



Australian Capital Territory

Long Service Leave (Building and Construction Industry) Act 1981

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Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Long Service Leave (Building and Construction Industry) Act 1981* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 10 September 2008. It also includes any amendment, repeal or expiry affecting the republished law to 10 September 2008.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

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Australian Capital Territory

Long Service Leave (Building and Construction Industry) Act 1981

An Act to provide for long service leave for workers in the building and construction industry

Part 1 Preliminary

1 Name of Act

This Act is the *Long Service Leave (Building and Construction Industry) Act 1981*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

5 Meaning of *building and construction industry*

- (1) For this Act, the ***building and construction industry***, in relation to industry in the ACT, is the industry of constructing, reconstructing, renovating, altering, demolishing or maintaining the following:
- (a) buildings, fences or swimming pools;
 - (b) roadworks, railways, airfields or other works for the carriage of people, animals or vehicles;
 - (c) breakwaters, docks, jetties, piers, wharves or works for the improvement or alteration of a harbour, river or watercourse for the purpose of navigation;
 - (d) works for the storage or supply of water or the irrigation of land;
 - (e) works for the carriage, treatment or disposal of sewage or the effluent from any premises;
 - (f) bridges, viaducts, aqueducts, tunnels or pipelines;
 - (g) chimneystacks, cooling towers, drilling rigs, gas holders or silos;
 - (h) structures, fixtures or works for use in any building or works mentioned in paragraphs (a) to (g);
 - (i) navigational lights, beacons or markers;
 - (j) works for the drainage of land;
 - (k) works for the storage of liquids (other than water) or gases;
 - (l) works for the transmission of electric power or wireless or telegraphic communications.

- (2) Also for this Act, the ***building and construction industry***, in relation to industry in the ACT, includes the following for building or other works mentioned in subsection (1):
- (a) pile driving and site preparation;
 - (b) installing data cabling or security or electronic communication systems;
 - (c) laying floor coverings;
 - (d) hard landscaping.
- (3) For this Act, the ***building and construction industry***, in relation to industry carried out in a reciprocating State, is the building and construction industry within the meaning of the corresponding law of the State.

Note **State** includes the Northern Territory (see Legislation Act, dict, pt 1).

6 **Meaning of *building and construction work***

- (1) For this Act, ***building and construction work*** is work carried out in the ACT in the building and construction industry—
- (a) to which an award prescribed by regulation relates; or
 - (b) by an employee supervising work carried out in the industry.
- (2) For this Act, work carried out by a person outside the ACT is taken to be ***building and construction work*** if the work would, if carried out in the ACT, be building and construction work and—
- (a) if the person is a registered employee—the employee’s employer gives the authority a return under section 45 (Quarterly returns by employers) for the work and pays to the authority the amount payable under section 47 (Determination of levy—employers) for the quarter to which the return relates; or

- (b) if the person is a registered contractor—the contractor gives the authority a return under section 51 (Quarterly returns by contractors) for the work and pays to the authority the amount payable under section 53 (Determination of levy—contractors) for the quarter to which the return relates.

7 Who is an *employer*?

- (1) For this Act, an *employer* is a person who employs someone else to carry out building and construction work.
- (2) However, the following are not *employers* for this Act:
 - (a) the Territory;
 - (b) the Commonwealth;
 - (c) the Australian National University;
 - (d) the University of Canberra.

8 Meaning of *contractor*, *employee* and *worker*

- (1) For this Act, a *contractor* is an individual (other than an employee) who carries out work in the building and construction industry for reward on the individual's own account.
- (2) For this Act, an *employee* is an individual who is employed by an employer to carry out building and construction work, and includes the following:
 - (a) an apprentice;
 - (b) an individual remunerated at piecework rates;
 - (c) a registered employee who is temporarily not employed in the building and construction industry.

Note For removal from the workers register, see s 62.

- (3) For this Act, a person may be an *employee* even though the person is paid completely or partly by commission.

- (4) For this Act, a ***worker*** is—
- (a) a contractor; or
 - (b) an employee.

Part 2 Administration

Division 2.1 The authority, governing board and staff

Note for div 2.1

The governance of territory authorities, including the Construction Industry Long Service Leave Authority, is regulated by the *Financial Management Act 1996* (the *FMA*), pt 9 as well as the Act that establishes them.

The FMA, pt 9 deals, for example, with the corporate status of territory authorities and their powers, the make-up of governing boards, the responsibilities of the governing board and board members, how governing board positions can be ended, meetings of governing boards and conflicts of interest.

9 Establishment of authority

The Construction Industry Long Service Leave Authority (the *authority*) is established.

Note If a law changes a name of an entity (like the Construction Industry Long Service Leave Board), the entity continues in existence under the new name (the Construction Industry Long Service Leave Authority) and its identity is not affected by the change (see Legislation Act, s 183).

10 Authority not territory instrumentality etc

The authority is not a territory instrumentality and does not represent the Territory.

11 Functions of authority

- (1) The authority has the following functions:
 - (a) administering the scheme of long service leave benefits established under this Act;

- (b) making payments under this Act;
- (c) keeping the employers register and workers register;
- (d) any other function given to the authority under this Act or another territory law.

Note A provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196).

- (2) To avoid any doubt, the authority may exercise its functions inside and outside the ACT, including in a foreign country.

12 Delegation by authority

The authority may delegate the authority's functions to the registrar or any other public servant.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

13 Establishment of governing board

The authority has a governing board.

Note An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

14 Governing board members

- (1) The governing board has 4 members.

Note 1 The chair of the governing board must be appointed under the *Financial Management Act 1996*, s 79.

Note 2 The registrar is a member of the governing board (see dict, def **registrar** and *Financial Management Act 1996*, s 80 (4)).

- (2) One member of the governing board must be appointed to represent employer organisations.
- (3) One member of the governing board must be appointed to represent employee organisations.

(4) The chair of the governing board must not be the member mentioned in subsection (2) or (3).

(5) A member of the governing board must not be appointed for a term of longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

(6) The Minister may, under the Legislation Act, section 209, appoint a person to act as a member.

(7) The registrar is a non-voting member of the governing board.

Note The *Financial Management Act 1996*, s 95 (2) and s 96 (1) deal with non-voting members of governing boards.

15 No deputy chair

The Minister must not appoint a deputy chair for the governing board.

Note 1 This section ensures that a deputy chair cannot be appointed for the governing board under the *Financial Management Act 1996*, s 79 (1).

Note 2 The Minister may appoint an acting chair (see Legislation Act, s 209).

16 Deputy registrar

(1) The chief executive must appoint a public servant to be deputy registrar for the authority.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) If the registrar is absent or cannot for any reason exercise the functions of the registrar, the deputy registrar must act as registrar.

Note The Legislation Act, div 19.3.2A deals with standing acting arrangements.

17 Functions of governing board

The governing board has the following functions:

- (a) making recommendations to the Minister under section 47 (Determination of levy—employers) or section 53 (Determination of levy—contractors);
- (b) recommending to the Minister laws to be declared to be corresponding laws under section 86 (Declaration of corresponding laws);
- (c) any other function given to the board under this Act or another territory law.

Note The governing board also has functions under the *Financial Management Act 1996*.

18 Arrangements for staff

- (1) The authority may arrange with the chief executive to use public servants in the administrative unit under the chief executive's control.
- (2) The *Public Sector Management Act 1994* applies to the management by the authority of public servants who are the subject of an arrangement under subsection (1).

Division 2.2 Inspectors and their powers

19 Inspectors

The registrar may appoint a public servant as an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Words in the singular in a provision include words in the plural (see Legislation Act, s 145).

20 Identity cards

- (1) The registrar must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
 - (a) a recent photograph of the person; and
 - (b) the card's date of issue and expiry; and
 - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
 - (a) the person stops being an inspector; and
 - (b) the person does not return the person's identity card to the registrar as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

21 Powers in relation to employers' premises

- (1) This section applies if an inspector believes, on reasonable grounds, that premises are the premises of an employer.
- (2) The inspector may—
 - (a) at any reasonable time, enter the premises; or
 - (b) at any time, enter the premises with the occupier's consent.
- (3) However, subsection (2) (a) does not authorise entry into a part of premises that is being used only for residential purposes.

- (4) An inspector may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.
- (5) To remove any doubt, an inspector may enter premises under subsection (2) without payment of an entry fee or other charge.
- (6) In this section:

at any reasonable time means at any time during normal business hours or any other time when the premises are being used as a workplace.

occupier, of premises, includes—

- (a) a person believed, on reasonable grounds, to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

22 Production of identity card by inspectors

An inspector must not remain at premises entered under this division if the inspector does not produce his or her identity card for inspection when asked by the occupier.

23 Consent to entry by inspectors

- (1) When seeking the consent of an occupier to enter premises under section 21 (2) (b) (Powers in relation to employers' premises), an inspector must—
 - (a) produce his or her identity card; and
 - (b) tell the occupier—
 - (i) the purpose of the entry; and
 - (ii) that anything found because of the entry may be used in evidence in court; and
 - (iii) that consent may be refused.

- (2) If the occupier consents, the inspector must ask the occupier to sign a written acknowledgment (an ***acknowledgment of consent***)—
 - (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that anything found because of the entry may be used in evidence in court; and
 - (iii) that consent may be refused; and
 - (b) that the occupier consented to the entry; and
 - (c) stating the time and date when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.
- (4) A court must find that the occupier did not consent to entry to the premises by the inspector under this division if—
 - (a) the question whether the occupier consented to the entry arises in a proceeding in the court; and
 - (b) an acknowledgment of consent for the entry is not produced in evidence for the entry; and
 - (c) it is not proved that the occupier consented to the entry.

24 General powers of inspectors for premises

An inspector who enters premises under this division may, for this Act, do 1 or more of the following in relation to the premises:

- (a) examine any records required to be kept by an employer under this Act;
- (b) require the occupier, or anyone at the premises, to give the inspector information relating to the rights and duties under this Act of an employer or someone employed by the employer;

- (c) require the occupier, or anyone at the premises, to give the inspector records, or copies of records that the person has or has access to that are required to be kept by an employer under this Act.

Note 1 The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

Note 2 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

25 Contravention of requirement by inspector

A person must take all reasonable steps to comply with a requirement made of the person under section 24 (b) or (c).

