

Tabled, by leave;

Ms Sharpe

COMMUNITY SERVICES SECTOR (PORTABLE LONG SERVICE LEAVE) Bill 2024
 STATEMENT OF PUBLIC INTEREST 2016/1/2024

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Government has committed to establish a portable entitlement scheme for gig, disability, home care, and other precarious workers. As the first step to fulfill this commitment, the Community Services Sector (Portable Long Service Leave) Bill 2024 (the Bill) will create a new portable long service leave scheme for community services.

Community service workers promote inclusion, health and wellbeing, and support communities through crisis. Portable LSL for community services aims to attract, retain, and build the workforce to meet growing demand for care and support workers, which is expected to double by 2049-50. Currently, workers can access approximately two months of paid leave after 10 years of service with a single employer under the LSL Act. However, the vital work performed is often insecure and many workers face stress, burn-out, low pay, and tenuous work arrangements – factors that contribute to high turnover rates in the sector and that can prevent access to entitlements

This scheme will build on the success of two existing schemes in NSW for the contract cleaning and building and construction industries, as well as existing schemes for community services in Queensland, Victoria, and the ACT. The Northern Territory and South Australia are currently developing equivalent schemes.

The Bill was publicly consulted on for 5 weeks, resulting in around 750 survey responses and 50 submissions. Workers also shared 60 personal stories. Of the survey responses, 96% of workers and 74% of employers supported the establishment of a portable long service leave scheme based on how long workers have worked in the sector. Feedback from stakeholders like this further validate the relevance and necessity of the policy.

Objectives: What is the policy's objective couched in terms of the public interest?

The primary objective of this Bill is to provide community service workers access long service leave entitlements regardless of employment changes within the sector. The Bill will make this vital sector more attractive, equitable and fair for the people who provide these. By providing these entitlements, this scheme will promote worker well-being and ensure the delivery of high-quality community services. Employers will benefit from increased attraction to and retention in the sector. These benefits will positively impact the public at large.

Options: What alternative policies and mechanisms were considered in advance of the bill?

In developing the model in the Bill, various alternatives for key elements were explored, including:

- Defining the scope of the scheme, such as determining which work, workers, and employers would be covered, which could involve linking it to industry awards or excluding certain types of support work
- Different durations for reaching the entitlement
- Whether a service bonus should be offered to workers who register within 6 months of the scheme commencing and if so, determining the duration of this bonus, which might be reduced from the proposed 12 months to 6 months

- the duration for how long a worker can not work before losing service credits

Each option was evaluated for effectiveness, ease of administration, and impact on workers and employers to find the best solution for the community services sector. These options were also put to stakeholders in targeted and public consultation.

Analysis: What were the pros/cons and benefits/costs of each option considered?

Variations of the key elements of the scheme (as above) were analysed to determine their impacts on the levy rate, effectiveness, ease of administration, and impact on workers and employers. For example, extending how long a worker must wait before reaching the entitlement would slightly reduce the initial levy rate but at the cost of workers having to wait longer. Additionally, the Department of Customer Service engaged an external actuary to model the impacts on the levy rate that key variations would have. The analysis of options was presented during public consultation and the model in the Bill was received positively overall.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill will commence on proclamation and is currently intended to commence on 1 July 2025. Once the Bill has passed Parliament, the Department of Customer Service will develop the supporting regulation before the scheme commencement. The Department of Customer Service and the Long Service Corporation also intends to engage in additional consultation with, and education for, the sector.

The Minister for Industrial Relations, and Minister for Work Health and Safety is responsible for administering the Bill, with support from the NSW Long Service Corporation and the Department of Customer Service. The Long Service Corporation will be responsible for administering the scheme.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Department consulted key stakeholders throughout the development of the policy and consulted publicly on the Bill. Stakeholder feedback, both positive and negative, shaped the Bill.

The main concern raised by employers and employer groups related to the financial and administrative impacts the scheme would have for providers. Providers who do not currently provision for long service leave would be most impacted as the scheme will require a quarterly levy to be paid.

Overtime the scheme could become more efficient, with investment earnings on the fund could potentially cover up to 40% of annual revenue. This may help alleviate the initial financial burden on employers. Further, the benefits such as improved attraction and retention of skilled employees, lower training and recruitment costs, and healthier, more productive workers will positively impact the industry and outweigh the cost of the levy.

To alleviate administrative burdens for employers, the Bill aligns employer obligations with existing obligations as much as possible. For example, the information required to be provided to the Long Service Corporation has been designed to be the same kinds of information employers are already required to report to the Australian Taxation Office.

Stakeholder feedback has been thoroughly considered in determining the key elements and operative provisions of the Bill. Some examples of provisions in the Bill as a result of stakeholder consultation include:

- ensuring that workers with more favourable entitlements under enterprise agreements are not disadvantaged;
- the ability to prescribe a different reporting frequency for employers; and
- additional appeal rights.