Portable Long Service Leave
In the Building and Construction Industry

Prepared by Shauna Ferris, Louise Thornthwaite, Ray Markey, and Tim Kyng

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Introduction: Long Service Leave and Portability

In 1951, the New South Wales government passed legislation to provide long service leave (LSL) for private sector workers in NSW. When introducing the legislation, the Minister for Labour and Industry said that the purpose of LSL was:

- To reduce labour turnover,
- To provide a reward for long and faithful service, and
- To enable employees halfway through their working lives to recover their energies and return to work renewed, refreshed, and invigorated.

In accordance with these objectives, the rules were designed to provide paid leave for workers who remained in service with the same employer for 20 years. Pro-rata cash payments benefits were available for those who left service after completing at least 10 years’ service; but those who left their jobs after a shorter period of service forfeited their accrued LSL entitlements.

Over the next decade, other Australian States and Territories also passed long service leave legislation. Each State initially adopted the same basic principle: LSL was designed as a benefit for employees who provided long and faithful service to just one employer.

Over time, the LSL rules have evolved. Qualifying periods have been reduced – in most states, paid leave may be taken after just ten years’ service. Vesting periods have also reduced - pro-rata benefits are generally payable after 5 or 7 years for employees who leave service by death, illness, incapacity, termination by the employer (for any reason other than misconduct), or resignation due to domestic or pressing necessity. Two States (Victoria and Western Australia) also provide pro-rata benefits for those who voluntarily resign from service after completion of seven years’ service.

Nevertheless, there are still many workers who have worked for many years, but have never qualified for LSL benefits. The graph below shows the proportion of workers who have been in the workforce for more than 10 years, but have less than 10 years’ service with their current employer. This proportion varies by industry: some industries naturally tend to have high worker turnover.
Some have argued that it would be desirable to extend LSL benefits to a wider range of workers, by providing LSL on a portable basis. In July 2014, two of the Greens Senators put forward the following motion:

“That the Senate refer the matter of portable long service leave to the Education and Employment References Committee for inquiry …

(a) The creation of a nationwide portable entitlement scheme for long service leave and any other appropriate entitlements, taking into account

   a. The number of Australian workers in insecure work;

   b. Increased workplace mobility and increasingly precarious working conditions; and

   c. Other related matters;

(b) Developing recommendations as to how any such scheme could be paid for and implemented, including:

   a. The role of existing portable long service leave schemes operating in some sectors;

   b. How the scheme should be co-ordinated and by whom; and

   c. Any other relevant matters.”

Figure 1: Percentage of workers who have been in the workforce for at least 10 years but have less than 10 years’ service with one employer

![Bar chart showing the percentage of workers in various industries who have been in the workforce for at least 10 years but have less than 10 years' service with one employer.](chart.png)
The government did not support this motion but the Greens senators intend to continue to push for improved portability. Many trade union leaders have also repeatedly spoken out in favour of improving portability of LSL entitlements.\textsuperscript{4}

The advantages and disadvantages of improving the portability of LSL have previously been canvassed in a discussion paper published by the McKell Institute.\textsuperscript{5} That discussion paper addresses the question: supposing that we do want to extend LSL to a wider range of workers, what is the best method of doing so?

There are already several industry-based portable LSL schemes in Australia. One option for implementing improved portability would be to create new industry-based schemes which are modelled on the existing schemes. Is this a good idea?

In this report, our aim is to make a contribution to this debate, by providing an assessment of the portable LSL schemes which are currently operating in Australia. Are they working well? What are the strengths and weaknesses of this approach?

Most portable LSL schemes have been set up under State or Territory legislation. They allow for portability of entitlements within a specified industry. These portable schemes cover workers in the following industries:\textsuperscript{6}

- Coal Mining Industry (a national scheme)
- Building and Construction Industry (in all states and territories)
- Contract Cleaning Industry (in the ACT, Queensland, and NSW)
- Community Services Industry (in the ACT)
- Security Industry (in the ACT)

There are significant differences between these industry-based schemes. Each industry has distinct workforce characteristics.

In this report, we focus on the eight schemes which cover the building and construction industry. The aim is to review:

- Scheme Coverage and Design
- Rationale for the Creation of the Scheme
- Historical Developments (including the results of prior reviews and employer feedback)
- Legal Structure and Governance Arrangements
- Investment Objectives, Strategy, and Performance
- Financial Status (Solvency)
We will start by considering some issues which are common to all of the portable LSL schemes in this industry (Section 1). However each scheme has different benefits, different methods of collecting levies, and different legal structures. To illustrate some of the different issues affecting individual schemes, Section 2 examines two of the state-based schemes, NSW and Tasmania, in more detail.

1. OVERVIEW

Every Australian State and Territory has a separate long service leave scheme for people who work in the building and construction industry.

These schemes all provide portable benefits, i.e. workers can continue to build up LSL entitlements as they switch from one employer to the next – as long as they continue working in the building and construction industry. Workers can retain their entitlements even if they have a break in their industry employment: the break may last up to four years (this varies between States - see table below).

The State and Territory Schemes also have reciprocal agreements which allow workers to transfer their LSL entitlements from one scheme to another, when the worker moves to a new location. This arrangement is particularly important for schemes which have a lot of transient workers, e.g. the Northern Territory.

Different schemes have different benefit entitlements. Workers are allowed to take long service leave after completing a certain number of days of eligible service within the industry (the qualifying period). They may also be eligible for a pro-rata cash payment of accrued leave in the event of death, disability, age retirement, or leaving the industry, as long as they have completed the vesting period. The rules are summarised in the following table.
## Table 1: Portable LSL entitlements for workers in the building and construction industry

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Long Service Leave</th>
<th>Pro Rata Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>AUSTRALIAN CAPITAL TERRITORY</td>
<td>13 weeks after 10 years’ service</td>
<td>For construction workers registered before 1 July 2012; pro-rata payment after 5 years’ service if leaving the industry permanently; pro-rata payment after 55 days service if leaving industry due to incapacity, retirement age, or death (payment to estate)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>For construction workers registered after 1 July 2012; pro-rata payment after 7 years’ service if leaving the industry permanently; pro-rata payment after 5 years’ service if leaving the industry due to incapacity, retirement age or death (payment to estate)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum break in employment is 4 years</td>
</tr>
<tr>
<td>NEW SOUTH WALES</td>
<td>8.67 weeks after 10 years’ service (220 days per year)</td>
<td>Pro-rata payments after 5 years’ service if permanently ceasing building and construction work.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pro rata payments after 55 days service if ceasing work due to age retirement (after age 55), total and permanent disability, or death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum break in employment is 4 years</td>
</tr>
<tr>
<td>NORTHERN TERRITORY</td>
<td>13 weeks after 10 years’ service (260 days per year)</td>
<td>Pro-rata payments after 5 years’ service (accrued LSL entitlement 32.5 days or more), if the person has ceased to carry out construction work/retired.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pro-rata payment after accruing at least 1 day’s LSL in the event of death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum break in employment is 4 years; applications for pro-rata benefits must be made within 4 years of ceasing work.</td>
</tr>
<tr>
<td>QUEENSLAND</td>
<td>8.67 weeks after 10 years’ service (220 days per year);</td>
<td>Pro-rata payments after 1,155 days service if permanently ceasing building and construction work or in the event of death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum break in employment is 4 years.</td>
</tr>
<tr>
<td>State</td>
<td>Weeks after 10 years’ service</td>
<td>Payments</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>SOUTH AUSTRALIA</td>
<td>13 weeks after 10 years’</td>
<td>Pro-rata payments after 7 years’ service on</td>
</tr>
<tr>
<td></td>
<td>service (260 days per year)</td>
<td>death or disability (unable to work for 6</td>
</tr>
<tr>
<td></td>
<td></td>
<td>months) or leaving the construction industry</td>
</tr>
<tr>
<td></td>
<td></td>
<td>for at least 12 months.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pro-rata payments after 7 years’ service on</td>
</tr>
<tr>
<td></td>
<td></td>
<td>termination by the employer if the worker is</td>
</tr>
<tr>
<td></td>
<td></td>
<td>unable to find other employment in the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>construction industry</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pro rata payments after 55 days for disability,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>age retirement, or death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum break in employment is 4 years.</td>
</tr>
<tr>
<td>TASMANIA</td>
<td>13 weeks after 10 years’</td>
<td>Pro-rata payments after 7 years’ service on</td>
</tr>
<tr>
<td></td>
<td>service (260 days per year);</td>
<td>termination by the employer if the worker is</td>
</tr>
<tr>
<td></td>
<td></td>
<td>unable to find other employment in the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>construction industry</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pro rata payments after 55 days for disability,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>age retirement, or death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum break in employment is 4 years.</td>
</tr>
<tr>
<td>VICTORIA</td>
<td>13 weeks after 10 years’</td>
<td>Pro-rata payments after 7 years’ service.</td>
</tr>
<tr>
<td></td>
<td>service (220 days per year)</td>
<td>Pro-rata payments after 55 days service in the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>event of death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum break in employment is 4 years if the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>worker has less than 7 years’ service.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Workers with more than 7 years’ service will</td>
</tr>
<tr>
<td></td>
<td></td>
<td>retain their accrued entitlements until they</td>
</tr>
<tr>
<td></td>
<td></td>
<td>take a benefit.</td>
</tr>
<tr>
<td>WESTERN AUSTRALIA</td>
<td>8.67 weeks after 10 years’</td>
<td>Pro-rata payments after 7 years’ service on</td>
</tr>
<tr>
<td></td>
<td>service (220 days per year)</td>
<td>termination of employment or death.</td>
</tr>
</tbody>
</table>

