

# Submission to the Victorian Parliament's Inquiry into Portability of Long Service Leave Entitlements for Victorian Workers



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## About the Health Workers Union-Victoria

The Health Workers Union has a proud history since its inception in 1911 of fighting for workers' rights and better work conditions in Victoria's Hospitals and other healthcare facilities. We are a strong and growing union that aims to use its combined power to improve working conditions and to maintain reasonable wages and benefits for our members. The Health Workers Union (HWU) of Victoria represents a broad spectrum of staff employed in Hospitals, Pathology, Dental, Aboriginal and Aged care services.

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## Introduction

The Health Workers Union (HWU) welcomes the opportunity to make a submission to the Victorian Parliament's Economic, Education, Jobs and Skills Committee's inquiry into portability of long service leave entitlements for Victorian workers. Our submission has been informed by a review and examination of the portable long service leave literature. Feedback was also obtained via substantial consultations with HWU employees and members, case studies that HWU organisers obtained from HWU members and from health workers that were not affiliated with a trade union.

In order to ensure that this submission represents the diversity of the HWU membership, workers' from a broad range of occupational backgrounds that work within metropolitan, rural and remote areas of Victoria's health system were invited to provide verbal or written feedback to the HWU. We have included their feedback in our submission.

This submission will present case studies that provide compelling examples of how healthcare workers miss out on qualifying for long service leave entitlements. These individuals are representative of thousands of other health workers statewide. We thank our Members for taking the time to share their stories.

Long Service Leave was a revolutionary Australian invention. Australian trade unions have fought hard to keep it and over the years have ensured that all Australian workers are entitled to it. The HWU will continue to work to modernize Australia's industrial relations system with the view of making our workplaces fairer.

Unfortunately Victorian health workers inability to qualify and therefore access long service leave entitlements has been an ongoing issue of concern for Victoria's health workers, including Health Workers Union members. It is for this

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reason that the HWU recommends that a Portable Long Service Leave (PLSL) scheme be developed for Victorian health workers.

Until recently, Australia's Long Service Leave (LSL) provisions typically consisted of thirteen weeks (three months) paid leave after fifteen years of service with the same employer. Current, LSL provisions enable employees to access up to two months paid leave for every 10 years worked for the same employer and more on a pro-rata basis the longer they stay with that employer. However, in some states (Australian Capital Territory) and companies, long service leave can be accrued after seven years.

Long service leave evolved from the concept of furlough, which stems from the Dutch word *verlof* (meaning *leave*) and its usage originates in leave granted from military service. In the 19th century LSL was a privilege granted by legislation to the colonial and Indian Services. LSL was initially introduced in Australia in the 1860's as a benefit granted to Victorian and South Australian civil servants. The leave was granted as acknowledgement for loyal service and allowed civil servants to sail 'home' to visit the 'mother country', usually England, knowing that they were able to return to their positions upon their return to Australia.

LSL spread beyond the public service over the period 1950 to 1975, mainly as a result of pressure from employees and their Unions seeking parity with the public service. More recently, LSL has increasingly been used as an opportunity by over-worked and stressed workers to take time out from work. According to a report released by the McKell Institute (2013) and the OECD Better Life Index, Australia (2014), Australian's work some of the longest hours in the developed world and are spending more years in the workforce than ever before.

The secretary of the Australian Council of Trade Unions, David Oliver stated that "Long service leave and annual leave are basic rights of any worker in Australia, but the nature of the workforce today means that many workers are missing out

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on these entitlements. As Australians, we work hard, and we deserve our holidays and sick leave". He went on to tell Jessica Irvine, the National Economics Editor, News Corp Australia Network (2014) that a Portable Long Service Scheme was important to stop the erosion of long service leave entitlements by casual work.

Working long hours over a prolonged period of time has been found to have a negative impact on relationships with family and friends and adverse effects on mental and physical health (The Australian Psychological Society Limited, 2015 and Ping, Chung & Hu' 2014). This is particularly true for hospital and essential services employees, including people that work within aboriginal, aged, disability and the mental health sectors.

Moreover, hospital work often requires coping with some of the most stressful situations found in any workplace. For instance, people that work in the Emergency Department and Psychiatric ward are exposed to patients that are experiencing life threatening injuries. These frontline workers experience the life and death scenarios that regularly play out in the Emergency Departments across Australia. They are also exposed to patients experiencing severe mental illness, such as psychotic episodes, bipolar disorder, depression and anxiety, and post-traumatic stress disorder.

