person to be an employee, or an employee of a stated employer, for a covered industry; or
  - (c) a person to be a contractor for a covered industry; or
  - (d) work, or an activity, to be work in a covered industry.
- (3) However, the Minister may only make a declaration that is consistent with the objects of the Act.
- (4) A declaration must state the following:
  - (a) the person or work to which the declaration applies;
  - (b) the period of the declaration;
  - (c) any conditions of the declaration.

*Note* Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

- (5) A person declared to be an employee of a stated employer is taken to be employed by the employer.
- (6) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**13 Declarations by Minister—limitation to coverage of Act**

- (1) This section applies if the Minister is satisfied on reasonable grounds that the Act should not apply to a person or work or an activity to which the Act applies.
- (2) The Minister may declare, for this Act—
  - (a) a person not to be an employer for a covered industry; or
  - (b) a person not to be an employee, or an employee of a stated employer, for a covered industry; or
  - (c) a person not to be a contractor for a covered industry; or
  - (d) work, or an activity, not to be work in a covered industry.
- (3) However, the Minister may only make a declaration that is consistent with the objects of the Act.
- (4) A declaration must state the following:
  - (a) the person or work to which the declaration applies;
  - (b) the period of the declaration;
  - (c) any conditions of the declaration.

*Note* Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

- (5) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**15**      **Meaning of *registration day***  
**Section 15, definition of *registration day*, new**  
**paragraph (ab)**

*insert*

- (ab) for a worker who the registrar registers under section 44—  
means the day the worker's name is entered in the workers  
register; and

**16**      **New section 15A**

*in part 2, insert*

**15A**      **Entitlement to long service leave**

A worker in a covered industry is entitled to long service leave  
payments in accordance with a covered industry schedule if the  
worker—

- (a) is employed or engaged by a registered employer for the  
covered industry; and

*Note*      For the registration of employers see div 4.1.

- (b) is a registered worker for the covered industry.

*Note*      For the registration of workers see div 4.2.

**17**      **Money of authority**  
**Section 26**

*omit*

consists of

*substitute*

includes

**18 Section 27**

*substitute*

**27 Application of authority money**

The money of the authority must be applied only in payment of—

- (a) the costs, expenses or other obligations of the authority under this Act; or
- (b) remuneration and allowances payable to anyone appointed or employed under this Act; or
- (c) the costs in relation to the administration of the authority.

**19 Authority money—separate funds for covered industries  
New section 28 (3)**

*insert*

- (3) However the authority may establish a common fund—
  - (a) to pay the costs, expenses or other obligations of the authority that relate to more than 1 covered industry; or
  - (b) to invest the money of the authority in an investment for more than 1 covered industry.

**20 Administration  
Part 3 (as amended)**

*relocate as part 8A*

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**21 Application for registration by employers  
Section 31 (1)**

*omit*

as an employer for the covered industry

*substitute*

on the employers register

**22 Section 31 (1), new note**

*insert*

*Note 3* The registrar may extend the time for registration on application by the employer before or after the period in s (1) (a) ends (see [Legislation Act](#), s 151C).

**23 Section 31 (3)**

*omit*

**24 Section 44**

*substitute*

**44 Registrar may register employee without application**

The registrar may register a person as a worker if—

- (a) the person is not registered as a worker; and
- (b) the registrar—
  - (i) becomes aware of information (other than because of an application under section 40) indicating that the person is, or was, a worker for a covered industry; and

- (ii) is satisfied that the person should be registered as a worker for the industry.

**Example**

a return under s 49 shows the person as an employee for a covered industry

*Note 1* The registration day for a worker registered under this section is the day the person's name is entered on the workers register (see s 15).

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**25 Registration as worker  
New section 46 (2)**

*before the note, insert*

- (2) However, a person is taken to become a registered worker on the person's registration day as a worker.