Note: 'Service' refers to service with one or multiple employers in the industry
Where number of days is given in brackets (e.g. WA – 220 days per year), this refers to the number of days of service which provide an entitlement. State laws often specify the number of days of service which will be regarded as 1 year of service. This is qualified by a specification that no more than a certain number of days will be credited to an employee in a 12 month period. Thus if 220 days is regarded as one year service, and no more than 220 days may be credited in a 12 month period, then 2200 days constitutes 10 years of service. In the South Australia, Tasmania, and the Northern Territory, 260 days represents one year of service; other states use 220 days service per year.
The LSL benefits are all defined benefits, calculated as a multiple of weekly wages, but different schemes have different methods of calculating the correct amount. Some schemes use the workers’ own “ordinary pay” in the week prior to taking leave, but this sort of rule might allow some employees to game the system by boosting their pay temporarily in the weeks prior to taking leave. To avoid this problem, the New South Wales benefits are based on the award pay rate or the rate specified in an enterprise agreement. Some states allow for averaging to adjust for variations in pay over time. Queensland applies a cap to the weekly wages (periodically adjusted). The Northern Territory uses a common pay rate which is set by the NTBuild Board, based on average weekly earnings in the construction industry.

Several of the schemes allow sub-contractors and self employed contractors to join as a separate category of membership, with accumulation-type benefits. This review does not cover the arrangements for contractors.

Schemes generally do not cover administrators, office staff, or supervisors.

1.1 Rationale for the Establishment of the Building and Construction Industry Schemes

According to Parliamentary records, the main factors which led to the introduction of these portable schemes were:

- *the strategic nature of the building and construction industry;*
- *high union density and industrial strength;*
- *a well-established industry focus; and*
- *patterns of employment in the industry.*

Building and construction work is often project-based, so that workers are likely to change jobs frequently. Under the standard state-based LSL legislation, benefits are not portable, so building and construction workers would not normally qualify for LSL benefits. This provided the motivation for the creation of portable LSL schemes.

The first such scheme was set up in Tasmania in 1971, and other States and the ACT followed suit between 1972 and 1991. The Northern Territory finally created a portable scheme in 2005.

The funds have total assets of almost $3 billion and the total number of registered workers as at 30 June 2013 was 982,273. The average LSL payment in 2012/13 was about $7,300 per person (excluding the Northern Territory, which is a relatively immature fund).
Table 2: Portable LSL Schemes in the Building and Construction Industry

<table>
<thead>
<tr>
<th>State or Territory</th>
<th>Assets ($millions)</th>
<th>Registered Workers</th>
<th>Benefits paid in 2012/2013 ($millions)</th>
<th>Number of benefits paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
<td>50</td>
<td>24,330</td>
<td>8</td>
<td>835</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>33</td>
<td>13,799</td>
<td>0.65</td>
<td>235</td>
</tr>
<tr>
<td>NSW</td>
<td>772</td>
<td>319,996</td>
<td>65</td>
<td>10,820</td>
</tr>
<tr>
<td>Queensland</td>
<td>777</td>
<td>282,962</td>
<td>63</td>
<td>9,344</td>
</tr>
<tr>
<td>South Australia</td>
<td>100</td>
<td>25,900</td>
<td>10</td>
<td>1602</td>
</tr>
<tr>
<td>Tasmania</td>
<td>81</td>
<td>19,068</td>
<td>5</td>
<td>680</td>
</tr>
<tr>
<td>Victoria</td>
<td>782</td>
<td>176,959</td>
<td>109</td>
<td>12,670</td>
</tr>
<tr>
<td>Western Australia</td>
<td>363</td>
<td>120,259</td>
<td>25</td>
<td>3,112</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2,958</td>
<td>982,273</td>
<td>286</td>
<td>39,298</td>
</tr>
</tbody>
</table>

1.2 Employer and Union Support for the Building and Construction Industry

Portable LSL Schemes

In 2001, the Howard government set up a Royal Commission into the Building and Construction Industry. The Honourable TRH Cole was appointed as the Commissioner. The Cole Royal Commission looked into the management of the portable long service leave schemes for the building and construction industry, and the Commissioner’s final report includes a useful summary of the history of each of the State and Territory schemes (up to 2002).

The Commissioner sought opinions about the schemes, from both employers and trade unions in the industry. He asked:

“Is it appropriate that long service leave entitlements within the industry continue to be made according to the existing arrangements or should greater flexibility be provided through collective or individual bargaining?”

The Royal Commissioner’s report noted that:

“...the submissions received by the Commission without exception supported the retention of the existing schemes. Submissions from both employer and employee groups opposed a proposal that long service leave should be subject to collective or individual bargaining.”

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From time to time there have been other state-based reviews of building and construction portable LSL schemes, with mixed results. A summary of the 2011 review of the Tasmanian scheme is given below (in the section about the Tasmanian scheme).

1.3 Corporate Structure / Governance

Schemes in different states have different legal and administrative arrangements.

Each of the portable long service leave schemes currently in operation is established by statute. The statutes specify the procedures for the creation, constitution and functions of the administrative body managing each scheme. The table below provides a summary of the organisational arrangements each LSL scheme. In most cases, members of the governing body of the organisation are appointed either by the relevant Minister, the Government or the Governor.

In Victoria and Tasmania the long service leave schemes were privatised during the 1990s. In both states, the privatisation legislation set up a trust; the trust deed sets out all of the details of levies and benefit entitlements. The Victorian scheme is run by CoInvest, a public company in which directors are elected at an annual general meeting from employer and employee constituencies. In Tasmania, TasBuild is a private trustee company. The Trustee Boards have equal numbers of employer and employee representatives, plus independent directors who are selected by the industry representatives. Legislation requires employers to register and pay levies into the trust funds. Ministerial approval is required before any amendment to the trust deeds which might increase employer costs.

Which type of administration is preferable? According to the 2003 Royal Commission report:

“The critical difference between the two approaches is that, in the latter (privatised) model government no longer has any “hands on” involvement in the scheme or any financial exposure to it.” (emphasis added).

When an LSL scheme is administered by the government, then this raises the issue of ownership of surpluses and/or responsibility for deficits. The ownership of surplus became an issue during the mid 1990s, when several state-run funds had large surpluses.

The NSW government (under Premier Bob Carr) took $120 million out of the Building and Construction Industry fund in 1995/96 and another $60 million in 1996/97. The money was used to repay state debt. The LSL fund had been in surplus prior to these withdrawals, and as a result the builders had not been paying any levies. However, after the surplus was removed, it was necessary to re-introduce the levy (effective 1 July 1997). Unions and employers in the building and construction industry strongly objected to this withdrawal of funds and questioned the legality of this decision (to no avail).
The Victorian fund also had a large surplus in the mid 1990s (approximately $150 million). According to newspaper reports, the Victorian government wanted to privatise the fund, and at the same time transfer the fund surplus to the Victorian government. The Victorian fund was privatised in 1997. The legislation which privatised the scheme gave the Victorian government the right to remove part of the surplus before transferring assets and liabilities to the new Trust Fund.
In Queensland and the ACT, when the funds were in surplus, some of the levies (amounting to millions of dollars over the years) were transferred to an industry training scheme.\textsuperscript{14}

The Royal Commissioner queried the propriety of such transfers of fund assets. The Commissioner’s report said:

“...I turn to the question whether fund moneys should be used for purposes unrelated to the scheme, such as training, investment in construction, underwriting of budget deficits, and general industry development.

I consider that long service leave moneys should be used only for the purposes for which they were paid. Transparency is important, particularly in this industry...

..The fact that long service leave funds are siphoned off for other purposes which may be beneficial to the industry is not sufficient justification for that occurring...

..I can see no justification for imposing upon the industry a levy by legislation for long service leave for employees and then using portions of the funds so raised for other purposes.”\textsuperscript{15}

A defined benefit fund might have a surplus or a deficiency. Theoretically, if the fund has a deficit, then the levy can be increased to cover the deficit – however employers are likely to object to sharp increases. In particular, new entrants to the industry are likely to object to financing deficits arising from prior years. This raises a question: how would state governments deal with any deficit on winding up of an LSL scheme?

At 30 June 2012, the NSW fund had a deficit of approximately $140 million. The fund has recovered and is currently in surplus but of course there is a risk that deficits will arise again in the future. In 2013, the NSW government announced that it is considering the privatisation of the NSW scheme. According to the government’s media release, the aim is to improve the governance and administration of the schemes, and make them more flexible in meeting the needs of their members.\textsuperscript{16}

1.4 Financial Management: Solvency

The solvency of these funds is important to all involved in the building and construction industries. Employees rely on the LSL schemes to pay their benefits in the future, and might suffer a reduction in benefits if the funds are not financially sound. Employers may be required to pay increased levies if funds suffer losses.