Clinical, anecdotal and research evidence suggests that it is not uncommon for a hospital worker to incorporate or absorb some of the psychological symptomology expressed by patients within hospital settings. Furthermore, hospital workers are also exposed to physical illness brought about by viral and bacterial infections present within their work environment. The rate of physical and emotional illness is greater amongst hospital workers when compared to workers from the finance or other industries (Victorian Department of Health, 2014 & 2007; Ping, Chung & Hu' 2014). Workers must be compensated for this work hazard by financial and other means.

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Stress has been associated with loss of appetite, anxiety and depression, migraines, difficulty in sleeping, disruption of social and family life, and the increased use of drugs, such as cigarettes, alcohol, and other illicit drugs (The Australian Psychological Society Limited, 2015; Centers for Disease Control and Prevention, 2014; Better Health Channel, 2013; Subha and Ahmad, 2011).

Stress can also affect worker attitudes and behaviour. Some frequently reported consequences of stress amongst Hospital workers include, sick days, anxiety, depression, and difficulty maintaining pleasant relations with co-workers (The Australian Psychological Society Limited, 2015; Centers for Disease Control and Prevention, 2014; Better Health Channel, 2013; Subha and Ahmad, 2011).

### **The current Long Service Leave provisions**

Current LSL provisions require an employee to maintain continuous unbroken employment with their employer. However, an employee is not prevented from taking approved breaks from work, paid or unpaid. That is, employees are entitled to take paid or unpaid parental leave (maternity, paternity or adoption leave) for up to 52 weeks at a time without breaking the continuous employment requirement.

Furthermore, LSL provisions accommodate an employee's absence from work due to illness or injury (including a WorkCover absence) and annual leave. Other forms of paid or unpaid leave, such as study leave will also not breach the LSL qualifying conditions.

According to the Victorian Long Service Leave Act 1992, continuous employment will be broken where an employee resigns from employment (for whatever reason), even if the employee is subsequently re-employed.

Continuous employment will be broken where an employee is terminated by their employer and is subsequently re-employed after three months have passed.

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Many employees find themselves out of a job for more than three months due to no fault of their own. This section of the LSL act is particularly unfair and provides compelling evidence for the need of a Portable LSL scheme for Victoria.

Continual service with one employer has become increasingly rare, and the move between employers is often dictated by changes to business structures or funding models. Therefore, we need to make sure that workers are not disadvantaged by current workplace laws and that long fought for workplace entitlements such as long service are altered to reflect the changing nature of the Australia work culture.

### **Why we need a PLSL for Victorian health workers**

Unfortunately, only one in four of us will ever qualify for long service leave (Australian Bureau of Statistics, Labour Mobility, Australia, February, 2012 & 2013b). Australia's changing workplace practices, in particular, employer's preference of employing workers on a casual or part time work status has led to the evolution of our current unstable work places. Workers have been forced to frequently change their jobs or career paths, resulting in fewer workers qualifying for LSL!

There are many factors that contribute to workers changing their employer or leaving the health sector for significant periods of time. In some instances employees may leave their work in a disability or aged care service due to injuries sustained on the job or due to vicarious trauma or stress disorders that emerged during the course of their work within their work environment.

It is relevant to note that the industries in which mobility is high are also predominantly those that are more physically and/or emotionally demanding and which have a disproportionately high rate of work related illness and injury (Safe Work Australia (2012)).

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To combat the difficulties faced by many workers in these industries in qualifying for LSL entitlements, we recommend the introduction of a PLSL scheme for Victorian health workers.

In other cases health workers may take time out from their work to pursue professional development opportunities or to attain higher qualifications that are necessary if they are to have any chance of progressing to a higher grade within their classification. For example, the Victorian Public Health Sector (Health Professional, Health and Allied Services, Managers & Administrative Officers) Multiple Enterprise Agreement 2011 – 2015 states that an Instrument Technician Grade 1 shall progress to an Instrument Technician Grade 2 only after the employee attains a Certificate III in Health - Sterilising Practice for Technicians or equivalent- awarded by a registered training organisation that has been approved by the AIC.

