



Industrial Relations Victoria Department of Innovation, Industry & Regional Development

**Long Service Leave
for Today's Workplace**
> Making it Work for You

The logo for the state of Victoria, featuring a stylized 'V' with a triangle inside, and the text 'Victoria The Place To Be' below it.

Long Service Leave Reforms

**SUBMISSION TO INDUSTRIAL RELATIONS VICTORIA
BY AUSTRALIAN DENTAL ASSOCIATION VICTORIAN BRANCH INC.
FEBRUARY 2005**

ADAVB Submission to Industrial Relations Victoria Long Service Leave Reforms

KEY POINTS

- The ADAVB welcomes the opportunity to comment on the proposed Long Service Leave (LSL) reforms. We note however that only a very short period of around 2 weeks was provided from the date of the announcement until the deadline for response. Given the scale of the changes and their likely cost impact on businesses, the more usual 60 days allowed for Regulatory Impact Statement (RIS) processes would have been more appropriate.
- The wish to establish minimum national standards for LSL is supported, but the ADAVB feels that this should involve setting those standards at the minimum level which provides a reasonable and sustainable benefit to employees without imposing an undue cost on employers.
- Employers are already bearing the increased cost of new Victorian Occupational Health and Safety (OHS) laws, and Commonwealth superannuation choice legislation that commences from 1 July, and the Victorian Government should recognize that the LSL measures will only exacerbate their red tape and cost problems. We suggest that the negative impact on many dental practices would be so great that they should be provided with legislative protection similar to the separate redundancy provisions which now apply to businesses that employ less than 15 employees.
- Specifically, the proposal to provide access to pro rated leave credit after seven years is an undue additional cost burden on employers – especially when the employee may already have enjoyed multiple parental leave benefits, and not actually worked for more than three or four years out of the seven.

BACKGROUND

The ADAVB is the professional association of dentists in Victoria, and its key objectives are to promote the improvement of the dental health of the public, the art and science of dentistry, and the highest standards of professional dental care.

The ADAVB has a long history of assisting its members in their compliance with regulatory requirements, including industrial matters, and sees itself as a responsible contributor to public policy making on issues related to the delivery of dental services to the Victorian community.

As the peak organization representing over 93% of private practitioners, and a total of approximately 2250 members, the ADAVB includes amongst its members the greater majority of dental practice employers.



ADAVB Submission to IRV re Proposed LSL Reforms

ADAVB COMMENTS ON THE PROPOSED CHANGES

General remarks

ADAVB acknowledges the wish to establish a national minimum standard, and we recognize that it is anomalous that such minimum standards apply to all other forms of leave except LSL. Nonetheless we are extremely concerned at the costs the proposed reforms will impose on dental practices which are almost universally very small businesses - indeed a “cottage industry”. We suggest that the negative impact on many dental practices would be so great that they should be provided with legislative protection similar to the redundancy provisions which see businesses that employ less than 15 employees exempted.

In the event a **minimum** standard is introduced then it should not adopt the extreme position of extending unsustainable benefits to employees at undue cost to employers.

Work intensification should be addressed by imposing reasonable hours measures at all times rather than by use of LSL, which was designed for other purposes and applications.



Maintain the qualifying period for the initial LSL entitlement at 15 years - however employees will be able to take leave after 10 years service, with the initial period of leave being 8.6 weeks;

This more flexible provision – which should already have been provisioned by employers, is acceptable to the ADAVB.

Maintain the qualifying period for subsequent LSL entitlements at 5 years;

This status quo provision is unexceptional and is therefore supported.

Make access to pro- rata LSL payments available to employees upon termination after 7 rather than 10 years;

This will create an unreasonable cost burden on dental practice owners, and the pro rating provisions should continue to apply only after 10 years service as at present.

Ensure continuity of service as a result of taking any form of parental leave including maternity, paternity and adoption leave, whether paid or unpaid;

The entitlement to recognition of all parental leave as part of continuous service is accepted.



ADAVB Submission to IRV re Proposed LSL Reforms

Allow for accrual of LSL when taking any form of paid parental leave including maternity, paternity and adoption leave;

No objection, provided paid parental leave remains at no more than 12 weeks. If paid leave is increased to a longer period then the State is effectively transferring the role of welfare funding to employers who can ill afford it. This is effectively a form of taxation and is not acceptable to the dental profession.



