

Ms Leanne Castley MLA (Chair)
Ms Suzanne Orr MLA
Mr Jonathan Davis MLA
Standing Committee on Economy and Gender and Economic Equality
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

By email: LACommitteeEGEE@parliament.act.gov.au

Dear Chair,

RE: Submission regarding the Long Service Leave (Portable Schemes) Amendment Bill 2022

Thank you for the opportunity to provide feedback with respect to the Long Service Leave (Portable Schemes) Amendment Bill 2022. The Council of Small Business Organisations Australia (COSBOA) welcomes your consultation process and appreciates your efforts to genuinely consider the significant impact the Bill is likely to have on employees and employers, particularly in small business. COSBOA does not support the current proposed expansion of the portable long service leave scheme due to the detrimental administrative costs and risks for small business employers.

The Council of Small Business Organisations Australia (COSBOA)

COSBOA is the national peak body representing the interests of small business. Collectively, COSBOA's members represent an estimated 1.3 million of the 2.5 million small and family businesses that operate in Australia.

As a collaboration of peak organisations across a wide range of industries, COSBOA acknowledges small and medium sized enterprises (SMEs) are major contributors to the Australian economy. SMEs employ 68% of Australia's workforce. In GDP terms, SMEs together contribute 56% of value added. Small and medium businesses are therefore key partners in rebuilding Australia's economy as Australia emerges from the COVID-19 pandemic.

Purpose of long service leave

COSBOA notes the purpose of long service leave is to reward an employee with a period of rest after a long period of service with one employer. Long service leave has been described by the NSW Industrial Relations Commission as "a period of rest for the employee, so that he might recuperate after a long period of continuous service."¹ Portable long service leave provides no reward for loyal service with one employer, and makes the focus an employee's entitlement to a lump sum payment, rather than an employee's entitlement to a period of rest. The proposed expansion is based largely on labour mobility, including occupations with higher voluntary mobility, however COSBOA believes this undermines the fundamental purpose of long service leave which is to reward a long period of loyal

¹ NSW Industrial Relations Commission in *TWU of New South Wales v AJ Mills & Sons t-as Mills Transport CDM Logistics* [2008] NSWIRComm 245.

service with a single employer. This type of service is particularly important to small businesses as they are experiencing worker shortages and need to retain their valued employees.

Similarly, the proposed expansion of nominated industries and occupations is inconsistent with the fundamental purpose of long service leave, and inconsistent with conclusions drawn by the Australian Productivity Commission with respect to the costs and complexities of portable long service leave outweighing benefits to the community.

The cost burden associated with portable long service leave would adversely impact small business employers. Businesses would be required to pay a levy into a fund for each affected employee and absorb the costs associated with compliance and administration. The proposed expanded industries and occupations include a high number of small business owners, including women, particularly in the hairdressing, personal care and beauty industries. COSBOA believes policies which support women to establish and grow small businesses are essential. The proposed changes would impose more administrative and financial burdens on women in small business, including many small salon owners, ultimately resulting in entrepreneurship being much more difficult and less attractive for women.

Industry specific case study

Our members, the Australian Hairdressing Council (AHC), advise they have significant concerns regarding the proposed changes. There are 184 salons in the ACT, many of whom would be adversely affected. Many salons are currently operating their cash flow week to week and still struggling to survive due to the increased pressures of the past few years.

Salon owners suffered greatly during the pandemic because social distancing was just not possible in many salons. The 'five clients per premises' rule was not well received by the hairdressing and beauty industries in New South Wales, Australian Capital Territory and Victoria, because the rule made it very difficult for small businesses to recover financially. There were real concerns that many workers would be left unemployed due to the risk of small businesses failing because of the cap on client numbers. It made no sense to enforce a 'five client per premises' rule on hairdressers and beauty salons when there were equivalent COVID-19 transmission risks in other industries where no similar cap existed. There was a perception that the government policy failed to consider the skill and experience of the hairdressing and beauty industry with respect to hygiene and infection control.

Salon owners have seen costs to employ staff escalate over the past five years, with many small business employment costs now reaching 60% of turnover and higher. The pandemic exhausted sick leave and personal leave entitlements, including for mental health days. Salon owners are paying themselves last and are often paid less than their staff, despite having more years of experience and a higher level of expertise. Salon owners are experiencing 'burn out' and do not have the capacity to cope with increased administrative costs.