Unless the employer has approved the aforementioned leave for study and keeps the worker on payroll, his or her leave entitlements will be lost. Many HWU members have reported that their employer's usually prevent them from fulfilling their ambitions of attaining higher qualifications, and often, their only resort is to resign from work in order to pursue professional development opportunities.

Even though most Enterprise Bargaining Agreements have a clause within them that states the employer must facilitate an employee's request for professional development opportunities, in reality being granted study leave isn't as straight forward as most people would expect and many employees are prevented from doing so.

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The following is an example of a clause found within most EBA's in relation to study leave and further training: "The employer shall facilitate completion of the Certificate (area related to classification) either through financial assistance, flexible rostering or supervised practice and/or study leave.

The above clause prevents an employee from broadening their horizons and applying for study in an area that is not related to their current classification. Furthermore, most employees report that their work rosters are often inflexible and their employers hardly ever provide financial assistance or release their workers for significant periods to pursue study leave.

Furthermore, the Health Workers Union has noticed a significant increase in the outsourcing of hospital departments and other services. For example, Barwon Health's, McKellar Center recently outsourced their laundry service resulting in about 97 workers losing their jobs. Unless these workers immediately find work in another public hospital within three months they may as well kiss their LSL entitlements good bye.

### **Gender inequity within the Australian healthcare workplace**

Women account for almost 75% of Australia's health workforce and tend to be employed on a casual or part time basis (Victorian Department of Health, 2014; Health Workforce Australia (2012a & 2012b). Moreover, according to the Australian Bureau of Statistics (2015a), Average Weekly Earnings report, the gender pay gap increased markedly over the last year in the following industries: Administrative and Support Services (+7.8 pp), Wholesale Trade (+6.5 pp) and Manufacturing (+3.9).

Further, females were significantly more likely to engage in voluntary work within the healthcare sectors when compared to males (Australian Bureau of Statistics, 2015b). Notwithstanding, men continue to hold the majority of Australia's top leadership positions according to the most recent Gender Indicator figures

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released in August this year by the Australian Bureau of Statistics (2015b). This trend includes leading positions within the private sector, the judiciary, federal and state parliamentarians and managers in the Australian Public Service.

The ACTU has called for workplace rights to be strengthened for women and millions of Australians in casual and insecure work in its submission to the Productivity Commission inquiry into workplace relations. The ACTU also called for the minimum wage and penalty rates to be protected and for greater rights for workers to allow them to bargain collectively, including labour hire and temporary workers (ACTU Submission to the Productivity Commission, 2015).

The aforementioned facts paint a rather disturbing trend for women in the Australian workplace, in particular within the health and administrative sectors. The current LSL arrangements and employers preference to employ women on a casual and part time basis results in women missing out on their LSL entitlements. It is necessary for the Victorian government to introduce a much fairer portable LSL scheme that attempts to redress the gender inequity within Victoria's current LSL provisions.

### **Australian Labour mobility statistics and their implications for health workers**

High staff turnover is a well acknowledged challenge for Australian and indeed Victorian health services, specifically within the aboriginal, aged, disability & home and community care sectors (Health Workforce Australia, 2012a & 2012b).

One quarter of health, aged, disability and community and personal services workplaces consistently experience high numbers of people who work with the same employer for less than one year. Furthermore, about 40% of workers continue working for one to five years with the same employer (HWU Industrial Organiser's 2013, 2014, 2015; Australian Bureau of Statistics, Labour Mobility, Australia, February, 2012 & 2013b).

The latest national survey of labour mobility found an overwhelming 55 per cent

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of Australia's 11.5 million workers in 2013 had been in their jobs for less than five years (Australian Bureau of Statistics, Labour Mobility, Australia, February, 2013b). Furthermore, the latest issue of the ABS Labour Mobility, Australia, February (2013b) indicates that this trend is nationwide with the Northern Territory, Western Australia and Queensland having the highest proportions of people who had worked for their current employer for less than 12 months (23%, 21% and 20%, respectively).

Additionally, almost 46% of Australia's current workforce has worked for less than 10 years' service with their current employer. And for those that have been in the workforce for ten years or more, only 24.5% have been working their current employer for at least ten years.

Occupation groups with the highest proportion of people having worked with their current employer for less than 12 months include the Sales, Labouring, machine operators and drivers and Community and personal service industries (all 25%) (ABS, Labour Mobility, Australia, February 2013b). These industries tend to have a high rate of casual and contract labour.

