

Training Workbook

Long Service Leave

Participant's Guide

POP

Personnel Operations Program

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COURSE OVERVIEW

Objectives

The objectives of this course are:

- to provide an understanding of entitlements under the *Long Service Leave (Commonwealth Employees) Act 1976*
- to enable participants to confidently and accurately process long service leave for ongoing and non-ongoing full-time and part-time employees, and
- to enable participants to advise employees of the long service leave entitlements and provisions in a confident and helpful manner.

Target Audience

This training course is suitable for personnel and human resources staff who are required to advise employees on their entitlements and to calculate and process leave applications and payments in lieu under the *Long Service Leave (Commonwealth Employees) Act 1976*.

Note: the course does not include a detailed coverage of the tax calculation for payments in lieu. This is covered in the Final Entitlements course.

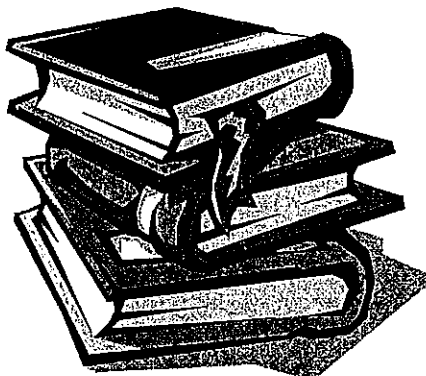
Note

- The general conditions of employment contained in this workbook are based on the APS Award 1998 (the minimum award applying in the APS) and other relevant legislation.
- If an agency has displaced the APS Award in their Workplace Agreements then the only authority applying is the agency's Workplace Agreements and other relevant legislation (which cannot generally be displaced by a Workplace Agreement).
- Agencies whose employment arrangements come under the *Public Service Act 1999* may have their own determinations on pay and conditions matters.
- *It is important to know which provisions apply in your agency.*

The notes in this workbook do not replace primary reference material.

REFERENCES

- *Long Service Leave (Commonwealth Employees) Act 1976*
- *Long Service Leave (Commonwealth Employees) Regulations*
- Agency Agreement or Primary Industrial Instrument
- The Guide to APS Pay & Conditions of Employment, Part 2 Section 1, Long Service Leave (for a 'plain English' explanation of the Act and Regulations, refer also to Appendix 4 to Section 1 - recognition of prior service) Note: the Guide was replaced by the e-Guide, but may provide historical guidance.
- Unused Leave Payments on Termination of Employment Tax Table - Pay As You Go (PAYG) Withholding Tax Table
- "Unused Annual Leave and Long Service Leave - A Guide for Employers" produced by the Australian Tax Office, dated July 1999 (contains useful guidance, but is not a current reference).



DEFINITION OF TERMS

Long Service Leave (LSL)

A period of paid leave available to employees after a long period of service.

Accrual date

The day on which an employee qualifies for a grant of LSL. This is the day after the employee has completed a period of service which qualifies them for LSL or payment in lieu.

Category A employee

An employee with either **all** full-time service; or **all** part-time service.
[Long Service Leave Act, section 4]

Category B employee

An employee other than a category A employee, that is an employee with **both** full-time and part-time service.
[Long Service Leave Act, section 4]

Delegate

An employee authorised to grant LSL and approve payment in lieu of LSL, and recognise prior service.

Employee

For the purposes of the LSL Act, a person who is employed in Government Service as defined in section 10.

Higher Duties Allowance

An allowance received for the performance of duties at a higher classification. This allowance may be referred to differently in some agencies, for example temporary performance loading.

LSL Credit

The amount of LSL which an employee has available for use (or for payment in lieu) in calendar months and days.

Retrenchment

The compulsory termination of employment for the reason that:

- an employee's service or position is not necessary
- the work for which employee was engaged is finished, or
- a reduction in the number of employees is necessary because the quantity of work has diminished.

PRINCIPLES OF LONG SERVICE LEAVE

Long service leave is paid leave generally available after 10 years of service. The Guide to APS Pay & Conditions of Employment says that "Long Service Leave is intended to provide employees with a substantial break from work after a period of continuous long service that is 10 years of service or longer".

Under sub-section 16(1) of the Long Service Leave Act an APS employee cannot normally be *granted* LSL unless they have completed at least 10 years of service.

Full-time, part-time and casual service with one or more agencies may contribute to the qualifying period for long service leave.

