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**STATE EMPLOYEES (LONG-SERVICE LEAVE) ACT  
1974**

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**STATE EMPLOYEES (LONG-SERVICE LEAVE)**

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No. 35 of 1974

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**AN ACT to amend the State Employees (Long-Service Leave) Act 1950 and the State Employees (Long-Service Leave) Act (No. 2) 1968.**

**[19 September 1974]**

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—(1)** This Act may be cited as the *State Employees (Long-Service Leave) Act 1974*. Short title and citation.

(2) The *State Employees (Long-Service Leave) Act 1950*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

**2** Section 2 of the Principal Act is amended—

(a) by omitting the definition of “employee” and substituting therefor the following definitions:—

“‘employee’ means a person employed in any capacity by the State, or by a State authority, who is employed as a full-time employee or a part-time employee, and includes—

(a) a person so employed, the terms and conditions of whose employment are prescribed by an industrial award; and

(b) an officer appointed under the *Parliamentary Privilege Act 1898*,

but does not include an employee within the meaning of the *Coal Mining Industry Long Service Leave Act 1950*;

“‘full-time employee’ means an employee who is required to devote the whole of his time to the duties of his office or position;

“‘holder of a Government scholarship’ means a person who is studying or training under a scholarship provided by the State or a State authority for the purposes of having his services when he completes his studies or training, and includes a person who, pursuant to the regulations made under the *Education Act 1932*, holds a scholarship or studentship for the purposes of his training as a teacher;”;

(b) by inserting after the definition of “industrial award” the following definition:—

“‘part-time employee’ means an employee who is employed in continuous part-time employment;

(c) by omitting from paragraph (b) of the definition of “prescribed authority” the words “the schedule” and substituting therefor the words “Schedule I”;

(d) by adding at the end thereof the following definition:—

“‘the prescribed formula’ means the formula specified in Schedule II.”; and

(e) by adding at the end thereof the following subsection:—

“(2) Notwithstanding anything in the definition of ‘employee’ and ‘full-time employee’ in subsection (1),

a person who is the holder of a Government scholarship shall be deemed to be a full-time employee within the meaning and for the purposes of this Act.”.

**3** Section 4 of the Principal Act is amended—

Long-service  
leave.

- (a) by inserting in subsection (1), after the word “absence”, the words “with pay”;
- (b) by omitting subsection (2) and substituting therefor the following subsections:—

“(2) For the purposes of this Act, the following period of long-service leave of absence shall be deemed to accrue to an employee at the end of each completed year of his continuous service as an employee, namely:—

- (a) In the case of an employee who has been a full-time employee for the whole of that year, a period of nine days; and
- (b) In the case of any other employee, a period of days calculated in accordance with the formula specified in Schedule II.

“(2AA) The long-service leave referred to in subsection (1) is the long-service leave that has accrued to an employee under subsection (2), except so much of that leave as has already been granted to the employee.”; and

- (c) by omitting subsection (3) and substituting therefor the following subsection:—

“(3) Subject to this Act, any leave of absence to which an eligible employee is entitled under this Act may be taken in one period or in more periods than one.”.

**4** Section 5 of the Principal Act is amended—

Length of  
service:  
How computed.

- (a) by omitting subsection (1) and substituting therefor the following subsection:—

“(1) Except as otherwise provided by this section, in computing an employee’s length of service for the purposes of this Act, his service as a full-time employee, part-time employee, or both as a full-time employee and part-time employee, shall be included, whether that service was performed before or after the commencement of this Act.”;

- (b) by omitting from subsection (2) the words “subsection (3)” and substituting therefor the words “subsections (3) and (3B)”;

(c) by inserting after subsection (3A) the following subsection:—

“(3B) Any continuous service by an employee as the holder of a Government scholarship before 1st January 1970 shall not be included as part of his period of service as an employee for the purpose of computing the leave of absence to which he is entitled under this Act.”; and

(d) by inserting after subsection (6) the following subsection:—

“(6A) For the purposes of this section, a prescribed authority shall cause to be kept in respect of each of its part-time employees a record (to be known as ‘the part-time record’) in which there shall be entered the period of long-service leave (if any) that has already accrued to him and, forthwith after the end of each subsequent year or each year, as the case may be, of the employee’s continuous service, the period of long-service leave that has accrued to the employee for that year, being, in each case, a period calculated in accordance with the prescribed formula.”.

**5** After section 6 of the Principal Act the following section is inserted:—

“6A The pay to which an employee who is granted leave of absence under section 4 is entitled is—

(a) in the case of an employee—

(i) who has been a full-time employee during the whole of the period of service in respect of which that leave is granted; or

(ii) who is a full-time employee immediately before the date of the commencement of that leave of absence,

a salary payable at the same rate as is payable to him immediately before the date of the commencement of that leave; and

(b) in the case of an employee who is a part-time employee immediately before the date of the commencement of that leave of absence, a salary payable at the same rate as would have been payable to him if he had, on that date, been a full-time employee in the relevant office or position held by him.”.

