

LONG SERVICE LEAVE (AMENDMENT) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Industrial Arbitration (Further Amendment) Bill 1986.

The object of this Bill is to amend the Long Service Leave Act 1955—

- (a) to limit the duration and provide for the review of exemptions granted to employers under section 5 of that Act; and
- (b) to ensure that the entitlement of a worker, who has completed at least 10 years service but less than 15 years service with an employer, to long service leave is calculated on the basis of total actual service, not the number of completed years of service, with that employer, as was the case before the commencement of the Long Service Leave (Amendment) Act 1985.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the several provisions of the proposed Act. Of the amendments proposed to be made—

- (a) those relating to exemptions are to commence on a day to be appointed by the Governor-in-Council; and
- (b) those relating to long service leave entitlements are to be deemed to have commenced on the day on which the Long Service Leave (Amendment) Act 1985 commenced.

Clause 3 is a formal provision which gives effect to the Schedules of amendments.

Schedule 1 (1) is an amendment consequential to that contained in Schedule 1 (2).

Schedule 1 (2) provides a framework for controlling exemptions granted under the Principal Act—

- (a) by limiting the duration of exemptions granted after the commencement of the proposed amendment to 3 years (or a shorter period specified by the Industrial Commission);
- (b) by empowering the Industrial Commission to extend the period of an exemption so granted by periods each not exceeding 3 years; and
- (c) by enabling the Industrial Commission to review any exemption in certain specified circumstances and to confirm, vary or revoke the exemption.

Schedule 2 (1) is an amendment consequential to that contained in Schedule 2 (2).

Schedule 2 (2) provides that the amount of long service leave to which a worker who has completed at least 10 years service but less than 15 years service with an employer is entitled on termination or cessation of service for any reason is a proportionate amount on the basis of 3 months for 15 years service.

LONG SERVICE LEAVE (AMENDMENT) BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 38, 1955

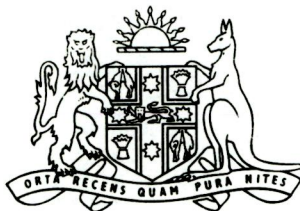
SCHEDULE 1—AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO EXEMPTIONS

SCHEDULE 2—AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO LONG SERVICE LEAVE ENTITLEMENTS

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LONG SERVICE LEAVE (AMENDMENT) BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Long Service Leave Act 1955 with respect to the entitlement to, and amount of, long service leave and the duration and review of exemptions granted under that Act.

Long Service Leave (Amendment) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Long Service Leave (Amendment) Act 1986".

Commencement

2. (1) Except as provided by this section, this Act shall commence on 10 the date of assent to this Act.

(2) Section 3, in its application to a provision of Schedule 1 or 2, shall commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced.

(3) Schedule 1 shall commence on such day as may be appointed by the 15 Governor and notified by proclamation published in the Gazette.

(4) Schedule 2 shall be deemed to have commenced on 9 May 1985.

Amendment of Act No. 38, 1955

3. The Long Service Leave Act 1955 is amended in the manner set forth in Schedules 1 and 2.

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SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO EXEMPTIONS

(1) Section 5 (**Exemptions**)—

25

Section 5 (2) (a)—

Omit "The", insert instead "Subject to section 5A, the".

SCHEDULE 1—*continued*AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO EXEMPTIONS—*continued*

(2) Section 5A—

After section 5, insert:

Review of exemptions

5 5A. (1) In this section, “exemption” means an exemption granted under section 5 (2) (a).

10 (2) Unless sooner revoked, an exemption granted after the commencement of this section remains in force for the period of 3 years from the date on which it is granted or for such shorter period as the Industrial Commission of New South Wales specifies when granting it, but it may be extended by the Commission from time to time for a further period or further periods of 3 years or such shorter period or periods as the Commission specifies when extending it.

15 (3) The Industrial Commission of New South Wales may review any exemption—

20 (a) of its own motion, after causing a notice to be served on such persons as appear to be appropriate in the circumstances stating that the Commission requires them to show cause why the exemption should not be varied or revoked on the ground that the benefits provided by this Act are more favourable than those then applying;

(b) on application by an industrial union of employers or employees, or by an employer, affected by the exemption; or

25 (c) at the request of the Minister or following a report by the Industrial Registrar.