RECOGNISING PRIOR SERVICE

Under the Long Service Leave Act an employee's previous full-time, part-time or casual service with:

- (i) the Commonwealth of Australia or a Commonwealth authority
- (ii) any service of a State
- (iii) any service of an authority of a State - as defined in section 6 of the LSL Act - including a local government body such as a shire, council or municipality
- (iv) the Public Service or an authority of a Commonwealth Territory - including Papua New Guinea before independence
- (v) other relevant service which is defined in the LSL Act as membership of the Australian Defence Forces, holding an office, or employed under the Reserve Bank Act 1959, and locally engaged employees overseas appointed after 1976, and
- (vi) other organisations prescribed under sub-section 7(2) of the Long Service Leave Regulations

can be recognised as service for LSL.

However, any break in service must be no longer than 12 months. Even one day of service every 12 months maintains continuity.

If there are no breaks, service is regarded as continuous, once it is recognised. Recognition requires formal approval by the appropriate delegate. If there has been a break, the period of the break does not count for LSL.

Continuity of service is defined in Section 12 of the Long Service Leave Act.

On commencement in the APS, employees should be advised of the possibility of recognising prior service. It is best to seek information from previous employers as soon as possible, as there can be difficulties tracing prior service details if the inquiry is left too long after ceasing previous employment.

However, the onus is on the employee to demonstrate that they have prior service which will count for LSL. While most personnel sections undertake the gathering of such information, it is not required that they do so. It may be worthwhile giving the employee the details of what is needed for recognition of prior service. They can then collect the relevant information.

EXERCISE 1

Anthony Price commenced in the Department of Defence on 25 May 2000. He was employed by the Department of Social Security (Centrelink) from 15 February 1990 to 15 May 2000.

Can the service with the Department of Social Security be recognised as service for LSL?

EXERCISE 2

Mary Brown was employed by the Victorian Railways from 7 August 1978 to 12 October 1979 and the Gas and Fuel Corporation from 3 November 1980 to 23 June 1999, before joining the Australian Public Service on 6 November 1999.

Which periods of prior service count for LSL?

CALCULATING THE ACCRUAL DATE

Continuity of service

Periods of acceptable prior service are included in total service for LSL but:

- Any break between two periods of service must not be more than 12 months, and any break does not count as service for LSL (LSL Act, Sub-section 12(5))
- Any period of approved leave does not break continuity of service (LSL Act, Sub-sections 12(2) and 12(3)), however most types of LWOP defer the accrual date; that is, it does not count as service (NTCAS).

Deferring the accrual date

The LSL accrual date can be deferred by:

- Breaks in service between eligible employers - any breaks in service of at least one day will defer LSL accruals except where separated by a weekend only
- Leave without pay not to count as service (LWOP NTCAS).

Prior to the implementation of the review recommendations arising from the Review of Part-Time Work in the APS (DIR Advice No. 76 dated 13 December 1996), employees were able to take up to 5 calendar days leave without pay in a calendar (1 January – 31 December) year which would count as service for LSL.

After the implementation of the recommendations, most agencies increased the 5 calendar days to 30 calendar days in a calendar year before LWOP affected service for LSL. Current practice depends on agency Workplace Agreements, instruments or policies in force in each agency. Some agencies defer LSL accrual by any LWOP.

Examples in this module are based on the applicant being allowed to take up to and including 30 calendar days LWOP in a calendar year before it affects service for LSL.

Individual periods of LWOP NTCAS are calculated from the time the leave commences until the return to work, that is weekends and non-working (ie non-rostered) days are included. Rostered Days Off (RDOs), as provided for in clause 24.3 of the APS Award, are not counted as LWOP NTCAS.

For example, an employee who works 5 days per week is granted LWOP NTCAS for the period Monday 17 January 2005 to Friday 28 January 2005, returning to normal duty on Monday 31 January 2005. An RDO falls on Tuesday 25 January 2005 and a public holiday falls on Wednesday 26 January 2005.

The period of LWOP is 13 calendar days – 14 days from Monday 17 January to Sunday 30 January 2005 less the RDO. The public holiday is not paid, as it falls within a period of LWOP NTCAS.

Note:

- Unauthorised absences (such as strike days) **never** count as service and defer accruals by each day aggregated, regardless of the "30 day rule".

EXERCISE 3

Mary Lewis commenced duty on 1 October 1989. She took LWOP from 9 January to 8 March 1995 (59 calendar days). When did she qualify for LSL?

EXERCISE 4

Tim Peters commenced duty on 2 August 1990. He resigned on 16 May 1996 then recommenced on 12 March 1997 (break in service 299 days). When did he qualify for LSL?

