

# Worker guide

## Building and Construction Industry

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### What is long service leave?

Long service leave is an entitlement available to most NSW workers, where they can take 2 months of paid leave after they've worked for the same employer for 10 consecutive years. Then every 5 years of service after that they can take one month of paid leave.

Conditions for eligibility and granting of long service leave in NSW are governed by the [Long Service Leave Act 1955](#) (1955 Act) which is administered by [Industrial Relations](#).

### What is portable long service?

The Long Service Corporation (LSC) administers a portable long service scheme which provides a long service payment to workers who have a minimum 10 years of recorded service in the NSW building and construction industry, then every 5 years of recorded service, regardless of whether they've worked for multiple employers or as a contractor.

Conditions for eligibility and granting of a lump sum long service payment in NSW are governed by the [Building and Construction Industry Long Service Payments Act 1986 No 19](#) (BCI Act) For further information see [scheme overview](#).

### What is the difference?

Workers who are eligible for an entitlement under both Acts can choose to take paid leave through their employer or a lump sum payment from LSC. The payment amount will differ depending on how the worker chooses to take it and when.

Workers who've received an entitlement from their employer under the 1955 Act aren't eligible to claim an entitlement from LSC for the same period.

Superannuation and redundancy are often mistaken for long service entitlements, however they're not the same.

### How does it work?

Employers need to register with LSC and record service for employees who are doing eligible building and construction work in NSW. For further information on employer obligations see [your legal obligations](#).

Contractors need to have a registered tax agent lodge a self-employed worker certificate of service each financial year.

A year of recorded service is equal to 220 days. This is calculated by deducting weekends, annual leave, sick leave, public holidays and industry picnic days. For further information see [get service credits](#).

### How much does it cost?

There's no cost to employers or workers as the scheme is funded by a levy on building and construction work in NSW where the cost of works is \$250,000 or more. The levy is paid by the person or business having the building work done. For further information see [long service levy](#).

### What do I have to do?

**Worker registration number** – Whenever you start a new job, you'll need to provide your LSC worker registration number and your personal email address to your employer so they can record service for you each year. If you're a contractor, provide your worker registration number to your tax agent so they can record your service. For further information see [joining the scheme](#).

**Annual statement** – Your annual statement is made available on the [worker portal](#) every financial year. It's important that you check your annual statement to ensure all your eligible NSW building and construction work has been recorded. For further information see [annual statements](#).

If you receive more than one annual statement notification, this usually means you have more than one registration. If you do have more than one registration number, you can let us know on the [worker portal](#) or contact us online.

**Worker portal** – Register for access to the portal to check your recorded service at any time and to ensure your contact details are correct. Visit [www.longservice.nsw.gov.au/online-services](http://www.longservice.nsw.gov.au/online-services) to register.

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**Check your recorded service** – Ensure all your NSW building and construction work is recorded correctly. If you've been unable to work, check if you're eligible for non-service days, special credits or a long service payment. If you have less than 5 years of service recorded and no service recorded for 4 years, your registration may be cancelled. To prevent possible cancellation, you'll need to keep us updated about your circumstances. For further information see [cancellation of registration](#).

## Type of work covered

Eligible workers are employees and contractors (whether an employee, contractor, apprentice, casual or labour hire) who perform eligible work in NSW in the building and construction industry.

Workers must meet all parts of the following three part test:

1. performing work in the private sector, **and**
2. perform work in the building and construction industry in NSW as defined by the BCI Act, **and**
3. perform building and construction work for which a rate of pay is fixed under an award prescribed in the [Building and Construction Industry Long Service Payments Regulation 2022](#).

**Note:** If a type of work has a rate of pay in a prescribed award, that doesn't automatically make the work eligible for the scheme, the work must pass all parts of the three part test. For further information see [type of work covered](#).

## Work on Commonwealth places

As Commonwealth places fall under the jurisdiction of the Commonwealth Government, work conducted on Commonwealth places cannot receive service credits under the NSW BCI Act and we're working with the Commonwealth Government to resolve this. For further information see [Commonwealth places](#). Whilst service credits don't apply, you may be eligible to apply for non-service days.