**26 Service credit—employee's prior service  
Section 47 (2)**

*omit*

day's

*substitute*

day of

**27 Section 47 (2) (b)**

*omit*

section 51 (Determination of levy—employers)

*substitute*

section 50 (Levy payments by employers)



**28 Section 47 (3)**

*omit*

day's

*substitute*

day of

**29 Section 47 (3), example**

*omit*

days service

*substitute*

days of service

**30 Service credit—contractor's prior service  
Section 48 (2)**

*omit*

day's

*substitute*

day of

**31 Section 52**

*substitute*

**52 Late fee—quarterly return or levy payment**

- (1) This section applies if an employer for a covered industry fails to—
- (a) give the authority a return for a quarter within the time required under section 49; or

- (b) pay the authority the levy payable under section 50 in relation to a return for a quarter at the time the return is required to be given to the authority under section 49.
  - (2) The employer is liable to pay to the authority a late fee of \$100 for each month or part of a month, up to a maximum of \$300, for each failure under subsection (1).
  - (3) However, the registrar may waive all or part of a late fee if satisfied that the circumstances for the failure—
    - (a) were not caused by the employer; or
    - (b) make it unfair or unreasonable to charge the late fee.
- Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).
- (4) If a court finds a person guilty of an offence against section 49 or section 50 (whether or not it convicts the person), the court may, whether or not it imposes a penalty on the person, order the person to pay the authority—
    - (a) the late fee; and
    - (b) for a prosecution for an offence against section 50—the levy to which the prosecution relates.

**32 Removing people from workers register**  
**Section 65 (1)**

*omit*

day's

*substitute*

day of

**33 Information for employers  
Section 68 (b) (ii)**

*omit*

days service

*substitute*

days of service

**34 Internal review of certain decisions  
Section 80A (2)**

*omit*

A person whose interests are affected by

*substitute*

An entity mentioned in schedule 5, column 4 for

**35 Section 82**

*substitute*

**82 Review of decisions by ACAT**

- (1) The ACAT may review a reviewable decision made by the governing board if—
  - (a) the governing board is the decision maker mentioned in schedule 5, column 5 for the decision; or
  - (b) the decision was made under section 80C following the review of an internally reviewable decision.
- (2) The following people may apply to the ACAT for review of a decision made by the governing board:
  - (a) an entity mentioned in schedule 5, column 4 for the decision;

(b) a person prescribed by regulation.

*Note* If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

**36 Disclosure of information to territory entities and reciprocal authorities  
Section 84 (1) (b)**

*omit*

service credits

*substitute*

credit for service

**37 Section 86**

*substitute*

**86 No contracting out**

- (1) This Act has effect in relation to a registered worker despite anything to the contrary in a term of the worker's contract.
- (2) A provision of a registered worker's contract is void to the extent that it—
  - (a) is inconsistent with this Act; and
  - (b) has the effect of excluding, restricting or reducing the rights given to the worker under this Act.
- (3) However, the registered worker's contract applies to the extent that it gives the worker rights that are more beneficial than the rights given to the worker under this Act.

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**38 Declaration of corresponding laws  
Section 87**

*omit*

**39 Section 88**

*substitute*

**88 Benefits under other laws—election**

- (1) This section applies if a registered worker—
  - (a) has accrued long service benefits under this Act; and
  - (b) is eligible for long service benefits under one or more of the following laws:
    - (i) the *Long Service Leave Act 1976*;
    - (ii) a corresponding law;
    - (iii) a law prescribed by regulation for employment in a covered industry; and
  - (c) elects to take the long service benefits under a law other than this Act.
- (2) The registered worker must nominate in writing—
  - (a) the law under which the registered worker elects to take the long service benefits; and
  - (b) if the worker is a worker for the building and construction industry—the number of days of credit for service for which the election is made; and
  - (c) if the worker is not a worker for the building and construction industry—the service period, or part of the service period, for which the election is made.

- (3) If the authority receives a written nomination, the authority must—
- (a) remove from the relevant workers register credit for service equal to—
    - (i) if the worker nominated days of credit for service—the number of days of credit for service nominated; or
    - (ii) if the worker nominated a service period—the service period, or part of the service period, nominated; and
  - (b) keep a record of the credit for service removed from the relevant workers register.

**40 Reciprocal agreements for corresponding laws  
Section 90 (2) (b)**

*omit*

service credits

*substitute*

credit for service

**41 Authority reimbursement of certain payments  
Section 90A (2) (a) (i)**

*omit*

this Act

*substitute*

a corresponding law

**42 Section 90A (as amended)**

*relocate as section 89A*

**43 Schedule 1, sections 1.1 to 1.4**

*substitute*

**1.1 What is the *building and construction industry*?**

- (1) The *building and construction industry* is—
- (a) in relation to the ACT—the industry of constructing, reconstructing, renovating, repairing, altering, demolishing or maintaining the following:
    - (i) buildings, fences or swimming pools;
    - (ii) roadworks, railways, airfields or other works for the carriage of people, animals or vehicles;
    - (iii) breakwaters, docks, jetties, piers, wharves or works for the improvement or alteration of a harbour, river or watercourse for the purpose of navigation;
    - (iv) works for the storage or supply of water or the irrigation of land;
    - (v) works for the carriage, treatment or disposal of sewage or the effluent from any premises;
    - (vi) bridges, viaducts, aqueducts, tunnels or pipelines;
    - (vii) chimneystacks, cooling towers, drilling rigs, gas holders or silos;
    - (viii) structures, fixtures or works for use in any building or works mentioned in subparagraphs (i) to (vii);
    - (ix) navigational lights, beacons or markers;
    - (x) works for the drainage of land;
    - (xi) works for the storage of liquids (other than water) or gases;