Maximum penalty: 50 penalty units.

26 Duty to give information or documents

- (1) An inspector may, by written notice given to a person, require the person to give to the inspector the stated information or document that the inspector reasonably needs for this Act.
- (2) The information or document must be given to the inspector within the period stated in the notice or, if an inspector allows a longer period, the longer period.
- (3) The period stated in the notice must be not less than 14 days after the day the notice is given to the person.
- (4) A person commits an offence if—
 - (a) the person is required to give information or a document to an inspector under subsection (1); and

- (b) the person does not take all reasonable steps to comply with the requirement within the period applying under subsection (2).

Maximum penalty: 50 penalty units.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

Division 2.3 Finances

27 Money of authority

The money of the authority consists of—

- (a) amounts received by the authority under section 47 (Determination of levy—employers) and section 53 (Determination of levy—contractors); and
- (b) income derived from the investment of money of the authority; and
- (c) amounts borrowed for, and lent to, the authority by the Treasurer under the *Financial Management Act 1996*, section 59 (Borrowing by territory authorities); and
- (d) amounts paid to the authority under a reciprocal agreement; and
- (e) any other amounts paid to the authority.

28 Application of authority money

The money of the authority must be applied only—

- (a) in payment or discharge of the costs, expenses or other obligations of the authority under this Act; and
- (b) in payment of remuneration and allowances payable to anyone appointed or employed under this Act.

29 3-yearly investigation by actuary

- (1) The Minister must appoint an actuary for this Act.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 For example, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) The actuary must conduct an investigation of the state and adequacy of the money of the authority—
- (a) when asked by the governing board; and
 - (b) in any event, at least once every 3 years.
- (3) The actuary must report the results of the investigation to the governing board and state whether, in the actuary's opinion, any reduction or increase is necessary in the rates of levies payable to the authority by employers or contractors under this Act.
- (4) The actuary must give the Minister a copy of each report made under this section.

Part 3 Registration of employers

30 Employers register

The authority must keep a register of registered employers (the *employers register*).

31 Application for registration by employers

- (1) An employer must apply to the registrar for registration as an employer not later than—
 - (a) 1 month after becoming an employer; or
 - (b) the end of any additional time the registrar allows.

Maximum penalty: 50 penalty units.

Note If a form is approved under s 89 for an application, the form must be used.

- (2) An offence against this section is a strict liability offence.
- (3) The registrar may allow additional time for subsection (1) (b) before or after the end of the 1-month period mentioned in subsection (1) (a).

32 How applications for registration as employer are dealt with

- (1) This section applies if a person applies to the registrar under section 31 for registration as an employer.
- (2) The registrar must—
 - (a) register the person as an employer if satisfied the person is an employer; or
 - (b) refuse to register the person as an employer if not satisfied the person is an employer.

33 Registration as an employer

- (1) A person is registered as an employer when the registrar enters the following particulars in the employers register:
 - (a) the person's name and address;
 - (b) any trading name of the person;
 - (c) the person's ABN (if any);
 - (d) the address of the person's principal place of business;
 - (e) if the person is a corporation—the corporation's ACN;
 - (f) the person's registration day as an employer;
 - (g) any other relevant particulars the governing board reasonably directs.
- (2) For subsection (1) (f), the person's registration day as an employer is the date when the person's application for registration as an employer is received by the registrar.

34 Certificate of registration for employers

- (1) The registrar must give a person registered as an employer under section 33 a certificate of registration that includes—
 - (a) the person's registration day under the section; and
 - (b) when the certificate of registration ends.

Note 1 The certificate must be given to the employer as soon as possible after the employer is registered (see Legislation Act, s 151B).

Note 2 If a form is approved under s 89 for a certificate, the form must be used.
- (2) An employer's certificate of registration must not be issued for more than 1 year.
- (3) If a registered employer's certificate of registration ends, the registrar must give the employer another certificate of registration.

- (4) If satisfied that an employer's certificate of registration has been stolen, lost or destroyed, the registrar must give the employer a replacement certificate of registration.
- (5) An employer's certificate of registration is evidence of the matters stated in the certificate.

35 Registered employers to notify change of details

- (1) If the details shown on a registered employer's certificate of registration change, the employer must, not later than 7 days after the day the change happens—
 - (a) tell the registrar, in writing, of the change; and
 - (b) return the certificate to the registrar.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) The registrar must give the employer an amended certificate of registration for the remainder of the term of the returned certificate.

Part 4 Registration of workers

36 Workers register

The authority must keep a register of registered workers (the *workers register*).

37 Applications for registration by workers

A person may apply to the registrar for registration as a worker.

Note If a form is approved under s 89 for an application, the form must be used.

38 Application by employer for registration of employee

- (1) This section applies if a person is an employee of an employer and the person—
 - (a) is not registered under this Act; and
 - (b) has not applied for registration under section 37 before the end of 3 months after the day the person began building and construction work for the employer.

- (2) The employer may apply to the registrar for the registration of the person as a worker at any time after the end of the 3-month period.

Note If a form is approved under s 89 for an application, the form must be used.

39 How applications for registration as worker are dealt with

- (1) This section applies if—
 - (a) a person applies under section 37 for registration as a worker; or
 - (b) an employer applies under section 38 for the registration of a person as a worker.

- (2) The registrar must—
- (a) if satisfied that the person is a worker—register the person as a worker; or
 - (b) in any other case—refuse to register the person as a worker.

40 Notice of registrar's decisions

- (1) The registrar must, not later than 7 days after making a decision under section 39, give written notice of the decision to—
- (a) the applicant for registration; and
 - (b) for an application by an employer under section 38 (Application by employer for registration of employee)—the person in relation to whom the application was made.

Note The Legislation Act, pt 19.5 deals with service of documents.

- (2) If the decision is to register the person as a worker, the notice must state the person's registration day as a worker.
- (3) If the decision is to refuse to register the person as a worker, the notice must include—
- (a) an explanation for the decision; and
 - (b) a statement of the effect of section 41.

41 Appeals against refusal of registrar to register

- (1) This section applies if the registrar has refused under section 39 (How applications for registration as worker are dealt with) to register a person as a worker.
- (2) The following people may apply to the governing board for review of the registrar's decision:
- (a) the applicant for registration;

- (b) for an application by an employer under section 38 (Application by employer for registration of employee)—the person in relation to whom the application was made.

Note If a form is approved under s 89 for an application, the form must be used.

- (3) The application must be in writing and be made not later than 2 months after the day notice of the decision is received by the person.
- (4) If an application is made under subsection (2), the governing board must—
 - (a) confirm the registrar’s decision to refuse registration; or
 - (b) direct the registrar to register the person as a worker.
- (5) The governing board must give the following people written notice of the decision not later than 7 days after the day the decision is made:
 - (a) the applicant;
 - (b) for an application by an employer under section 38—the person in relation to whom the application was made.

Note The Legislation Act, pt 19.5 deals with service of documents.

42 Registration as worker

- (1) A person is registered as a worker when the registrar enters the following particulars in the workers register:
 - (a) the person’s name, address and date of birth;
 - (b) the name and address of the principal place of business of the person’s employer (if any);
 - (c) the person’s registration day as a worker;
 - (d) any recognised prior service for the person;

(e) any other relevant particulars the governing board reasonably directs.

(2) In this section:

recognised prior service, for a person, means the service credited to the person under either or both of the following:

(a) section 43 (Service credit—employee’s prior service);

(b) section 44 (Service credit—contractor’s prior service).

(3) For this Act:

registration day, in relation to a worker, means the day the application for registration as a worker is received by the registrar.

43 Service credit—employee’s prior service

(1) The governing board may credit an employee who is registered as a worker with 1 day’s service in the workers register for each weekday, or part of a weekday, in the 4-year period before the person’s registration day the person was employed in the building and construction industry if the person’s employer has given the authority, in relation to the person for the day—

(a) a return under section 45 (Quarterly returns by employers); and

(b) payment under section 47 (Determination of levy—employers).

(2) If subsection (1) does not apply, the governing board may credit the person with 1 day’s service in the workers register for each day in the 1-year period before the person’s registration day for which the board is satisfied that the person was employed in the building and construction industry.

Example

The governing board is satisfied that Andrew, in the 1-year period before his registration day, had separate periods of service as an employee in the building and construction industry of 25 and 125 weekdays. The governing board may credit Andrew in the workers register with 150 days service.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) In this section:

amending Act means the *Long Service Leave (Building and Construction and Contract Cleaning Industries) Legislation Amendment Act 2007*.

payment under section 47 includes a payment under section 45 (Quarterly returns by employers) as in force before the commencement of the amending Act.

return under section 45 includes a notice under section 45 (Quarterly returns by employers) as in force before the commencement of the amending Act.

- (4) Subsection (3) and this subsection expire 4 years after the day this subsection commences.

44 Service credit—contractor’s prior service

The governing board may credit a contractor who is registered as a worker with 1 day’s service in the workers register for each weekday, or part of a weekday, in the 1-year period before the person’s registration day for which—

- (a) either—
- (i) the person worked as a contractor in the building and construction industry and for which the person has a record of the particulars mentioned in section 55 (1) (Registered contractors to keep records) for the person’s service as a contractor; or

- (ii) if subparagraph (i) does not apply—the board is satisfied that the person worked as a contractor in the building and construction industry; and
- (b) the person pays to the authority the amount determined under section 53 (Determination of levy—contractors) in relation to the person for the day.

Part 5 Quarterly returns and payments

45 Quarterly returns by employers

- (1) A person who is an employer during a quarter must give the authority a return containing the required information not later than—
- (a) 1 month after the end of the quarter; or
 - (b) the end of any additional time the registrar allows.

Maximum penalty: 20 penalty units.

Note If a form is approved under s 89 for a return, the form must be used.

- (2) Subsection (1) does not apply in relation to an employee who—
- (a) is an unregistered employee; and
 - (b) was not recorded as an employee in the employer's previous quarterly return; and
 - (c) carried out building and construction work for the employer for less than 5 days during the quarter.
- (3) An offence against this section is a strict liability offence.
- (4) The registrar may allow additional time for subsection (1) (b) before or after the end of the 1-month period mentioned in subsection (1) (a).
- (5) In this section:

required information, for an employer, means—

- (a) the name of each of the employer's employees who carried out building and construction work for the employer during the quarter; and

- (b) for each of the employees—
 - (i) the total ordinary remuneration paid or payable by the employer to the employee for building and construction work during the quarter; and
 - (ii) the number of weekdays, or part weekdays, during the quarter to which the remuneration relates; and
- (c) anything else prescribed by regulation.