CALCULATING LSL CREDITS

LSL accrues at the rate of 3/10ths of a month (9 days) for each year of service. This rate of accrual applies to all service, whether it is part-time or full-time. Part-time LSL is discussed in a later section of this workbook.

To calculate an employee's LSL entitlement use the formula:

$$\text{Completed years of service} \times 3/10 \text{ (or 0.3) months} = \text{months of LSL.}$$

Examples:

10 completed years of service $\times 0.3 = 3$ months LSL credit

15 completed years of service $\times 0.3 = 4.5$ months LSL credit

20 completed years of service $\times 0.3 = 6$ months LSL credit

Any LSL already taken or paid in lieu is then deducted from the result to give the current LSL entitlement.

Examples:

4.5 months credit less 2 months taken = 2.5 months

5 months credit less 4 months taken = 1 month

Part months

For the purposes of long service leave a month consists of 30 calendar days.

Therefore part months are multiplied by 30 to give a result in days.

Examples:

0.3 months $\times 30 = 9$ days

0.5 months $\times 30 = 15$ days

3.9 months = 3 months and 0.9×30
= 3 months and 27 days

EXERCISE 5

Bill Hobson commenced duty on 23 March 1973. What was his LSL credit in December 2005.

CALCULATING AND GRANTING LSL

Important Points

- When **granting** LSL to be used, the period of service for LSL is taken to be the number of **completed years** of service. For example, a period of service from 25.8.84 to 29.5.01 (16 years 9 months 5 days service) counts as 16 years service for LSL purposes.
- The only limit on the amount of LSL that can be granted is the credit available.
- LSL is granted in **calendar** months and/or days. For example, if one month of LSL starts on 1 July, it will end on the last day of July; if it started on 16 March, it ends close of business 15 April. If 1 month 15 days is to be used, the 1 month period is first defined then the additional part-month is counted, rather than 45 days being counted from the start date.
- When calculating fractions of a month, one month equals 30 days.
- The LSL credit and hourly rates of pay are rounded to the nearest 4 decimal places. For part-time calculations the average weekly hours are rounded to the nearest 2 decimal places.
- Agency workplace agreements usually provide guidance on the minimum periods for which long service leave can be granted. Historically, the common practice was not to grant LSL for less than half a month (15 days), unless there were special circumstances (for example, urgent family reasons) where employees had insufficient annual leave; the Guide has some information on this.
- Sub-section 6(7) of the Maternity Leave Act allows employees access to paid leave while on unpaid maternity leave. This means that any application for long service leave received during a period of unpaid maternity leave must be granted, provided the applicant is eligible for such leave.
- Periods of LSL include weekends and public holidays. **Note:** Unlike LWOP, LSL is not deducted for a weekend or public holiday where the period of LSL applied for ends on a Friday or on the day before a public holiday.
- Separate applications for LSL where only a weekend and/or a public holiday intervenes, should not be granted.
- Annual leave may be granted in conjunction with LSL, but only immediately before and/or after LSL, not during LSL.
- Payment during LSL may be half or full pay, but remember that 3 months LSL half pay is the equivalent of 1.5 months LSL full pay.
- An employee with less than 10 years service, but who has at least 1 year of service, may take any pro-rata LSL which has accrued before ceasing employment on age retirement (minimum) or retrenchment.
- An employee using LSL at a rate different to their current status does not change their current status. For example, a part-time employee using full-time LSL is still considered part-time for further accruals.

EXERCISE 6

If an employee applied for one month of LSL, starting on 1 February, when would the LSL end?

If the LSL commenced on 29 February, when would the LSL end?

EXERCISE 7

Is the following sequence of leave acceptable? Why or why not?

Annual leave	25.11.98 to 11.12.98
LSL	14.12.98 to 24.12.98
LSL	30.12.98 to 31.12.98
Annual leave	01.01.99 to 08.01.99
LSL	11.01.99 to 26.02.99

PART-TIME SERVICE

Part-time employees can be either Category A or Category B employees.

In relation to part-time employees:

- Category A employees have all part-time service; and
- Category B employees have **both full-time and part-time service.**

As mentioned previously, part-time credits for Category A and Category B employees accrue at the same rate as full-time credits, that is:

Completed years of service X 3/10 (or 0.3) months = months of LSL

Any LSL already taken or paid in lieu is then deducted from the result to give the current LSL entitlement.

Proportioning the LSL credit for Category B employees

The LSL credit for Category B employees is proportioned into two credits – one for their full-time service, and one for their part-time service.