Approximately 67% of Australian workers are eligible for LSL, but under the current provisions, most will only qualify for LSL if they remain with the same employer for more than 10 years (ACTU Submission to the Productivity Commission, 2015 and Australian Bureau of Statistics, Labour Mobility, Australia, February 2013b).

High turnover rates within the health, disability and aged care industries can have a negative impact upon the sector and its stakeholders. When workers move between employers, they nearly always void their long service leave entitlements. Too many disability and community services workers never reach the threshold for long service leave, despite many decades of often uninterrupted employment within the sector.

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Attracting and retaining a high quality and skilled workforce for Victoria's health services, including the pathology, aboriginal, aged, disability and home and community care services sectors has been a long standing problem for service providers (National Commission of Audit, 2014; Health Workforce Australia, 2012a & 2012b). The factors that contribute to the lack of staff within the abovementioned areas are multifactorial and complex. Improving work conditions and access to entitlements is a key part of the solution.

Problems attracting and retaining workers can be attributed to low wages, high workloads, and a lack of job security, training and career development opportunities (Australian Institute of Health and Welfare, 2014; Nursing Careers Allied Health, 2014; Victorian Department of Health, 2014; Australian Bureau of Statistics, 2013a; Productivity Commission, 2011).

There are serious shortages of general practitioners, dentists, nurses and health and allied health workers. Shortages are more significant in outer metropolitan, rural and remote regions, especially in Indigenous communities, and in particular areas of care, such as mental health, aged care, and disability care. Overseas-trained doctors now make up 25% of the medical workforce compared with 19% a decade ago (Productivity Commission, January 2006).

The Australian Health Ministers' Conference developed the National Health Workforce Strategic Framework in 2004 to address these issues, but its implementation has faltered because of lack of national leadership and lack of integration across health and education bureaucracies, governments and public and private training sectors (Health Workforce Strategic Forum, 2007).

Health Workforce Australia (2012a, 2012b) released several reports that forecast critical staff shortages within the Victorian and Australian health system. Specifically, they envisage a shortage of over 100,000 registered nurses,

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Doctors, other support and specialist staff by 2025. They found that reform to the health system was essential to maintain a sustainable and affordable future health workforce.

### **Benefits of a PLSL scheme within Victoria's health, disability and home and community care sectors**

The executive director of the Centre for Workforce Futures at Macquarie University, Professor Ray Markey, said the cost to employers of an expanded long service leave scheme would be offset by higher productivity among workers (McKell Institute, 2013).

Professor Markey goes on to say that rested workers are more productive, are less likely to have accidents and to take time off work. It's probable that much of the costs, which are insignificant, could be offset by higher productivity

Portable Long Service leave (PLSL) is an important part of the solution to addressing the poor retention rates within the aforementioned sectors. PLSL enables a worker to accrue long service for the time they are employed within the sector, not just the time they're with a particular employer.

A PLSL scheme rewards long term disability & community services workers who remain within the sector. It also encourages professional development and career advancement by facilitating movement across the sector, without workers suffering the penalty of losing accrued long service leave entitlements.

A PLSL scheme goes some way towards recognising the challenges inherent in working in a sector that offers limited full-time opportunities, forcing people to work multiple jobs, often for different employers. It also offers some parity in terms of conditions between the government and community sectors.

It would give greater flexibility to workers that wish to move between employers

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or leave the workforce for short periods of time (i.e. more than three months) in order to care for family members, or to take time out and other reasons, without having to void their LSL entitlement.

A PLSL scheme doesn't provide the complete solution to retention issues but it certainly increases the viability of the sector by improving its capacity to attract and retain workers, and retaining their knowledge and experience.

It would prevent or reduce the likelihood of employers terminating employees before they reach the LSL qualifying period. Some employers do this so they can avoid their obligations under existing LSL provisions.

Reduce the likelihood of employees not qualifying for LSL-employers would have to pay into the PLSL fund as an employee accrues the leave.

### **Disadvantages of implementing a PLSL scheme in Victoria**

Some employers have expressed opposition but most acknowledged the benefits and were interested in further exploring the potential for a statewide scheme.

On the other hand, the Australian Industry Group believes the idea of portable leave would be too costly and complex, taking into account previous attempts to make portable long service leave available for employees in other industries.