46 Levy payments by employers

- (1) A person who is an employer during a quarter must, when the person gives the authority a return under section 45, pay to the authority the amount of the levy payable under section 47 for the quarter.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

47 Determination of levy—employers

- (1) The Minister may determine the levy payable by employers on the ordinary remuneration paid or payable by employers to employees.

Note The Legislation Act, s 48 provides that a power to make a statutory instrument includes the power to make an instrument about 1 or more of the matters and to make different provisions with respect to different matters.

- (2) The governing board must, from time to time, recommend in writing to the Minister the levy that should be payable by employers.
- (3) Before making a determination, the Minister must have regard to the recommendation made under subsection (2), but need not follow it.
- (4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

48 Civil penalty—failure by employers to give quarterly returns or make levy payments

- (1) This section applies if an employer fails to—
- (a) give the authority a return in accordance with section 45 (Quarterly returns by employers); or
 - (b) pay the authority the amount payable under section 47.
- (2) The employer is liable to pay to the authority \$100 for each month, or part of a month, for each failure under subsection (1).

Example

If an employer is 1 month late in giving both a return to the authority and making the related payment to the authority, the employer is liable to pay the authority \$200.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The registrar may, on application by the person or the registrar's own initiative, remit all or part of an amount payable under subsection (2) if satisfied that—
- (a) the circumstances that gave rise to the failure were not caused either directly or indirectly by the person; or
 - (b) because of special circumstances, it would be fair and reasonable to make the remission.
- (4) If a court finds a person guilty of an offence against section 45 (1) (Quarterly returns by employers) or section 46 (1) (Levy payments by employers) (whether or not it convicts the person), the court may, in addition to imposing a penalty on the person, order the person to pay the authority—
- (a) any amount that is payable under subsection (2) to the date of the order; and

- (b) for a prosecution for an offence against section 46 (1)—the amount of the levy to which the prosecution relates.
- (5) An order under subsection (4) is enforceable as a judgment of the court.

49 Exemption from levy payments—payments to reciprocal authorities

- (1) This section applies if—
 - (a) an employee carries out building and construction work in the ACT for a period of not more than 1 year; and
 - (b) the employee's employer makes payment for the work to a reciprocal authority with which the employee is registered.
- (2) The governing board may, on application by the employer, exempt the employer from payment of an amount payable under section 47 (Determination of levy—employers) in relation to the ordinary remuneration for the work.
- (3) If the governing board gives the employer an exemption under subsection (2), the work to which the exemption relates is taken not to be building and construction work for this Act.

50 Exemption from levy payments—working directors

- (1) The authority must, on application by a working director, grant the working director's employer an exemption from payment of an amount payable under section 47 (Determination of levy—employers) for building and construction work carried out by the working director.

Note If a form is approved under s 89 for an application, the form must be used.

- (2) The exemption is in force until whichever of the following first occurs:
 - (a) the working director ceases to be a working director other than because he or she ceases to carry out building and construction work;
 - (b) the working director tells the authority in writing that the director no longer wishes the exemption to apply in relation to him or her.
- (3) The working director is taken not to be an employee under this Act while the exemption is in force.

51 Quarterly returns by contractors

- (1) A person who is a registered contractor during a quarter must give the authority a return containing the required information not later than—
 - (a) 1 month after the end of the quarter; or
 - (b) the end of any additional time the registrar allows.

Maximum penalty: 20 penalty units.

Note If a form is approved under s 89 for a return, the form must be used.

- (2) An offence against this section is a strict liability offence.
- (3) The registrar may allow additional time for subsection (1) (b) before or after the end of the 1-month period mentioned in subsection (1) (a).
- (4) In this section:

required information, for a registered contractor, means—

- (a) the number of weekdays, or part weekdays, during the quarter on which the contractor carried out building and construction work; and

- (b) the contractor's total ordinary remuneration for building and construction work during the quarter; and
- (c) anything else prescribed by regulation.

52 Levy payments by contractors

- (1) A person who is a registered contractor during a quarter must, when the person gives the authority a return under section 51, pay to the authority the amount of the levy payable under section 53 for the quarter.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

53 Determination of levy—contractors

- (1) The Minister may determine the levy payable by registered contractors on the ordinary remuneration paid or payable to registered contractors.

Note The Legislation Act, s 48 provides that a power to make a statutory instrument includes the power to make an instrument about 1 or more of the matters and to make different provisions with respect to different matters.

- (2) The governing board must, from time to time, recommend in writing to the Minister the levy that should be payable by registered contractors.
- (3) Before making a determination, the Minister must have regard to the recommendation made under subsection (2), but need not follow it.
- (4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

54 Employers to keep records

- (1) An employer must keep a written record showing the relevant particulars for each employee who carries out building and construction work for the person.

Maximum penalty: 20 penalty units.

- (2) An employer must keep a written record mentioned in subsection (1) for 6 years after the day the employee stops service in the building and construction industry with the employer.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) In this section:

relevant particulars, for an employee of an employer, means—

- (a) the employee's name and date of birth; and
- (b) the nature of the building and construction work carried out by the employee; and
- (c) the employee's ordinary remuneration for each quarter; and
- (d) the number of days worked by the employee in the building and construction industry in each quarter; and
- (e) the date when the employee began service with the employer; and
- (f) long service leave granted, or payment made instead of leave, to the employee; and
- (g) if the employee stops service with the employer—the date of ceasing service.

55 Registered contractors to keep records

- (1) A registered contractor must keep a written record of the following:
- (a) the contractor's name and date of birth;
 - (b) the nature of the work carried out in the building and construction industry by the contractor;
 - (c) when and for whom the building and construction work was carried out;
 - (d) the contractor's ordinary remuneration for each quarter;
 - (e) the number of days worked by the contractor in the building and construction in each quarter.

Maximum penalty: 20 penalty units.

- (2) A registered contractor must keep a written record mentioned in subsection (1) for 6 years after the day the record was made.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.

Part 6 Entries in employees and contractors register

56 Particulars to be entered in workers register

The registrar must enter the following particulars in the workers register for a registered worker:

- (a) if the worker is serving a period of apprenticeship in the building and construction industry—the date on which the apprenticeship began;
- (b) if the worker is an employee—the employers to whom the employee's service relates;
- (c) the number of days service with which the worker is credited under this Act;
- (d) the total ordinary remuneration of the worker for building and construction work carried out by the worker;
- (e) the worker's entitlement to long service leave;
- (f) details of the long service leave granted to, or taken by, the worker, or payment instead of long service leave made to the worker, under this Act or the *Long Service Leave Act 1976*;
- (g) if the worker has stopped working in the building and construction industry—the date when the worker stopped working in the industry;
- (h) any other relevant particulars the governing board reasonably directs.

57 Review of ordinary remuneration by governing board

- (1) This section applies if the governing board considers that the total ordinary remuneration for a worker stated in a return given to the authority under section 45 (Quarterly returns by employers) or section 51 (Quarterly returns by contractors) for a quarter is insufficient or excessive because of the nature of the building and construction work carried out by the worker in the quarter.
- (2) The governing board must give the following people a notice that summarises the person's rights under subsection (3):
 - (a) for a return under section 45—the employer who submitted the return and the employee;
 - (b) for a return under section 51—the contractor.
- (3) A person mentioned in subsection (2) (a) or (b) may, not later than 1 month after being given the notice, by written statement to the governing board, ask the board to—
 - (a) take into account any matter set out in the statement; and
 - (b) arrange for the person to appear before the board (including by a representative) and make representations about the matter.
- (4) If asked under subsection (3) (b), the governing board must arrange for the person to appear before the governing board as soon as practicable.
- (5) After considering any statement and representations under subsection (3), the governing board may—
 - (a) agree that the total ordinary remuneration stated in the return for the quarter is reasonable; or
 - (b) fix another amount as the total ordinary remuneration of the worker for the quarter.

U 58 Notice of governing board's decision on review of ordinary remuneration

- (1) The governing board must, not later than 7 days after it makes a decision under section 57 (5), give written notice of the decision to—
 - (a) if the decision relates to a return under section 45—the employer who submitted the return and the employee; or
 - (b) if the decision relates to a return under section 51—the contractor.
- (2) If the decision is to fix another amount under section 57 (5) (b), the notice must include—
 - (a) the total ordinary remuneration fixed by the governing board for the quarter; and
 - (b) a statement about the effect of section 59 and section 60 (Variation of ordinary remuneration—payment of additional amount of levy).

Note The notice must also comply with the *Administrative Appeals Tribunal Act 1989*, s 25B (1) (see s 81 (3)).

59 Effect of variation of ordinary remuneration

- (1) This section applies if the governing board fixes an amount under section 57 (5) (b) (the **varied amount**) in relation to a worker.
- (2) The varied amount is taken, for this Act, to be the worker's total ordinary remuneration for building and construction work by the worker for the quarter.
- (3) The following provisions apply if the varied amount relates to a return under section 45 by an employer of a registered employee:
 - (a) if the varied amount is more than the amount (the **returned amount**) shown in the return as the total ordinary remuneration of the employee, the employer must pay to the authority the

additional amount payable under section 47 (Determination of levy—employers) for the employee for the quarter;

- (b) if the varied amount is less than the returned amount, the authority must—
 - (i) if asked by the employer to refund the overpayment of the amount of the levy payable under section 47—refund the amount; or
 - (ii) in any other case—credit the amount against future amounts payable under section 47 by the employer.
- (4) The following provisions apply if the varied amount relates to a return under section 51 by a registered contractor:
 - (a) if the varied amount is more than the amount (the *returned amount*) shown in the return as the total ordinary remuneration of the contractor, the contractor must pay to the authority the additional amount payable under section 53 (Determination of levy—contractors) for the contractor for the quarter;
 - (b) if the varied amount is less than the returned amount, the authority must—
 - (i) if asked by the contractor to refund the overpayment of the amount of the levy payable under section 53—refund the amount; or
 - (ii) in any other case—credit the amount against future amounts payable under section 53 by the contractor.

