

Portable long service leave – Community services sector

Frequently asked questions

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Acronyms	Full form
Bill	Portable Long Service Leave (Community Services Sector) Bill 2024
Board	Community Services Sector Long Service Leave Board
NTG	Northern Territory Government
OCPE	Office of the Commissioner for Public Employment
PLSL	Portable Long Service Leave
Scheme	Portable long service leave scheme
Territory	Northern Territory

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What is happening?

The Northern Territory Government (NTG) is making changes to the way long service leave is managed for the community services sector.

The [Portable Long Service Leave \(Community Services Sector\) Bill 2024](#) (the Bill) introduces a new Act that will establish a scheme for the portability of long service leave within the community services sector.

Why are these changes happening?

The purpose of these changes is to:

- incentivise employees in the community services sector to remain in the Territory
- provide and support opportunities for career mobility across the sector
- attract and retain skilled and experienced employees
- ensure the Territory remains competitive with other jurisdictions that have a related portable long service leave scheme.

The Territory already has a similar and successful portable scheme for the building industry called the Construction Industry Scheme which has been managed successfully by [NT Build](#) since 2005. Victoria, Queensland and the Australian Capital Territory have similar portable long service leave schemes for their community services sectors, with South Australia and New South Wales preparing to introduce schemes in 2025.

What is portable long service leave?

Traditionally long service leave in Australia is a workplace benefit that entitles workers to a period of paid leave after 10 years of service with the same employer. Long service leave allows workers to take meaningful breaks during their working life.

Currently in the Northern Territory (the Territory) long service leave entitlements under the *Long Service Leave Act 1981* provide benefits after the completion of 10 years of service with the same employer.

Many employees in the community services sector don't reach 10 years of service with the same employer, and may not meet the specific criteria under the *Long Service Leave Act 1981* to be able to access pro-rata payment when leaving their employer.

A portable long service leave scheme means that an employee's long service leave entitlements follow them between different employers, rather than an employee having to start from zero every time they move employment. An employee's long service leave entitlements will be based on their service within the sector as a whole, rather than service with the same employer in the sector.

What is happening with long service leave in the Northern Territory?

Are the changes to long service leave necessary?

Around 10,000 Territorians are employed in the Community Services Sector. The establishment of the portable long service leave (PLSL) scheme (the Scheme) acknowledges that the sector is one that is subject

to high staff turnover and short-term employment arrangements. In the Territory, 50 percent of community service workers leave their employer within the first 9 years of employment, but only 25 percent leave the community services sector within that period.

The Scheme recognises community services sector employees' significant contribution to the community. It also recognises that employees in the community services sector may work many years within the sector, but do not build up sufficient service with a single employer to achieve long service leave.

What are the features of the new Scheme?

The Bill, introduces a new Act that will establish a Scheme for the portability of long service leave in the community services sector. The Bill provides a broad framework, with much of the operational details to be developed through the supporting legislation such as the Regulations.

In summary, the Bill:

- provides continuity of service for employees who move between employers in the community services sector
- provides for long service leave benefits to be available after 10 years of service in the community services sector
- provides for a Board to be established to undertake the responsibility for the administration of the Scheme
- enables the collection of a levy from employers to fund the long service leave entitlements of employees in the community services sector
- provides the Minister with powers to negotiate intergovernmental recognition of service agreements for the benefit of employees in the sector who move between the Territory and another State or Territory that have similar schemes
- provides for the ability to extend the Scheme to employees in other sectors in the Territory in the future.

Does the Scheme apply to all employers and employees in the community services sector?

The Scheme will apply to all employers and their employees in both the for-profit and not-for-profit community services sector, including labour hire firms that provide employees who work in the community services sector across the Territory.

The community services sector is defined in the Bill as:

- Childcare services including care and support services for the development of pre-school age children and family day care services, but not including before school care or after school care for school-aged children provided by a school
- Community legal services
- Health and wellbeing services provided to an Aboriginal community by an Aboriginal-controlled health service
- Residential and community aged-care
- Social, community and welfare services, including home care services, social work, the provision of recreation activities and the provision of training, including group training
- Disability services, including the provision of personal care and domestic and lifestyle support to a person living with disability in the community or a residential setting
- Crisis assistance and accommodation support

services

Services covered by a corresponding law that relates to the community services sector (however described) that are prescribed by regulation to be included for the purposes of this Schedule

- Respite services and day care services
- Youth support and development services, and services associated with community
- development, including where the services are primarily engaged in policy, advocacy or representation on behalf of organisations involved in the delivery of such services.