All unions and many employers representing the disability & community sector support the establishment of a PLSL scheme within Victoria. This discussion paper aims to build on the interest expressed and to help build a coalition of support for a statewide portable long service scheme for disability and community services workers

Some larger organisations use their existing LSL schemes to create loyalty, which they believe will be undermined if all workers can access a PLSL scheme. Smaller organisations and workers countered this assertion by arguing that they

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felt a PLSL scheme will lift loyalty to the sector, which would make it a level playing field in terms of recruitment.

HWU believes that the sector as a whole will benefit from a workforce that has better working conditions. There are few negatives for workers if employers have to develop new incentives in order to compete for the best talent.

Another potential ramification of a PLSL scheme is the potential for employers to discriminate against workers who may have accrued significant amounts of long service leave. Policing of the scheme and a system to discourage abuse needs to be developed to protect workers' rights.

### **A History of lobbying for a Victorian and national PLSL scheme**

The Health Workers Union has for a number of years been actively lobbying the Victorian State Government to consider the introduction of a PLSL scheme for health and community services workers. Workplace relations minister David O'Byrne convened a forum on August 14, 2012 involving business leaders and unions, to examine the feasibility of establishing portable long service leave arrangements for workers in the community, cleaning and security sectors.

Moreover, in mid-2014 Senator Lee Rhiannon (NSW) moved a motion in the federal senate for the Education and Employment References Committee to inquire into the creation of a national portable long service leave scheme. She did not receive Senate support.

Senator RHIANNON (New South Wales) was hoping to refer the matter to the Education and Employment References Committee for inquiry and report by 27 November 2014. With specific consideration be given to the creation of a nationwide portable workplace entitlement scheme for long service leave and any other appropriate entitlements, taking into account multiple variables.

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During late march 2015, deputy Greens leader Adam Bandt wrote to federal Labor and to the crossbenchers to revamp his party's campaign for an inquiry into portable long service leave. Unfortunately, federal Labor and the Coalition have persistently voted against such moves.

The ACTU has been lobbying for a national portable long service scheme for many years now. Most recently, the president of the ACTU, Mr Oliver has spoken to Australian media about this and other important issues, with the aim of improving the working conditions of all Australians.

Finally, we hope that the current Victorian governments inquiry into the Portability of Long Service Leave Entitlements for Victorian Workers will find that Victoria desperately needs a PLSL scheme, especially for its healthcare workers. We also hope and trust that the process for establishing the PLSL scheme will receive bipartisan support within the house and senate when the relevant legislation is announced and commences the process for it to become law.

### **A Comparison of Portable Long Service Leave Schemes across Australia**

In 2010, Fair Work Australia recommended that a national scheme for portable long service leave be investigated. The McKell Institute (2013) subsequently released a report titled 'The case for a national portable long service leave scheme in Australia'. This report provides a comprehensive framework for the introduction of a fully portable national long service leave scheme.

The concept of portable leave entitlements is not new; at present, long service leave is a portable entitlement for certain employees performing work within a limited number of industries, such as the building and construction, contract cleaning, coal mining and stevedoring industries. Known as portable long service leave, these schemes can be found in every state and territory within Australia and are implemented via specific legislative arrangements (for example,

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Victorian Long Service Leave Act 1992) which employers in those industries pay into.

Workers typically accumulate leave for the years they spend in the industry, not just with one employer! These schemes were generally designed to recognise the cyclical and/or transient nature of these industries, as well as their project and/or contract-based structure.

Long service leave is also portable within state public services, between different tiers of government (federal, state and local), as well as between intra and interstate public service systems (to provide recognition of the value of a career in public service). In recent years unions have expressed an increasing level of interest in extending portable long service leave entitlements to workers in employment sectors that experience high levels of staff turnover and challenging industrial conditions.

This interest has been mirrored by other organisations concerned with social justice and equity for workers. For example, TASCROSS, the peak body for the Tasmanian Community Services Sector and the Australian Capital Territory (ACT) Council of Social Service have been espousing the benefits of a portable long service leave for many years. ACTCOSS (2008) submission to the ACT government made a compelling argument for the implementation of a Community Services Sector Portable Long Service Leave Scheme

We can learn a lot from existing PLSL schemes. The following section of this submission will highlight features of existing schemes and/or resources used to scope PLSL schemes that will promote the implementation of an appropriate scheme that best serves the needs of our members and other health workers.

