



The leave that **moves** with you

478 Albert Street
East Melbourne, Victoria 3002

T 03 9664 7677
T 1300 264 683

info@leaveplus.com.au
www.leaveplus.com.au

Explanatory Memorandum for Employers – Precast Work

From **1 July 2024**, all classes of trades, plant operator and labour work associated with the offsite construction, production, erection, or installation of precast concrete elements for construction projects (**offsite precast work**) will be covered by the Scheme that LeavePlus administers and regulates. This change will bring offsite precast work into line with onsite precast work which is already covered by the Scheme.

As an employer in the offsite precast industry, you will be required to report service and pay long service leave charges to LeavePlus with effect from 1 July 2024 for offsite precast work. This Explanatory Memorandum gives you more information about the coverage change and what you need to do to get ready for 1 July 2024.

About LeavePlus (formerly CoINVEST)

CoINVEST Ltd trading as LeavePlus (**LeavePlus**) is the trustee of the Construction Industry Long Service Leave Fund (**Fund**) and manages the Construction Industry Long Service Leave Scheme (**Scheme**) in accordance with the *Construction Industry Long Service Leave Act 1997 (Vic)* (**Act**) and the Trust Deed of the Fund, including the Rules in Schedule 2 of the Trust Deed (**Rules**). Copies of the Act and the current Rules are available on the [LeavePlus website](http://www.leaveplus.com.au).

The purpose of the Scheme is to ensure that workers in the construction industry do not miss out on long service leave benefits simply due to the project-based nature of the industry. Without the Scheme, many workers would never become eligible for long service leave under the *Long Service Leave Act 2018 (Vic)*, which requires seven years of service with a single employer. The Scheme solves this problem and provides a mechanism for long service leave benefits to be paid to workers in the construction industry who have seven years of service reported to LeavePlus.

The Scheme is funded by charges paid to LeavePlus by employers in the construction industry. Charges are paid quarterly, calculated at 2.7% of the ordinary pay of employees performing construction work in the construction industry for that employer during the quarter.

Coverage of the Scheme

The Act limits coverage of the Scheme to construction work in the construction industry. However, the Act does not include a definition of these terms, which terms are instead defined in detail in the Rules.

Clause 5.2 of the Trust Deed gives LeavePlus the power to modify the Rules, subject to the Act, as well as the fiduciary duties owed by LeavePlus to the beneficiaries of the fund. This power has been exercised several times since the commencement of the Scheme, to reflect (among other things) changes in the nature of the construction industry.

Where the proposed change will have the effect of expanding the classes of worker that will be entitled to a long service leave benefit from the Scheme, the Governor in Council must also approve the change under section 7 of the Act.

Precast Concrete Fabrication (Offsite)

As you would be aware, changes in construction industry practices over the last few decades have resulted in a significant increase in the use of offsite precast concrete elements in construction projects. Originally, fabrication of such concrete elements would have occurred onsite. However, through changes in practice and technology, much of this work is now done offsite.

Such work is integral to the construction industry and the ordinary person on the street would certainly understand this work to be construction work in the construction industry. Certainly, it was always the intention for this work to be treated the same way as onsite work for the purposes of the Scheme and the Rules. Otherwise, this would result in some workers missing out on portable long service leave simply because of where they perform their work.

More recent analysis of the Rules has called into question whether the definition of *construction industry* in the Rules extends to cover offsite precast concrete construction.

Given this legal uncertainty, in September 2023, the Board of LeavePlus resolved in principle to amend the Rules to clarify coverage for this work, subject to approval from the Governor in Council. On 12 December 2023, the Governor in Council approved LeavePlus exercising powers which will have the effect of enlarging the class of persons capable of being paid benefits from the Fund, in respect of precast concrete fabrication (offsite) in specified circumstances. A copy of the Governor in Council order is available [here](#).

What happens next?

Now that approval has been obtained from the Governor in Council under section 7 of the Act, LeavePlus has amended the Rules to confirm coverage of offsite precast work as construction work in the construction industry for the purposes of the Scheme.

The effective date of the Rule change will be **1 July 2024** to allow employers who are not currently registered and reporting service to LeavePlus to take the necessary steps to do so.

The first quarterly return period for employers will be **1 July to 30 September 2024**. For employers not currently reporting service, the first quarterly return of their workers' days and wages will be due by **14 October 2024**.

All employers employing workers performing offsite precast work for more than 5 days in a month will need to be registered with us **before 15 September 2024** so that they can lodge their first return on time.

What does this mean for my workers?

The Rule change is great news for your offsite precast workers, since it confirms that they are covered by the Scheme and can access portable long service leave benefits from LeavePlus after 7 years of work in the construction industry in Victoria.

Under the Rule change, LeavePlus can 'count' as service any offsite precast work done by your workers before the date of the Rule change, even though that work was not technically covered by the Rules at the time the work was done.

If you have already been reporting to us for your workers, this means no change to your workers' service records or entitlements to claim a long service leave benefit from LeavePlus. Your workers can continue to accrue service with us as they have been doing and can access long service leave benefits from us once they have 7 years of recognised service in the construction industry in Victoria. If you have not been reporting to us for your workers, it means that we can also recognise their service once we get service information (days and wages) from you. This includes service before the date of the Rule change so we will be asking you to provide us with backdated service information as part of the implementation of the Rule change. This is explained further below.

Once we have this information, your workers will also be able to access long service leave benefits from us once they have 7 years of recognised service in the construction industry in Victoria. Some of your workers may already have this amount of service in the industry, which means they will be able to access long service leave benefits from LeavePlus immediately. For your newer workers, they may need to accrue additional service after the Rule change to get to their full 7 years.