Royal Commissioner Cole made some observations about the financial management of portable LSL funds. He noted that most of the funds developed substantial surpluses during the 1990s – largely as a result of favourable investment returns.
The schemes responded by:

- reducing employer contributions; and/or
- increasing benefits (e.g. by reducing vesting periods for pro-rata benefits); and/or
- using fund surpluses for alternative purposes, e.g. payments into government coffers or into industry training funds.

In some cases the unions made a strong push for improvements in benefits, to be funded by the surpluses. For example in 2001 the Victorian unions persuaded the government to improve accrual rates (from 2 months leave per 10 years of service to 3 months leave per 10 years of service); and to reduce the vesting period for pro-rata benefits. \(^{17}\)

It is always tempting to increase benefits when a fund has a surplus, but the Royal Commissioner questioned the wisdom of this approach. He pointed out that benefit increases impose continuing costs, long after the fund surplus has disappeared.

Unfortunately, the funds suffered some reverses during 2001/2002: investment returns were poor and higher-than-expected wages increases pushed up liabilities (which had already increased as a result of benefit improvements). All the funds suffered operating losses, and in some cases the losses were rather large relative to the size of the assets. Some funds had deficits; some funds others were forced to increase employer levies rather sharply.

A few years later, all of the portable LSL funds suffered again during the Global Financial Crisis. The funds suffered from a combination of adverse circumstances:

- Negative investment returns. Most of the funds had adopted investment strategies with a high weighting in growth assets (typically 60 percent to 80 percent, varying between funds). Not surprisingly, this led to negative returns during the years ending 2008 and 2009, as shown in Table 4.

- The economic downturn which led to a reduction in levies. The building and construction industry is a cyclical industry. When the economy slows down, the funds suffer a reduction in levy income.

- As the industry contracted, this led to an increase in benefit payments. Workers cash in the benefit entitlements in order to cover living expenses while they are unemployed.

- In some funds, there was also a sharp increase in the valuation of liabilities due to changes in actuarial assumptions. Since LSL funds have long term liabilities, the choice
of actuarial assumptions is crucial in determining the financial position of each fund. If the discount rate falls, then the value of the liabilities will increase sharply. In the aftermath of the Global Financial Crisis, central banks cut interest rates, leading to lower yields on government bonds. This adversely affected the reported solvency of LSL funds which used government bond yields to determine the discount rate.\textsuperscript{18}

**Table 4: Investment Returns for Years ending 2008 and 2009**

<table>
<thead>
<tr>
<th></th>
<th>Year ending 30/6/2008 (percent)</th>
<th>Year ending 30/6/2009 (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
<td>n.a.</td>
<td>-5.1</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>-7.1</td>
<td>-4.0</td>
</tr>
<tr>
<td>New South Wales</td>
<td>-10.3</td>
<td>-10.3</td>
</tr>
<tr>
<td>Queensland</td>
<td>-6.5</td>
<td>-8.2</td>
</tr>
<tr>
<td>South Australia</td>
<td>-7.0</td>
<td>-12.8</td>
</tr>
<tr>
<td>Tasmania</td>
<td>-11.0</td>
<td>-29.4\textsuperscript{19}</td>
</tr>
<tr>
<td>Victoria</td>
<td>-9.2</td>
<td>-10.3</td>
</tr>
<tr>
<td>Western Australia</td>
<td>-12.8</td>
<td>-6.9</td>
</tr>
</tbody>
</table>

The schemes responded by increasing levy rates (sometimes quite sharply); by making even more determined efforts to collect levies; and waiting for investment markets to recover. Some funds responded by (at least temporarily) shifting to a more conservative investment strategy.

As a result most of the funds returned to surplus by the end of 2013, although the Victorian fund Victorian fund’s deficit was still about $130 million as at 30 June 2013.

The following graph shows the ratio of assets to liabilities for each fund as at 30 June 2009, and at 30 June 2013. A ratio below 100% indicates a deficit. Note that the asset-liability ratios are quite sensitive to the actuarial assumptions used in the valuations, so these figures do not necessarily provide a good basis for comparisons between different funds.
Table 5: Asset/Liability Ratios in 2009 and 2013

<table>
<thead>
<tr>
<th></th>
<th>Year ending 30/6/2009</th>
<th>Year ending 30/6/2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
<td>129%</td>
<td>96%</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>168%</td>
<td>200%</td>
</tr>
<tr>
<td>New South Wales</td>
<td>80%</td>
<td>99%</td>
</tr>
<tr>
<td>Queensland</td>
<td>82%</td>
<td>137%</td>
</tr>
<tr>
<td>South Australia</td>
<td>88%</td>
<td>103%</td>
</tr>
<tr>
<td>Tasmania</td>
<td>101%</td>
<td>113%</td>
</tr>
<tr>
<td>Victoria</td>
<td>77%</td>
<td>86%</td>
</tr>
<tr>
<td>Western Australia</td>
<td>75%</td>
<td>121%</td>
</tr>
</tbody>
</table>

1.5 Financial Management: Stability of Levies

All of the portable LSL schemes in the building and construction industry operate on a defined benefits basis. This implies that the employer levy is likely to vary over time, reflecting the experience of the fund.

All of the schemes are required to have periodic actuarial reviews and to receive actuarial advice about the levy rate. However, those responsible for setting the levy rate might not follow the actuarial recommendations, especially when an increase is recommended. In most schemes, an increase in the levy requires either a change in the regulations (via Parliament) or Ministerial approval. Employers may well object to the additional costs and attempt to influence the decision-making process – particularly if the increases occur when the employers are already under pressure as a result of an economic downturn.

Large fluctuations in levy rates are undesirable because this makes business planning more difficult for employers, especially those who are operating on thin profit margins in a competitive industry.

Large fluctuations are also undesirable because they create cross-subsidies between different generations of employers. For example, suppose that a fund develops a large deficit and the Board (or
Minister) decides that the levy must increase in order to restore the fund to solvency. A new employer who enters the industry will be called upon to pay the higher levy rate – effectively, the new employer is funding a deficit which arose as a result of the past service obligations of other employers in the industry.

To illustrate the variability of levy rates, the following graph shows the variation in levy rates for four of the building and construction schemes over the last 20 years. Low rates applied in the 1990s when the funds had a surplus (as low as 0% in Victoria); but the rates increased sharply over the last few years to make up for the GFC-related deficits. [Similar graphs for NSW and Tasmania are shown in subsequent sections].

**Figure 2: Historical Levy Rates in Victorian Scheme**
Figure 3: Historical Levy Rates in Western Australian Scheme

Figure 4: Historical Levy Rates in Australian Capital Territory Scheme
Although most schemes have increased their levy rates in recent years, the Northern Territory scheme has cut levy rates rather sharply. The Northern Territory scheme was established in 2005 with a levy of 0.5% of construction costs. This reduced to 0.4% in 2009, to 0.3% in 2012, and to just 0.1% in 2014. This illustrates the difficulties involved in setting an appropriate levy rate for a new scheme, when there is considerable uncertainty about worker registration rates and working patterns.

### 1.6 Financial Management: Benefits

In some cases, benefit adjustments may be used as a financial management tool. As noted previously, when surpluses arose in the 1990s, some schemes improved their benefits. Conversely, when funds were experiencing large deficits after the GFC, some schemes took steps to reduce benefits or tighten eligibility requirements.

For example:

- In 2008, the Queensland scheme introduced a cap on the salary which was used to determine benefits. The cap led to a reduction in benefit payments and liabilities;

- In 2012, in the ACT, the vesting standards were changed: new employees will have to serve 7 years (instead of 5 years) before becoming eligible for pro-rata benefits on leaving the industry.
1.7 Administration

Each scheme maintains a register of workers, recording the eligible service and LSL benefits paid to workers. The register is updated when employers submit returns showing the eligible service for each of their employees. Each scheme has different rules for the frequency of reporting (monthly, quarterly, etc). Late submission is a common problem, so actuaries usually allow for some Incurred but Not Reported (IBNR) service when valuing liabilities.

A perusal of annual reports indicates that all of the schemes have been making strenuous efforts to use technology to improve administrative efficiency: in particular, they have developed IT systems which allow the employers to enter data electronically. A high proportion of employers submit returns online. This has reduced the burden of compliance for employers, and customer feedback has been positive: it is now relatively easy to submit returns. 24

The portable LSL schemes often conduct surveys of employers and employees in order to assess the level of stakeholder satisfaction. In general, the surveys show a high level of satisfaction with the administration of the LSL schemes.

All of the Building and Construction Industry schemes are working together to improve the efficiency of administration.

“Nationally the Funds from all over Australia are working towards achieving efficiencies via the National Cooperation Project which has a goal of developing a national back office to meet the needs of each fund with a centralised computer system. The basis of this approach is that the eight funds will contribute to the development and purchase of one system creating significant savings through the economies of scale.”25

However, for portable LSL schemes, the scheme design often creates administrative difficulties. There are three major problems:

- Ambiguity about the boundaries of the industry;
- Reliance on employers for information; and
- Broken service periods.

**Ambiguity of boundaries**

The building and construction schemes cover workers employed in the building and construction industry (excluding clerical, administration, and management). However it can be quite difficult to define exactly which workers are covered by the scheme. For example, there have been queries about the liability to pay levies for:
Workers who install security systems,

Workers who install automated sprinkler systems in the grounds around a new building,

Workers who do remediation of mining sites, and

Workers who manufacture (but do not install) window frames.  

