



New South Wales

Community Services Sector (Portable Long Service Leave) Regulation 2025

under the

Community Services Sector (Portable Long Service Leave) Act 2024

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Community Services Sector (Portable Long Service Leave) Act 2024*.

SOPHIE COTSIS, MP
Minister for Industrial Relations

Explanatory note

The object of this regulation is to provide for matters in relation to the following—

- (a) the calculation of long service leave,
- (b) pro rata payments instead of long service leave in circumstances of injury, illness, or death,
- (c) the long service leave levy,
- (d) information required in returns by employers and contractors,
- (e) the cancellation and suspension of worker registrations,
- (f) appeals to the Community Services Sector Long Service Leave Committee,
- (g) other miscellaneous matters.

This regulation amends the *Community Services Sector (Portable Long Service Leave) Act 2024* (**the Act**), Schedule 1 to add a community service. The amendment is made under the Act, section 4(3), which is a Henry VIII provision that enables the regulations to amend the Act.

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Community Services Sector (Portable Long Service Leave) Regulation 2025

under the

Community Services Sector (Portable Long Service Leave) Act 2024

Part 1 Preliminary

1 Name of regulation

This regulation is the *Community Services Sector (Portable Long Service Leave) Regulation 2025*.

2 Commencement

This regulation commences on the commencement of the *Community Services Sector (Portable Long Service Leave) Act 2024*.

3 Definitions

In this regulation—

Committee Secretary—see section 14.

notice of appeal—see section 15(1).

the Act means the *Community Services Sector (Portable Long Service Leave) Act 2024*.

trade union means—

- (a) an industrial organisation of employees within the meaning of the *Industrial Relations Act 1996*, or
- (b) an association of employees registered as an organisation under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth.

Note—The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

4 Definition of “corresponding law”

For the Act, Schedule 3, definition of **corresponding law**, paragraph (b), the following laws are declared to be corresponding laws—

- (a) the *Community Services Industry (Portable Long Service Leave) Act 2020* of Queensland,
- (b) the *Long Service Benefits Portability Act 2018* of Victoria, to the extent that Act deals with the community services sector,
- (c) the *Long Service Leave (Portable Schemes) Act 2009* of the Australian Capital Territory, to the extent that Act deals with the community sector industry,
- (d) the *Portable Long Service Leave Act 2024* of South Australia, to the extent that Act deals with the community services sector,
- (e) the *Portable Long Service Leave (Community Services Sector) Act 2024* of the Northern Territory.

5 Definition of “return period”

- (1) For the Act, Schedule 3, definition of *return period*, paragraph (b), the period between the commencement date and 31 March 2026 is prescribed for the period between—
 - (a) the commencement date, and
 - (b) 31 March 2026.
- (2) In this section—

commencement date means the date this section commences.

Part 2 Long service leave

6 Meaning of “non-service day”

- (1) For the Act, section 20(9), definition of *non-service day*, the following days are prescribed—
- (a) a day on which a worker does not work because the worker is pregnant or has a pregnancy-related condition,
 - (b) a day on which a worker does not work because the worker is caring for another person, if the worker is a carer within the meaning of the *Carers (Recognition) Act 2010*,
 - (c) a day on which a worker performs community service work as an employee of the Crown, a local council or county council under an arrangement that does not provide for payment of long service benefits to the worker,
 - (d) a day on which a worker performs community service work at a place that—
 - (i) is a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970* of the Commonwealth, and
 - (ii) is within the State,
 - (e) a day on which a worker performs community service work in another State or Territory if—
 - (i) a corresponding law is not in force in the State or Territory, and
 - (ii) the community service work would be counted as recognised service under the Act if performed in New South Wales by a registered worker,
 - (f) a day on which a worker does not work because the worker is suffering from personal illness or injury,
 - (g) a day on which a worker does not work because a member of the worker’s immediate family or household has—
 - (i) a serious illness, or
 - (ii) a serious injury, or
 - (iii) died,
 - (h) a day on which a worker does not work because the worker is a victim of an act of domestic or family violence.
- (2) In this section—
- county council* has the same meaning as in the *Local Government Act 1993*.
- immediate family*, for a worker, means—
- (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the worker, or
 - (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the worker.