How will the new scheme be governed?

The Bill will establish the Community Services Sector Long Service Leave Board (the Board) to govern and administer the portable long service leave scheme.

The Board will be appointed by the Minister and made up of people who represent the interest of employers and people who represent the interest of employees in the community services sector. Appointed Board members will have the necessary skills, knowledge and experience to enable the Board to carry out its functions efficiently and effectively.

The Board will be responsible for administration of the portable LSL scheme, including:

- appointing a Register
- establishing a fund to finance the Scheme
- determining the employer contribution levy that will fund the Scheme
- making recommendations to the Minister on issues affecting the provision of long service leave
- maintaining registers of employers and employees and records.

Who will be covered by the Scheme?

The intent of the Scheme is to cover only those employees that provide direct services to clients, such as support employees, counsellors and the like, and can be either employed full-time, part-time, on temporary contracts, casually or as an apprentice.

The proposed regulations may give consideration to exclude specific roles, from the Scheme such as senior managers, (e.g. executive directors, directors, or chief executive officers), who would not normally provide services directly to clients. The regulations for the Act will identify roles that are excluded from the Scheme.

The Bill does not apply to the public sector. Workers employed by the Commonwealth; or the Territory; or a local government council; or an entity prescribed by regulation not to be an employer, are excluded from the Scheme.

When would the Scheme commence?

If the legislation to establish the Scheme is passed, it won't be scheduled to commence for 18-24 months to give business time to prepare and also allow Government to make any adjustments to ensure its ongoing success.

What does this mean for employees?

What will be my long service leave entitlement?

The Scheme will operate as a defined benefit scheme and after 10 years of service without a break in continuity of service in the community services sector, an employee would be eligible to take 13 weeks long service leave.

An employee who has worked for 7 or more completed years of service, without a break in continuity of service, will be entitled to long service leave payments if:

- the employee has passed away
- ceased working in the community services sector because of physical or mental disability, that will prevent them from working in the sector for a continuous period of 12 months or more
- ceased working in the community services sector and will not be working in the sector for a continuous period of 12 months or more.

What payment will I receive for long service leave?

Payment for long service leave will be paid as a defined benefit, equal to the median weekly rate of pay for workers in the community services sector.

The Board will set this annually and it would be based on wage movements in the sector.

In some cases, it might be lower than actual weekly wages, but in other cases it may be around the same or slightly better than current weekly wages.

The defined benefit option has been selected because it is consistent with the Construction Industry Scheme (managed successfully by NT Build). It is also easier for organisations to administer.

In some cases, employees may be entitled to a long service leave benefit under another law, such as the *Long Service Leave Act 1981*. In these cases, an employer would pay the long service leave entitlement under that Act. The employee would be responsible for advising the Board that this has happened. Employers may then apply to the Board to be reimbursed the payable defined benefits under the portable long service leave scheme for that employee. This payment would help cover the employer's cost of providing an employee access to long service leave under the *Long Service Leave Act 1981*.

The details of how these arrangements would work will be developed in the regulations.

Will my previous service in the sector be recognised when the Scheme commences?

Yes, provided your other employers are registered, and the Board can satisfy itself that you have an entitlement.

Below are two *simple* examples demonstrating how this might look, noting the full details as to how this would apply will be developed in the regulations, and would be considered on a case by case basis depending on the details of the individual circumstances.

Example – Service with different employers before and after commencement:

Amanda joined the community services sector in the Territory with MH Limited where she worked for 3 years, without a break in continuity.

She then accepted a new job with CR Pty Ltd, also in the community services sector where she worked for another 3 years without a break in continuity.

She then commenced with NB Pty Ltd, also in the community services sector a few months before the Scheme began.

After 4 years of continuous service with NB Pty Ltd, Amanda makes a claim for long service leave with the Board. She provides evidence of her previous employment with MH Limited, and CR Pty Ltd - the 6 years of service before the Scheme is credited as effective service, as well as her further 4 years of service with NB Pty Ltd after commencement of the Scheme.

This brings Amanda's total period of service to 10 years, entitling her to 13 weeks long service leave. If all of her continuity of service is taken under the portable LSL scheme then the Board would pay her the applicable defined benefit. The Board will invoice Amanda's other registered employers for their portion of her defined benefit (assuming that she worked with them before the scheme started).