Employers might be uncertain of their obligations; employees might be uncertain about their entitlements; and the LSL scheme must deal with enquiries and disputes about coverage.

There might also be some uncertainty about the definition of “employee”. Again there are grey areas, e.g. it may not be clear whether a worker is an employee or a sub-contractor. A person who is sub-contracted to provide “labour only” is likely to be covered by a portable LSL scheme, whereas a person who provides “labour and materials” might be ineligible for inclusion in the portable LSL scheme. A few LSL schemes have had issues with non-payment of levies for workers employed by labour hire businesses. Of course, similar problems have arisen in the superannuation industry, where employers may seek to avoid liability for compulsory superannuation guarantee contributions by classifying employees as contractors.

Reliance on employers

The second problem arises from the schemes’ reliance on employers. Each of the schemes must keep records of all of the workers who are accruing LSL benefits, as they switch from one employer to the next. The schemes rely on the employers to provide accurate information about all of their employees. In practice, the employers are not always very diligent and meticulous about providing accurate information. So data integrity is a problem.

The schemes have tried to address this issue by giving workers online access to each scheme’s database, so that each worker can check that his/her work history is accurate and up-to-date. Some schemes also send out annual statements of accrued entitlements. If the workers believe that the records are inaccurate, then they can notify the scheme and ask for the missing service to be recorded. This creates a great deal of additional work for the schemes, as they must check with the employers to verify the accuracy of the information provided by the workers. This might be particularly difficult if the missing service dates back several years and/or if the employer has gone out of business.

There are thousands of claims for missing service every year. For example, the Queensland scheme alone had 1500 missing service requests in 2012/2013. If the missing service claim is verified, the scheme must pay the benefits arising from that service – even if the relevant employer has not paid any levies in relation to that service. Theoretically the scheme might be able to make a retrospective claim against the employer – but in practice it might be quite difficult to collect this sum. If this sum
cannot be collected, the fund must cover the shortfall (effectively spreading the cost of these benefits to other employers).

*Broken working patterns and worker churn*

The third problem arises as a result of broken working patterns.

Under portable schemes, a worker is entitled to accrue benefits as long as he/she continues working in the building and construction industry. If the worker temporarily ceases working in the industry (for up to four years\(^28\)), he/she retains his/her accrued benefits and remains on the LSL scheme’s register. If the worker subsequently recommences working in the industry, within this four year period, he/she continues to accrue more benefits.

What happens if the worker does not recommence working within the four year period?

The LSL schemes periodically check their registers in order to identify individuals who have not worked in the industry for four years or more – these people are removed from the register. As an example, the following table shows the number of workers removed from the NSW registers over the last few years\(^29\):

<table>
<thead>
<tr>
<th>Table 6: Workers removed from the NSW Register</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered Workers at start of year</td>
</tr>
<tr>
<td>Workers removed from the register</td>
</tr>
<tr>
<td>Percentage</td>
</tr>
</tbody>
</table>

Queensland had an even higher rate of deregistration.

<table>
<thead>
<tr>
<th>Table 7: Workers removed from the Queensland Register</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered Workers at start of year</td>
</tr>
<tr>
<td>Workers removed from the register under the four year rule</td>
</tr>
<tr>
<td>Percentage</td>
</tr>
</tbody>
</table>
What is the financial liability for deregistered workers?

- If a worker’s benefits have not yet vested, then accrued benefits are forfeited. The vesting period varies between states, e.g. benefits vest after 5 years’ service in NSW but 7 years in Queensland.

- If the benefits have vested, then the worker may be entitled to some LSL benefits – but the benefits will not be paid until a claim is submitted for LSL. Some workers might be unaware of their entitlements, hence they will never make a claim. The scheme must recognise a liability to pay these benefits, even though the benefit may never be claimed. This problem is analogous to the well-known problem of “lost members” in superannuation funds.

This creates some uncertainty in valuing the liabilities of each scheme. At any given time, the registers will include a large number of workers who are not currently employed in the industry, but who have been employed at some time within the last four years. It is difficult to estimate the amount of the benefits which will eventually become payable to these workers. Once again, the outcomes will depend on the business cycle: when there is a downturn, fewer workers will return to the industry within the four-year time limit. These complexities mean that estimation of the liability requires actuarial judgement.  

The problem is exacerbated by the reciprocity arrangements between states. Suppose that a Tasmanian worker goes to Victoria. The Tasmanian scheme will not have any records of his Victorian service and might assume that the worker will not claim any benefits. But if the worker completes his ten year qualifying period while in Victoria, he will have a claim against the Tasmanian scheme – this claim might relate to service which occurred ten or twenty years earlier, so the scheme must keep accurate records for a long time.

The proportion of inactive members can be quite high, so this creates uncertainty in the estimation of liabilities. As an example, as at 30 June 2013 the NSW Building and Construction LSL scheme had the following membership categories:

<table>
<thead>
<tr>
<th>Membership status</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active within last 2 years</td>
<td>196,332</td>
<td>76%</td>
</tr>
<tr>
<td>Inactive for last 2 years but active within 2 prior years</td>
<td>48,070</td>
<td>19%</td>
</tr>
<tr>
<td>Inactive for 4 or more years</td>
<td>12,281</td>
<td>5%</td>
</tr>
<tr>
<td>Total</td>
<td>256,683</td>
<td></td>
</tr>
</tbody>
</table>

Table 8: Membership status of members of the NSW scheme as at 30 June 2013
1.8 Compliance

By law, employers are supposed to register with the LSL schemes and provide periodical reports on their employees. However there are some employers who neglect this responsibility and/or are unaware of the legal requirements.

All of the portable LSL schemes devote time and effort to inform employees about the scheme benefits and to inform employers of their obligations. Typically, they participate in industry events, publish advertisements in trade journals, run information sessions for apprentices via educational bodies, attend union meetings, and so on. Information about each scheme is available online and each scheme provides help via telephone (for example, the NSW scheme answers about 85,000 telephone enquiries per annum).

Most schemes (except NSW, Queensland, and the NT) collect levies from employers, as a percentage of payroll. These LSL schemes have staff who liaise with employers; normally this would include auditing employers to make sure that they are making the correct payments. Staff from the LSL schemes work with employers who are in financial difficulties, to work out payment plans. However, despite these efforts, sometime the schemes suffer losses due to bad debts when an employer goes out of business. When employers are recalcitrant, the schemes devote resources towards enforcing compliance. Sometimes this involves taking legal action to collect unpaid levies.

Several of the portable LSL schemes have developed relationships with other government authorities or industry bodies, in order to share data. Data-matching helps to identify employers who are shirking their obligations. For example, some schemes share information with workers’ compensation authorities, which need accurate employee data in order to calculate workers’ compensation premiums. In Tasmania, TasBuild works with training colleges to collect data about apprentices’ employers (see below in the section about Tasmania).

In NSW, Queensland, and the NT, levies are not collected from the employer, but are charged as a percentage of construction costs. The administrative issues arising from this system are discussed in the section about NSW (below).

1.9 Administration Expenses

As noted above, most of the schemes aim to improve efficiency by using technology to streamline administration. The average administration cost was $56.78 per worker in 2012 (averaging across all of the building and construction portable LSL schemes, and excluding investment management fees). This may be compared to the administration cost for a simple MySuper superannuation scheme, as estimated for the Super System Review:
Table 9: Estimated operating costs per member for a MySuper fund with average account balance $25,000

<table>
<thead>
<tr>
<th>Fund size (membership)</th>
<th>40,000</th>
<th>80,000</th>
<th>200,000</th>
<th>400,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Cost per member</td>
<td>$149</td>
<td>$114</td>
<td>$88</td>
<td>$77</td>
</tr>
</tbody>
</table>

However, average LSL benefits are much lower than average superannuation benefits – the average amount of LSL assets per worker is about $3,000 and the average benefit payment is only about $7,300. This means that administration expenses are high relative to the benefits provided. Based on figures averaged over the last five years, the larger LSL schemes incurred administration expenses of about $1 for every $6 or $7 of LSL benefits paid. [e.g. $1 per 6.36 of benefits in Queensland; and $1 per 6.79 in Western Australia, averaged over the five year period to 30 June 2013]

2. INDIVIDUAL SCHEMES

In the following section, we examine two of the schemes in more detail. The aim is to illustrate the different issues which arise for different schemes. We have chosen:

- New South Wales, which is a large scheme, run by a statutory corporation, with levies based on a percentage of building costs, and investments managed by the State Treasury; and
- Tasmania, which is one of the smaller schemes, administered by a private company, where the scheme has been set up under a Trust Deed, collects levies as a percentage of payroll, and invests a proportion of the funds in local construction projects.

2A. New South Wales Long Service Corporation

In New South Wales, the portable LSL scheme for building and construction workers is administered by the Long Service Corporation. As at 30 June 2013, the fund had assets of about $772 million. The ratio of assets to liabilities was 99% (recovering from a large deficit in earlier years).

The New South Wales scheme has about 260,000 registered workers, and 35,000 registered employers. During the year 2012/2013, benefits amounting to $65 million were paid to 10,820 workers. The average payment was about $6,000.
Over the last 38 years, the fund has paid out more than $843 million in benefits to over 195,000 workers.  