- (xii) works for the transmission of electric power or wireless or telegraphic communications; and
- (b) in relation to a reciprocating State—the building and construction industry within the meaning of the corresponding law of the State.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (2) Also, the *building and construction industry*, in relation to the ACT, includes the following undertaken in relation to an activity mentioned in subsection (1) (a):
  - (a) pile driving and site preparation;
  - (b) installing data cabling or security or electronic communication systems;
  - (c) laying floor coverings;
  - (d) hard landscaping;
  - (e) building or construction work undertaken as part of training with a registered training organisation under the [Training and Tertiary Education Act 2003](#).

## 1.2 What is *building and construction work*?

- (1) In this Act:
  - building and construction work*—
    - (a) means—
      - (i) work—
        - (A) in the building and construction industry; and
        - (B) covered by a prescribed award; or



- 
- (ii) work, or an activity, declared to be work in the building and construction industry under section 12 (Declarations by Minister—additional coverage of Act); or
  - (iii) direct supervision of a worker carrying out work mentioned in subparagraph (i) or (ii); but
- (b) does not include work or an activity declared not to be work under section 13 (Declarations by Minister—limitation to coverage of Act).
- (2) In this section:

*direct supervision*, of a person, means the oversight by the supervising person of the work of the person by—

- (a) directing, demonstrating, monitoring and checking the person's work in a way that is appropriate to the person's level of competency; and
- (b) ensuring the person's capacity to respond in an emergency situation.

*prescribed award* means an award prescribed by regulation.

### **1.3 Recognised service—building and construction industry**

- (1) In this schedule:

*recognised service*, for a registered worker in the building and construction industry, means the total number of days of service credit for all of the service periods of the worker less any days of service credit that the worker—

- (a) has been granted long service leave for; or
- (b) has received a payment for instead of long service leave.

- (2) A registered worker for the building and construction industry is taken to have completed a year of recognised service for each 220 days of recognised service.

**1.4 Service credit—building and construction industry—s 64**

- (1) A registered worker for the building and construction industry is to be credited in the workers register with 1 day of service for each day that the worker carries out building and construction work in each service period on or after the worker's registration day.

*Note* Prior service is also credited in the workers register in accordance with, for employees, s 47, and for contractors, s 48.

- (2) However, the registrar must not enter more than 220 days of service in the workers register for the worker for the financial year.

**1.4A Service period—building and construction industry**

- (1) A *service period* for a person who is a registered worker for the building and construction industry is a continuous period—
- (a) beginning on the day when the person becomes a worker for the industry; and
  - (b) ending on the day when the person stops being a worker for the industry.
- (2) For subsection (1), a person stops being an employee for an employer for the industry at the end of a quarter if—
- (a) if the employee was an employee of only 1 employer for the industry in the quarter—the employer's return under section 49 for the following quarter shows no ordinary remuneration for the employee; or
  - (b) if the employee was an employee of 2 or more employers for the industry in the quarter—none of the employers' returns under section 49 for the following quarter shows ordinary remuneration for the employee.

- (3) Despite subsection (1), a registered worker's service period is not taken to end if a person stops being a worker because—
- (a) of incapacity for an injury for which the worker is entitled to compensation under the *Workers Compensation Act 1951*; or
  - (b) if the worker is an employee—the employee has been dismissed by an employer to ensure that the employee does not take long service leave while in the employer's employment; or
  - (c) if the worker is a contractor—the contractor's engagement by the employer is ended to ensure that the contractor does not take long service leave while engaged by the employer.