If some of her employment in the sector was with interstate employers and if the Territory has a reciprocal arrangement in place, then the Board would contact the relevant interstate authority. That authority would provide the Board with advice about Amanda's entitlement under their scheme. The Board would obtain authorisation to pay Amanda her interstate entitlement and invoice that authority for that amount. The remaining Territory benefit would be added to the total amount paid to her.

Example – Service with same employer before and after commencement:

If Amanda works for 10 years with the same employer in the Territory, she would have an entitlement under the *Long Service Leave Act 1981*. Amanda would take and be paid for her leave under that Act. Because Amanda would be a registered employee with the portable LSL scheme, she would need to advise the Board that she is taking her LSL under the *Long Service Leave Act 1981*. Her employer could then apply to the Board for a payment equal to her entitlement under the portable scheme. This would help Amanda's employer offset some of the cost of paying her LSL entitlement under the *Long Service Leave Act 1981*.

My employer currently provides a more beneficial long service leave arrangement?

It is recognised that there are some employers in the community services sector that currently have an enterprise agreement that provides their employees with more generous provisions for long service benefits at either 5 or 7 years. For these provisions to have legal force under the current Northern Territory *Long Service Leave Act 1981*, employers would need to apply for an exemption under that Act.

Although an exemption may be approved, this does not mean employers are exempt from the Scheme. The Scheme is mandatory for employers.

On commencement of the portable long service leave scheme, an employee that is able to access long service leave at either 5 or 7 years of service will let the Board know they are taking their long service leave entitlements, for how long, and that their employer has an exception under the *Long Service Leave Act 1981*.

The Board will then pay the employee out of the Scheme in respect of the number of weeks long service leave they are entitled and their pay will be based on the defined benefit.

If a portion of the employee's long service leave entitlements were accumulated before the Scheme commenced, the Board will issue an invoice to the employer for the value of the employees long service leave accrued before the Scheme commenced.

What breaks in continuity of service will apply?

The Scheme will allow employees to have a break in service, without losing their continuity of service and the regulations will set out the circumstances under which this will occur.

Time away from the sector for parental leave without pay, workers compensation, or some other form of approved leave without pay such as jury duty, compassionate leave will not be considered as a break of an employee's continuity of service.

Further the regulations will recognise extended breaks from the community services sector for employees who take a break to work outside the community services sector. However the precise period for an extended break, without an employee losing their continuity of employment would be set out in the regulations.

Transitional provisions will ensure an employee's previous employment in the community services sector is recognised.

Can my registration as a community service employee be cancelled?

An employee's registration may be cancelled by the Board if, the employee:

- is not and has not been an employee in the community services sector
- has not been credited with service in the register of community service employees for at least 20 consecutive quarters (five years)
- registration was based on false or misleading information
- has passed away and their personal representative is not allowed to apply for a payment of their LSL benefit
- has passed away and a payment of their LSL benefit has been made
- any other circumstances provided in the regulations.

It would be a requirement that an employee is advised of any proposed cancellation and there will be review provisions for employees should they need to challenge a cancellation.

What do I need to do differently once the Scheme begins?

Once the Scheme comes into operation, the Board will register the employee based on information provided to it by the employer or by the employee's application to the Board for registration. This will include typical personal and employment details.

This information will enable the employee and the Board to track the employee's service and accruing entitlement to a long service leave benefit.

What does this mean for employers?

Why is a portable long service leave scheme being established?

The NTG recognises and seeks to address a long standing social and employment inequity of access to long service leave for 10,000 employees in the community services sector. The changes in accessing long services leave aims to improve the recruitment and retention of employees in the sector, where the work is challenging and also vital to many Territorians. Improving recruitment and retention is a key way the new Scheme helps employers.

The Scheme will provide employees with mobility to take up opportunities across the community services sector, recognising employee's service in the sector, even if they move between businesses or organisations.

What will employers need to do?

Community services sector employers, as defined in the Bill, will be required to:

- register as an employer if they employ one or more employees
- register within 28 days after becoming an employer in the community services sector
- pay a levy
- lodge employer returns, providing details on their employees
- keep records that confirm employee details declared on employer returns
- keep records for each employee, records must be kept for at least 6 years.

What is the employer's contribution to the Scheme?

In line with community services sector portable long service leave schemes in other jurisdictions, the application of the employer levy rate will be payable from the commencement of the Scheme, and will apply to all relevant and registered businesses, regardless of size and number of employees.

Under the Scheme, an employer will be required each quarter to:

- report employee numbers
- pay an all-inclusive levy.

This all-inclusive levy will include:

- the cost to administer the Scheme
- a contribution per employee, which will be held by the Scheme and used to pay employees' long service leave as a defined benefit.