60 Variation of ordinary remuneration—payment of additional amount of levy

- (1) A person who must pay an amount under section 59 (3) (a) or (4) (a) must pay the amount to the authority not later than—
 - (a) 1 month after the day the person receives notice under section 58 of the governing board’s decision; or

(b) the end of any additional time the registrar allows.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) The registrar may allow additional time for subsection (1) (b) before or after the end of the 1-month period mentioned in subsection (1) (a).

61 Service credit—registered worker's service

- (1) This section applies in relation to a registered worker's service on or after the worker's registration day.

Note See s 43 and s 44 for crediting of service prior to the worker's registration day.

- (2) A registered employee must be credited in the workers register with 1 day's service for—
- (a) each weekday, or part of a weekday, in relation to which the employee's employer has paid to the authority the amount payable under section 47 (Determination of levy—employers) in relation to the employee; or
 - (b) each weekday the employee does not carry out building and construction work because the employee has been dismissed by an employer to ensure that the worker does not take long service leave while in the employer's employment.
- (3) However, a registered employee must not be credited with—
- (a) more than 220 days service for each year ending 30 June; or
 - (b) more than 4 years service for any 1 period mentioned in subsection (2) (b).
- (4) Further, a registered employee may be credited with a period of service for which payment has not been made to the authority under section 47 if—

- (a) the employee's employer has ceased to employ anyone to carry out building and construction work; and
 - (b) the registrar is satisfied that the employee would, but for the employer's failure to make the payment, be entitled to be credited in the workers register with the period of service.
- (5) A registered contractor must be credited in the workers register with 1 day's service for each weekday, or part of a weekday, on which the contractor carried out building and construction work and for which the contractor has paid to the authority the amount payable under section 53 (Determination of levy—contractors).
- (6) However, a registered contractor must not be credited with—
 - (a) more than 220 days service for each year ending 30 June; or
 - (b) more than 1 day's service for any 2 or more parts of the same weekday.

62 Removing registration from workers register

- (1) The registrar must remove a person's registration from the workers register if the person has not been credited under this Act or a corresponding law with at least 1 day's service for 4 consecutive years.
- (2) If a person's registration is removed under subsection (1)—
 - (a) the person stops being a registered worker on the day the registration is removed; and
 - (b) the person is not entitled to apply for, or be paid an amount for or instead of, long service leave for any days of service entered in the register before the day the person's registration ended.
- (3) However, subsection (2) (b) does not apply if the person would, but for the person ceasing to be registered, have been entitled to payment for the period under section 70 (Entitlement to payment instead of leave).

- (4) The registrar must not remove a person's registration from the workers register if the person stops carrying out building and construction work and tells the authority that the person is otherwise employed or engaged in work in the building and construction industry until whichever of the following first occurs:
- (a) the person applies to the authority for payment of the total amount for or instead of long service leave;
 - (b) the person's employer makes an application under section 87A (Benefits under other laws—reimbursement of employer) for reimbursement of an amount paid under a relevant provision;
 - (c) if the person is a working director or contractor—the person asks the authority to remove the person's registration from the register;
 - (d) the period of 10 years starting on the day on which the person ceased to carry out building and construction work ends.
- (5) A request under subsection (4) (c) must state—
- (a) the date on which the person became otherwise employed or engaged in work in the building and construction industry; and
 - (b) the name and address of the principal place of business of the person's employer (if any).
- (6) The governing board must direct the registrar to re-register a person in the workers register if—
- (a) the person's registration has been removed from the register under subsection (1); and
 - (b) the board is satisfied that the person has been credited with a period of service under a corresponding law within the period of 4 years ending on the day on which the person's registration was removed from the register.

- (7) If a person is re-registered under subsection (6), this Act applies in relation to the person as if the person's registration had not been removed from the register.
- (8) This section does not affect any right that a person whose registration has been removed from the workers register may have to again become a registered worker.

Part 7 Annual certificates

63 Annual certificates for workers

The registrar must, as soon as practicable after 31 July and before 1 November each year, give each registered worker a certificate stating—

- (a) the number of days service credited to the worker in the worker's register as at the end of the previous financial year; and
- (b) the number of days service credited to the worker in the workers register for the previous financial year; and
- (c) if the worker is a contractor—the total of the amounts paid by the contractor under section 53 (Determination of levy—contractors) during the previous financial year.

64 Annual certificates for employers

The registrar must, as soon as practicable after 31 July and before 1 November each year, give to each registered employer a certificate stating—

- (a) the name of each registered employee of the employer recorded in the workers register; and
- (b) for each registered employee of the employer—
 - (i) the number of days service credited to the employee in the worker's register as at the end of the previous financial year; and
 - (ii) the number of days service credited to the employee in the workers register for the previous financial year; and

- (c) the total of all amounts paid by the employer under section 47 (Determination of levy—employers) for the previous financial year.

65 Objection to matter stated in annual certificate

- (1) A worker or employer who is given a certificate under section 63 or section 64 may, not later than 6 months after being given the certificate, object in writing to the governing board about the accuracy of a matter stated in the certificate.
- (2) If an objection is given to the governing board, the board must decide the objection and must, if it allows the objection, direct the registrar to—
 - (a) make any necessary correction in the workers register; and
 - (b) give an amended certificate to the person who made the objection.

Part 8 Long service leave and payments

66 Long service leave

A registered worker is entitled to long service leave in accordance with this Act.

67 Year of service

For this Act, a registered worker is taken to have completed—

- (a) a year of service for each 220 days service credited to the worker in the workers register; and
- (b) a year of recognised service for each 220 days recognised service credited to the worker.

68 Amount of leave

- (1) A registered worker who is credited with a period of recognised service of at least 10 years is entitled to—
 - (a) an amount of long service leave worked out at the rate of the defined fraction of a week's leave for each completed year of service credited to the worker in the workers register; and
 - (b) for any remainder of the period of service credited to the worker in the workers register—an amount of long service leave equal to the period that bears the same proportion to the defined fraction of a week as the remainder bears to 1 completed year of service.

Note **Defined fraction**—see the dictionary.

- (2) A registered worker is entitled to additional long service leave if the worker—
 - (a) becomes entitled to long service leave under this Act; and

- (b) is credited in the workers register with an additional period of service commencing on the date on which the worker became entitled to the long service leave.

69 Grant of leave by employers

- (1) The employer of a registered employee commits an offence if—
 - (a) the employee's long service leave accrues; and
 - (b) the employer does not grant the employee the long service leave before the end of the prescribed period.

Maximum penalty: 50 penalty units.

- (2) Long service leave must not be granted for a period of less than 2 weeks.
- (3) The employer of a registered employee commits an offence if—
 - (a) the employer has granted the employee long service leave; and
 - (b) the employer does not give the employee a written statement of the day when the long service leave starts and ends—
 - (i) at least 2 months before the day when the long service leave starts; or
 - (ii) if the employer and employee agree on a shorter period—before the start of the period agreed.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

prescribed period, for long service leave accrued by a registered employee of an employer, means—

- (a) 6 months after the day the leave accrues; or

- (b) if the governing board has allowed, on application by the employer or the employee, a period longer than 6 months—the period allowed by the board; or
- (c) if the employer and employee agree on a period longer than 6 months—the period agreed.

70 Entitlement to payment instead of leave

- (1) This section applies to a registered worker who has at least 5 years recognised service if—
 - (a) the worker has permanently left the building and construction industry; and
 - (b) at least 20 weeks have passed since the day the worker permanently left the industry; and
 - (c) the worker has not been credited with service in the workers register for any of the days in the 20-week period.
- (2) This section applies also if a registered worker has at least 55 days recognised service and any of the following apply to the worker:
 - (a) the worker has left the building and construction industry because of total incapacity;
 - (b) the worker has reached the prescribed retiring age;
 - (c) the worker has died.
- (3) Further, this section applies to a registered worker if—
 - (a) the worker has at least 10 years recognised service; and
 - (b) if the worker is an employee—the employee’s employer has told the authority, in writing, that the employer agrees to the making of the payment.

- (4) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the amount of long service leave credited to the worker in the workers register.
- (5) In this section:
- prescribed retiring age* means—
- (a) in relation to a registered worker who has been granted a service pension under the *Veterans' Entitlements Act 1986* (Cwlth), section 38 (Eligibility for partner service pension)—the age at which the worker first receives payment of the service pension; or
- (b) in any other case—55 years.

71 Payment for leave

- (1) A registered employee who has been granted long service leave under section 69, or a registered contractor who is entitled to long service leave, may apply to the authority for payment for the leave.
- Note* If a form is approved under s 89 for an application, the form must be used.
- (2) If the governing board is satisfied that the applicant is entitled to long service leave under this Act, the authority must pay to the applicant the amount payable under section 73 (How are leave payments worked out?).
- (3) The authority must pay an applicant any amount payable under subsection (2) at least 7 days before the applicant becomes entitled to the long service leave if—
- (a) the application is made at least 14 days before the applicant becomes entitled to long service leave under this Act; and
- (b) the applicant asks in the application for the amount to be paid.

72 Payment instead of leave

- (1) If a registered worker is entitled to payment instead of long service leave under this Act, the worker may apply to the authority for the payment.

Note If a form is approved under s 89 for an application, the form must be used.

- (2) An application by a registered employee on the ground that the employee has ceased work in the building and construction industry because of total incapacity must be accompanied by a certificate of a doctor certifying that the employee is totally incapacitated for employment in the industry.
- (3) The governing board may require an applicant mentioned in subsection (2) to submit himself or herself to a medical examination by a doctor chosen by the board for that purpose from a panel of 3 doctors nominated by the Australian Capital Territory Branch of the Australian Medical Association.
- (4) All fees or charges payable for a medical examination under subsection (3) are to be paid by the authority.
- (5) If an applicant fails, without reasonable excuse, to comply with a requirement under subsection (3), the governing board may refuse the application.
- (6) If the governing board is satisfied that the applicant is entitled to payment instead of long service leave under this Act, the authority must pay to the applicant the amount payable under section 73 (How are leave payments worked out?).