2A.1 Historical Development

NSW’s portable LSL scheme was established in 1975. During the 1970s, the trade unions involved in the building industry conducted an industrial campaign in order to win better sick pay, better accident pay, and better LSL benefits. Conflicts between the unions and the employers culminated in strikes and lock-outs. Unionists claim that the establishment of the portable LSL scheme was one of the most significant victories for the union during this period.

Initially the portable LSL scheme was administered by the Builders Licensing Board, but in 1982 the NSW government set up a separate statutory corporation to administer the scheme. This was originally called the Building and Construction Industry Long Service Payments Corporation.

In 2010 the NSW government established another industry-based portable LSL scheme, for contract cleaners. In order to minimise costs, the administration of both industry scheme was combined. The name of the corporation was changed to the Long Service Corporation.

2A.2 Legal Structure / Corporate Governance

The Long Service Leave Corporation is a NSW government entity under the supervision of the NSW Treasury (transferring from the Department of Finance and Services in 2012).

Under the legislation, an Industry Committee provides advice on a range of issues, including investment of the fund and the amount of the levy. The industry includes members nominated by Unions NSW; members nominated by the Master Builders Association and Employers First; and members chosen directly by the Minister. The Industry Committee acts as a “Customer Council”, providing feedback from the industry “to help ensure the quality and effectiveness of services in meeting customers’ needs.” The Minister need not accept any recommendations made by the Industry Committee.

At present, the NSW government is considering changes to the LSL scheme. The Treasurer’s press release said:

“The NSW Government believes that if there is a better way of delivering a service that exceeds current standards and delivers better results for NSW, it has a responsibility to consider it. Reform will only be pursued if it is in the best interests of the State.”

25
There are a number of benefits in undertaking a scoping study. This includes the most appropriate governance and administration arrangements for a business that within five years will control more than $1 billion in assets. 

The press release specifically mentions the possibility of privatisation of the scheme (i.e. following the Victorian and Tasmanian models where the schemes are administered by a Trustee company).

2A.3 Investment Objectives, Strategy, and Performance

The scheme’s investments are managed by the NSW Treasury Corporation. As at 30 June 2013, about 92% of the assets were invested in the Long Term Growth Fund, with the remainder invested in cash and term deposits. The Long Term Growth Fund has roughly 30% invested in defensive assets (cash and bonds) and 70% in growth assets (shares and property). This has resulted in fairly large fluctuations in investment returns in recent years.

Figure 6: Investment Returns from the Long Term Growth Fund for the NSW Portable LSL Fund

2A.4 Financial Position: Solvency

Financial management of the fund is difficult, because the building industry is quite cyclical, and special circumstances can influence the level of building activity. For example,

- Construction work associated with the 2000 Olympics (held in Sydney) boosted levy income;
In the aftermath of the GFC, the industry benefitted from the Commonwealth government’s Education Revolution stimulus package.

When there is a downturn in the industry, levy income falls and LSL claims rise. The problems are exacerbated if poor investment returns coincide with an industry downturn. For example, in 2009 and 2012, the NSW fund suffered from poor investment returns AND low levy income AND high claims costs, leading to large deficits in those years.

Table 10: Financial Data for the NSW Portable LSL Fund

<table>
<thead>
<tr>
<th>Year Ending 30 June</th>
<th>Levies $millions</th>
<th>Claims paid $millions</th>
<th>Assets $millions</th>
<th>Provision for LSL Liabilities</th>
<th>Assets / Provision for LSL Liabilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>29</td>
<td>27</td>
<td>384</td>
<td>299</td>
<td>128%</td>
</tr>
<tr>
<td>2001</td>
<td>21</td>
<td>35</td>
<td>394</td>
<td>304</td>
<td>130%</td>
</tr>
<tr>
<td>2002</td>
<td>29</td>
<td>32</td>
<td>375</td>
<td>361</td>
<td>104%</td>
</tr>
<tr>
<td>2003</td>
<td>34</td>
<td>31</td>
<td>361</td>
<td>366</td>
<td>99%</td>
</tr>
<tr>
<td>2004</td>
<td>38</td>
<td>36</td>
<td>401</td>
<td>397</td>
<td>101%</td>
</tr>
<tr>
<td>2005</td>
<td>35</td>
<td>42</td>
<td>438</td>
<td>483</td>
<td>91%</td>
</tr>
<tr>
<td>2006</td>
<td>48</td>
<td>49</td>
<td>500</td>
<td>515</td>
<td>97%</td>
</tr>
<tr>
<td>2007</td>
<td>69</td>
<td>51</td>
<td>577</td>
<td>532</td>
<td>108%</td>
</tr>
<tr>
<td>2008</td>
<td>80</td>
<td>48</td>
<td>540</td>
<td>558</td>
<td>97%</td>
</tr>
<tr>
<td>2009</td>
<td>63</td>
<td>54</td>
<td>486</td>
<td>607</td>
<td>80%</td>
</tr>
<tr>
<td>2010</td>
<td>81</td>
<td>58</td>
<td>553</td>
<td>640</td>
<td>86%</td>
</tr>
<tr>
<td>2011</td>
<td>84</td>
<td>59</td>
<td>619</td>
<td>678</td>
<td>91%</td>
</tr>
<tr>
<td>2012</td>
<td>80</td>
<td>68</td>
<td>622</td>
<td>760</td>
<td>82%</td>
</tr>
<tr>
<td>2013</td>
<td>111</td>
<td>65</td>
<td>772</td>
<td>777</td>
<td>99%</td>
</tr>
</tbody>
</table>
Although the fund had a large deficit as at 30 June 2012, the accounts show substantial improvement in the following year. The fund had good investment returns in 2012/2103 (the Long Term Growth Facility earned 20.55%). The construction industry was recovering from the GFC, which led to an increase in levy income. The administration made strenuous efforts to increase levy collections. (Note the increase in levy income from $80 million to $111 million in just one year.)

Also, the auditors agreed to change the valuation assumptions, which resulted in a $54 million reduction in liabilities. The 2013 annual report explains that:

"The Corporation was successful in the latter part of the financial year in gaining agreement from Treasury and Audit Office to use a discount rate more aligned with the asset growth rate. The change in discount rate used reduced the Corporation’s scheme liabilities and expenditure by $54.3 million in 2012/13."

The 2012 valuation (for accounting purposes) assumed wages growth of 4% p.a. and long term investment returns of 3% p.a. (based on Commonwealth bond yields); for the 2013 valuation, the assumptions were wages growth of 4% pa. and long term investment returns of 7% p.a (in line with expected long term rates of return on fund assets). That is, the “actuarial gap” was changed from -1% to +3%.

Note that analysis of changes in the asset-liability ratios should be treated with caution, since the valuation of liabilities is quite sensitive to the choice of actuarial valuation assumptions.

2A.5 Stability of Levy Rates

The levy rates for the NSW scheme have varied quite widely over the last 20 years, as shown figure 7 below.

During the late 1980s and early 1990s, the fund developed a large surplus. As a result, the levy was set to 0% in 1993.

In the mid-1990s, the NSW government removed $180 million from the fund over two-year period: the money was transferred to the government’s coffers, in order to repay state debt. As a result, it was necessary to re-introduce levies. The levy was set at 0.20% effective from 1 July 1997.

The levy was increased to 0.35% effective from 1 January 2006, after an actuarial review.
The fund’s financial position deteriorated in the aftermath of the Global Financial Crisis, leading to a substantial deficit by 30 June 2012 (approximately $140 million, according to the accounts).

Figure 7: Historical Levy Rates in the New South Wales Scheme

The actuaries recommended an increase in the levy, from 0.35% to 0.45%, to return the fund to surplus. However, the Corporation opted to maintain the levy at 0.35%, and pursue other strategies to increase revenue. The 2012 annual report notes that the Long Service Corporation decided to “increase the focus on stopping revenue leakages”.

Levy income has also been adversely affected by some legal disputes about the correct method for calculation of levies (see below).

2A. 6 Administration and Compliance

Before July 1986, employers in the NSW building and construction industry paid a monthly levy which was calculated as a percentage of the workers’ pay. In 1986, the system was changed: the benefits are now funded by a levy on developers calculated as a percentage of the cost of construction. This reduced the administrative burden for employers.

Local councils act as agents for the Long Service Corporation. Normally, construction work requires council approval. A developer makes an application to the council, and the council determines the estimated cost of construction. The LSL levy is calculated as a percentage of this cost (subject to an exemption for projects costing less than $25,000, discounts for non profit organisations, etc.). The levy is paid by the building applicant or the person for whom the work is done. The councils collect
the levy before granting permission for the development to proceed (i.e. before providing the Construction Certificate or Complying Development Certificate). The councils receive commissions from the LSL fund for providing this service.

The levy is based on the initial estimate of the cost. If the actual cost is higher than expected, an additional levy can be collected. If the actual cost is less than expected, a refund can be claimed.

This system substantially reduced the amount of paperwork for the employers. Previously they had to provide monthly returns with details of each employee. Now they only provide notification when a new employee starts work; when an existing employee leaves; and an annual return showing days worked.