Long service leave forms part of the ten universal National Employment Standards that are found in Part 2-2 of the Fair Work Act 2009 (FW Act).

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However, unlike most of the Standards that can be found in this section of the FW Act, such as, annual leave, maternity leave, parental leave, sick leave, compassionate leave, and so on, long service leave (LSL) entitlements are determined in different jurisdictions by state legislation.

**Table 1: Long Service Leave Legislation across Australia**

<b>STATE</b>	<b>LEGISLATION</b>	<b>ENTITLEMENTS</b>
<b>VIC</b>	Long Service Leave Act 1992	Accrue 8.67 weeks after 10 years’ service. Then 4.33 weeks after each additional 5 years’ service
<b>TAS</b>	Long Service Leave Act 1976	Accrue 8.67 weeks leave after 10 years’ service. Then 4.33 weeks leave for each additional 5 years employment
<b>NSW</b>	Long Service Leave Act 1955	Accrue 2 months after 10 years’ service. Then 1 month leave for each subsequent 5 years’ service
<b>NSW</b>	Long Service Leave (Mining Industry) Act 1963 No 48	Accrue 3 months after 10 years’ service.
<b>SA</b>	Long Service Leave Act 1987	Accrue 13 weeks leave after 10 years’ service. Then 1.3 weeks leave for each subsequent year.
<b>QLD</b>	Industrial Relations Act 1999	Accrue 8.67 weeks leave after 10 years’ service. Qualify for further leave after each additional 5 years’ service.
<b>ACT</b>	Long Service Leave Act 1976	Accrue 0.2 months leave for each year of service. LSL can be taken after 7 years’ service
<b>WA</b>	Long Service Leave Act 1958	Accrue 8.67 weeks leave after 10 years’ of work. Then 4.33 weeks leave after additional 5 years’ service
<b>NT</b>	Long Service Leave Act 1981	Accrue 13 weeks leave after 10 years’ service. Then 6.5 weeks after each additional 5 years’ service

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Australia has multiple legislative frameworks relating to long service leave operating across its states and territories. This makes the existing long service leave provisions in Australia highly complex and inflexible. Table 1 lists the legislation and relevant entitlements that can be found across the country.

The Health Workers Union supports the adoption of a Victorian PLSL scheme for health workers. We also support the ongoing work and research into the establishment of a national PLSL scheme. We believe that national standards would provide greater flexibility for employment across different states and territories and reduce the administrative burden for employers who operate across more than one jurisdiction.

A National Reciprocal Agreement has been entered into by every state/territory based scheme to enable interstate construction work to count towards a worker's LSL.

AUSLEAVE provides centralised access to information about each state and territory's scheme. AUSLEAVE ensures that portable long service leave can be managed cooperatively to better service the Australian building and construction industry.

PLSL schemes exist outside of the constructions industry. In Queensland, the Australian Capital Territory and New South Wales, PLSL schemes for the Contract Cleaning Industry are also administered by the relevant authorities. The ACT authority also administers a portable scheme for the Community Services sector in that territory. Table 2 lists the PLSL agencies throughout Australia.

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**Table 2: PLSL Partner Agencies throughout Australia**

<b>STATE</b>	<b>COMPANY</b>
New South Wales	Long Service Corporation
ACT	Construction Industry Long Service Leave Board
Western Australia	Construction Industry Long Service Leave Payments Board
South Australia	Construction Benefit Services
Victoria	CoINVEST
Northern Territory	NT Build
Queensland	QLeave
Tasmania	TasBuild Ltd

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## **A Victorian PLSL scheme for the healthcare and social services sectors**

In 2003, the Victorian community services minister announced the launch of the Community Sector Investment Fund (CSIF) to assist with building the sustainability of organisations within the community services sector.

A key area identified in consultations was the need to address issues of recruitment and retention, and a PLSL scheme for workers within the community services sector was identified as having the potential to improve workforce retention. The Victorian Department of Human Services funded Bendzulla Actuarial (2008) who undertook a feasibility study into a portable long service leave scheme for the Victorian community sector.