The proposed changes would see many salon owners close their business, or be forced to employ less staff including apprentices. The proposed changes would encourage employers to become sole traders. As 70% of the industry's businesses are now sole traders, there is a genuine concern regarding the sustainability of apprenticeships and the future of hairdressing skills development in Australia.

Policies supportive of gender equity must consider the role women play in small business. The hairdressing industry is a predominantly female industry (85% female). When women have access to opportunities supporting entrepreneurship, they contribute greatly to the Australian economy. They inspire, encourage and support the skill development of other women through training and

mentoring. The proposed changes will disproportionately affect women in the hairdressing and beauty industries, significantly hindering their capacity to flourish and thrive in small business.

Small business in the post COVID-19 climate

Small businesses contribute richly to the diversity and culture of our local communities, provide employment and training opportunities, and ensure the Australian economy continues to grow. A healthy, competitive environment in which small businesses are supported by Government to thrive with greater opportunities for improved productivity is essential.

Small businesses have faced significant challenges and financial hardships over the past few years due to the COVID-19 pandemic. It is particularly important to note the complexities of the current climate in which small businesses owners are now operating. Small business owners are working extremely hard to rebuild and grow their business, while facing many ongoing challenges such as worker shortages, supply chain issues, reduced cash flow and increased debt burdens. Small business owners are creative, adaptive and resilient, however the pressures of running a small business have been steadily increasing and have taken a significant toll on many people.

The recent *Small Business Mental Health: Through the Pandemic*² report released by Treasury (Treasury, 2022) highlights the professional and life pressures of running a small business while contending with continual technological, regulatory and societal change. Small business owners are currently faced with the challenge of understanding and adhering to new compliance requirements, implementing a constant flow of new measures, operating within a complex industrial relations system, and managing red tape which is time-consuming, prohibitive and overwhelming.

The report demonstrates that 1 in 5 people have been diagnosed with a mental ill-health condition by a doctor or health professional in recent months. It is likely that an additional number of people are undiagnosed due to not being able to access support. Barriers to accessing support include cost, lack of time and lack of availability of appropriate services.

In the current post COVID-19 climate, many small business owners are time poor, exhausted from dealing with the uncertainty of frequently changing regulatory requirements and have less capacity to deal with increased legislative and regulatory changes. They need to invest their time, energy and resources into their core business to ensure they are able to continue trading and remain solvent. Small business owners want to be able to be productive, grow, employ, provide for their family, make a difference in the lives of their customers and communities, and contribute to growing the Australian economy. This requires a significant investment of resources such as time, money, energy and focus. It is essential that any proposed industrial relations, regulatory and legislative reforms are practical and do not disproportionately and adversely impact small business. Any proposed legislative changes should ensure small business owners are supported to be more productive, rather than deterred from employing others and increasing their productivity.

Summary

COSBOA welcomes your consultation regarding the Long Service Leave (Portable Schemes) Amendment Bill 2022. We appreciate your efforts to consider the perspective of small business owners in Australia.

COSBOA remains concerned about the administrative costs and risks for employers associated with the Bill. Small business owners are simply not in a position to manage additional cost burdens and risks in the current post COVID-19 climate. We therefore do not support the proposed changes at the

² Australian Government, The Treasury (Dec 2022), *Small Business and Mental Health: Through the Pandemic*. Accessible at [Small Business and Mental Health \(treasury.gov.au\)](https://www.treasury.gov.au/Small-Business-and-Mental-Health).

current time. We advocate for continued small business stakeholder consultation in relation to the proposed changes, and the development of a more effective approach which will not adversely impact small business employers.

On behalf of our members, I sincerely thank you for the opportunity to participate in this consultation process.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Addison', with a stylized, flowing script.

Matthew Addison
Chair
Council of Small Business Organisations Australia (COSBOA)

19 January 2023

[About COSBOA](#)

Small business in Australia is the backbone of the economy. We harness its diversity and provide its people with a voice, distinct from big business.

Established in 1979, the Council of Small Business Organisations of Australia (COSBOA) is a member-based not for profit organisation exclusively representing the interests of small businesses.

The capability, representation and reach of COSBOA is defined by a mix of over 40 national and state-based association members. COSBOA's strength is its capacity to harness its members views and to advance consensus, across policy areas that are common to many. Our member organisations work behind the COSBOA secretariat, to assist us with policy development and to guide our advocacy - not just for small business but also for the benefit of the Australians they employ.

In this capacity, COSBOA makes submissions and representations to Government including its agencies, on issues that affect small business and in pursuit of good.