73 How are leave payments worked out?

- (1) For section 71 (Payment for leave) and section 72 (Payment instead of leave), the amount payable to a registered worker for, or instead of, long service leave is—

- (a) for any part of the entitlement to long service leave accrued as an employee—the amount worked out in accordance with section 74; and
 - (b) for any part of the entitlement to long service leave accrued as a contractor—the amount worked out in accordance with section 75.
- (2) For subsection (1)—
- (a) long service leave must be taken in the order in which it accrued; and
 - (b) if payment instead of long service leave is being made—the payment is made in relation to the leave in the order in which it accrued.

Example—s 73

Chummy has 10 years of service in the building and construction industry giving him an entitlement to 13 weeks long service leave. He first worked in the industry as a registered employee and accrued 7 weeks of the entitlement in that capacity. Chummy then worked as a registered contractor and accrued 6 weeks of the entitlement in that capacity.

Chummy decides to take 9 weeks long service leave. The payment for the leave is the total of the following amounts:

- the amount calculated under section 74 where ‘D’ is 1540 (ie it took 1540 days service as a registered employee to accrue the first 7 weeks of his long service leave entitlement);
- the amount calculated under section 75 which is the total of the amounts paid to authority under section 53 for his first 2.6 years work as a registered contractor (ie it took that period of service as a registered contractor to accrue the next 2 weeks of his long service leave entitlement) and the interest under section 75 on those amounts.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

74 Leave payments for service as registered employee

- (1) For section 73, the amount payable to a registered worker for long service leave for service accrued as a registered employee is the amount worked out in accordance with the following formula:

$$\text{defined fraction} \times \frac{D}{220} \times R$$

- (2) In this section:

D means the number of days service credited to the registered worker in the workers register for service as an employee and to which the payment relates.

Note ***Defined fraction***—see the dictionary.

designated day means—

- (a) if the registered worker is taking long service leave—the day the leave begins; and
- (b) if the registered worker is being paid instead of taking long service leave—the day the payment is made.

R is—

- (a) if the registered worker is receiving compensation under the *Workers Compensation Act 1951*—the weekly average of the ordinary remuneration received by the worker during the 4 quarters before the injury to which the compensation relates happened; or
- (b) in any other case—the highest of the weekly averages of the ordinary remuneration received by the registered worker during each of the following periods that applies to the worker:
 - (i) the most recent 2 quarters of service as a registered employee before the designated day;
 - (ii) the most recent 4 quarters of service as a registered employee before the designated day.

75 Leave payments for service as registered contractor

- (1) For section 73 (How are leave payments worked out?), the amount payable to a registered worker for long service leave for service accrued as a contractor is the total of the following for the service:
 - (a) amounts paid by the worker to the authority under section 53 (Determination of levy—contractors);
 - (b) interest at the determined rate worked out from the date of receipt of each amount paid under section 53 until the designated day for the leave.
- (2) The governing board must determine an interim rate of interest from time to time prior to the determination of the rate under subsection (1).
- (3) The determined rate of interest must—
 - (a) be worked out after the end of each financial year for the previous financial year; and
 - (b) take into account the expenses incurred in administering the authority; and
 - (c) be at least 75% of the rate of interest, expressed as a percentage, earned by the authority worked out in accordance with the following formula:

$$\frac{2I}{(FB + FE) - I} \times 100$$

- (4) In this section:

designated day—see section 74.

FB means the amount of the total equity of the authority at the end of the financial year immediately before the financial year for which the rate is being determined.

FE means the amount of the total equity of the authority at the end of the financial year for which the rate is being determined.

I is the income derived from the investment of the authority's money in the financial year for which the rate is being determined.

total equity, in relation to the authority, means the total assets less the total liabilities of the authority worked out from the audited balance sheet of the authority for the relevant financial year.

76 Payment by authority on reciprocal authority's behalf

- (1) This section applies to a registered worker who has a long service leave entitlement under this Act and a corresponding law.
- (2) The worker may apply to the authority for payment of a long service leave entitlement worked out in accordance with the corresponding law.

Note If a form is approved under s 89 for an application, the form must be used.

- (3) The authority must pay the worker the amount of the entitlement worked out in the way stated in the corresponding law if the authority is authorised by the reciprocal authority to make the payment.

77 Payments by reciprocal authority on authority's behalf

- (1) This section applies if, under a corresponding law, a reciprocal authority pays to a person an amount that, but for the payment, would have been payable for a long service leave entitlement under this Act.
- (2) If the authority is notified about the payment and is satisfied the payment was properly made, the authority must reimburse the reciprocal authority the amount worked out in accordance with the following formula:

$$\text{defined fraction} \times \frac{D}{220} \times R$$

- (3) If the authority makes a reimbursement under subsection (2), the obligation of the authority to make the payment to the person for the entitlement is discharged.
- (4) In subsection (2):

D means the number of days service credited to the person in the workers register for service as an employee and to which the payment relates.

Note **Defined fraction**—see the dictionary.

R is the amount decided by the reciprocal authority as the weekly amount payable to the person for the service credited to the person in the State.

78 Records of payments and service

- (1) This section applies if the authority—
- (a) pays an amount to a registered worker under section 71 (Payment for leave) or section 72 (Payment instead of leave); or
 - (b) reimburses a reciprocal authority under section 77 (2) (Payments by reciprocal authority on authority's behalf) for an amount paid to a registered worker.
- (2) The authority may delete from the workers register the details relating to the period of service for which the worker has been paid.
- (3) However, the authority must keep another record of—
- (a) the period of service; and
 - (b) the amount paid to the worker for long service leave or instead of long service leave; and

- (c) the period of long service leave (if any) granted to or taken by the worker.

79 Public holidays etc not to count as leave

- (1) This section applies if a public holiday or industry holiday falls during a period of long service leave taken by a registered employee.
- (2) The period of long service leave is increased by 1 day for each public holiday and industry holiday.
- (3) In this section:

determination includes a variation, suspension, interpretation or cancellation of a determination.

industry holiday means a day that is a holiday for people employed in the building and construction industry under an award, or a determination or industrial agreement, under the *Workplace Relations Act 1996* (Cwlth).

U Part 8B Notification and review of decisions

Part 9 Miscellaneous

U 80 Decisions reviewable by AAT

- (1) A person mentioned in schedule 1, table 1.1, column 3 may apply to the administrative appeals tribunal for review of a decision by the governing board mentioned in column 2 for the person.
- (2) A person mentioned in schedule 1, table 1.2, column 3 may apply to the administrative appeals tribunal for review of a decision by the registrar mentioned in column 2 for the person.

U 81 Notice of reviewable decisions

- (1) The governing board must give written notice of a decision mentioned in schedule 1, table 1.1, column 2 to the affected person mentioned in column 3 for the decision.
- (2) The registrar must give written notice of a decision mentioned in schedule 1, table 1.2, column 2 to the affected person mentioned in column 3 for the decision.
- (3) A notice under subsection (1) or (2) must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

82 Evidentiary certificates

- (1) In a proceeding for an offence against section 45 (Quarterly returns by employers) or section 51 (Quarterly returns by contractors), a certificate signed by or on behalf of the registrar to the effect of any of the following is evidence of the matters stated in the certificate:
 - (a) that the registrar had, or had not, allowed a stated person an additional stated period to give to the authority a return under a stated section for a stated quarter;

- (b) that a stated person had, or had not, given to the authority a return under a stated section for a stated quarter on or before a stated date.
- (2) In a proceeding for an offence against section 46 (Levy payments by employers) or section 52 (Levy payments by contractors), a certificate signed by or on behalf of the registrar to the effect of any of the following is evidence of the matters stated in the certificate:
 - (a) that a stated amount of levy under a stated section was, or was not, payable by a stated person for a stated quarter;
 - (b) that, on or before a stated date, a stated person had, or had not, paid to the authority, under a stated section, a stated amount of levy that was payable by the person for a stated quarter.

83 Disclosure of information to territory entities and reciprocal authorities

- (1) The authority may disclose information—
 - (a) in relation to an employer's compliance with this Act—to a territory entity for the purpose of the exercise by the entity of a function for a territory law; and
 - (b) in relation to a registered worker's service credits and long service benefits to a reciprocal authority—for the purpose of the exercise of a function by—
 - (i) the authority under this Act; or
 - (ii) the reciprocal authority under a corresponding law.
- (2) In this section:
territory entity means—
 - (a) the chief executive of an administrative unit; or

- (b) the chief executive officer of a territory authority.

Note *Administrative unit* and *territory authority* are defined in the Legislation Act, dict, pt 1.

84 Inspection of register

An employer, a registered worker or a person acting on behalf of the employer or worker, may inspect, and obtain a certified copy of, an entry in a register that relates to the employer or worker.

85 No contracting out by employees

This Act has effect despite any contract of employment to the contrary unless the contract gives the employee rights that are more beneficial to the employee than the rights given to the employee under this Act.

86 Declaration of corresponding laws

- (1) The Minister may, on the recommendation of the governing board, declare a law of a State to be a corresponding law if satisfied that it corresponds, or substantially corresponds, to this Act.

Note *State* includes the Northern Territory (see Legislation Act, dict, pt 1).

- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

87 Benefits under other laws—election

- (1) A registered worker must elect the law under which long service leave benefits are to be taken if the worker is eligible for long service benefits under this Act and any of the following laws:
- (a) the *Long Service Leave Act 1976*;
 - (b) a corresponding law;
 - (c) a law prescribed by regulation for employment in the building and construction industry.

- (2) If a registered worker makes an election under subsection (1), the worker must tell the authority in writing the nature of the election and the service period for which the election is made.
- (3) If a registered worker elects to take long service benefits under a law mentioned in subsection (1) (a), (b) or (c) for a service period, the authority must remove from the workers register the worker's credits for the period.
- (4) However, the authority must keep a record of the deleted credits.

87A Benefits under other laws—reimbursement of employer

- (1) This section applies if—
 - (a) a registered worker has made an election under section 87 (Benefits under other laws—election); and
 - (b) an employer pays the registered worker an amount under a relevant provision.
- (2) The employer may apply to the authority for reimbursement of an amount paid under the relevant provision.
- (3) The authority must pay the employer the amount paid under the relevant provision, less any amount outstanding that is payable by the employer to the authority, if—
 - (a) an application is made to the authority under subsection (2); and
 - (b) the governing board is satisfied that the amount paid by the employer was properly paid under the relevant provision.
- (4) In this section:
relevant provision means—
 - (a) the *Long Service Leave Act 1976*, section 8 (Manner of payment for leave); or

- (b) a law prescribed by regulation for employment in the building and construction industry.