7 Service credit for breaks in engagement periods

For the Act, section 32, the following circumstances are prescribed—

- (a) both of the following apply—
 - (i) the registered worker was unable to perform community service work because of an illness or injury,
 - (ii) a registered medical practitioner certified in writing that the illness or injury rendered the worker reasonably unable to perform community service work,

- (b) the registered worker undertook a training course recognised by the Corporation as being relevant to the community services sector to enhance the worker's prospects of performing work in the sector,
- (c) the registered worker performed community service work on a voluntary basis in New South Wales because of an emergency declared or otherwise recognised under—
 - (i) the *State Emergency and Rescue Management Act 1989*, or
 - (ii) an equivalent Act of another State or Territory or the Commonwealth,
- (d) the registered worker performed work, other than community service work, provided to the worker in accordance with the *Workers Compensation Act 1987* as a result of an injury.

8 Pro rata payments instead of long service leave in circumstances of injury, illness or death

For the Act, section 52(4), the Corporation may grant an application made under the Act, section 52(2) if the Corporation is satisfied—

- (a) the worker has permanently ceased doing community service work as a result of injury or illness, or
- (b) the worker has died and a personal representative of the deceased worker is making an application under the Act, section 20(6), or
- (c) the worker is experiencing financial hardship.

Part 3 Long service leave levy

9 Refund of long service leave levy on cancellation of worker's registration

- (1) For the Act, section 19(8), if the Corporation cancels a worker's registration under the Act, section 19(1), the Corporation must, in accordance with this section, refund the long service leave levy paid for the worker.
- (2) The long service leave levy must be refunded to the employer or contractor who paid the long service leave levy.
- (3) The Corporation may apply the amount or part of the amount required to be refunded under subsection (2) to satisfy amounts owed to the Corporation by the employer or contractor.

10 Interest rate on overdue long service leave levy

For the Act, section 43(1), the prescribed rate per calendar month or part of a calendar month is the annual rate, compounded monthly, that is 6% above the cash rate last published by the Reserve Bank of Australia—

- (a) for interest accrued between 1 January and 30 June—immediately before 1 January, and
- (b) for interest accrued between 1 July and 31 December—immediately before 1 July.

11 Certification of levy payment

For the Act, section 98(3), definition of *prescribed person*, the position of Director of the Corporation is prescribed.

12 Additional information required in returns by employers and contractors

- (1) For the Act, section 34(2)(d), the following information is prescribed—
 - (a) if the worker was a registered worker—the registration number given to the worker by the Corporation,
 - (b) the worker's name, address and date of birth,
 - (c) the worker's telephone number and email address.
- (2) For the Act, section 36(c), the following information is prescribed—
 - (a) the registration number given to the contractor by the Corporation,
 - (b) the contractor's name, address and date of birth,
 - (c) the contractor's telephone number and email address.

Part 4 Appeals to Committee

13 Time for making appeals

For the Act, section 61(1)(b), the following periods are prescribed—

- (a) 42 days after the appellant is notified of the decision appealed against,
- (b) if the Chairperson of the Committee is satisfied exceptional circumstances exist—6 months after the appellant is notified of the decision appealed against.

14 Nomination of Committee Secretary

For the Act, section 61(2), the Chairperson of the Committee must nominate a person (the *Committee Secretary*) to send and receive correspondence in relation to appeals to the Committee under the Act, Part 7.