30 (4) After reviewing an exemption, the Industrial Commission of New South Wales may confirm the exemption, vary the terms of the exemption or any condition subject to which the exemption was granted, or revoke the exemption.

SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO LONG SERVICE LEAVE ENTITLEMENTS5 Section 4 (**Long service leave**)—

(1) Section 4 (2) (a) (i) (C)—

After “services”, insert “after the completion of 15 years service”.

(2) Section 4 (2) (a) (ii)—

10 After section 4 (2) (a) (i), insert:

- (ii) in the case of a worker who has completed at least 10 years service but less than 15 years with an employer and whose services with the employer are terminated or cease for any reason, be a proportionate amount on the basis of 3
- 15 months for 15 years service; and

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

LONG SERVICE LEAVE (AMENDMENT) ACT 1986 No. 24

NEW SOUTH WALES



TABLE OF PROVISIONS

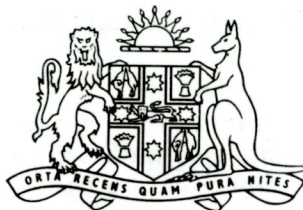
1. Short title
2. Commencement
3. Amendment of Act No. 38, 1955

**SCHEDULE 1—AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO EXEMPTIONS**

**SCHEDULE 2—AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO LONG SERVICE LEAVE ENTITLEMENTS**

LONG SERVICE LEAVE (AMENDMENT) ACT 1986 No. 24

NEW SOUTH WALES



Act No. 24, 1986

An Act to amend the Long Service Leave Act 1955 with respect to the entitlement to, and amount of, long service leave and the duration and review of exemptions granted under that Act. [Assented to 2 May 1986.]

Long Service Leave (Amendment) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Long Service Leave (Amendment) Act 1986".

Commencement

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 3, in its application to a provision of Schedule 1 or 2, shall commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced.

(3) Schedule 1 shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

(4) Schedule 2 shall be deemed to have commenced on 9 May 1985.

Amendment of Act No. 38, 1955

3. The Long Service Leave Act 1955 is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO EXEMPTIONS

(1) Section 5 (**Exemptions**)—

Section 5 (2) (a)—

Omit "The", insert instead "Subject to section 5A, the".

Long Service Leave (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO EXEMPTIONS—*continued*

(2) Section 5A—

After section 5, insert:

Review of exemptions

5A. (1) In this section, “exemption” means an exemption granted under section 5 (2) (a).

(2) Unless sooner revoked, an exemption granted after the commencement of this section remains in force for the period of 3 years from the date on which it is granted or for such shorter period as the Industrial Commission of New South Wales specifies when granting it, but it may be extended by the Commission from time to time for a further period or further periods of 3 years or such shorter period or periods as the Commission specifies when extending it.

(3) The Industrial Commission of New South Wales may review any exemption—

- (a) of its own motion, after causing a notice to be served on such persons as appear to be appropriate in the circumstances stating that the Commission requires them to show cause why the exemption should not be varied or revoked on the ground that the benefits provided by this Act are more favourable than those then applying;
- (b) on application by an industrial union of employers or employees, or by an employer, affected by the exemption; or
- (c) at the request of the Minister or following a report by the Industrial Registrar.

(4) After reviewing an exemption, the Industrial Commission of New South Wales may confirm the exemption, vary the terms of the exemption or any condition subject to which the exemption was granted, or revoke the exemption.

Long Service Leave (Amendment) 1986

SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE LONG SERVICE LEAVE ACT 1955
RELATING TO LONG SERVICE LEAVE ENTITLEMENTSSection 4 (**Long service leave**)—

(1) Section 4 (2) (a) (i) (C)—

After “services”, insert “after the completion of 15 years service”.

(2) Section 4 (2) (a) (ii)—

After section 4 (2) (a) (i), insert:

- (ii) in the case of a worker who has completed at least 10 years service but less than 15 years with an employer and whose services with the employer are terminated or cease for any reason, be a proportionate amount on the basis of 3 months for 15 years service; and

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986