It should also be emphasized that the Victorian community will ultimately have to pay significantly increased fees for dental services if these measures are to be paid for by dental practices. The cost of delivering dental services are already substantial, especially where the practice complies fully with the plethora of regulations, codes and guidelines issued by statutory and regulatory bodies.

There is no other source of income for dental practices than the fees generated from the treatment provided. If dental care providers do not treat patients no money flows into the practice. All costs of running the practice, including these proposed LSL measures, would therefore have to be paid for by dental patients.

Provide that the employee's hours be averaged over the previous 12 months, or 5 years, whichever rate is the greater in a situation where an employee's hours of work vary, or no set hours are established;

No objection.

Clarify that casual employees are specifically entitled to LSL, provided that there is no more than a 3-month gap between employment contracts unless the break in service was caused by the absence of the employee under the terms of their engagement. Seasonal employees will also be entitled to LSL on a pro-rata basis;

Extension of LSL benefits to casual employees and portability of benefits is unlikely to have very much impact in dentistry, however the logic of the case in favour of extending LSL benefits to employees who by definition are not long term employees escapes us.

How can a system designed to encourage long term tenure with one employer then be bent to allow employees to take their entitlement wherever they go?

No other country in the world even offers this form of benefit to long term employees of the one employer much less to those who jump from company to company.

Provide that public holidays extend the period of LSL;

Accepted.



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Ensure that an employee dismissed on the grounds of alleged serious and willful misconduct does not forfeit their entitlement;

This is not acceptable. Where an employee who was supposed to be rewarded for long and faithful service actually betrays their duty of fidelity to the employer in such manner that they are considered guilty of a serious misconduct, then there should be no financial reward upon termination.



Provide that workers who are absent from work on WorkCover receive LSL calculated on the greater of the worker's pre-injury rate of pay or the actual rate of pay at the time of taking leave;

These proposals regarding the rate of pay on which LSL is to be taken are accepted. We note however that the current Act provides that an employee will continue to accrue long service leave for the first 48 weeks of any absence due to illness or injury, after which, accrual of long service leave ceases until the employee returns to work. This should continue to apply.

Increase penalties from two penalty units (\$204.50) to 20 penalty units (\$2045) (except for offences relating to working whilst on leave, which would attract a fine of five penalty units (\$511.25));

Increasing the penalties by a factor of ten seems somewhat extreme, and an increase that merely doubled the old rate would be more appropriate.

Provide that a common statutory period of six years for employees and/or authorised departmental officers to bring proceedings under the Act; and

A period of three years would be more reasonable.

Empower an organisation registered under the Workplace Relations Act 1996 to initiate proceedings for recovery of money owed to a member in respect of LSL.

This should only apply where the employee involved was a pre-existing member of the registered organization. Otherwise the employee should be able to initiate proceedings on their own behalf.

END.

PURPOSES

The objectives of the ADAVB are to promote the:

- improvement of the dental health of the public;
- art and science of dentistry; and
- highest standards of professional dental care

MEMBERSHIP

- Approximately 2250 Dentists in private and public practice, and 4th & 5th year students
- 95% of registered private practitioners
- 9 suburban and 7 country groups

MEMBER SERVICES & FUNCTIONS

- Continuing Professional Development Program
- Dental health education programs (eg. Dental Awareness Month)
- Community Relations – dispute resolution
- Code of Ethics (Conduct)
- Recent Graduate support
- Dental Assistant Training update seminars
- Member Service Plans (eg Professional Insurances; preferred suppliers)
- Industrial relations advice and representation
- Defence and legal support
- Advice on Practice Management
- Quality Assurance (including Doctors Health Advisory Service)
- Benevolent Fund
- Library and resource collection
- Political representation
- Representation to Government bodies
- Superannuation (Professional Provident Fund)
- Sports and social functions
- Publications – Newsletter, Journal, Award details, Manuals etc.
- Home Page (find us at <http://www.adavb.com.au>)

INFORMATION & DISPUTE RESOLUTION SERVICES

The Branch provides information to the public on dental matters, and offers a conciliation service to assist patients to resolve disputes with member dentists. Information on treatments, facilities, dental issues and careers is available.



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