**44**      **How are leave payments worked out for the building and construction industry?**  
**Schedule 1, section 1.11 (2), example, first dot point**

*omit*

days service

*substitute*

days of service

**45**      **Schedule 1, sections 1.12 (2) and 1.15 (4), definition of *D***

*omit*

days service

*substitute*

days of service

**46**      **Service credit—building and construction industry—s 64**  
**Schedule 1, section 1.16**

*omit*

**47 Schedule 2, sections 2.1 to 2.4**

*substitute*

**2.1 What is the *contract cleaning industry*?**

The *contract cleaning industry* is—

- (a) in relation to the ACT—the industry in which employers provide cleaning work to other people through the provision of workers’ services; and
- (b) in relation to a reciprocating State—the contract cleaning industry within the meaning of the corresponding law of the State.

*Note* State includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

**2.2 What is *cleaning work*?**

In this Act:

*cleaning work*—

- (a) means—
  - (i) work that has, as its only or main component, bringing premises into, or maintaining premises in, a clean condition; or
  - (ii) work, or an activity, declared to be work in the contract cleaning industry under section 12 (Declarations by Minister—additional coverage of Act); but
- (b) does not include work or an activity declared not to be work under section 13 (Declarations by Minister—limitation to coverage of Act).

### 2.3 **Recognised service—contract cleaning industry**

- (1) In this schedule:

*recognised service*, for a registered worker in the contract cleaning industry, means the total number of days of service credit for all of the service periods of the worker less any days of service credit that the worker—

- (a) has been granted long service leave for; or
  - (b) has received a payment for instead of long service leave.
- (2) A registered worker for the contract cleaning industry is taken to have completed a year of recognised service for each 365 days of recognised service.

### 2.4 **Service credit—contract cleaning industry—s 64**

- (1) A registered worker for the contract cleaning industry is to be credited in the workers register with 1 day of service for each day (including a day when the worker does not carry out cleaning work) in each service period of the worker on or after the worker's registration day.

**Example**

A day when a worker attends a court in accordance with a summons to serve as a juror or a subpoena to give evidence or produce documents is a day in the service period for the worker when the worker does not carry out cleaning work.

*Note 1* Prior service is also credited in the workers register in accordance with, for employees, s 47, and for contractors, s 48.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) However, the registrar must not enter more than 365 days of service in the workers register for the worker for the financial year.

**2.4A Service period—contract cleaning industry**

- (1) A *service period* for a person who is a registered worker for the contract cleaning industry is a continuous period—
  - (a) beginning on the day when the person becomes a worker for the industry; and
  - (b) ending on the day when the person stops being a worker for the industry.
- (2) For subsection (1), a person stops being an employee for an employer for the industry at the end of a quarter if—
  - (a) if the employee was an employee of only 1 employer for the industry in the quarter—the employer’s return under section 49 for the following quarter shows no ordinary remuneration for the employee; or
  - (b) if the employee was an employee of 2 or more employers for the industry in the quarter—none of the employers’ returns under section 49 for the following quarter shows ordinary remuneration for the employee.
- (3) Despite subsection (1), a registered worker’s service period is not taken to end if a person stops being a worker because—
  - (a) of incapacity for an injury for which the worker is entitled to compensation under the *Workers Compensation Act 1951*; or
  - (b) if the worker is an employee—the employee has been dismissed by an employer to ensure that the employee does not take long service leave while in the employer’s employment; or
  - (c) if the worker is a contractor—the contractor’s engagement by the employer is ended to ensure that the contractor does not take long service leave while engaged by the employer.

**48**      **How are leave payments worked out in the contract cleaning industry?**  
**Schedule 2, section 2.11 (2), example, first dot point**

*omit*

days service

*substitute*

days of service

**49**      **Schedule 2, sections 2.12 (2) and 2.15 (4), definition of *D***

*omit*

days service

*substitute*

days of service

**50**      **Service credit—contract cleaning industry—s 64**  
**Schedule 2, section 2.16**

*omit*

**51**      **Schedule 3, sections 3.1 to 3.3**

*substitute*

**3.1**      **What is the *community sector industry*?**

The *community sector industry* is—

- (a) in relation to the ACT—
  - (i) the industry of providing child care services; and

- (ii) the industry of providing the following residential care services:
  - (A) care accommodation or homes for disadvantaged people where nursing or medical care is not provided as a major service;
  - (B) residential corrective services for juvenile offenders; and
- (iii) the industry of providing non-residential care welfare services (including fund-raising services for welfare services) not included in other community sector industries; and
- (iv) the industry of providing employment placement services for disabled people; and
- (v) the industry of providing community service advocacy services; and
- (b) in relation to a reciprocating State—the community sector industry within the meaning of the corresponding law of the State.