88 Reciprocal agreements for corresponding laws

- (1) The Minister may enter into an agreement (a *reciprocal agreement*) with the Minister of State who administers a corresponding law in relation to payments of long service leave to people carrying out building and construction work in the building and construction industry in the State.

Note *State* includes the Northern Territory (see Legislation Act, dict, pt 1).

- (2) Without limiting subsection (1), the agreement may make provision in relation to—
 - (a) payments for, or instead of, long service leave; and
 - (b) the exchange of information about employment credits and entitlements to long service benefits between the authority and the reciprocal authority under the corresponding law; and
 - (c) anything else in relation to long service benefits that the Minister considers appropriate.

89 Approved forms

- (1) The registrar may approve forms for this Act.
- (2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

90 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

U Schedule 1 Decisions reviewable by AAT

(see s 80)

Table 1.1 Governing board—decisions reviewable by AAT

column 1 item	column 2 decision	column 3 affected person
1	section 41 (4) (a)—confirming registrar's decision to refuse to register person as worker	<ul style="list-style-type: none"> • applicant • anyone mentioned in section 41 (2) who is affected by the decision
2	section 43 (2)— <ul style="list-style-type: none"> • refusing to credit employee with prior service • amount of prior service credited 	employee
3	section 44 (b)— <ul style="list-style-type: none"> • refusing to credit contractor with prior service • amount of prior service credited 	contractor
4	section 49 (2)—refusing to exempt employer from levy	employer
5	section 57 (5) (b)—fixing another amount as the total ordinary remuneration of worker for quarter	<ul style="list-style-type: none"> • worker • if the worker is an employee—the worker's employer
6	section 62 (6) (b)—refusing to direct registrar to re-register person	person

Schedule 1

Decisions reviewable by AAT

column 1 item	column 2 decision	column 3 affected person
7	section 65 (2)—allowing, or refusing to allow, objection to matter in certificate given to worker under section 63	<ul style="list-style-type: none">• worker• if the worker is an employee—the worker's employer
8	section 65 (2)—allowing, or refusing to allow, objection to matter in certificate given to employer under section 64	<ul style="list-style-type: none">• employer• employee to whom objection relates
9	section 69—refusing to allow additional period	applicant
10	section 70 (3)—not satisfied that section applies to applicant	applicant
11	section 71 (2)—not satisfied that applicant entitled to long service leave	applicant
12	section 72 (6)—not satisfied that applicant entitled to payment instead of long service leave	applicant
13	section 87 (4)—not satisfied that amount paid by employer was properly paid	employer

Table 1.2 Registrar—decisions reviewable by AAT

column 1 item	column 2 decision	column 3 affected person
1	section 31 (1) (b)—refusing to allow additional time for application for registration by employer	employer
2	section 32 (3)—refusing to register a person as an employer	applicant for registration
3	section 45 (1) (b)—refusing to allow employer additional time for giving return to authority	employer
4	section 48 (3)—refusing to remit all or part of amount to employer	employer

column 1 item	column 2 decision	column 3 affected person
5	section 51 (1) (b)—refusing to allow registered contractor additional time for giving return to authority	registered contractor
6	section 61 (4)—refusing to credit period of service	employee

U Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- ACT
- chief executive (see s 163)
- exercise
- function
- public servant
- quarter
- State
- under.

agreement means an industrial agreement under the *Workplace Relations Act 1996* (Cwlth).

authority means the Construction Industry Long Service Leave Authority.

award means an award or determination under the *Workplace Relations Act 1996* (Cwlth).

building and construction industry—see section 5.

building and construction work—see section 6.

contractor—see section 8.

corresponding law means a law of a State declared under section 86 to be a corresponding law.

Note ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1).

defined fraction means—

- (a) in relation to service that occurred before 20 December 1996—0.8667; and

- (b) in relation to service that occurred on or after 20 December 1996—1.3.

determination, under the *Workplace Relations Act 1996* (Cwlth), includes a variation, suspension, interpretation or cancellation of a determination.

employee—see section 8.

employer—see section 7.

employers register—see section 30.

governing board means the governing board of the authority.

ordinary remuneration means—

- (a) for an employee (other than a working director)—the amount paid or payable to the employee for building and construction work, other than any amounts for—
- (i) overtime; or
 - (ii) travelling costs; or
 - (iii) an additional payment for recreation leave; and
- (b) for a contractor or working director—the greater of the following amounts:
- (i) the amount paid or payable to the person for building and construction work, other than any amounts for expenses incurred, or materials provided, by the person;
 - (ii) the minimum salary or wages payable to the person under an award for building and construction work.

reciprocal agreement—see section 88.

reciprocal authority means the entity under a corresponding law that administers the scheme of long service leave benefits established by that law.

reciprocating State means a State in relation to which a reciprocal agreement is in force.

Note ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1).

recognised service means—

- (a) a period of service with which a registered worker has been credited in the workers register; or
- (b) a period comprising—
 - (i) a period of service mentioned in paragraph (a); and
 - (ii) a period of service with which the registered worker has been credited under a corresponding law.

registered means registered under this Act.

registrar means the chief executive officer of the authority within the meaning of the *Financial Management Act 1996*, dictionary, definition of ***chief executive officer***.

registration day, in relation to a worker—see section 42 (3).

salary or wages includes payments by way of commission, but does not include—

- (a) payments for overtime; or
- (b) payments at penalty rates of pay; or
- (c) allowances which, under an award or agreement, are not to be taken into account in determining a rate of remuneration in respect of overtime.

service means service in the building and construction industry.

worker—see section 8.

workers register—see section 36.

working director means a person who is both a director and an employee of a company.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

The *Long Service Leave (Building and Construction Industry) Act 1981* was originally the *Long Service Leave (Building and Construction Industry) Ordinance 1981*. It became an ACT Act on self-government (11 May 1989).

This Act was originally a Commonwealth ordinance—the *Long Service Leave (Building and Construction Industry) Ordinance 1981* No 23 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 25).

Legislation before becoming Territory enactment

Long Service Leave (Building and Construction Industry) Act 1981 No 23

notified 10 September 1981

pt 1 and 2 (ss 1-25) commenced 10 September 1981 (s 2 (1))

remainder (ss 26-66) commenced 1 October 1981 (s 2 (2) and Gaz 1981 No S203)

as amended by

Long Service Leave (Building and Construction Industry) Ordinance 1984 No 12

notified 9 May 1984

commenced 9 May 1984

Long Service Leave (Building and Construction Industry) (Amendment) Ordinance (No 2) 1984 No 56

notified 19 October 1984

commenced 19 October 1984

**Long Service Leave (Building and Construction Industry)
(Amendment) Ordinance 1986 No 55**

notified 11 September 1986
commenced 9 May 1984

**Long Service Leave (Building and Construction Industry)
(Amendment) Ordinance 1987 No 16**

notified 1 May 1987
commenced 1 November 1987 (Cwlth Gaz 1987 No GN25)

**Long Service Leave (Building and Construction Industry)
(Amendment) Ordinance (No 2) 1987 No 74**

notified 22 December 1987
commenced 22 December 1987

**Long Service Leave (Building and Construction Industry)
(Amendment) Ordinance 1988 No 22**

notified 18 May 1988
commenced 18 May 1988

**Long Service Leave (Building and Construction Industry)
(Amendment) Ordinance (No 2) 1988 No 49**

notified 3 August 1988
commenced 3 August 1988

**Long Service Leave (Building and Construction Industry)
(Amendment) Ordinance (No 3) 1988 No 64**

notified 21 September 1988
commenced 21 September 1988

**Long Service Leave (Building and Construction Industry)
(Amendment) Ordinance (No 4) 1988 No 74**

notified 19 October 1988
commenced 19 October 1988

**Self-Government (Consequential Amendments) Ordinance 1989
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989
No S164)

Legislation after becoming Territory enactment

Long Service Leave (Building and Construction Industry) (Amendment) Act 1990 No 9

notified 9 May 1990 (Gaz 1990 No S20)
ss 1-4, 7 and 13 taken to commence 1 January 1990 (s 2 (1))
remainder (ss 5, 6, 8-12) commenced 9 May 1990 (s 2 (2))

Statutory Authorities (Audit Arrangements) Act 1990 No 25 pt 3

notified 22 June 1990 (Gaz 1990 No S29)
s 1, s 2 commenced 22 June 1990 (s 2 (1))
pt 3 commenced 22 June 1990 (s 2 (2) and Gaz 1990 No S35)

Workers' Compensation (Consequential Amendments) Act 1991 No 106 sch

notified 15 January 1992 (Gaz 1992 No S3)
s 1, s 2 commenced 15 January 1992 (s 2 (1))
sch commenced 22 January 1992 (s 2 (2) and see Gaz 1992 No S9)

Long Service Leave (Building and Construction Industry) (Amendment) Act 1992 No 15

notified 2 June 1992 (Gaz 1992 No S62)
commenced 2 June 1992

Long Service Leave (Building and Construction Industry) (Amendment) Act 1993 No 39

notified 29 June 1993 (Gaz 1993 No S111)
s 1, s 2 commenced 29 June 1993 (s 2 (1))
remainder (ss 3-32) commenced 1 July 1993 (s 2 (2) and Gaz 1993 No S151)

Long Service Leave (Building and Construction Industry) (Amendment) Act (No 2) 1993 No 102

notified 24 December 1993 (Gaz 1993 No S267)
commenced 1 January 1994 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 55

notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 55 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

Statute Law Revision (Penalties) Act 1994 No 81 sch

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2 (1))
sch commenced 29 November 1994 (Gaz 1994 No S269)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Financial Management and Audit (Consequential and Transitional Provisions) Act 1996 No 26 sch pt 16

notified 1 July 1996 (Gaz 1996 No S130)
commenced 1 July 1996 (s 2)

Long Service Leave (Building and Construction Industry) (Amendment) Act 1996 No 66 (as am by 1997 No 98 s 4, s 5)

notified 3 December 1996 (Gaz 1996 No S321)
ss 1-3 commenced 3 December 1996 (s 2 (1))
s 5 taken to commence 1 January 1996 (s 2 (2))
remainder (s 4, s 6) commenced 30 June 1998 (s 2 (3))

Long Service Leave (Building and Construction Industry) (Amendment) Act (No 2) 1996 No 80

notified 20 December 1996 (Gaz 1996 No S328)
commenced 20 December 1996 (s 2)

Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1 (as am by Act 2002 No 49 amdt 3.222)

notified 19 September 1997 (Gaz 1997 No S264)
commenced 24 September 1997 (s 2 as am by Act 2002 No 49 amdt 3.222)

Endnotes

3 Legislation history

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Legislation (Consequential Amendments) Act 2001 No 44 pt 230

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 230 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.36

notified 5 September 2001 (Gaz 2001 No S65)

commenced 5 September 2001 (s 2 (1))

Statute Law Amendment Act 2002 (No 2) No 49 amdt 3.222

notified LR 20 December 2002

s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))

amdt 3.222 commenced 24 September 1997 (s 2 (3))

Note This Act only amends the Remuneration Tribunal
(Consequential Amendments) Act 1997 No 41.

