



Public Sector Labour Relations

Shaping a contemporary public sector workforce

To: Directors General and Chief Executive Officers

Long service leave for casual employees

Public Sector Labour Relations (PSLR) has identified that, in the past, legal and operational advice has been given to public sector employers indicating casual employees are not entitled to long service leave or to be paid for it on termination of their employment.

In consultation with the State Solicitor's Office, PSLR has determined this historical advice was incorrect. Casual employees may be entitled to long service leave under the provisions of the *Long Service Leave Act 1958* (the LSL Act), even if they are paid a casual loading that is stated to be in lieu of long service leave or all types of leave.

The entitlement to leave under the LSL Act only applies to casual employees who have been employed for more than ten years and meet continuous service requirements.

This letter is to formally advise you of the corrected position. PSLR officers have already informally communicated the position to most public sector employers through government employee relations forums.

The data provided by employers indicates that many are already providing qualifying casual employees with long service leave. It also shows that only a small proportion of employees over the sector are longer-term casuals.

As a consequence of the corrected position, some employing authorities may need to consider:

- how to treat people fairly and manage any financial liability if any casual employees entitled to LSL have left employment without the entitlement being recognised; and
- how to recognise and administer accrued entitlements if casual employees are converted to permanency under the Public Sector Commissioner's Instruction No. 23.

I am also advising you of changed industrial requirements for casual employees going forward. The replacement Public Service and Government Officers CSA General Agreement (the CSA Agreement), which is expected to be registered in coming weeks, contains provisions:

- clarifying casual employees are entitled to long service leave under the CSA Agreement, removing them from the scope of the LSL Act;
- increasing the casual loading from 20 to 25 per cent;
- allowing casual employees access to increments based on experience; and
- setting a minimum engagement period for casual employees.

These provisions support the Government's stated preference for permanent employment. In conjunction with existing requirements around conversion to permanency, they should support employers in moving away from long term casual employment arrangements. The change to long service leave for casuals will ensure entitlements are governed by industrial instruments rather than the LSL Act.

PSLR officers are available to provide support and advice to your officers regarding how to manage casual entitlements as a consequence of the corrected advice or changes to the CSA Agreement.

Yours sincerely,



Alex Lyon | **Executive Director**
Public Sector Labour Relations

16 September 2019