

# Community Services Industry (Portable Long Service Leave) Regulation 2020

Explanatory notes for SL 2020 No. 183

made under the

*Community Services Industry (Portable Long Service Leave) Act 2020*

## General Outline

### Short Title

*Community Services Industry (Portable Long Service Leave) Regulation 2020*

### Authorising law

Section 125 of the *Community Services Industry (Portable Long Service Leave) Act 2020*

### Policy objectives and the reasons for them

Queensland's community services industry portable long service leave (PLSL) scheme (the Scheme) is established under the *Community Services Industry (Portable Long Service Leave) Act 2020* (the Act).

The primary objective of the Act is to implement the Scheme to assist workers in the community services industry to accrue an entitlement to portable long service leave. To achieve this, the Scheme proposes to recognise long service to the industry rather than continuous service with a single employer.

The policy objective of the *Community Services Industry (Portable Long Service Leave) Regulation 2020* (the Regulation) is to support the Act in achieving its purpose of implementing a Scheme in a manner that is efficient and does not unduly burden employers and other stakeholders.

### Achievement of policy objectives

The Regulation is due to commence on 1 January 2021. The policy objective of the Regulation, which is to support the operation of the Act, is achieved by prescribing the following matters:

- certain worker details to be included in employers' returns;
- the prescribed classification level where a worker is not engaged under an industrial instrument;
- dates for quarterly lodgement of returns;
- that the rate of the levy is set at 1.35 per cent of workers' ordinary wages; and

- that the rate of interest that may be imposed for failure to pay a levy as required will be set at the rate prescribed for unpaid tax interest in accordance with the *Taxation Administration Regulation 2012*.

## **Consistency with policy objectives of authorising law**

The policy objective of the Act is to provide a PLSL scheme that assists workers in the community services industry to accrue an entitlement to long service leave. The Regulation is consistent with the objective of the Act, as it enables the proper functioning of the Scheme by providing detail not contained in the legislation.

## **Inconsistency with policy objectives of other legislation**

The Regulation is consistent with the policy objective of the Act and similar Queensland legislation developed for other industries (such as the contract cleaning industry) that experience similar difficulties in terms of insecure work and the difficulty for workers in accruing a long service leave entitlement.

## **Benefits and costs of implementation**

The Scheme is established under the Act. The Regulation provides certain detail which is considered to be more appropriately contained in a regulation. The primary benefit of making the Regulation is that it provides certain details necessary for governance and compliance with the Scheme.

The primary purpose of the Scheme is to provide community services' workers with a sustained break that workers in other industries, which offer greater job security, get through accrual of a long service leave entitlement. To achieve this, the Scheme will recognise long service to the sector, rather than continuous service with a single employer.

In addition to the benefits to workers, this Scheme benefits the industry by encouraging attraction and retention of skilled and experienced employees and reduces long service leave administrative costs upon individual employers.

To fund the Scheme, industry employers will be required to pay a levy on the wages of workers they engage. While the requirement to pay the levy, which is based on a percentage of an employer's workers' ordinary wages, exists in the primary legislation, the rate at which the levy is imposed is to be prescribed by the Regulation.

The proposed levy amount is set at 1.35 per cent of a worker's ordinary wages. This rate is based on actuarial advice and achieves the aim of keeping the rate as low as possible for employers while delivering the most beneficial entitlement to workers.

The levy rate is lower than starting levy rates for similar community services schemes. Of the other jurisdictions that have a comparable PLSL scheme, Victoria started its community services scheme in 2019 with a levy rate of 1.65 per cent and the rate imposed in the Australian Capital Territory commenced at 1.6 per cent, although this rate has gradually decreased to 1.2 per cent.

To ensure the efficient functioning of the Scheme, the Act also imposes reporting requirements on employers. Both the levy rate and reporting deadlines are to be prescribed by the Regulation.

The imposition of the levy and quarterly reporting obligations is regarded as the only practical way of obtaining sufficient funds to finance the Scheme and the regular reporting obligation will assist in ensuring compliance is achieved.

## **Consistency with fundamental legislative principles**

The Regulation presents no breach to Fundamental Legislative Principles.

## **Consultation**

Extensive consultation was undertaken during the development of the Act. The contents of the Regulation are consistent with advice given during the development of the Act and when the Bill was introduced into Parliament.

In accordance with the *Queensland Government Guide to Better Regulation*, given the extensive consultation undertaken during the development of the Act, the Regulation has been assessed as being excluded from further Regulatory Impact Assessment (RIA) in accordance with Category (1) – regulatory proposals that have already undergone an extensive impact assessment.