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<b>CIRCULAR:</b>	GEN/069/NAT/069/18
<b>DATE:</b>	Monday 17 September 2018
<b>SUBJECT:</b>	<i>Long Service Benefits Portability Act 2018 (Vic)</i> – Community Service Workers and others
<b>ATTENTION:</b>	Chief Executive Officer

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Further to our circular on 16 April 2018 (062/NAT/062/18) regarding the *Long Service Benefits Portability Bill 2018 (Vic)* (the **Bill**), on 4 September 2018 the Bill passed both houses of Victorian Parliament, with some amendments being made.

The *Long Service Benefits Portability Act 2018 (Vic)* (the **Act**) is yet to receive Royal Assent. The commencement date for the scheme is 1 July 2019.

Under the Act, community services workers, along with contract cleaning and security industry employees, will be entitled to long service leave after seven years of service to the industry, regardless of the number of employers that they have had during this period. After seven years of service, a covered employee can approach the Portable Long Service Benefits Authority (the **Authority**), established under the Act, for access to their long service leave entitlements.

Under the Act, long service benefits are paid out based on 1/60<sup>th</sup> of the worker's total period of recognised service.

A quarterly levy, charged to employers of community service employees, will be used to fund the entitlements. The levy amount is yet to be determined by the Governing Board however it cannot exceed 3% of employees' ordinary pay.

There will also be additional employee long service leave records that must be maintained by employers covered by the scheme.

Failure to comply with the scheme's reporting, record-keeping or payment obligations are offences under the Act and can result in the Authority taking legal action in pursuit of compliance and / or financial penalties for the contraventions. The penalties can apply the corporation and / or individuals who are knowingly concerned in the commission of the offence.

### Scope of the Scheme

Under the Act 'community service work' is broad and not limited to what is listed below. It includes the provision of the following services to 'persons with a disability' or 'other persons who are vulnerable, disadvantaged or in a crisis' in regard to;

- Training and employment support, or Employment placement;
- Financial support or goods;
- Accommodation or accommodation-related support services; and
- Home care support services; or
- Other support services for persons with a disability or their carers.

Also included are services that provide;

- Community legal, education, information and advocacy service;
- Community development services;
- Fundraising assistance for community groups; and
- Assistance to particular cultural or linguistically diverse communities.

Additionally, under the Act the Minister for Industrial Relations will have the ability to identify certain activities that are currently outside of the scope of the scheme, as being community services work, enabling the scheme to capture these activities. Conversely the Minister can also designate certain activities within the scheme's scope as not being community services work, therefore preventing them from falling under the scheme.

Notably, amendments to the Bill have excluded all NDIS funded disability and community mental health services from the scheme, unless they are prescribed to be community service work. However, debate in the Senate indicated that these NDIS funded services may fall within the scope of the scheme in the future.

### **Action Required by Employers**

Employers of community service workers will be required to register themselves and their employees with the Authority. As noted in our 16 April 2018 circular registration must occur either:

- a) three months after the commencement of the Act if the employer is in a covered industry; or
- b) three months after the employer's industry becomes covered by the Act.

Additionally, employers in industries with the scope of the Act, must provide a quarterly return which includes required information. The required information must be provided to the Authority no later than one month after the end of the respective quarters and must include:

- a) the name of each of the employees who performed work for the employer during the quarter;
- b) the total ordinary pay by the employer to the employee for the quarter;
- c) the number of days or part of days during the quarter to which pay relates; and
- d) any other prescribed information.

The above is provided for summary purposes only, and any employer that may fall within the scheme is advised to obtain further advice and information about the scheme and their obligations.

If you have any questions or if you require further information, please contact the SIAG National Advisory Service on 03 9644 1400 or 1300 (SIAG HR) / 1300 742 447.



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