Long Service Leave Legislation Amendment Act 2003 A2003-45 pt 3

notified LR 2 October 2003

s 1, s 2 commenced 2 October 2003 (LA s 75 (1))

pt 3 commenced 3 October 2003 (s 2)

**Health Professionals Legislation Amendment Act 2004 A2004-39
sch 5 pt 5.10**

notified LR 8 July 2004

s 1, s 2 commenced 8 July 2004 (LA s 75 (1))

sch 5 pt 5.10 commenced 7 July 2005 (s 2 and see Health
Professionals Act 2004 A2004-38, s 2 and CN2005-11)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.34

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.34 commenced 2 June 2005 (s 2 (1))

**Financial Management Legislation Amendment Act 2005 A2005-52
sch 1 pt 1.13**

notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.13 commenced 1 January 2006 (s 2 (2))

**Long Service Leave (Building and Construction and Contract
Cleaning Industries) Legislation Amendment Act 2007 A2007-18 pt 2,
sch 1 pt 1.1, sch 2 pt 2.1**

notified LR 19 June 2007
s 1, s 2 commenced 19 June 2007 (LA s 75 (1))
pt 2, sch 1 pt 1.1, sch 2 pt 2.1 commenced 30 June 2007 (s 2 and
CN2007-5)

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.38

notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.38 commenced 26 August 2008 (s 2)

**ACT Civil and Administrative Tribunal Legislation Amendment
Act 2008 (No 2) A2008-37 sch 1 pt 1.72**

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.72 commences on the commencement of ACT Civil and
Administrative Tribunal Act 2008 A2008-35 s 6 (s 2 (1))
Note default commencement under A2008-35: 4 September 2010

Long Service Leave Legislation Amendment Act 2008 A2008-43 pt 3

notified LR 9 September 2008
s 1, s 2 commenced 9 September 2008 (LA s 75 (1))
pt 3 commenced 10 September 2008 (s 2)

4 Amendment history

Title	
title	sub A2007-18 amdt 1.1
Name of Act	
s 1	sub A2005-52 amdt 1.150
Dictionary	
s 2	om 2001 No 44 amdt 1.2689 ins A2005-52 amdt 1.153

R15
10/09/08

Long Service Leave (Building and Construction Industry)
Act 1981
Effective: 10/09/08-01/02/09

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Endnotes

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Notes

s 3 am ord 1984 No 12; ord 1984 No 56; ord 1986 No 55; ord 1987 No 16; ord 1987 No 74; 1988 No 64; 1993 No 39 sch; ss renum R5 LA
defs reloc to dict A2005-52 amdt 1.152
sub A2005-52 amdt 1.153
def **board** am 1993 No 39 s 3
om A2005-52 amdt 1.151
def **chairman** om 1992 No 15 s 4
def **chairperson** ins A1992-15 s 4
om A2005-52 amdt 1.151
def **deputy registrar** sub 1994 No 97 sch pt 1
om A2005-52 amdt 1.151
def **member** om A2005-52 amdt 1.151
def **registered medical practitioner** om A2004-39 amdt 5.14
def **registrar** sub 1994 No 97 sch pt 1
om A2005-52 amdt 1.151
def **tribunal** ins ord 1989 No 38 sch 1
om 1994 No 60 sch 1

Offences against Act—application of Criminal Code etc

s 4 am 1993 No 39 s 5
om A2005-52 amdt 1.154
ins A2005-52 amdt 1.153
am A2007-18 amdt 2.1

Meaning of *building and construction industry*

s 5 am ord 1989 No 38 sch 1
om A2005-52 amdt 1.154
ins A2005-52 amdt 1.153
sub A2007-18 s 4

Meaning of *building and construction work*

s 5A renum as s 6

Meaning of *building and construction work*

s 6 **orig s 6**
am ord 1987 No 16; 1990 No 9 s 4; 1993 No 39 s 6; 1996 No 66 s 4
om A2005-52 amdt 1.154
prev s 6
renum as s 7
pres s 6
(prev s 5A) ins A2007-18 s 4
renum as s 6 A2007-18 amdt 1.39

Who is an employer?

s 7 **orig s 7**
 am ord 1987 No 16; 1994 No 38 sch 1 pt 55; pars renum
 R5 LA
 om A2005-52 amdt 1.154
prev s 7
 renum as s 8
pres s 7
 (prev s 6) ins A2005-52 amdt 1.153
 sub A2007-18 s 4
 renum as s 7 A2007-18 amdt 1.39

Delegation by board

s 7A ins ord 1987 No 74
 am ord 1989 No 38 sch 1; 1990 No 9 s 5
 om A2005-52 amdt 1.154

Meaning of *contractor, employee and worker*

s 8 **orig s 8**
 renum as s 9
pres s 8
 (prev s 7) ins A2005-52 amdt 1.153
 sub A2007-18 s 4
 renum as s 8 A2007-18 amdt 1.39

Administration

pt 2 hdg sub A2005-52 amdt 1.154

The authority, governing board and staff

div 2.1 hdg (prev pt 2 div 1 hdg) renum R5 LA
 sub A2005-52 amdt 1.154

Establishment of authority

s 9 **orig s 9**
 renum as s 10
pres s 9
 (prev s 8) am ord 1988 No 22; 1992 No 15 s 4; 1993 No 39
 sch
 sub A2005-52 amdt 1.154
 renum as s 9 A2007-18 amdt 1.39

Authority not territory instrumentality etc

s 10 **orig s 10**
 renum as s 11
pres s 10
 (prev s 9) am ord 1988 No 22; 1990 No 9 s 6; 1993 No 39 sch;
 ss renum R5 LA
 sub A2005-52 amdt 1.154
 renum as s 10 A2007-18 amdt 1.39

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Functions of authority

s 11

orig s 11

renum as s 12

pres s 11

(prev s 10) am 1993 No 39 sch

sub A2005-52 amdt 1.154; A2007-18 s 5

renum as s 11 A2007-18 amdt 1.39

Delegation by authority

s 12

orig s 12

om 1997 No 41 sch 1

prev s 12

renum as s 13

pres s 12

(prev s 11) am 1993 No 39 sch

sub A2005-52 amdt 1.154

renum as s 12 A2007-18 amdt 1.39

Establishment of governing board

s 13

orig s 13

renum as s 14

pres s 13

(prev s 12) ins A2005-52 amdt 1.154

renum as s 13 A2007-18 amdt 1.39

am A2008-28 amdt 3.107

Governing board members

s 14

orig s 14

renum as s 15

pres s 14

(prev s 13) sub ord 1988 No 22

am 1992 No 15 s 4; 1993 No 39 sch

sub A2005-52 amdt 1.154

renum as s 14 A2007-18 amdt 1.39

No deputy chair

s 15

orig s 15

renum as s 16

pres s 15

(prev s 14) am 1993 No 39 sch; 1998 No 54 sch

sub A2005-52 amdt 1.154

renum as s 15 A2007-18 amdt 1.39

Deputy registrar

s 16

orig s 16

renum as s 17

pres s 16

(prev s 15) sub A2005-52 amdt 1.154

renum as s 16 A2007-18 amdt 1.39

Functions of governing board

s 17 **orig s 17**
renum as s 18
pres s 17
(prev s 16) am 1993 No 39 sch
sub A2005-52 amdt 1.154; A2007-18 amdt 1.2
renum as s 17 A2007-18 amdt 1.39

Deputy registrar

s 17A ins 1994 No 97 sch pt 1
om A2005-52 amdt 1.154

Arrangements for staff

s 18 **orig s 18**
renum as s 19
pres s 18
(prev s 17) am ord 1989 No 38 sch 1
sub 1994 No 97 sch pt 1; A2005-52 amdt 1.154
renum as s 18 A2007-18 amdt 1.39

Return of identity cards

s 18A ins ord 1988 No 74
am 1998 No 54 sch
om A2005-52 amdt 1.154

Inspectors and their powers

div 2.2 hdg (prev pt 2 div 2 hdg) renum R5 LA
sub A2005-52 amdt 1.154

Inspectors

s 19 **orig s 19**
renum as s 20
pres s 19
(prev s 18) am ord 1987 No 74; ord 1988 No 74; ord 1989
No 38 sch 1; 1993 No 39 sch
sub A2005-52 amdt 1.154
renum as s 19 A2007-18 amdt 1.39

Interpretation

s 19A ins 1990 No 9 s 7
def **fund** ins 1990 No 9 s 7
am 1993 No 39 s 8
om 1996 No 66 s 6

Establishment

s 19B ins 1990 No 9 s 7
am 1993 No 39 s 9
om 1996 No 66 s 6

Endnotes

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Powers of board

s 19C ins 1990 No 9 s 7
 am 1993 No 39 s 10; 1996 No 66 s 5
 om 1996 No 66 s 6

Application of fund money

s 19D ins 1990 No 9 s 7
 am 1993 No 39 s 11
 om 1996 No 66 s 6

Identity cards

s 20 **orig s 20**
 renum as s 21
 pres s 20
 (prev s 19) am ord 1987 No 74; ord 1988 No 74; 1993 No 39
 sch; 1994 No 81 sch
 sub A2005-52 amdt 1.154
 (5)-(7) exp 1 January 2006 (s 19 (7))
 renum as s 20 A2007-18 amdt 1.39

