



Victorian
Chamber of Commerce
and Industry



Victorian Portable Long Service Leave Design Study

Victorian Chamber Submission

March 2017

Introduction

The Victorian Chamber of Commerce and Industry welcomes the opportunity to provide a submission to the Victorian Government's Victorian Portable Long Service Leave Design Study, being undertaken by ACIL Allen Consulting.

As Victoria's leading business organisation, each year the Victorian Chamber informs and services more than 15,000 members, customers and clients across the state, encompassing all industry sectors and spanning small, medium and large-sized businesses.

The Victorian Chamber also has extensive experience in helping members to understand and comply with their current long service leave obligations. The Victorian Chamber Workplace Relations Helpline, which provides members with up-to-date and independent advice on a range of workplace relations issues, receives an average of 20 calls per week relating to long service leave.

The Victorian Chamber maintains our objections to portable long service leave, made in our original submission to the Victorian Parliament's 2015 *Inquiry into the Portability of Long Service Leave Entitlements*.

The Victorian Chamber does not support the introduction of any additional portable long service leave scheme on the basis that it will increase the cost of labour without delivering any corresponding increase in productivity. It will also result in additional indirect administration costs and red tape for employers. These additional costs will discourage employment.

In the current economic climate, with unemployment exceeding 6 per cent, the imposition of additional employment costs on the cleaning and security sectors will further undermine the Victorian Government's commitment to create jobs and strengthen business competitiveness.

Should the Government decide to proceed with such a scheme, our submission urges a focus on minimising scheme costs and the administrative burden on employers.

Our submission is based on consultations with members from the cleaning and security sectors.

Victoria needs less regulation, not more

In addition to examining the extension of portable long service leave, the Victorian Government is currently undertaking a number of other activities which propose or impose increasing regulatory costs on business. Among these are:

- The review of the Long Service Leave Act 1992 which is examining a number of proposed options that would increase the cost and complexity of long service leave.
- The introduction of a licencing scheme for labour hire operators in the horticultural, meat and contract cleaning industries.
- The imposition of two new public holidays, plus an additional, rather than substitute public holiday where Christmas day falls on a weekend.

The Government should be looking at reducing the regulatory burden on Victorian businesses, not increasing it.

Scheme design must focus on low costs

The design of any prospective portable long service leave scheme must prioritise keeping financial and administrative costs as low as possible for employers.

Similar schemes currently operating in other states are funded by levy payments made by employers that are pooled into a central fund that pays long service entitlements to workers.

The levy rates for interstate schemes range from 1.0 per cent to 1.7 per cent of gross wages. The levy rate for Victoria's CoINVEST portable long service leave scheme for the construction sector is 2.7 per cent of gross wages.

An employer levy to fund any scheme will disadvantage employers as:

- The total cost of long service leave benefits will increase because more workers will be eligible.
- Employers will be required to pay an upfront levy for all employees rather than accruing a liability that is contingent on employees reaching a certain period of service.
- The inclusion of administration costs in the levy will further increase the cost of the levy over and above costs currently incurred by employers to meet their current requirements.

Government should meet all administrative costs

The Government should meet all start up and ongoing administrative costs of operating any portable long service leave scheme rather than forcing employers to fund these costs through levy payments.

It is important that in proposing any levy rate, the design study clearly differentiate between funds required to meet future portable long service leave payments and administrative costs (both for establishing the scheme and its ongoing operation).

Level Playing Field

Victorian Chamber members in the cleaning and security sectors have told us that they already face significant challenges competing with firms that do not currently meet their legal employment obligations or that engage workers through sham contracting arrangements.

Members have expressed significant concern at the ability of any portable long service leave scheme to capture already non-compliant businesses, leaving compliant employers to shoulder the costs of running the scheme.

Portable long service leave will further widen the competitive disadvantage of compliant employers.

Benefits no greater than under current scheme

A key principle for scheme design must be that conditions and benefits do not exceed those available under the *Victorian Long Service Leave Act 1992*.

The consultation paper asks whether workers' ordinary rate of pay should be the basis for employee payments under the scheme.

Consistent with the Victorian Chamber's submission to the recent review of the *Victorian Long Service Leave Act 1992*, and the principle that benefits should be no greater than those available under the current Victorian scheme, the Victorian Chamber supports the use of the ordinary rate of pay as the basis for determining scheme benefits.

Including penalty rates and allowances in the calculation of scheme payments would increase scheme costs and result in inconsistent treatment of workers under the proposed scheme and those falling under the *Victorian Long Service Leave Act 1992*.

Retrospective vs prospective

The consultation paper asks how previous long service leave accruals should be treated.

The Victorian Chamber opposes any retrospectivity of benefits under a portable scheme. Consistent with the transition approach used for the NSW contract cleaning scheme, only service accrued after scheme commencement should be portable.

The Victorian Chamber does not support any requirement for employers to pay to transfer past liabilities into the scheme.

Governance

The Victorian Chamber supports a governance model where any scheme is administered by a statutory authority which is overseen by an independent board possessing the skills and experience required for the management of the fund. Members should be appointed by the relevant minister. Scheme rules should also be set in legislation to ensure appropriate parliamentary scrutiny of any proposed future changes.

The issues paper asks if administration can be separated from the governance of a scheme.

The Victorian Chamber supports outsourcing the administration of the scheme where it results in lower scheme costs and a more streamlined interaction with business.

We suggest that this study examine an option where the State Revenue Office would be responsible for the collection of levy payments. This could result in lower administrative costs and a lower compliance burden for business due to the office's established systems and interface with business.

Similarly, consideration should be given to using the Victorian Funds Management Corporation to invest funds set aside to meet future long service leave liabilities.