Although this system has some administrative advantages, it does break down the direct link between the amount of the levy paid and the amount of the worker’s wages. Possible problems are:

- This system is fairly equitable between employers, as long as workers’ wages are a reasonably consistent proportion of overall costs. If not, then this system would create some cross-subsidies between employers.

- Since the levy is not calculated from the employment history, there is less incentive for the employer to provide accurate figures. The NSW scheme administrators have noticed that some employers have been recording service for ineligible workers or providing incorrect information about rates of pay (which are used in calculating benefit payments). So there is some potential for fraud.38

Problems have arisen in recent years because some of the larger property developers have taken steps to reduce their levy payments. The developers argued that certain types of work should not be included in the costs of construction for the purposes of determining the levy payments. The developers were successful in obtaining a substantial refund of levy payments.

2B. The Tasmanian Construction Industry Long Service Leave Scheme

The Tasmanian portable LSL scheme for building and construction workers is administered by TasBuild. As at 30 June 2013, the fund had assets of about $81 million – i.e. the Tasmanian fund is roughly one-tenth the size of the NSW fund. The ratio of assets to liabilities was 113%.
TasBuild has about 19,000 Active registered workers, which includes about 11,000 Current registered workers. An Active worker is defined as a worker who has received service credit within the last 4 years; a Current Worker has service credits during the last 12 months.

TasBuild had 4,500 registered employers. This suggests that the Tasmanian construction industry includes a lot of small businesses which operate with just a few employees.³⁹

During the year 2012/2013, benefits amounting to $5.4 million were paid to 680 workers. The average payment was $7,932.

### 2B.1 Establishment of TasBuild


Initially, the scheme was run as a Termination Scheme. Employers were not required to make regular levy payments into the fund. Instead, employers only made a payment when an employee left service or took LSL. No doubt many employers preferred this, since it allowed them to retain the cash value of accrued LSL liabilities and use these funds as working capital.⁴⁰ In 1980, the rules changed. Employers were given the option of making quarterly contributions, calculated as 2% percentage of his employees’ wages, instead of making payments on the termination of each employee. The two systems ran in tandem for a long time, i.e. employers would pay lump sums for employees who had pre-1981 service as well as quarterly levies for post-1980 service.

Initially the scheme was administered by the Tasmanian Department of Industry (and subsequently by other government departments). The State Treasury managed the investment of the fund assets. Over time the fund built up a substantial surplus of assets over liabilities.

In 1997 “there was a claim from industry that they could administer the fund more prudently and more cost-effectively than the government agencies actually doing it, and they provided some evidence of how they would do that.”⁴¹ The Liberal government was persuaded to privatise the scheme, effective from 1 July 1998.⁴² The Construction Industry (Long Service) Act 1997 set up a Trust Fund, and administration of the scheme was transferred to a newly formed trustee company, TasBuild. Assets and liabilities of the previous fund were transferred to the new trust fund. TasBuild has a Board of Directors which consists of three employer and three union representatives, plus one independent director (acting as Chairperson).⁴³
2B.2 Employer and Union Support for TasBuild

In 2010, the Tasmanian House of Assembly set up a Select Committee to investigate the costs of housing, building, and construction in Tasmania. The terms of reference included (inter alia) an investigation into the costs of statutory levies, including the TasBuild levy. The Committee collected submissions and held hearings.

There were a number of submissions which were critical of TasBuild.

Some employers were opposed to portable long service leave on principle. They argued that long service leave should be a reward for long and faithful service: employers should not be expected to provide LSL for an employee who had only been working for them for a short time. Some employers also argued that it was inequitable to make special LSL arrangements for people in the construction industry. They pointed out that there are many other industries which have high workforce turnover, but the employees in those industries did not benefit from portable LSL arrangements.

Employers complained that the portable scheme increased their costs, compared to the state-based LSL legislation. The portable scheme for the construction industry had initially had accrual rates of 1.67%, in line with the accrual rates for employees in other industries. But in 2006, the portable scheme had increased the accrual rates to 2.5%. (The fund had had a large surplus at that time, which disappeared soon after the benefit increase, as a result of the Global Financial Crisis). So the construction industry LSL benefits are higher than the benefits paid to many other Tasmanians.

Some employers were also unhappy about the impact on their cash flows. Under the TasBuild scheme, the employers are required to make levy payments every month or every quarter; whereas employers in other industries were only required to pay LSL benefits when an employer took leave or left service. The employers pointed out that in other industries, no payments at all were required for employees who left prior to completing ten years’ service. This issue was more likely to affect small employers with high workforce turnover.

Employers were unhappy about the high levy rates. As noted below, the levy rates increased sharply between 2006 and 2009, in order to recoup the fund’s investment losses during the Global Financial Crisis. Employers said that these additional costs made it difficult for them to compete with overseas suppliers (e.g. prefabricated goods from China). And the higher levy rates were considered to be particularly unfair for new companies; effectively, the new companies were helping to pay off a deficit which had arisen during the GFC, before they commenced operations.

Employers complained that it was sometimes difficult to work out which workers were covered by the scheme – the rules were ambiguous. This subsequently led to some attempts to amend the legislation.
to clarify the rules (such legislation was introduced into Parliament but at the time of writing, this legislation had not yet passed).

Some Committee members were concerned about the level of administration costs. They suggested that it would be simpler to close down TasBuild and allow employers to make additional contributions to a superannuation fund instead.

The Committee report was published in 2011. The majority of the Committee recommended the winding up of TasBuild, and the distribution of TasBuild assets to the beneficiaries. Two members of the Committee opposed this recommendation. The Tasmanian government did not follow the Committee’s recommendations and there have been no moves to wind up TasBuild. Indeed, on the contrary, by 2013 the Tasmanian government was planning to set up another portable LSL scheme, for community services workers.

2B.3 Management

TasBuild is a trustee company, responsible for managing the Construction Industry (Long Service) Scheme.

The Board of Directors of TasBuild has seven members: three represent employers, three represent employees, and there is one independent chairman. The employer representatives are nominated by the Master Builders Association of Tasmania, the Tasmanian Chamber of Commerce and Industry, and the Building Industry Specialist Contractors Association. The employee representatives are nominated by the Construction, Forestry, Mining and Energy Union, the Australian Manufacturing Workers Union, and Unions Tasmania. The chairman is selected by the other Board members.

In the past, two of the chairmen have been Labor Party politicians (state ministers who had lost their seats). This led to some complaints about “jobs for the boys” and poor corporate governance. However the TasBuild board defended the appointments, asserting that both chairmen were well qualified for the job and had been chosen on their merits.44

During the Parliamentary enquiry in 2011, some questioned whether the Board of TasBuild had appropriate qualifications for management of the fund.

“There are comments from employers along the lines that they don't particularly feel the scheme has been set up properly; they don't feel that the board necessarily has the skills for this type of scheme. My concern is that if you extend the scheme and make it bigger, you really can't have a group of people who have all good intentions. It really needs to be a very professionally managed board because you are talking about an awful lot of money.” 45
The Board does hire asset consultants and other advisors when it needs specialist advice.

2B.4 Investment Objectives and Performance

Since LSL benefits are a multiple of the workers’ weekly wages, the liabilities of the fund increase in line with increases in wages. The Trustees of the Fund aim for investment returns which are at least equal to the increase in wages plus 1.5%, averaged over a 5 year rolling time frame.

The Trustees rely upon the advice of an asset consultant to determine the strategic asset allocation. Most of the Fund’s money is invested via managed funds, which allows greater diversification for a relatively small fund (about $80 million). These funds under management are split in the following proportions:

<table>
<thead>
<tr>
<th>Asset Class</th>
<th>Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian and International Shares</td>
<td>42%</td>
</tr>
<tr>
<td>Property, Infrastructure, and Resources</td>
<td>23%</td>
</tr>
<tr>
<td>Bonds and Cash</td>
<td>31%</td>
</tr>
<tr>
<td>Alternatives</td>
<td>4%</td>
</tr>
</tbody>
</table>

Table 11: Strategic Asset Allocation for TasBuild (30 June 2013)

The Fund also has about $5 million in bank deposits, plus $6 million directly invested in property.

For several years, TasBuild’s Trustee Board has had a policy of strategically investing in Tasmania’s property market, in order to boost employment opportunities for fund members.

It appears that this policy was adopted in 1999, soon after the scheme was privatised. At that time the fund had assets of about $35 million, and a healthy surplus – but the Tasmanian building and construction industry was ailing. The Trustee decided to allocate $8 million as seed financing for property developers. The aim was to create employment opportunities for fund members and potential fund members. The Board set up a committee to “seek out and fast track suitable construction developments in Tasmania”.

“In deciding which projects to invest funds into, factors such as return on investment, job creation and facilitating projects that might not otherwise occur are the principal objectives towards the allocation of the funds.”

The loans were secured by second mortgages over the property developments. The annual reports do not provide any comments on the performance of these investments. Over the years the amount
allocated for this purpose has fluctuated. When the economy was buoyant, there was less demand for this sort of funding.

The investment returns on the fund have been quite volatile, as shown in the graph below. The fund was particularly hard-hit by the Global Financial Crisis, with returns of -11% in 2007/2008 and -29% in 2008/2009. The Trustees switched to a more conservative asset allocation after these losses.

The geometric mean of the returns over the last 14 years is just 3.6% per annum.