## Working outside NSW

Each state and territory have their own portable long service scheme. Workers performing building and construction work outside of NSW may be eligible to register and record service credits with the state or territory where the work was done. For further information see [working outside NSW](#).

## When can I apply for a payment?

You can apply for a long service payment after a minimum of:

- 10 years of service, and then every 5 years after that, and staying in the industry
- 5 or more years recorded service, and permanently ceasing work in the industry
- 55 or more days recorded service, and totally and permanently incapacitated for work in the industry
- 55 or more days recorded service, and retired from the industry at age 55 or more
- 55 or more days recorded service, retired from the industry, and been granted a veteran's pension
- the next of kin or the estate of a deceased worker can claim where there's a minimum of 55 days recorded service.

This can be a combination of service recorded across all states and territories, however you must apply for payment with the scheme where the most recent service is recorded. For further information see [long service payment](#).

## How much is the payment?

Your long service payment is based on the service credits you have recorded in the scheme, and not on how many years you've worked in the industry. The payment for 10 years of recorded service is 8.67 weeks' pay, equivalent to 2 months.

Your rate of pay is calculated based on one of the following:

- the award rate for the type of work or trade you do, or
- your ordinary rate of pay if you're paid under a Certified Agreement, also called an Enterprise Bargaining Agreement (EBA).

Personal agreements you make with your employer cannot be used to calculate your payment.

If you directly supervise other workers, your payment rate may be based on the award or EBA rate for the work of the workers being supervised.

After your rate of pay is calculated, tax will then be taken out. You'll then receive the after-tax amount. For further information see [taxation](#).

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## What if my service is missing from my record?

Service credits are recorded differently depending on whether you're an employee, self-employed contractor or a working director. For further information see [get service credits](#).

## What if I'm missing service as an employee?

You'll need to contact your employer with your worker registration number and ask them to update your service. This is your employer's obligation and the most efficient way to add service to your record.

If your employer refuses, you can apply for recognition of past work by completing a missing service application on the [worker portal](#). You must provide [suitable evidence](#).

## What if I'm an employee and my service shows as late or unclaimable?

Service will show as:

- **late** – if it was submitted more than 2 financial years after it was due, or
- **unclaimable** – if it's for a period before your registration date.

You don't need to complete a missing service application if the service is already recorded but marked as late or unclaimable. Instead, contact us to explain why you didn't tell us earlier and provide [suitable evidence](#) for the full period you're applying for.

## What if I'm missing service as a contractor (self-employed worker)?

A registered tax agent will need to complete an online Self-employed worker certificate of service on the tax agent portal for each financial year you performed eligible building and construction work in NSW.

If the service is for a period more than 2 financial years in the past (late or unclaimable), you'll need to provide your ABN and the reasons for the delay.

## What if I'm a working director?

You'll need to:

1. Register as an employer.
2. Record service for all eligible workers, including yourself if you perform eligible building and construction work in NSW as an employee of your company.

## Appeals

Workers or personal representatives of a deceased worker may appeal to the independent Building and Construction Long Service Payments Committee against certain decisions made by LSC, such as:

- rejecting a worker's service
- rejecting or cancelling a worker's registration
- refusing to add service credits.

There's no right of appeal for the following decisions:

- rate of pay applied to a long service payment (except as provided for under s.50A)
- refusal to backdate a worker registration
- refusal to restore a cancelled registration
- cancellation of a registration following a claim (leaving, medical incapacity, age retirement, deceased) or voluntary cancellation
- refusal to credit service for periods of work prior to worker registration date
- refusal to credit service to a worker's record when the registration status is not active
- refusal to accept service preservation requests.

An appeal **must** be lodged within 42 days of the date of notification of the decision.

The Committee Chairperson may accept an appeal within 6 months of LSC's notification of a decision if they consider that exceptional circumstances exist. An appeal can't be lodged more than 6 months after the date of notification of the decision. For further information see [appealing corporation's decisions](#).