



Australian Federation of Employers and Industries (AFEI)

**Submission to the Senate Education and Employment
References Committee Inquiry into Long Service Leave**

11 December 2015

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Inquiry into the feasibility of, and options for, creating a national long service standard, and the portability of long service and other entitlements

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1. There should be no national minimum standard for long service leave and no extension of portable schemes (or any form of continuity of employment between employers).
2. Long service leave was introduced into the National Employment Standard (**NES**) when the previous Federal Government expanded minimum standards from five to ten. It should not have formed part of national employment standards, being an anachronistic state based form of leave unique to Australia and New Zealand.
3. Long service leave is a costly workplace entitlement with significant financial impact in terms of both financing and managing absence. The principle underpinning the provision of long service leave is that it is leave with pay given to employees in recognition of long and continuous employment with one employer. **It is not a reward for being in the workforce.** This principle was enunciated with the introduction of long service leave in each jurisdiction and should be adhered to if long service leave is to be retained in those jurisdictions, despite the emergence of limited, industry specific long service leave schemes in recent years.
4. AFEI opposes any extension of these portable long service leave schemes which currently operate in various jurisdictions but which are confined to the building and construction industry, contract cleaning and in the very limited instance of the ACT, security and community services.
5. These schemes are the product of particular industrial relations, commercial and political circumstances in those industries which gave rise to these idiosyncratic schemes. They are very expensive, are subject to complex and problematic management issues and in practice operate to provide employees with additional payment, not leave from work.
6. This review does raise questions about the relevance and application of long service leave in the contemporary Australian labour market. Long service leave was introduced at a time when Australian industry was protected behind high tariff barriers and not

subject to today's competitive global pressures. Further, it was initially introduced to enable public sector workers to "return home" to England.¹ It was introduced into the private sector ostensibly to reward long serving workers with the opportunity to recover their energies and to assist employers by reducing labour turnover.²

7. Since its introduction long service leave has not applied to more than a quarter of the workforce. The concept of reward for long service (greater than ten years) has become redundant in a workforce where 75 per cent of workers have not been in the same job for more than ten years.³ Just on a quarter of the Australian workforce remains with the same employer for over 10 years, and only around 10 per cent for over 20 years. The proportion of workers remaining with one employer for ten years or more has remained constant for at least three decades.⁴ Yet for decades unions and their political supporters have sought to extend this payment available only to a minority of workers to the entire labour force.

8. The Productivity Commission recently observed that:

The notion that people are increasingly switching employers and jobs is not borne out by trends over the past two decades (table 2.5). More than 40 per cent of employed people have tenure of five or more years — and this figure has scarcely changed over two decades. Short tenures (of under three months) have almost halved over this period.

Similarly, involuntary exit rates do not appear to have changed structurally over the past two decades. While an increase in involuntary quit rates was observed following the Global Financial Crisis, over the longer-term these rates do not exhibit a clear trend — again suggesting that jobs are not becoming more insecure.⁵

9. We also draw your attention to the earlier analysis by the Productivity Commission which found that over the decade to December 2011:

- Casuals and fixed-term employees were no more prevalent at the end of the decade than at the start.
- Labour hire workers probably became less prevalent, and it is likely that the workforce share of independent contractors also fell.
- The relatively rapid growth of casual and independent contractor employment from the 1980s, and labour hire workers from the 1990s, did not continue through the 2000s.

1 Labour Ministers' Council May 1999 Flexibility in Long Service Leave

2 *ibid.*

3 Australian Bureau of Statistics (ABS) Labour Mobility
<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6209.0February%202013?OpenDocument>

4 ABS Labour Statistics 6101.0 (1997) shows 23.7% had held their current job for 10 years and over and 8.2% for 20 years and over in 1992.

5 Productivity Commission Workplace Relations Framework Draft Report page 109

- In 2011, permanent full-time and part-time employees accounted for about 60 per cent of the workforce. Casual employees and self-employment accounted for a little under 20 per cent each.
 - Fixed-term employees accounted for the small residual and labour hire workers represented about 1 per cent of employment.⁶
10. This data does not suggest that there have been dramatic changes in the labour market including an increase in the use of short term and casual workers across all industries. The contemporary Australian labour market is not increasingly composed of short term, “insecure” or “precarious” jobs requiring additional remuneration and a reward simply for being employed. We see no reason to extend portable long service leave benefits and consider there are many reasons, including encouraging job growth, to restrict their further application. Getting and keeping a job is likely to be of greater benefit to individuals than a pay bonus for those already in employment.
11. The Committee should be under no illusion that a national long service leave scheme, and in particular a portable scheme, will not inflict greater costs and frictions in Australia’s already uncompetitive labour market.⁷ Currently long service leave is a contingent liability which is payable after years of service are met, and payable to a minority of the workforce. Portable or continuous schemes require employers to make contributions from the outset of the employment relationship, an additional immediate labour cost, payable to the entire workforce. In addition, employers will without doubt be required to fund the administration of such a scheme and the establishment of various national or regulatory bodies perform the complex tasks associated with data collection, retention and payments.
12. An indication of the complexity and magnitude of any such scheme is further provided by the Productivity Commission’s estimates of labour market transitions which also emphasises the high level of job turnover in the labour market. In 2013 more than two million people left their jobs (noting that some groups are constantly mobile) and there are significant numbers whose labour force status changes month by month.⁸ All such transitions and changes would have to be managed within any portable scheme, at enormous cost and effort.
13. The process of amalgamation of existing employment provisions, either through the ever ongoing making of modern awards or via legislation (including work health safety legislation) has resulted in a “cherry picking” approach and a highest common

6 Shomos, A., Turner, E. and Will, L. 2013, *Forms of Work in Australia*, Productivity Commission Staff Working Paper, Canberra.

7 World Economic Forum Global Competitiveness Index 2015-16.

Chief executives surveyed by the World Economic Forum rated Australian restrictive labor regulations and a poor work-force ethic as the biggest obstacle to doing business, followed by the burden and complexity of taxation, inefficient government bureaucracy, inadequate infrastructure and the lack of innovation.

<http://www.afr.com/technology/nz-canada-more-competitive-than-australia-20150929-gjxpnj>

8 Op cit page 111

denominator outcome in Australian workplace regulation. This outcome would be replicated in the formulation of any national long service leave standard. This unwarranted cost impost on employers is unacceptable. Formulating a national long service leave standard is a high risk process, even if undertaken to “harmonise” the provisions of different jurisdictions, and can only produce an outcome that is detrimental to employers.

14. The most significant consideration must be the impact of increasing benefits and entitlements on productivity and our competitive position. We are already uncompetitive in many areas. The former head of Kellogg Co was recently reported as describing Australian manufacturing costs as the second highest in the world, at \$42.00 an hour compared to \$28 in New Zealand and about the same in the United States.⁹ On top of that we must also consider Australia’s vast geography and small population, a small economy and disproportionate with costs from infrastructure, energy, transport, and a heavily regulated labour market. We do not need to add to this burden of disadvantage with yet another unaffordable increase in labour costs.

⁹ Australian Financial Review 14 September 2015.