**Figure 8: Investment Returns for TasBuild**

![Graph showing investment returns from 2000 to 2013](image)

**2B.5 Financial Position**

When the Tasmanian fund was privatised (effective 1/1/1998), it started off in a strong financial position, with a large surplus.

In 2006, the surplus was applied to improve benefits and to reduce the levy rate. The TasBuild benefit accrual rate was initially set at 13 weeks of leave after 15 years of service (1.67% benefit accrual rate). From 1 January 2006, the accrual rate was increased to 13 weeks of leave after ten years of service (2.5% benefit accrual rate).

The fund still had a substantial surplus in 2007, with an Asset/Liability ratio of almost 200%. However, the fund was hard-hit by the Global Financial Crisis.
Table 12: Financial Data for TasBuild

<table>
<thead>
<tr>
<th>Year Ending 30</th>
<th>Administration Expenses.</th>
<th>Levies</th>
<th>Claims paid</th>
<th>Assets</th>
<th>Provision for LSL Liabilities</th>
<th>Assets / Provision for</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$millions</td>
<td>$millions</td>
<td>$millions</td>
<td>$millions</td>
<td>$millions</td>
<td>$millions</td>
</tr>
<tr>
<td>1999</td>
<td>0.52</td>
<td>3.62</td>
<td>0.71</td>
<td>34.76</td>
<td>17.48</td>
<td>199%</td>
</tr>
<tr>
<td>2000</td>
<td>0.59</td>
<td>1.67</td>
<td>1.12</td>
<td>37.66</td>
<td>17.40</td>
<td>216%</td>
</tr>
<tr>
<td>2001</td>
<td>0.55</td>
<td>1.23</td>
<td>1.41</td>
<td>39.16</td>
<td>17.66</td>
<td>222%</td>
</tr>
<tr>
<td>2002</td>
<td>0.58</td>
<td>1.41</td>
<td>1.16</td>
<td>38.26</td>
<td>17.81</td>
<td>215%</td>
</tr>
<tr>
<td>2003</td>
<td>0.58</td>
<td>1.39</td>
<td>1.14</td>
<td>38.62</td>
<td>19.19</td>
<td>201%</td>
</tr>
<tr>
<td>2004</td>
<td>0.72</td>
<td>1.36</td>
<td>1.08</td>
<td>43.40</td>
<td>19.96</td>
<td>217%</td>
</tr>
<tr>
<td>2005</td>
<td>0.57</td>
<td>1.71</td>
<td>1.12</td>
<td>49.24</td>
<td>22.67</td>
<td>217%</td>
</tr>
<tr>
<td>2006</td>
<td>0.67</td>
<td>1.75</td>
<td>1.04</td>
<td>57.45</td>
<td>27.28</td>
<td>211%</td>
</tr>
<tr>
<td>2007</td>
<td>0.67</td>
<td>1.60</td>
<td>1.45</td>
<td>66.08</td>
<td>33.46</td>
<td>198%</td>
</tr>
<tr>
<td>2008</td>
<td>0.91</td>
<td>1.73</td>
<td>1.87</td>
<td>59.26</td>
<td>41.05</td>
<td>144%</td>
</tr>
<tr>
<td>2009</td>
<td>0.98</td>
<td>2.33</td>
<td>2.30</td>
<td>49.52</td>
<td>49.05</td>
<td>101%</td>
</tr>
<tr>
<td>2010</td>
<td>0.94</td>
<td>7.14</td>
<td>3.12</td>
<td>58.00</td>
<td>53.15</td>
<td>109%</td>
</tr>
<tr>
<td>2011</td>
<td>1.05</td>
<td>9.09</td>
<td>3.98</td>
<td>67.43</td>
<td>60.90</td>
<td>111%</td>
</tr>
<tr>
<td>2012</td>
<td>1.14</td>
<td>9.41</td>
<td>4.45</td>
<td>70.88</td>
<td>69.12</td>
<td>103%</td>
</tr>
<tr>
<td>2013</td>
<td>1.10</td>
<td>9.06</td>
<td>5.41</td>
<td>81.27</td>
<td>71.90</td>
<td>113%</td>
</tr>
</tbody>
</table>

The GFC had the following effects:

- Firstly the fund suffered very poor investment returns, as shown in the graph above; so that the value of assets fell sharply from about $66 million in 2007 down to less than $50 million in 2009.
Secondly, the value of accrued liabilities increased sharply from $33 million in 2007 to $49 million in 2009. This was partly caused by a change in the valuation assumptions. Since LSL funds have long term liabilities, the choice of actuarial assumptions is crucial in determining the financial position of each fund. If the discount rate falls, then the value of the liabilities will increase sharply. In the aftermath of the Global Financial Crisis, central banks cut interest rates, leading to lower yields on government bonds. This adversely affected the reported solvency of LSL funds.

Thirdly, there was an increase in benefit payments. There was a slowdown in the building and construction industry and hence more claims for termination payments and pro-rata LSL payments. The surplus was eliminated by the end of 2009: the Asset/Liability ratio fell to just 101%.

Over the last few years, the fund has slowly recovered from the GFC and by 2013 the Asset/Liability ratio was above 110% (which is the target). As shown in Figure 9, a sharp increase in levy income helped to improve the financial position.

As noted previously, changes in these asset-liability ratios should be treated with caution, since the valuation of liabilities is highly sensitive to the actuarial valuation assumptions.

### 2B.6 Stability of the Levy Rate

The levy rates have been rather unstable since the scheme was privatised in 1998, as shown in the following graph:

![Figure 9: Historical Levy Rates for TasBuild](image-url)
Under the old (government-run) scheme, the levy had initially been set at 2%. TasBuild took over from 1 July 1998, when the scheme was privatised. The fund had a surplus and in September 1999, TasBuild reduced the levy rate to 0.7%.

The fund remained in surplus for several years. In 2006, the benefits were significantly improved. At the same time, the levy rate was reduced to just 0.3%.

The 2007 annual report said that:

“It is the Trustee’s goal to maintain the lowest possible subsidised rate, currently 0.3%, to employers in the industry for as long a period as possible. Current indications are that we will be able to achieve this for some years to come.”

This prediction was too optimistic. The Trust fund had very poor investment returns in 2007/2008, and again in 2008/2009, leading to a sharp fall in the value of assets. In order to recoup the losses, the levy increased from 0.6% to 2.0%. Many employers were quite unhappy about the sharp increase in levy rates (as evidenced by their submissions to the Select Committee in 2011, see above).

2b.7 Employer Compliance

Like most portable LSL funds, TasBuild devotes a great deal of its resources to informing members about their benefits; to inform employers of their obligations; and to collect levies efficiently. However, it appears that over the years, employer compliance has often been a serious problem. The struggle to improve compliance is a recurring theme in annual reports, year after year.49

TasBuild’s Board considers that it is important to pursue employers who fail to pay their levies. Otherwise, the dishonest employers will obtain an advantage over honest employers who make the correct payments. The 2001 report said:

“The Trustee has successfully taken legal action in respect of some employers that have not complied with the current legislation. In all cases the employers had failed to register themselves or their workers, had failed to provide information requested, or had failed to pay contributions for long service. Significant costs orders were obtained against the employers. TasBuild will continue to take action against employers who fail to comply with their obligations to ensure a level playing field and that workers in the construction industry receive their full service entitlements.”

The 2002 annual report mentioned that TasBuild was working on a review of the LSL legislation. The legislation, which was passed in the following year, gave the Trustee stronger enforcement powers.50
The 2003 annual report mentioned that two additional Industry Liaison Officers had been appointed, and they were targeting areas with low levels of registration and/or poor compliance.

After the Global Financial Crisis, it seems that TasBuild redoubled its efforts to collect the correct amount of levies. TasBuild started working with the Department of Education. Apprentices who are still learning their trade have to be registered, and must provide the name of their employer. The Department of Education provided lists of these apprentices to TasBuild, which then followed up by contacting their employers. The annual report noted that:

“Employers identified by this process have demonstrated significant resistance; however a diligent and persistent approach, particularly with the potential threat of litigation, has resulted in a high level of compliance.”

Many of these employers would have been liable for levies for many other employees (as well as the apprentices) – perhaps going back several years. TasBuild charges penalty rates for levies which are not paid on time, so many of these employers would have been unpleasantly surprised by demands for quite large payments. The Parliamentary inquiry held in 2011 heard complaints from some of these employers.

As a result of these measures, the number of employer registrations increased sharply, i.e. increasing by 51% in 2008/2009. This suggests that there were serious deficiencies in employer compliance in earlier years.

In 2010, TasBuild starting publishing monthly newsletters for employers (which are also available on the website). The newsletters often include short articles about the importance of compliance, the measures TasBuild might take in order to enforce compliance, and the penalties for non-compliance.

The 2011 annual report records an increase in legal action to recover unpaid levies.

It is particularly difficult to enforce compliance when the industry is going through a downturn. The 2012 annual report noted that

“Debt recovery has been a major component of our work during the year. This year we have had to refer over 132 debtors with a value of debts in the order of $158,783 to the TCS. Add to this we currently have over $223,000 owed to us from employers who are currently under administration. This is despite our attitude to work with employers to assist them when they are experiencing short-term cash flow issues. These debts adversely impact on the Fund’s liability valuation which imposed pressure on the employers’ contribution rate. It is for these reasons that we will be taking a fair but more hard-nosed approach to debtors. It is unfair to
expect good employers operating in compliance with the law to fund those that can’t or won’t.”