15 Making an appeal

- (1) For the Act, section 61(2), an appeal to the Committee must be made by giving the Committee Secretary written notice of the appeal (a *notice of appeal*) in the form approved by the Committee.
- (2) A notice of appeal must contain the following information—
 - (a) the decision, or the part of a decision, being appealed against,
 - (b) the grounds of appeal,
 - (c) the contact details of the appellant and, if the appellant has engaged a legal representative or trade union representative, the contact details of the representative,
 - (d) whether the appellant intends to make oral submissions to the Committee in relation to the appeal and if so, whether the appellant intends to make the submissions—
 - (i) in person or by audio visual link, and
 - (ii) with or without a legal representative or trade union representative,
 - (e) other information required by the Committee.
- (3) Correspondence, submissions and other documents in connection with an appeal, including notice of the withdrawal of an appeal, must be given—
 - (a) to the Committee Secretary, and
 - (b) if the Committee specifies a time period—within the specified period.

16 Deciding an appeal

- (1) For the Act, section 61(2), if the appellant has not indicated an intention to make oral submissions in the notice of appeal, the Committee may decide the appeal on the basis of—
 - (a) the notice of appeal, and
 - (b) written submissions from the Corporation and the appellant, and
 - (c) if the Committee requests further information from the appellant—information received from the appellant in response to the request.
- (2) If the Committee requests further information from the appellant, the appellant may indicate an intention to make oral submissions—
 - (a) in person or by audio visual link, and
 - (b) with or without a legal representative or trade union representative.

- (3) If the appellant indicates in the notice of appeal or in response to a request for further information that the appellant intends to make oral submissions, the Committee Secretary must, in consultation with the Chairperson, decide a date and location for the appeal hearing.
- (4) At the hearing, the appellant and the appellant's legal representative or trade union representative, if any, may—
 - (a) address the Committee on matters relating to the appeal, and
 - (b) with the Committee's approval, produce documents, records or information relating to the appeal.
- (5) The parties to an appeal are not entitled to call a person to give evidence or to cross-examine a person at the hearing.
- (6) The Committee may adjourn the hearing if the Committee considers an adjournment necessary to enable the Committee to consider—
 - (a) oral submissions made at the hearing, or
 - (b) documents, records or information produced at the hearing.
- (7) The Committee must give the Corporation written notice of the Committee's decision when the Committee gives the appellant written notice under the Act, section 63.

Part 5 Miscellaneous

17 Community Services Sector Long Service Leave Committee

- (1) For the Act, section 8(2)(b)(i), Unions NSW is prescribed.
- (2) For the Act, section 8(2)(b)(ii), Australian Services Union is prescribed.
- (3) For the Act, section 8(2)(b)(iii), NSW Council of Social Service is prescribed.
- (4) For the Act, section 8(2)(b)(iv), National Disability Services is prescribed.

18 Reimbursement of employer

The Secretary, within the meaning of the *Fair Entitlements Guarantee Act 2012* of the Commonwealth, is taken to be an employer for the Act, section 87(4) if the registered worker receives payment under the *Fair Entitlements Guarantee Act 2012* of the Commonwealth for long service benefits accrued under the *Long Service Leave Act 1955*.

19 Penalty notices

- (1) For the Act, section 94(2)—
 - (a) each offence created by a provision specified in Schedule 1, Column 1 is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified in Schedule 1, Column 2.
- (2) If the provision is qualified by words that restrict the operation of the provision to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
 - (a) the limited kind of offence, or
 - (b) an offence committed in the limited circumstances.

Schedule 1 Penalty notice offences

section 19(1)

Column 1	Column 2
Provision	Penalty
Offences under the Act	
Section 10(2)	\$550
Section 12(2)	\$55
Section 14(2)	\$220
Section 34(1)	\$440
Section 34(2)	\$440
Section 34(3)	\$440
Section 34(4)	\$440
Section 36	\$220
Section 38(4)	\$220
Section 39(1)	\$220
Section 39(2)	\$220
Section 39(3)	\$220
Section 40(1)	\$220
Section 40(2)	\$220
Section 42(1)	\$220
Section 49(1)	\$550

Schedule 2 Amendment of Community Services Sector (Portable Long Service Leave) Act 2024 No 39

Schedule 1 Community services

Insert in alphabetical order—

Services provided by community services sector peak bodies