

Contents

Section One – Background to Long Service Leave in Australia and WA	4
History.....	5
State-based Long Service Leave in Australia	5
Commencement	5
Retrospective Powers	5
Section Two – Scope and Operation	6
Locality.....	7
Case Example – Working in Different States and Overseas	7
Definitions	8
Interaction with Other Employment Legislation	9
Interaction with Industrial Instruments (State and Federal Awards and Agreements).....	9
Case Example – Interaction with Awards.....	10
Other Long Service Leave Derivatives.....	11
Local Government (Long Service Leave) Regulations	11
Construction Industry Portable Paid Long Service Leave Scheme	11
Coal Mining Industry Long Service Leave Fund.....	11
Employment Contracts, Policies and Custom & Practice	12
Section Three – The Entitlement.....	14
Eligibility Length of Service Required	15
Case Example – Court confirms casual employee entitled to LSL	15
What counts as service and continuous employment?	16
Part time and Casual Employment.....	18
Variation of Hours.....	19
Rate of Pay.....	19
Retainer plus Commission	20
Piece Work/Bonus Work/Payment by Results	20
Proportionate vs Pro-rata Entitlements	21
Approving Requests to Take Leave in Advance	21
Taking as Holidays vs Payment on Termination	21
Illustrative Example B	22
Calculating final pay between 7-10 years' employment	22



Redundancy.....	23
Serious Misconduct	23
Section Four – Flexibility and Payment Options.....	25
Rate Freezing.....	26
Practical Pointers	26
Payment Methods.....	27
Half or Double the Ordinary Pay	27
Illustrative Example C	27
Half ordinary pay	27
Illustrative Example D.....	27
Double ordinary pay.....	27
Payment Before Leave Commences	28
Contracting Out (Cashing Out).....	28
Taking Leave in Advance	28
Illustrative Example E	29
Taking LSL in advance.....	29
Practical Pointers	30
Section Five – Transmission of Business and Long Service Leave	31
Long Service Leave in a Transmission and Transfer	32
Formalities Notice Requirements	33
Section Six – Other Considerations Affecting Long Service Leave	34
Accessing Long Service Leave	35
Public Holidays.....	35
Personal/carer's leave	35
Work During Long Service Leave	35
Death of Employee	36
Section Seven – Enforcement of Long Service Leave in Western Australia	37
Section Seven – Enforcement of Long Service Leave in Western Australia	38
Enforcement.....	38
Record Keeping Requirements	38
Accessing records	39
Appendix – Forms	40