The total LSL credit, calculated using the formula above is proportioned for Category B employees as follows:

- If part-time service falls last, calculate and round full-time service first, in completed years and months (see note below). Then deduct the result (full-time service) from the total service for LSL, giving service for the part-time period.
- If full-time service falls last, calculate and round part-time service first, in completed years and months (see note below). Then deduct the result (part-time service) from the total service for LSL, giving service for the full-time period.

Note: Where the part-month of service is less than 15 days, round the service DOWN. Where the part-month is 15 days or more, round the service UP, to make a complete month. Where the part-month is 15 days at a part-time rate, round DOWN.

Example of proportioning for a Category B employee

Rebecca Goodwin is a category B employee, that is she has both full-time and part-time service. Her LSL credits are calculated below.

Part-time service	Hours per week	Period
22.09.85 – 08.06.94	20	8 years 8 months 18 days
TOTAL P/T		8 years 8 months 18 days
Full-time service		Period
09.06.94 – 16.05.04		9 years 11 months 8 days
TOTAL F/T		9 years 11 month 8 days
TOTAL SERVICE		18 years 7 months 26 days

Rebecca's service for LSL purposes is 18 completed years (i.e. completed years of service from 22.09.85 to 21.09.03)

Her LSL entitlement is $18 \times 0.3 = 5.4$ months LSL.

To work out what proportion of this service is full-time (i.e. the service that falls last), subtract the rounded part-time service from the total service for long service leave. Note if part-time service falls last, then subtract the rounded full-time service from the total service.

$$18 \text{ LSL years less } 8 \text{ yrs } 9 \text{ mths of part-time (rounded up to completed mths)}$$

$$= 9 \text{ yrs } 3 \text{ mths full-time}$$

Full-time long service leave credit

$$9 \text{ years } 3 \text{ months } (9 \frac{3}{12}) \times 0.3 = 2.775 \text{ months}$$

Rebecca is therefore entitled to 2.775 months of full-time LSL.

Part-time long service leave credit

$$8 \text{ years } 9 \text{ months } (8 \frac{9}{12}) \times 0.3 = 2.6250 \text{ months}$$

Rebecca is also entitled to 2.6250 months of part-time LSL.

As a check, add the two amounts together to ensure the total is the same as the overall calculation of LSL ie $2.775 + 2.625 = 5.4$ which is the correct total.

EXERCISE 8

Jennifer Carter commenced part-time service on 14 July 1979, working an average of 20 hours per week. On 20 October 1987 she started full-time work.

What is Jennifer's part-time LSL credit at 14 June 2005?

Hint - first find complete years of service for total LSL credit.

What is Jennifer's full-time LSL credit at 14 June 2005?

Averaging hours for payment during part-time LSL

At the time a Category A or Category B employee takes their part-time LSL, payment is made at the greater of:

- the average of the hours per week worked over the whole period of part-time service; or
- the average of the hours per week worked in the last 12 months of part-time service.

Note: the LSL Act (Sect 20(4), definition of *relevant period* part(b)) defines the period for this calculation as 'the period ... before the day on which the leave commences', which is not the same as the period included in the LSL service to the latest accrual date.

There is no provision under the Long Service Leave Act to change part-time credits for full-time credits, or vice-versa.

For current part-time employees the salary used is the current full-time salary, proportioned to reflect the part-time rate.

Section 20 of the LSL Act refers to the rate of salary to be paid during LSL.

Example of averaging hours for part-time LSL

An employee has worked 3 years at 26 hours per week, and the last 9 years at 20 hours per week. What is the employee's average weekly hours for LSL purposes.

Step 1 – determine the number of calendar days worked at each hourly rate:

Part-time service	step 1 = count days		
3 years @ 26 hpw	1095		
9 years @ 20 hpw	3285		
TOTAL			

Step 2 – determine the number of weeks and total weeks:

Part-time service	step 1 = count days	step 2 = convert to weeks (days ÷ 7)	
3 years @ 26 hpw	1095	156.43	
9 years @ 20 hpw	3285	469.29	
TOTAL		625.72	

Step 3 – multiply the hourly rate by the number of weeks and total hours:

Part-time service	step 1 = count days	step 2 = convert to weeks (days ÷ 7)	step 3 = calculate hours (wks x hrs.wk)
3 years @ 26 hpw	1095	156.43	4067.18
9 years @ 20 hpw	3285	469.29	9385.8
TOTAL		625.72	13452.98

Step 4 – divide the total hours by the total number of weeks to get the average hours per week worked:

$$\frac{13452.98}{625.72} = 21.50 \text{ hours}$$

Step 5 – calculate the average weekly hours over the last 12 months of part-time service:

This employee has worked 20 hours per week over the last 12 months

Step 6 – Work out the greater of Step 4 and Step 5. This is the average weekly hours for LSL purposes.