The amount of the long service leave benefit payable to your workers after 7 years is the equivalent of 9.1 weeks at their ordinary rate of pay as calculated under the Rules.

If your workers who have already taken long service leave with you or another employer under the *Long Service Leave Act 1998* (Vic) before 1 July 2024, or are entitled to do so based on having 7 years of continuous service with a single employer, the amount they can claim from LeavePlus will be reduced accordingly.

Example:

Joe is an offsite precast worker and has worked in the industry for 10 years. He worked for 1 year with his first employer (Company A) and has worked for 9 years with his second employer (Company B). Neither Company A nor Company B have previously reported service to LeavePlus. Joe is still employed by Company B.

From 1 July 2024, Joe can have his 10 years of service recognised with LeavePlus. This translates to a long service leave benefit for Joe of 13 weeks at ordinary pay (1.3 weeks for every year of service), less any long service leave Joe is entitled to from Company B.

Joe decides to take long service leave from Company B for 13 weeks from 1 July 2024.

Since Joe has 9 years of continuous service with Company B, Company B has an obligation under the Long Service Leave Act 2018 to provide paid long service leave to Joe for 7.794 weeks of his 13 week-long service leave period (0.866 weeks for every year of service). This will be deducted from the long service leave benefit Joe can claim from LeavePlus. This leaves 5.206 weeks that Joe can claim as a long service leave benefit from Leave Plus.

If I'm already registered and paying charges to LeavePlus, what does this mean for me?

Since you are already registered with us, you don't need to register with us again. You will keep the same employer member number and member portal log in details.

There's also no change to the quarterly return process for you. You should continue to lodge quarterly returns of your workers' days and wages as you have been so that we have your workers' complete service history when they make a claim for a long service leave benefit from us.

However, where we can clearly identify that the work being reported to us is offsite precast work, we will not invoice you for long service leave charges relating to that work for the March 2024 or June 2024 reporting periods next year. We will only start invoicing you again for long service leave charges relating to offsite precast work from the September 2024 quarter onwards.

What happens to the long service leave charges I have paid before 1 July 2024?

You may also be eligible for a refund of long service leave charges paid by you for offsite precast work for the period before 1 July 2024. We are working through the details of when and how refund payments will be made. If this applies to you, we expect to contact you with an **estimate of your refund by the end of May 2024**.

Refunds will be calculated based on the amount of the long service leave charges paid by you to LeavePlus for offsite precast work performed before 1 July 2024. Any charges referable to long service leave benefits paid by us to your workers for offsite precast work will be deducted from the refund amount. No interest will be paid on the refund amount.

If LeavePlus is refunding charges to employers for the period before 1 July 2024, will you also be asking workers to repay long service leave benefits paid to them before 1 July 2024?

No. Workers will not be asked to repay any long service leave benefits paid to them before 1 July 2024.

If I'm not yet registered and paying charges to LeavePlus, what do I need to do?

The first step is to register your business with us. You can do this via the LeavePlus website. Once you are registered with us, we will issue you with an employer member number and log on details to the LeavePlus member portal.

The next step is to get ready to submit your first quarterly return, which will be due by **14 October 2024** for the 1 July 2024 to 30 September 2024 quarter.

To submit your return, you will need to register your workers with us through the LeavePlus member portal before **15 September 2024**. To complete your return, you will need to include the number of days of work performed by each worker in the quarter and the gross wages (ordinary pay) paid to those workers for the quarter. More information about how to calculate days of work and ordinary pay is on our website.

Once you submit your first return (due by 14 October 2024), we will invoice you for the long service leave charges payable for your workers. This is calculated as 2.7% of the gross wages (ordinary pay) of your workers for the quarter. Invoices are payable within 14 days.

What information do I need to give you about work performed before 1 July 2024?

Once you register with us, we will ask you to provide us with backdated service information for your offsite precast workers and former workers so that we have a complete service record for them.

You are not required to pay long service leave charges for this backdated offsite precast work. This information is just to ensure that we have complete service records for your workers so they can claim their full long service leave benefits.

We will ask for this information in a spreadsheet (which we will provide to you) which you can then upload to the Your Files section of the LeavePlus member portal.

What about the *Long Service Leave Act 2018 (Vic)*? Does this apply to my workers before 1 July 2024?

Since offsite precast work is only coming into the Scheme from 1 July 2024, if your workers have more than 7 years of continuous service with you as a single employer before 1 July 2024, they may be eligible to take long service leave from you in respect of this period of work, under the terms of the *Long Service Leave Act 2018 (Vic)* or under your organisation's enterprise agreement.

You may also need to review the circumstances of workers with more than 7 years of continuous service with you who left your employment prior to 1 July 2024, in case you need to make payments to these workers for unused long service leave under the *Long Service Leave Act 2018 (Vic)*.

We encourage you to get advice from your accountant or other professional advisors relating to your specific circumstances since this can be a complex area.

Can I opt out of the Scheme after 1 July 2024?

No, the Scheme is compulsory for employers and workers who are covered by the Act and the Rules. Contracting out of the Scheme is prohibited under section 13 of the Act. The Act also provides for criminal penalties for covered employers who fail to register with LeavePlus or to submit quarterly returns to LeavePlus.

It is therefore important that you clearly understand your obligations under the Act and the Rules from 1 July 2024.

Where can I get more information about my obligations under the LeavePlus Scheme?

The [LeavePlus website](#) includes detailed information about the Scheme.

We have also set up a dedicated team to deal with your queries. You can contact them by phoning **(03) 9117 0858** Monday to Friday 9am to 4pm or by sending an email to compliancesupport@leaveplus.com.au.

You may also wish to speak to your accountant or other professional advisors about your obligations under the Scheme and how to comply.