Pay to which employees on long-service leave are entitled.

**6**—(1) Section 7 of the Principal Act is amended by omitting paragraph (a) of subsection (2) and substituting therefor the following paragraph:—

Allowances to eligible employees in certain cases.

“(a) in the case of an employee who dies, is permitted or required to retire from his employment on account of sickness, or is compulsorily retired from his employment as mentioned in subsection (1) (c), seven years;”.

(2) This section shall be deemed to have commenced on 17th January 1973.

**7** Section 8 of the Principal Act is amended—

Right of employee to elect to retire in certain cases.

(a) by omitting from subsection (3) the word “date” (twice occurring) and substituting therefor, in either case, the word “day”; and

(b) by inserting after subsection (3B) the following subsection:—

“(3C) Nothing in subsection (3B) prejudices or affects the operation of the *Retirement Benefits Act 1970*.”.

**8** Section 10 of the Principal Act is amended by omitting from subsection (1) the words “No employee shall” and substituting therefor the words “An employee, other than a part-time employee, shall not”.

Employees not to engage in paid employment, &c., while on leave.

**9** After section 10 of the Principal Act the following section is inserted:—

“11—(1) A dispute—

Settlement of disputes.

(a) as to whether or when an employee is or has become entitled to leave of absence under this Act or to payment of an allowance under section 7 or section 8, or a deceased employee’s personal representatives are or have become entitled to payment of such an allowance; or

(b) with respect to the pay to which an employee who has been granted that leave is entitled,

shall be referred to, and heard and determined, as prescribed, by the Public Service Arbitrator.

“(2) The determination of the Public Service Arbitrator with respect to a dispute to which this section applies is final.”.

**10** The Schedule to the Principal Act is amended by omitting the heading thereof and substituting therefor the following heading:—

Amendment of the Schedule.

“SCHEDULE I”.

New Schedule  
II.

**11** The Principal Act is amended by adding at the end thereof the following Schedule:—

“ SCHEDULE II

(Section 4)

“ FORMULA FOR CALCULATING YEARLY PERIOD OF DAYS OF LONG-SERVICE LEAVE ACCRUING TO CERTAIN EMPLOYEES.

“ 1. The following formula is prescribed for the purposes of section 4 (2) (b):—

$$P = \frac{A}{B} \times 9,$$

where—

P represents the period of days to which a prescribed employee is entitled in respect of a completed year of continuous service;

A represents the total number of hours worked by that employee in that year; and

B represents the total number of hours that that employee would have been required to work in that year, if he had been a full-time employee in the relevant office or position held by him.

“ 2. Where a period of days that is calculated in accordance with paragraph 1 of this Schedule includes a fraction of a day—

(a) a fraction less than one-quarter shall be disregarded;

(b) a fraction not less than one-quarter but less than three-quarters shall be treated as half a day; and

(c) a fraction not less than three-quarters shall be treated as one day.

“ 3. In this Schedule, ‘prescribed employee’ means an employee who has not been a full-time employee for the whole of the relevant year of continuous service completed by him.”

Consequential  
amendments.

**12** The provisions of the Principal Act that are specified in the first column of the Schedule to this Act are amended as respectively specified in the second column of that Schedule.

Application of  
Principal Act  
to employment  
of employees  
whose service  
is not wholly  
full-time.

**13**—(1) Subject to any provision to the contrary contained therein, the Principal Act, as amended by this Act, applies in respect of the employment of a prescribed employee, whether or not that employment was before or after the commencement of this Act or the Principal Act, except that the Principal Act, as so amended, does not apply in respect of the employment before 1st January 1974 of any person who, before that date, ceased to be a prescribed employee.



(2) In this section, “prescribed employee” means an employee within the meaning of the Principal Act, as amended by this Act, whose continuous service as an employee has been wholly part-time service or both full-time and part-time service.

**14—**(1) The *State Employees (Long-Service Leave) Act* (No. 2) 1968 is amended by omitting paragraph (a) of section 2.

Amendment of  
State Employees  
(Long-Service  
Leave) Act  
(No. 2) 1968.

(2) This section shall be deemed to have commenced on the commencement of the *State Employees (Long-Service Leave) Act* (No. 2) 1968.

SCHEDULE

(Section 12)

CONSEQUENTIAL AMENDMENTS

FIRST COLUMN Provision amended	SECOND COLUMN How amended
Section 2 ....	By omitting from the definitions of “prescribed authority” and “Teaching Service” the numerals “1923” (wherever occurring) and substituting therefor, in each case, the numerals “1973”.
Section 7 ....	By omitting from subsection (4) the numerals “1923” and substituting therefor the numerals “1973”.
Schedule I (being the Schedule renumbered by section 10 of this Act.)	By omitting therefrom the item relating to the <i>Public Service Act</i> 1923 and substituting therefor the following item:— “Public Service Act 1973 .. . . . . .   The Public Service Board”.