Step 4 was 21.5 hours per week

Step 5 was 20 hours per week and is less than 21.5 hours per week so the average part-time hours for LSL purposes is 21.5 hours per week.

PROCESSING APPLICATIONS

The following are 'points to remember' when processing applications for LSL:

- The application should be approved by the employee's supervisor/manager or the appropriate delegate.
- The application should specify whether LSL is to be on full-pay or half-pay, and whether it should come from a full or part-time credit.
- The application should specify whether salary is to be paid in advance, and give sufficient notice for the prepayment.
- The LSL should be entered on the HRMIS in the agency.
- Check that the employee has actually returned to duty at the end of the LSL.

Note: Employees who are separating from the Commonwealth do not have to apply for payment in lieu of LSL: the LSL monies **must** be automatically paid, if the employee qualifies. Under Sub-sections 16(6) or 17(4) of the LSL Act they may opt, in writing, not to be paid out.

REREDITING LSL

Employees can apply to have LSL recredited in the following circumstances:

(a) Certified illness

Recredit the time if:

- a medical certificate is provided;
- the leave is not less than one working day, and
- leave credits are available.

(b) Bereavement

If an employee on LSL applies for bereavement leave of at least one day, LSL equivalent to the period of bereavement leave can be recredited.

(c) Recall to Duty

If an employee on LSL is recalled to duty, LSL equivalent to the period of normal duty actually performed can be recredited.

Note: In these circumstances, the LSL to be recredited may be granted at the end of the LSL originally approved, subject to work requirements.

EXERCISE 9

Fiona Duncan was granted LSL from 4 October 2005 to 18 October 2005. During this LSL she broke her ankle, and provided a medical certificate for 15 – 22 October 2005.

How much LSL should be recredited?

How much personal carer's leave is deducted? (She works a 5-day week)

PAYMENT IN LIEU OF LSL

Employees are eligible for payment in lieu of any unused LSL credits when ceasing employment.

Unlike when LSL is granted, *payment in lieu of LSL* on separation is calculated using the number of **completed years and months** of service, for example if the period of service is 16 years 9 months 5 days, completed years and months of *16 years 9 months* is counted for LSL PIL purposes).

Payment in lieu of LSL may be made to employees with less than 10 years of service, but who have at least 1 year of service if their cessation is a result of:

- age retirement
- redundancy
- invalidity retirement
- death
- resignation due to ill health, with medical evidence stating:
 - the nature of the ill health
 - that the separation was due to ill health.

An employee ceasing Commonwealth employment after turning 55 is **retiring**, not resigning, as minimum age retirement is applicable.

Where an employee with at least 12 months of service but less than 10 years of service ceases Commonwealth employment due to retrenchment or age retirement, they are eligible to take any pro-rata LSL which has accrued or receive payment in lieu. If pro-rata long service leave is granted as leave rather than payment in lieu, it must be taken on full pay and must expire immediately before the employee ceases employment. Refer to subsections 17(1) and 17(2) of the LSL Act.

In the event of an employee's death, a pro-rata payment in lieu is made to any dependants or the estate. Section 23 and Sub-sections 16(7) and 17(5) refer.

An employee may elect in writing, before ceasing, not to take a payment, or receive part-payment. This is normally because another employer is going to recognise their APS service.

Payment in lieu of LSL cannot be made where employees go on long term leave, move between agencies, go to a Parliamentary Service Department or go to Commonwealth statutory authorities on promotion or transfer as Commonwealth employment is considered to be continuous under the LSL Act.

The formula for calculating LSL in lieu is: $\frac{\text{annual salary}}{12} \times \text{LSL Credit}$

$$\text{e.g. } \frac{\$36,511}{12} \times 3.6 \text{ months} = \$10,953.30$$

EXERCISE 10

Sally Doherty commenced duty on 21 July 1982 and will retired on 20 October 2005, on a salary of \$66,175. She took no LSL or LWOP NTCAS.

How many months LSL was she paid in lieu?

21/07/82 to 20/10/05 = 23 years 3 months
 23 x 12 = 276 months
 0.25 x 276 = 69 months
 \$ 475 x 30 = 14,250
 6 months

What was her gross LSL payment?

