

Building and Construction Industry Fact Sheet

Attribute	Scheme details
Scheme Commencement	1 October 1981
Portability	Provides a portable long service leave entitlement to employees undertaking relevant work across the Building and Construction Industry for any employer within the industry
Compulsory Registration of Employers and Employees	Yes for all employers and their employees (fulltime, part-time & casual) performing relevant work
Scope/Definition of the scheme	Under <i>the Long Service Leave (Portable Schemes) Act 2009</i> the definition of 'building and construction industry' is very broad. It includes employers who are involved in the construction, reconstruction, renovation, alteration, demolition or maintenance of buildings, roads, fences, swimming pools etc. It also includes plumbing, electrical work, gas supply, landscape construction, carpet laying and the construction or assembly of structures and fixtures (kitchens, air conditioning ducting, steel and metal fabrication, switchboards, windows etc.) that are destined to become a part of a building. Apprentices, foreman, leading hands, construction and site supervisors are also included. Includes interstate based companies with employees working in the ACT
Employee Entitlement	13 weeks leave after 10 years of service in the industry (for service recorded after 01/01/1997). Employees registered before 1 July 2012 can choose to take a payment claim
Other entitlements for Employees registered <u>after</u> 1 July 2012	<ul style="list-style-type: none"> ▪ 7 years – for leaving the industry ▪ 5 years - for total incapacity, age retirement (ages 55 and over) and deceased claims
Other entitlements for Employees registered <u>before</u> 1 July 2012	<ul style="list-style-type: none"> ▪ 5 years – for leaving the industry ▪ 55 days + - for total incapacity, age retirement (ages 55 and over) and deceased claims
Maximum break in service/employment in the industry	If employees have a break in service of over 4 years, their account is deregistered
Days of service	1 full financial year of service is capped at 220 days
Minimum period of leave	2 weeks leave minimum per claim (10 days)
Reciprocal agreement with other states and territories	Yes – all jurisdictions in Australia
Calculation of entitlement	Calculated weekly pay rate is the highest of the weekly averages of the ordinary remuneration received for the registered worker in the immediate previous 6 months or 12 months of recorded service
Backdating of service	Any period of unrecorded service from original scheme commencement date can be applied to an employee's registration with the Authority where a return, which includes details of the unrecorded service, is submitted and paid by the employer.

Information from the Authority to employees	<ul style="list-style-type: none"> ▪ An annual statement is sent to the employees registered email/postal address showing service credits from the last financial year. ▪ New employee registration letters – a letter is sent when an employee is registered with the portable scheme.
Apprentice service	All apprentices performing relevant work are required to have their service recorded
Employer Levy (not applicable for apprentices)	From 1 April 2018 the levy rate is 2.1% <ul style="list-style-type: none"> ▪ 1 October 2013 – 31 March 2018 – levy rate 2.5% ▪ 1 October 2012 – 30 September 2013 – levy rate 1.75% ▪ 1 July 2011 – 30 September 2012 – levy rate 1.25% ▪ 1 May 1992 – 30 June 2011 – levy rate 1.00% ▪ 1 October 1981 – 30 April 1992 – levy rate 2.5% Levy contributions are GST exempt (Division 81 ruling)
Employer returns	Employer returns are lodged quarterly <ul style="list-style-type: none"> ▪ January – March (due date 30 April) ▪ April – June (due date 31 July) ▪ July – September (due date 31 October) ▪ October – December (due date 31 January)
Methods of returns	Employers can lodge their quarterly returns via the online portal There is an option to upload data via a CSV file spreadsheet
Late submission of employer quarterly returns	Employer late submission fees and infringement notices apply if a quarterly return is not lodged before the due date: <ul style="list-style-type: none"> ▪ \$200 late submission fee – 1 month after the end of the quarter ▪ \$200 late submission fee – 2 months after the end of the quarter ▪ \$640 (Individuals) & \$3,200 (Corporations) infringement notice – 3 months after the end of the quarter
Late payment of employer quarterly returns	The Authority will charge interest on any outstanding levy amount. The interest rate to be used is currently being determined (please note applying interest on outstanding levies will apply for the Jan-Mar 2020 quarter onwards, noting that the Jan-Mar quarter levy payment is due on 30 April 2020)
Employer reimbursements	<ol style="list-style-type: none"> 1. Where an employee has accrued an entitlement through service that is covered by a combination of the Long Service Leave Act 1976 and the Long Service Leave (Portable Schemes) Act 2009, the payment to the employee is to be made by the employer, in accordance with the provisions of the Long Service Leave Act 1976. The employer can then apply to the Authority for reimbursement of the portion of the payment that relates to service since the commencement of the portable scheme.

	<p>Reimbursement will be made in accordance with Section 89 & 89A of the Long Service Leave (Portable Schemes) Act 2009 at the accrual rate of the Long Service Leave Act 1976.</p> <p>2. All payments to employees based solely on service accrued after the commencement of the portable scheme will be made directly by the Authority under the provisions of the Long Service Leave (Portable Schemes) Act 2009.</p>
Information from the Authority to Employers	Every quarter a statement of account and information regarding the next quarterly return period is sent electronically
Working Directors and registered contractors	Contractors and Working Directors are not classified as employees, but have the option to register with the Authority and make contributions for themselves
Inspection powers	The Authority has a broad range of powers including entry to employer premises and right of access to and examination of employment records
Taxation of leave payments	Tax on all payments is calculated by the Authority, withheld from the payment in accordance with ATO guidelines and remitted directly to the ATO. A PAYG payment summary is sent to the employee