The feasibility study in 2007 and an actuarial report in 2008 explored the practicalities of such a scheme in Victoria (Bendzulla Actuarial, 2008). These reports' findings were endorsed by the CSIF Reference Group and incorporated into the Stronger Community Organisations Project Action Plan.

As part of the Victorian Government's Action Plan: Strengthening Community Organisations, the Department of Planning and Community Development (DPCD) stated that it would provide one-off funding to help establish a portable Long Service Leave scheme for the community sector.

In 2010, the Victorian state election led to a change of government (the coalition was elected) and unfortunately the new government abandoned the commitment to a community services sector PLSL scheme. Nonetheless, a number of sector-specific issues that arose from the extensive research and consultation continue to have relevance.

Without repeating all the findings, this submission will attempt to highlight some issues from the two commissioned reports, as they may pre-empt arguments that may be used to attempt to further delay a PLSL scheme for health workers,

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especially within the disability & community services sector.

Another issue put forward within this submission that could be worthy of further exploration was the idea of workers contributing about \$2 per day to go toward the administration of a PLSL scheme. This would greatly simplify the information requirements of the scheme, as employers would not need to consider part-time, overtime, casual rates of pay and so on, thereby reducing considerably the administrative costs of the scheme.

However this issue may raise cross-subsidisation concerns between employers, and would break the relationship of contributions being based on workers' entitlements-therefore adding an element of risk to any such scheme.

Portable long service leave schemes already exist in a number of industries within Victoria. These industry schemes present a good structural model that could be adopted to introduce a PLSL for Victorian healthcare workers. CoINVEST is an example of one PLSL scheme operating within Victoria that could be altered and implemented within the healthcare sectors.

### **The COINVEST PLSL SCHEME**

CoINVEST is an example of a PLSL already operating within Victoria. For example, CoINVEST Ltd is a public company that administers the Portable Long Service Leave Scheme for the construction industry in Victoria. The Long Service Leave scheme was created by an Act of Parliament. CoINVEST administers the Construction Industry Long Service Leave Act, 1997 (amended 2004).

The scheme was set up in Victoria in 1976. Employers, workers, subcontractors, directors and apprentices working within Victoria's construction industry are required to be registered with CoINVEST.

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The CoINVEST PLSL scheme was introduced because it was evident that many workers were disadvantaged due to the nature of the industries industry reliance on independent projects or contracts. Consequently, workers are forced to move from one employer to another.

When the PLSL scheme was set up in 1976, the construction industry was a typical example of this way of working. Since then, many other industries have adopted this type of work style, including the health and community care industries (for example, aged and disability care).

CoINVEST has reported that 97 per cent of workers in their scheme have had more than one employer over their qualifying period. Without CoINVEST's PLSL scheme, Victoria's construction industry workers would qualify for long service leave!

### **How CoINVEST's Portable Long Service Leave scheme works**

- CoINVEST keeps a record of how many days of eligible service a worker accrues in Victoria.
- Individual member's' records comprise of accrued service throughout multiple employers.
- Once employees have built up seven or more years of eligible service, they will be able to claim Long Service Leave from CoINVEST at any point afterwards.

In accordance with the Long Service Leave Act, 1997 (amended 2004) CoINVEST is a compulsory part of the construction industry in Victoria. Therefore, all employers who perform covered work are required to record with

## Submission to the Victorian Parliament's Inquiry into Portability of Long Service Leave Entitlements for Victorian Workers

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CoINVEST how many days each worker has performed - this is done quarterly and builds up an employee's record of service.

Furthermore, the employer then pays a contribution fee into the Long Service Leave Fund in order to ensure that CoINVEST is sufficiently funded to be able to pay out claims to all eligible workers when they make their claim for Long Service Leave. Thus far, few complaints have been made about how the CoINVEST scheme operates!

Any Victorian healthcare and community services PLSL scheme would need to adhere to the following points or principles:

- That any scheme should be mandatory, and include health workers that are employed within private and public sectors and both for profit and not-for-profit community services employers and workers.
- That the Victorian government should consider funding the administrative costs until the scheme became self-sustaining.
- That full-time, part-time, casual, limited-tenure and independent contractors should all be covered.
- That minimum earnings should parallel that of superannuation-therefore, workers earning less than \$450 a month would not fall under the scope of the scheme.

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## Recommendations

These recommendations aim to progress the implementation of a PLSL scheme for health and community service sector workers in Victoria.