$\frac{66,175}{12} \times 6.175 = \$38,469.22$

EXERCISE 11

Peter Taylor commenced on 19 February 1975. He took 1 month of LSL half-pay from 10 July 1989 to 9 August 1989. He resigned on 27 May 2005. What was his LSL credit on resignation?

19/02/1975 to 27/05/2005 = 30 years 3 months
 1 month - half pay 10/07/89 to 09/08/89 - 0.5 month
 $30.25 \times 0.3 = 9.075$
8.5750 months

Taxing payment in lieu

Payment in lieu is split into three components for taxation purposes. Refer to the Unused Leave Payments on Termination of Employment Tax Table - Pay As You Go (PAYG) Withholding Tax Table.

1. Service before 16 August 1978 (LSB)

Lump sum payment B (shown as B on the Payment Summary label). Only 5% is taxed at the employee's marginal rate.

2. Service after 15 August 1978, but before 18 August 1993 (LSA)

Lump sum payment A (shown as A on the Payment Summary label). Taxed at 31.5% (includes 1.5% medicare levy).

3. Service after 17 August 1993

Lump sum payment included in salary/wages of the Payment Summary. Taxed at the employee's marginal rate i.e. tax is calculated as if the lump sum was earned over a 12 month period.

The terms 'A' and 'B' above do not relate to the A and B used to distinguish combinations of full and part-time service.

Because of the complexity of the calculation of tax on unused leave payments, examples are not provided in this course but are covered in the Final Entitlements course.

ALLOWANCES AND LSL

LSL while on higher duties allowance (HDA)

Under LSL Regulation 4B, HDA is payable during LSL provided:

- the employee was receiving HDA immediately before going on LSL, and
- the delegate certifies that the employee would have continued to act in a higher position but for going on LSL.

The LSL Regulations define higher duties allowance as “an allowance payable to a person in respect of the performance of the duties of an office having a higher classification than his own”. This would include comparable allowances provided for in Certified Agreements, even if the terminology is different – for example, temporary re-assignment allowance or temporary performance loading.

If, when LSL starts, it is uncertain how long the higher duties would have continued, clarify the situation with the employee’s supervisor or manager.

EXERCISE 12

- HDA form received for 4 January 2005 to 24 May 2005.
- LSL to be from 13 May 2005 to 10 June 2005.

What period of HDA was payable during the LSL?

HDA and payment in lieu

LSL Regulation 4B also includes HDA in salary for payment in lieu of LSL providing the employee has acted in one or a number of higher positions for a continuous period of at least 12 months immediately before ceasing.

If they were acting continuously, at various levels, making up a period of 12 months or more, they will be paid at the lowest of the levels.

For example, John Low's HDA as an APS 5 started on 11 March 2003. On 7 June 2004, John began HDA as an APS 6. He retired on 29 June 2005.

EXERCISE 13

In the above example, would John's payment in lieu include HDA, and if so, at what level?

If he had retired on 29 April 2005 would his payment in lieu include HDA, and if so, at what level?

LSL and other allowances

The LSL Regulations [Reg 4DC (1)-(5)] specify the types of allowances which are not included in salary for LSL. The actual allowances included as salary for long service leave purposes are listed in LSL Regulation 4 to 4DB.

Example

First Aid Allowance is included in salary both during LSL and payment in lieu of LSL. District Allowance is paid during LSL if the employee, or their family, remains in the remote locality during the LSL. District Allowance is not included in salary for payment in lieu of LSL.

MISCELLANEOUS

Prepayment of LSL

Employees going on LSL may request prepayment of salary for any paydays falling during the LSL (if the condition is contained in Agency Collective Agreement or policy). The net pay for each payday during the LSL may be included in the last pay received before going on LSL, or paid as a separate payment a few days before going on LSL.

Prepayments over 2 financial years

There are important tax implications where a prepayment is made over 2 financial years, as tax is assessed when income is **received** not when it is earned. For example, if a salary advance is paid in June and includes salary for the month of July then the employee could be undertaxed.

It is important to advise employees of this tax implication if they wish to receive an advance. To avoid this, the employee could receive 2 advances, one at the start of their leave and the other at the start of the new financial year.

Employees on personal sick leave

If an employee applies for LSL while on personal sick leave without pay and it is evident the LSL is required because of continued ill-health, the leave can be granted. However a report on the state of health of the employee should be obtained from the Government Medical Advisor as part of the usual monitoring for fitness for continued employment, and the case manager should be consulted before LSL is granted.

LSL can be used for convalescence.

Outside employment

Agencies may have guidelines where an employee wishes to engage in outside employment during periods of long service or other kinds of leave. A formal application for permission to do so is usually required.