### **3.2 What is *community sector work*?**

In this Act:

*community sector work*—

- (a) means—
  - (i) work carried out in the community sector industry; or



- (ii) work, or an activity, declared to be work in the community sector industry under section 12 (Declarations by Minister—additional coverage of Act); but
- (b) does not include work or an activity declared not to be work under section 13 (Declarations by Minister—limitation to coverage of Act).

### **3.3 *Recognised service—community sector industry***

- (1) In this schedule:

*recognised service*, for a registered worker in the community sector industry, means the total number of days of service credit for all of the service periods of the worker less any days of service credit that the worker—

  - (a) has been granted long service leave for; or
  - (b) has received a payment for instead of long service leave.
- (2) A registered worker for the community sector industry is taken to have completed a year of recognised service for each 365 days of recognised service.

**52 Schedule 3, section 3.5**

*substitute*

**3.5 Service credit—community sector industry—s 64**

- (1) A registered worker for the community sector industry is to be credited in the workers register with 1 day of service for each day (including a day when the worker does not carry out community sector industry work) in each service period of the worker on or after the worker's registration day.

**Example**

A day when a worker attends a court in accordance with a summons to serve as a juror or a subpoena to give evidence or produce documents is a day in the service period for the worker when the worker does not carry out cleaning work.

*Note 1* Prior service is also credited in the workers register in accordance with, for employees, s 47, and for contractors, s 48.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) However, the registrar must not enter more than 365 days of service in the workers register for the worker for the financial year.

**3.5A Service period—community sector industry**

- (1) A *service period* for a person who is a registered worker for the community sector industry is a continuous period—
- (a) beginning on the day when the person becomes a worker for the industry; and
  - (b) ending on the day when the person stops being a worker for the industry.

- 
- (2) For subsection (1), a person stops being an employee for an employer for the industry at the end of a quarter if—
- (a) if the employee was an employee of only 1 employer for the industry in the quarter—the employer’s return under section 49 for the following quarter shows no ordinary remuneration for the employee; or
  - (b) if the employee was an employee of 2 or more employers for the industry in the quarter—none of the employers’ returns under section 49 for the following quarter shows ordinary remuneration for the employee.
- (3) Despite subsection (1), a registered worker’s service period is not taken to end if a person stops being a worker because—
- (a) of incapacity for an injury for which the worker is entitled to compensation under the *Workers Compensation Act 1951*; or
  - (b) if the worker is an employee—the employee has been dismissed by an employer to ensure that the employee does not take long service leave while in the employer’s employment; or
  - (c) if the worker is a contractor—the contractor’s engagement by the employer is ended to ensure that the contractor does not take long service leave while engaged by the employer.

**53**      **How are leave payments worked out for the community sector industry?**  
**Schedule 3, section 3.12 (2), example, first dot point**

*omit*

days service

*substitute*

days of service

**54 Schedule 3, sections 3.13 (2) and 3.16 (4), definition of *D***

*omit*

days service

*substitute*

days of service

**55 Service credit—community sector industry—s 64  
Schedule 3, section 3.17**

*omit*

**56 Schedule 4, sections 4.1 to 4.3**

*substitute*

**4.1 What is the *security industry*?**

- (1) The *security industry* is—
- (a) in relation to the ACT—the industry in which security activities are undertaken by people licensed to undertake the activities under the [Security Industry Act 2003](#); and
  - (b) in relation to a reciprocating State—the security industry within the meaning of the corresponding law of the State.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (2) In this section—
- security activity* means an activity within the meaning of the [Security Industry Act 2003](#), section 7 (1) (a) to (h).

## 4.2 What is *security work*?

In this Act:

*security work*—

- (a) means—
  - (i) work carried out in the security industry; or
  - (ii) work, or an activity, declared to be work in the security industry under section 12; but
- (b) does not include work or an activity declared not to be work under section 13.

## 4.3 *Recognised service*—security industry

- (1) In this schedule:

*recognised service*, for a registered worker in the security industry, means the total number of days of service credit for all of the service periods of the worker less any days of service credit that the worker—

- (a) has been granted long service leave for; or
  - (b) has received a payment for instead of long service leave.
- (2) A registered worker for the security industry is taken to have completed a year of recognised service for each 365 days of recognised service.

**57**      **Schedule 4, section 4.5**

*substitute*

**4.5**      **Service credit—community sector industry—s 64**

- (1) A registered worker for the security industry is to be credited in the workers register with 1 day of service for each day (including a day when the worker does not carry out security work) in each service period of the worker on or after the worker's registration day.