- The state government must advance the process of developing a Portable Long Service Leave scheme by supporting the establishment of a PLSL working group comprising representatives from unions, employers, state government, CoINVEST or another company.
- That regional forums be established to facilitate sector engagement and feedback on key issues for the scheme.
- That the PLSL working group develop a proposal to inform the structure, functions and responsibilities for a Board that would oversee the governance of a Victorian healthcare sector PLSL scheme.
- That the Victorian state government commission an actuarial assessment to determine the practicalities of establishing a PLSL scheme for health and community services sector workers in Victoria.
- That the prospective Victorian PLSL scheme provides long service leave entitlements as articulated within the Victorian Long Service Leave Act 1992.

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## APPENDIX A: Case Study 1

(Address and name Censored or altered for Confidential purposes)

Samantha is a 45 year old female that has worked as a Pathology Collector in rural Victoria for a well-known company Pathology company, Healthscope within a Public hospital- Warrnambool Base Hospital. The hospital tenders out its pathology services to private companies such as healthscope.

The tendering process has resulted in many different problems in relation to service provision and in relation to works entitlement and continuity of employment. In this instance we will focus on the LSL entitlements.

Warrnambool Base Hospital recently awarded a new tender to Dorevich Pathology-to run and manage its pathology services. Although Linda was able to obtain employment with Dorevich, many other workers were not so fortunate. In many cases, companies retrench parts of their workforce in an attempt to save money; rid its ranks of trade union members and so on.

Unfortunately for Linda, because she moved from one private employer to another, she ends up losing her LSL entitlements. They do not carry over to the new Pathology company!

**APPENDIX A: Case Study 1 continued**

Imagine having worked for nine years with an employer, counting down the days until you reach your 10 years of loyal service so that you can access your LSL entitlements and all of a sudden, you're told that your LSL has been void and reset. Obviously Linda was upset and felt that the system was not fair and needed to be changed to make sure that others in a similar position do not have their LSL entitlements voided because of the tendering processes that our Public and Private hospitals use to provide services to members of the public.

## Appendix A: Case Study 2

(Address and name Censored or altered for Confidential purposes)

For example, Maria is employed as a Food and Domestic Services Assistant at a local public hospital. Her employment is terminated because her employer decides to restructure the roster and decides that other workers can pick up her workload.

After several months, Maria's employer realises that the hospital kitchen is not running as efficiently as it used to and that Maria's role was essential within the kitchen and asks her to come back. Maria reluctantly returns to work (difficult working with a manager that terminates peoples employment without having regard for the social impact on the worker and his or her family) at the local public hospital because whilst she was out of work she couldn't she had great difficulty qualifying for Centrelink payments and could not find another job.

Because Maria is re-employed after the three months, this break in her employment period will break her continuity of employment requirements and as a consequence her previous LSL entitlements have been lost. Maria cannot do anything about this!

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### Appendix A: Case Study 3

(Address and name Censored or altered for Confidential purposes)

Joan has worked for almost 30 plus years within the aged and disability care.

“The care staff are working too hard as we are understaffed mainly due to our employer not hiring enough Aged Care workers.

Even when we are fully staffed, it is hard to find Care staff when they are on their tea and lunch breaks.

Worker to Patients ratios, at the best of times are 30 Patients to 1 worker.

The dementia ward is always understaffed, in particular when it comes to feeding the patients. Workers need to rush from one patient to another to make sure that they don't go hungry. Even when we try our hardest to make sure every patient is fed during lunch, we fail. This means that many patients do not get to have their cold lunch until after 2pm!

Care staff also struggling to keep up with laundry demands. That is, the laundry piles up in the facility because we do not have enough care staff to transport dirty laundry to the laundry.

I find it very hard to stay focused on the job due to all the concerns I have about the workplace.

Even though its something I'm good at and love and have been doing for years, every once and a while I need time out and leave my employer for months or in the last case I left for more than a year.

**APPENDIX A: Case Study 3 continued**

I need to do this to prevent burning out or having an episode.

Even though I have worked in disability and aged care for almost 30 years, I have yet to qualify for long service.

When I speak to my manager about this she or he tells me that their hands are tied and that they cannot do anything about it.

Can the Victorian parliament please change the rules so that people like me and I know of many people in the same boat, can finally earn time out with pay from our employers.

Thank you.