Applications for payment in lieu by dependants of deceased employees

Applications from dependants for payment of LSL monies should be submitted to agencies and authorities together with the specified 'Statutory Declaration' for dependants. The *Death* course provides more detail.

CASE STUDY 1

Peter Lawrence commenced in the APS on 22 March 1982. He took LWOP NTCAS for the periods 8 August 1983 to 30 September 1983, and 27 May 1991 to 28 June 1991. While on this second period of LWOP, Peter resigned with effect from cob 28 June 1991.

On 26 February 1992, Peter commenced with the Department of Primary Industries and Energy as a temporary employee. He was permanently appointed (without a break in service) on 25 May 1992. Peter's prior service was recognised and he took LSL at half pay for the period 22 August 1994 to 30 September 1994.

How much LSL did he have as at 31 August 2005? Note: All Peter's service is full-time.

Service 22/03/1982 to 28/06/91
 LWOP 08/08/1983 to 30/09/83 = 54 days
 LWOP 27/05/1991 to 28/06/91 = 33 days
 SIS 29/06/91 to 25/02/92 = 240 days
 Service 26/02/92 to 31/08/05
 LSL half pay 22/08/94 to 30/09/94 = 20 days 390 days
 23 years x 0.3 = 6.9 6.6 329
 22 years x 0.3 = 6.6 6.6 395 days
 6 months 20 days - 20 days used
 6 months 18 days -
 = 5 months 28 days

LONG SERVICE LEAVE ANSWERS

EXERCISE 1

Anthony Price commenced in the Department of Defence on 25 May 2000. He was employed by the Department of Social Security (Centrelink) from 15 February 1990 to 16 May 2000.

Can the service with the Department of Social Security be recognised as service for LSL?

Yes - as the break in service is not more than 12 months the prior service with the Department of Social Security is recognised for LSL.

EXERCISE 2

Mary Brown was employed by the Victorian Railways from 7 August 1978 to 12 October 1979 and the Gas and Fuel Corporation from 3 November 1980 to 23 June 1999, before joining the Australian Public Service on 6 November 1999.

Which periods of prior service count for LSL?

The service with the Gas and Fuel Corporation is recognised as service for LSL, but not the service with the Victorian Railways. The break between the Victorian Railways service and her APS service was more than 12 months.

EXERCISE 3

Mary Lewis commenced duty on 1 October 1989. She took LWOP from 9 January to 8 March 1995 (59 calendar days). When did she qualify for LSL?

29 November 1999 having completed 10 years of service on 28 November 1999.
1 October 1989 + 10 years + 59 days = 29 November 1999

EXERCISE 4

Tim Peters commenced duty on 2 August 1990. He resigned on 16 May 1996 then recommenced on 12 March 1997 (break in service 299 days). When did he qualify for LSL?

28 May 2001 having completed 10 years of service on 27 May 2001.
2 August 1990 + 10 years + 299 days

EXERCISE 5

Bill Hobson commenced duty on 23 March 1973. What was his LSL credit in December 2005.

Completes 32 years service in March 2005 (23.3.73 - 22.3.05). His accrual date is 23 March.

$32 \text{ years} \times 0.3 \text{ (or } 3/10) = 9.6000 \text{ months}$

EXERCISE 6

If an employee applied for one month of LSL, starting on 1 February, when would the LSL end?

The first period of LSL would end on the last day of February;

If the LSL commenced on 29 February, when would the LSL end?

If the LSL commenced on 29 February it would end on 28 March.

EXERCISE 7

Is the following sequence of leave acceptable? Why or why not?

Annual leave	25.11.98 to 11.12.98
LSL	14.12.98 to 24.12.98
LSL	30.12.98 to 31.12.98
Annual leave	1. 1.99 to 8. 1.99
LSL	11. 1.99 to 26. 2.99

- No, it generally is not acceptable.
- Between 24 & 30/12 there is a weekend, and three public holidays, and no 'work' days. The period 14 to 31/12 **must** be covered by one LSL application.
- LSL in the sequence LSL-AL-LSL should not be accepted.
- The Guide recommends LSL for periods of less than 15 days should not usually be granted for recreational purposes, however CAs & AWAs may vary this.

EXERCISE 8

Jennifer Carter commenced part-time service on 14 July 1979, working an average of 20 hours per week. On 20 October 1987 she started full-time work.

What is Jennifer's part-time LSL credit at 14 June 2005?

Hint - first find complete years of service for total LSL credit.