How will the levy be determined?

The levy rate will be set by the sector Board for each financial year. Initial estimates have indicated levy rates in the range of 2.05-2.34% of salaries, or the equivalent of up to \$2,000 per annum per employee, but the precise amount of the levy will be determined closer to commencement of the Scheme.

Although the actual levy percentage will be derived in the process of establishing the Scheme, it is acknowledged that the indicative levy rates may change.

The timeframe for legislation to commence 18-24 months after assent, provides time for the Board to work with employers to determine the administrative systems they will need to comply with the Act.

What are the key features of the Bill?

The Bill introduces a new Act to establish a Scheme for the portability of long service leave in the community services sector in the Territory. It will also provide the ability to extend the portable long service leave scheme to employees in other sectors in the Territory in the future.

The Scheme will remedy the long-standing inequality of access to long service leave for potentially 10,000 employees in the community services sector, recognising service in the sector, rather than with a particular employer.

The Scheme acknowledges community services employees' significant, but often understated contribution to the community. It will recognise that employees in the community services sector may work for many years within the sector, but fail to build up sufficient service with a single employer to achieve a long service leave entitlement under the *Long Service Leave Act 1981*. It will allow community services employees to take meaningful breaks from work.

The portability aspect of the proposed scheme acknowledges that the sector is subject to high staff turnover and short-term employment arrangements. In the Territory, 50 percent of community service workers leave their employer within the first 9 years of employment, but only 25 percent leave the community services sector within the corresponding period.

The Scheme incentivises employees in the community services sector to remain in the Territory It:

- provides and supports opportunities for career mobility across the sector;
- attracts and retains skilled and experience employees;
- ensures that the Territory remains competitive with other jurisdictions.

What governance and compliance apply?

The Bill will establish a reconsideration and review process. Initially the Board will upon an application from an affected person reconsider its decision. If the board re-affirms its original decision, then the affected person may apply to the Northern Territory Civil and Administrative Tribunal for a review.

The Bill will also establish a compliance and enforcement regime that, amongst other things, will establish offences and penalties that would be enforceable by the Northern Territory Local Court.

What consultation has occurred?

In preparing the Bill, the Office of the Commissioner for Public consulted the following agencies:

- Department of the Chief Minister and Cabinet
- Department of Industry, Tourism and Trade
- Department of Treasury and Finance
- Department of Health
- Departments of the Attorney-General and Justice
- Department of Territory Families, Housing and Communities.

Also in 2019/20 the Office of the Commissioner for Public Employment (OCPE) consulted with 12 community service organisations and relevant unions about the creation of a portable long service leave scheme. These were, NT Council of Social Services; United Workers Union, Australian Services Union, Saltbush Employment Services, Danila Dilba, Life Without Barriers, the YMCA, Tangentyere Council, Catholic Care NT, Mission Australia, Central Australian Aboriginal Congress, and Kalano Aboriginal Corporation.

In addition, to the direct consultation requests community consultation was set up on the Territory Government's '[Have Your Say](#)' website, which included a high level discussion paper. Eight responses were received of which 5 were formal submissions, including from the Local Government Association, Australian Services Union, NT Build, the NT Council of Social Services and an individual member of the public.

All of the responses supported the establishment of a portable long service leave scheme. Two responses argued for extension of the Scheme beyond the community services sector.

The responses considered the scope, funding, administration of the Scheme, the benefit design and transitional arrangements. Although there was support for a levy-based scheme, there was no clear consensus about the model. All responses supported NTG establishing and administering the Scheme.

In the intervening period between 2019/20 to now, work progressed on developing the model proposed in the Bill.

In March 2024, the community services sector, stakeholders and unions were advised about the proposed Scheme and information sheets were issued.

Written submissions were also invited through the NTGs 'Have Your Say' website.

Post introduction of the Bill in March 2024, stakeholder consultation and engagement will continue until the Scheme is fully operational in March 2026.

Have your say

A second phase of consultation is now underway, ahead of the Bill being debated in the May 2024 sittings of the Northern Territory Legislation Assembly.

The Office of the Commissioner for Public Employment wants to hear from anyone with an interest in the scheme.

We are seeking your feedback to:

- understand any concerns that you may have about the application of the Scheme to you
- respond to any questions that you may have about how the Scheme will apply
- consider any issues that may need to be addressed during development of the Regulations and over the next 12-18 months while the Scheme is being implemented.

Find more information and share feedback at: <https://nt.gov.au/portable-long-service-leave>

Contact

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