**Example**

A day when a worker attends a court in accordance with a summons to serve as a juror or a subpoena to give evidence or produce documents is a day in the service period for the worker when the worker does not carry out cleaning work.

*Note 1*    Prior service is also credited in the workers register in accordance with, for employees, s 47, and for contractors, s 48.

*Note 2*    An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) However, the registrar must not enter more than 365 days of service in the workers register for the worker for the financial year.

**4.5A**      **Service period—security industry**

- (1) A *service period* for a person who is a registered worker for the security industry is a continuous period—
- (a) beginning on the day when the person becomes a worker for the industry; and
  - (b) ending on the day when the person stops being a worker for the industry.

- 
- (2) For subsection (1), a person stops being an employee for an employer for the industry at the end of a quarter if—
- (a) if the employee was an employee of only 1 employer for the industry in the quarter—the employer’s return under section 49 for the following quarter shows no ordinary remuneration for the employee; or
  - (b) if the employee was an employee of 2 or more employers for the industry in the quarter—none of the employers’ returns under section 49 for the following quarter shows ordinary remuneration for the employee.
- (3) Despite subsection (1), a registered worker’s service period is not taken to end if a person stops being a worker because—
- (a) of incapacity for an injury for which the worker is entitled to compensation under the *Workers Compensation Act 1951*; or
  - (b) if the worker is an employee—the employee has been dismissed by an employer to ensure that the employee does not take long service leave while in the employer’s employment; or
  - (c) if the worker is a contractor—the contractor’s engagement by the employer is ended to ensure that the contractor does not take long service leave while engaged by the employer.

**58**      **How are payments worked out for the security industry?  
Schedule 4, section 4.12 (2), example, first dot point**

*omit*

days service

*substitute*

days of service

**59**      **Schedule 4, section 4.13 and 4.16 (2), definition of *D***

*omit*

days service

*substitute*

days of service

**60**      **Service credit—security industry—s 64  
Schedule 4, section 4.17**

*omit*

**61**      **Reviewable decisions  
Schedule 5, item 12, column 2**

*omit*

60 (5) (b)

*substitute*

60 (4) (b)

**62**      **Dictionary, definition of *building and construction industry***

*omit*

1.3

*substitute*

1.1



**63 Dictionary, definition of *community sector industry***

*omit*

3.3

*substitute*

3.1

**64 Dictionary, definition of *contract cleaning industry***

*omit*

2.3

*substitute*

2.1

**65 Dictionary, definition of *corresponding law*, except note**

*substitute*

*corresponding law* means a law of the Commonwealth or a State about long service leave.

**66 Dictionary, definitions of *ordinary remuneration* and *recognised service***

*substitute*

***ordinary remuneration***—

- (a) means salary or wages, and allowances, paid or payable to a worker for work; and
- (b) includes worker's compensation payments made to a worker by the worker's employer; but

- (c) does not include—
  - (i) amounts paid to the worker for—
    - (A) working overtime; or
    - (B) reimbursement for expenses incurred by the worker; or
    - (C) the use of materials, equipment or a motor vehicle provided by the worker; or
  - (ii) allowances paid to the worker for travel, meals, or protective clothing; or
  - (iii) amounts paid to the worker on termination of employment including—
    - (A) payment in lieu of notice; and
    - (B) lump sum payment for accrued leave; and
    - (C) redundancy; or
  - (iv) superannuation contributions made by the worker's employer.

***recognised service*** for a registered worker—

- (a) in the building and construction industry—see section 1.3; and
- (b) in the contract cleaning industry—see section 2.3; and
- (c) in the community sector industry—see section 3.3; and
- (d) in the security industry—see section 4.3.

**67 Dictionary, definition of *security industry***

*omit*

4.3

*substitute*

4.1

**68 Dictionary, definition of *service period***

*substitute*

*service period* for a registered worker—

- (a) in the building and construction industry—see section 1.4A; and
- (b) in the contract cleaning industry—see section 2.4A; and
- (c) in the community sector industry—see section 3.5A; and
- (d) in the security industry—see section 4.5A.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 31 October 2013.

**2 Notification**

Notified under the [Legislation Act](#) on 4 December 2013.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Long Service Leave (Portable Schemes) Amendment Bill 2013, which was passed by the Legislative Assembly on 26 November 2013.

Deputy Clerk of the Legislative Assembly

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