Total service for LSL credit = 25 years

$25 \times 0.3 = 7.5000$ months

Part-time service from 14 July 1979 to 19 October 1987
8 yrs 3 mths 6 days (8 years 3 months rounded)

Therefore, part-time LSL credit is for 8.25 years of part-time service:
 $8.25 \times 3/10$ months = 2.4750 months (2 months 14.25 days on a 30 day month basis)

What is Jennifer's full-time LSL credit at 14 June 2005?

Full-time service (total acceptable service of 25 years **less** acceptable part-time service of 8 years 3 months) = 16 years 9 months

Therefore, LSL credit for 16 9/12 (16.75) years full-time service:
 16.75×0.3 months
= 5.025 months (5 months 0.75 days on a 30-day month basis)

So Jennifer has LSL credits of:

2 months 14.25 days for part-time service +
5 months 0.75 days for full-time service
7 months 15 days total credit

EXERCISE 9

Fiona Duncan was granted LSL from 4 October 2005 to 18 October 2005. During this LSL she broke her ankle, and provided a medical certificate for 15 – 22 October 2005.

How much LSL should be recredited?

Recredit 4 days

How much personal carer's leave is deducted? (She works a 5-day week)

Deduct 5 days leave. If Fiona returned to duty on 24 October 2005, the 4 days LSL is re-credited. If her supervisor agrees, she may remain on LSL for a further 4 days instead.

EXERCISE 10

Sally Doherty commenced duty on 21 July 1982 and retired on 20 October 2005, on a salary of \$66,175. She took no LSL or LWOP NTCAS.

How many months LSL was she paid in lieu?

She has 23 years 3 months service for LSL (21.7.82-20.10.05).

LSL credit on retirement:

23 years 3 months of service = $23 + \frac{3}{12} = 23.25$ years service

$23.25 \text{ yrs} \times 0.3$ (or $\frac{3}{10}$) months = **6.975** months LSL credit at retirement.

What was her gross LSL payment?

Gross LSL payment in lieu

$\frac{\$66175}{12} \times 6.975 = \$38,464.22$

EXERCISE 11

Peter Taylor commenced on 19 February 1975. He took 1 month of LSL half-pay from 10 July 1989 to 9 August 1989. He resigned on 27 May 2005. What was his LSL credit on resignation?

Completed years and months of service = 30 years and 3 months

LSL credit: $30.25 \times 0.3 = 9.075$ months

Less 1 month at half pay 0.500 months

LSL credit on resignation: 8.575 months

EXERCISE 12

- HDA form received for 1 January 2004 to 24 May 2005.
- LSL to be from 13 May 2005 to 10 June 2005.

What period of HDA is payable during the LSL?

13 May to 24 May 2005.

EXERCISE 13

Example: John Low's HDA as an APS 5 started on 11 March 2003. On 7 June 2004, John began HDA as an APS 6. He retired on 29 June 2005.

In the above example, would the John's payment in lieu include HDA, and if so, at what level?

Yes, as HDA had been paid for more than 12 months immediately before cessation, HDA is included in salary for payment in lieu of LSL, at the APS 6 rate.

If he had retired on 30 April 2004 would his payment in lieu include HDA, and if so, at what level?

Yes, as HDA had been paid for more than 12 months immediately before cessation, HDA is included in salary for payment in lieu of LSL at the APS 5 rate.

CASE STUDY 1

Peter Lawrence commenced in the APS on 22 March 1982. He took LWOP NTCAS for the periods 8 August 1983 to 30 September 1983, and 27 May 1991 to 28 June 1991. While on this second period of LWOP, Peter resigned with effect from cob 28 June 1991.

On 26 February 1992, Peter commenced with the Department of Primary Industries and Energy as a temporary employee. He was permanently appointed (without a break in service) on 25 May 1992. Peter's prior service was recognised and he took LSL at half pay for the period 22 August 1994 to 30 September 1994.

How much LSL did he have as at 31 August 2005? Note: All Peter's service is full-time.

Prior Service	22.3.82-28.6.91
LWOP	8.8.83- 30.9.83 (54 calendar days) 27.5.91-28.6.91 (33 calendar days)
Break in Service	29.6.91-25.2.92 (242 calendar days)
Total NTCAS	329 calendar days
Date of Accrual	22.3.82 + 329 calendar days= 14.2.83

LSL entitlement

Completed years service	14.2.83 - 13.2.05 = 22 years
22 years x 0.3 mths	6.6000 mths (6 months 18 days)
Less LSL taken	0.6500 mths (1month 9 days @ half pay)
LSL credit	5.9500 months (5 months 28.5 days)