2B.8 Administrative Expenses

As shown Table 12 above, over the last 5 years (2009 to 2013), the fund has paid out $19.27 million in benefit payments and paid $5.21 million in administrative expenses – i.e. the fund incurred administration costs of about $1 for every $3.70 paid in benefits. This expense ratio is higher than the expense ratio for the portable LSL funds in the larger states, which are approximately $1 of expenses per $6 or $7 of benefits.

Prior studies of industry based superannuation funds have shown that there are economies of scale in the management of superannuation savings: small funds tend to have higher expense ratios (per member) than larger funds. It is likely that the same economies of scale affect administration expenses in portable LSL funds, which would account for the Tasmanian experience.

3. Summary and Observations

The building and construction LSL schemes are long-established and are now integral to the industry. Based on submissions to the Cole Royal Commission in 2002/03, these schemes have had the support of the major employer organisations and trade unions which represent the industry.

Portable long service leave schemes meet the needs of workers in the building and construction industry. Workers in this industry often move from one project to another, changing employers frequently. In the absence of the portable LSL schemes, relatively few would be eligible for any LSL benefits: for example, the Victorian and Tasmanian schemes report that 80% to 90% of LSL beneficiaries have had two or more employers during their career.

LSL benefits are particularly useful in providing some income for workers who are “between projects” or temporarily unemployed.

However, the schemes only provide portability within the industry. Experience shows that there is a significant level of worker churn, i.e. people who work in the industry for just a few years, and then leave before qualifying for any LSL benefits. The number of deregistrations under the four-year rule provides some indication of level of churn in the industry, which clearly varies over time and across states. The money contributed for the early-leavers is used to fund the benefits for those who remain
in the industry long-term. If the scheme rules were changed to reduce the vesting periods then this would provide LSL benefits to a greater range of workers, but of course with higher levy rates.

By their nature, portable LSL schemes pose administrative challenges, which impose costs on the LSL funds. The administration costs seem reasonable compared to the estimated administration costs for MySuper superannuation funds, but are high relative to the LSL benefits provided.

The LSL funds incur significant expenses in order to ensure that workers are informed about their entitlements and to ensure that employers and/or property developers pay the appropriate levies (and this includes taking legal action when necessary). The portable LSL funds are quite proactive in this regard, compared to FairWork Australia (which is responsible for providing information and dispute resolution services to workers in other industries which do not have portable leave).

The existence of the portable LSL scheme also gives building and construction workers greater security in receiving their entitlements. The portable schemes pay benefits even when an employer is insolvent. This is particularly important in the building and construction industry, where there is a relatively high turnover of employers. The LSL costs from insolvent employers are borne by the other employers in the industry. By comparison, in other industries, employees of insolvent employers must rely on the Fair Employment Guarantee, which is funded by the Australian government.

All of the building and construction industry schemes provide defined benefits (which is consistent with the non-portable benefits provided under state-based legislation in other industries). In a defined benefit fund, the levy rate is likely to vary up and down over time in line with the experience of the fund. The historical record shows considerable variability in the levy over time. This is undesirable since it adds to the employers’ business risks. The employers might prefer an accumulation scheme, where levies are fixed and benefits are flexible. It is pertinent to note that the Coal Industry Portable LSL scheme has already been restructured to a hybrid benefit design. Alternative portable LSL models, based on accumulation benefits, are discussed in the McKell Institute report.53

The volatility of the levy rates is exacerbated by the growth-oriented investment strategies adopted by most funds. LSL liabilities are long term, and growth-oriented strategies are expected to produce higher returns over the long term – but with more volatility in the short term. This is likely to produce corresponding fluctuations in the funding ratios – i.e. likely to produce surpluses and deficits.

In the past, surpluses have often been used to improve benefits. The benefit increases may well persist even after the surplus has been dissipated, leading to high LSL costs in the long term.
The beneficiaries of the fund are naturally likely to be concerned about the existence of large deficits – especially if there is any risk that their benefits will be reduced in order to alleviate the deficit. This creates a pressure for increases in levy rates in order to eliminate the deficit quickly.

Hence, fluctuations in the levy rate are likely to be pro-cyclical – pushing up employer costs just when the industry is going through a downturn. Fluctuations in the levy rate also increase generational cross-subsidies between employers, e.g. any new employers who have entered the industry recently are paying off deficits arising from the past service obligations of other employers.

Employers in the building and construction industry might prefer a more conservative investment policy, which would produce a more stable levy rate, even if the long term average returns are somewhat lower.

At present, it is difficult to monitor trends in funding levels over time. The funding levels depend on the actuarial estimates of the fund liabilities, and these estimates are quite sensitive to the choice of actuarial assumption – especially the gap between the discount rate and the rate of salary growth. In the past, some funds have been valued using government bond rates; others have been valued using the expected long term returns. In order to improve consistency and comparability, the Accounting Standards Board could revise the Accounting Standards which apply to portable LSL funds (AASb137). A submission from the Actuaries Institute might provide helpful guidance on the most appropriate choice of valuation assumptions.
ENDNOTES

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6 In the past there was also a portable LSL scheme for the Stevedoring Industry, which was set up under Commonwealth legislation in 1956, but has now been discontinued.
This may include some double counting, since workers may be registered worker in more than one state. For example a worker might work in Queensland for a few years and then move to work in the Northern Territory. He will remain on both registers.

The Northern Territory scheme has only been operational since 2005. The average length of eligible service is likely to be lower than for other schemes which have been established for a longer time. Hence we would expect average benefits to be lower. The average payment will vary from state to state as a result of differences in benefit design, e.g. schemes which have a shorter vesting period would be expected to have lower average benefits.

For example, a review of the WA construction industry scheme in 1996 found that 56% of employers and 69% of employees supported the scheme. Nevertheless the report recommended that the scheme be scrapped, because of the high turnover of construction industry workers. The high turnover rates meant that many employees would not remain in the industry long enough to obtain benefits. Scrap Leave Scheme: Review, by Shaun Anthony, The West Australian, 13 November 1996.


Training Fund To Get $270,000, Then Be Scrapped, by Jacqueline Fuller, 6 September 1996, Canberra Times; QLD - New fund for training construction workers, 18 November 1998, AAP

Government to Investigate New Ways to Administer Portable Long Service Leave in NSW”, Media Release from Mike Baird, Minister for Industrial Relations, 8 November 2013


Note: some funds base discount rates on government bond yields, whereas others use long term expected returns. This is discussed in more detail below.

These are the investment returns according to the Tasbuild Annual Report 2008/2009. However the 2010/2011 annual report says that the investment return for the year ending 30 June 2009 was -17.52%, instead of -29.35%. The reason for this change is not clear.

In the ACT there was some employer resistance to increases in the levy rate, which has delayed recovery. The levy rate increased from 1% at 30 June 2009 up to 2.5% in October 2013; this should help improve the solvency position.

The Northern Territory scheme was only established in 2005, and the initial levy was set at a conservative 0.5% of construction costs. This led to a large surplus. The levy has been progressively reduced and is down to just 0.1% (in 2014).

In NSW, Queensland and Tasmania, the levy is a based on construction costs. In other states and in the ACT, the levy is based on payroll.

In the Northern Territory, worker registration is voluntary. In most other states, workers are automatically enrolled.

Of course there have sometimes been “teething problems” when new systems were introduced, e.g. TasBuild suffered some administrative problems when a new system was introduced in 2012.

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These are examples which were raised in testimony to the House of Assembly Select Committee of the Costs of Housing, Building and Construction in Tasmania, 23 August 2011.

TasBuild newsletter March 2012 describes the issues in relation to sub-contractors. NSW Annual Reports 2011/2012 p12 for comments about labour hire contractors.
Different schemes have different rules for the maximum break period, as shown in table 1 above. Four years is the most common maximum break.

Annual Reports 2011/12 and 2012/13. This includes all workers removed from the register, which would presumably include retirements and deaths as well as bulk cancellations.

The Queensland actuarial valuation includes some analysis of “worker churn” in the Queensland scheme, i.e. the probability that an active worker will become inactive, and the probability that an inactive worker will become active.


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Compliance and Enforcement Policy from the Long Service Corporation website

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After 1981, the fund continued to receive employer payments under the old Termination Scheme in respect of pre-1981 service.

Statement by Mr Christopher Atkins, CEO of TasBuild, to the Parliamentary Select Committee on the Costs of Housing, Building, and Construction in Tasmania, 25 January 2011

The Victorian government had privatised their portable LSL scheme in 1997, which provided a precedent for the Tasmanian conversion.
These are the investment returns according to the Tasbuild Annual Report 2008/2009. However the 2010/2011 annual report says that the investment return for the year ending 30 June 2009 was -17.52%, instead of -29.35%. The reason for this change is not clear.

This problem is not peculiar to the Tasmanian scheme: compliance appears to be an issue for all of the portable LSL schemes.

Note: we have used a 5 year average because administration expenses are likely to vary from year to year (e.g. when a new computer system is developed); and benefit payments are also likely to vary in line with economic conditions.