Construction industry training fund

pt 2 div 2A hdg ins 1990 No 9 s 7
 am 1993 No 39 s 7
 om 1996 No 66 s 6

Powers in relation to employers' premises

s 21 hdg (prev s 20 hdg) sub A2007-18 amdt 1.3
s 21 **orig s 21**
 renum as s 22
 pres s 21
 (prev s 20) am ord 1987 No 16
 sub A2005-52 amdt 1.154
 renum as s 21 A2007-18 amdt 1.39

Production of identity card by inspectors

s 22 **orig s 22**
 renum as s 23
 pres s 22
 (prev s 21) sub A2005-52 amdt 1.154
 renum as s 22 A2007-18 amdt 1.39

Consent to entry by inspectors

s 23 **orig s 23**
 renum as s 24
 pres s 23
 (prev s 22) am ord 1989 No 38 sch 1
 sub A2005-52 amdt 1.154
 am A2007-18 amdt 1.4
 renum as s 23 A2007-18 amdt 1.39

General powers of inspectors for premises

s 24

orig s 24

renum as s 25

pres s 24

(prev s 23) am ord 1987 No 74; 1990 No 9 s 8; 1993 No 39 s 12; 1996 No 26 sch pt 16

sub A2005-52 amdt 1.154

renum as s 24 A2007-18 amdt 1.39

Contravention of requirement by inspector

s 25

orig s 25

am ord 1987 No 16

om 1996 No 26 sch pt 16

prev s 25

renum as s 26

pres s 25

(prev s 24) am 1990 No 9 s 9

sub A2005-52 amdt 1.154

renum as s 25 A2007-18 amdt 1.39

Money of authority

s 25A

orig s 25A

ins 1990 No 25 s 5

om 1996 No 26 sch pt 16

prev s 25A

renum as s 27

Application of authority money

s 25B

orig s 25B

ins 1990 No 25 s 5

sub 1993 No 39 s 13

om 1996 No 26 sch pt 16

prev s 25B

renum as s 28

3-yearly investigation by actuary

s 25C

ins 1992 No 15 s 3

sub 1994 No 38 sch 1 pt 55; A2005-52 amdt 1.154

am A2007-18 s 6, amdt 1.7

renum as s 29

Employment practices

s 25D

ins 1992 No 15 s 3

om 1994 No 38 sch 1 pt 55

Endnotes

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Duty to give information or documents

s 26

orig s 26

renum as s 30

pres s 26

(prev s 25) ins A2005-52 amdt 1.154

renum as s 26 A2007-18 amdt 1.39

Finances

div 2.3 hdg

(prev pt 2 div 3 hdg) renum R5 LA

sub A2005-52 amdt 1.154

Money of authority

s 27

orig s 27

renum as s 31

pres s 27

(prev s 25A) ins A2005-52 amdt 1.154

sub A2007-18 amdt 1.5

renum as s 27 A2007-18 amdt 1.39

Application of authority money

s 28

orig s 28

renum as s 32

pres s 28

(prev s 25B) ins A2005-52 amdt 1.154

renum as s 28 A2007-18 amdt 1.39

Registration as an employer

s 28A

renum as s 33

3-yearly investigation by actuary

s 29 hdg

(prev s 25C hdg) sub A2007-18 amdt 1.6

s 29

orig s 29

renum as s 34

pres s 29

(prev s 25C) ins 1992 No 15 s 3

sub 1994 No 38 sch 1 pt 55; A2005-52 amdt 1.154

am A2007-18 s 6, amdt 1.7

renum as s 29 A2007-18 amdt 1.39

Staff

div 2.4 hdg

ins 1992 No 15 s 3

sub 1994 No 38 sch 1 pt 55

(prev pt 2 div 4 hdg) renum R5 LA

om A2005-52 amdt 1.154

Employers register

s 30

orig s 30

renum as s 35

pres s 30

(prev s 26) am A2005-52 amdt 1.178

sub A2007-18 amdt 1.8
renum as s 30 A2007-18 amdt 1.39

Application for registration by employers

s 31 **orig s 31**
renum as s 36
pres s 31
(prev s 27) am ord 1984 No 12; 1993 No 39 s 14; 1994 No 81
sch; pars renum R5 LA
sub A2007-18 s 7
renum as s 31 A2007-18 amdt 1.39

How applications for registration as employer are dealt with

s 32 **orig s 32**
renum as s 37
pres s 32
(prev s 28) am ord 1984 No 12; A2005-52 amdt 1.179
sub A2007-18 amdt 1.9
renum as s 32 A2007-18 amdt 1.39

Application by employer for registration of employee

s 32A renum as s 38

Registration as an employer

s 33 **orig s 33**
om ord 1987 No 16
prev s 33
renum as s 39
pres s 33
(prev s 28A) ins A2007-18 amdt 1.9
renum as s 33 A2007-18 amdt 1.39

Certificate of registration for employers

s 34 **orig s 34**
renum as s 40
pres s 34
(prev s 29) am 1993 No 39 sch
sub A2007-18 s 8
renum as s 34 A2007-18 amdt 1.39

Registered employers to notify change of details

s 35 **orig s 35**
am ord 1987 No 16
om ord 1987 No 74
prev s 35
renum as s 41
pres s 35
(prev s 30) am 1994 No 81 sch
sub A2007-18 s 8

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renum as s 35 A2007-18 amdt 1.39

Registration of workers

pt 4 hdg sub A2007-18 amdt 1.10

Workers register

s 36 **orig s 36**
renum as s 42
pres s 36
(prev s 31) am A2005-52 amdt 1.178
sub A2007-18 s 9
renum as s 36 A2007-18 amdt 1.39

Service credit—employee's prior service

s 36A renum as s 43

Service credit—contractor's prior service

s 36B renum as s 44

Applications for registration by workers

s 37 **orig s 37**
renum as s 45
pres s 37
(prev s 32) am ord 1984 No 12; ord 1987 No 16; ord 1987
No 74; ord 1988 No 74; 1993 No 39 s 15, sch; pars renum R5
LA
sub A2007-18 s 9
renum as s 37 A2007-18 amdt 1.39

Levy payments by employers

s 37AA renum as s 46

Determination of levy—employers

s 37AB renum as s 47

Civil penalty—failure by employers to give quarterly returns or make levy payments

s 37AC renum as s 48

Exemption from levy payments—payments to reciprocal authorities

s 37AD renum as s 49

Exemption from levy payments—working directors

s 37A renum as s 50

Application by employer for registration of employee

s 38 **orig s 38**
renum as s 51
pres s 38
(prev s 32A) ins A2007-18 s 9
renum as s 38 A2007-18 amdt 1.39

Levy payments by contractors

s 38A renum as s 52

Determination of levy—contractors

s 38B renum as s 53

How applications for registration as worker are dealt with

s 39 **orig s 39**
renum as s 54
pres s 39
(prev s 33) ins A2007-18 s 9
renum as s 39 A2007-18 amdt 1.39

Registered contractors to keep records

s 39A renum as s 55

Notice of registrar's decisions

s 40 **orig s 40**
renum as s 56
pres s 40
(prev s 34) am ord 1984 No 12; ord 1987 No 74; 1993 No 39
s 16, sch; pars renum R5 LA
sub A2007-18 s 9
renum as s 40 A2007-18 amdt 1.39

Appeals against refusal of registrar to register

s 41 **orig s 41**
renum as s 57
pres s 41
(prev s 35) ins A2007-18 s 9
renum as s 41 A2007-18 amdt 1.39

Notice of governing board's decision on review of ordinary remuneration

s 41A renum as s 58

Effect of variation of ordinary remuneration

s 41B renum as s 59

Variation of ordinary remuneration—payment of additional amount of levy

s 41C renum as s 60

Registration as worker

s 42 **orig s 42**
renum as s 61
pres s 42
(prev s 36) am ord 1984 No 12; ord 1987 No 16; 1993 No 39
s 17, sch; pars renum R5 LA; A2005-52 amdt 1.179
sub A2007-18 s 10
renum as s 42 A2007-18 amdt 1.39

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Service credit—employee's prior service

s 43 **orig s 43**
am ord 1987 No 16
om A2007-18 amdt 1.14 (LA s 88 declaration applies (see
s 202))
pres s 43
(prev s 36A) ins A2007-18 s 10
renum as s 43 A2007-18 amdt 1.39
(3), (4) exp 30 June 2011 (s 43 (4))

Service credit—contractor's prior service

s 44 **orig s 44**
am ord 1987 No 16
om A2007-18 amdt 1.14 (LA s 88 declaration applies (see
s 202))
pres s 44
(prev s 36B) ins A2007-18 s 10
renum as s 44 A2007-18 amdt 1.39

Quarterly returns and payments

pt 5 hdg sub A2007-18 amdt 1.11

Quarterly returns by employers

s 45 **orig s 45**
renum as s 62
pres s 45
(prev s 37) am ord 1987 No 16; ord 1987 No 74; 1993 No 39
s 18, sch; 1993 No 102 s 4; 1994 No 81 sch; A2005-20
amdt 3.189, amdt 3.190; ss renum R7 LA (see A2005-20
amdt 3.191); A2005-52 amdt 1.178, amdt 1.179
sub A2007-18 s 11
renum as s 45 A2007-18 amdt 1.39

Levy payments by employers

s 46 **orig s 46**
renum as s 63
pres s 46
(prev s 37AA) ins A2007-18 s 11
renum as s 46 A2007-18 amdt 1.39

Determination of levy—employers

s 47 **orig s 47**
renum as s 64
pres s 47
(prev s 37AB) ins A2007-18 s 11
renum as s 47 A2007-18 amdt 1.39

Civil penalty—failure by employers to give quarterly returns or make levy payments

s 48

orig s 48

renum as s 65

pres s 48

(prev s 37AC) ins A2007-18 s 11

renum as s 48 A2007-18 amdt 1.39

Exemption from levy payments—payments to reciprocal authorities

s 49

orig s 49

renum as s 66

pres s 49

(prev s 37AD) ins A2007-18 s 11

renum as s 49 A2007-18 amdt 1.39

Exemption from levy payments—working directors

s 50

orig s 50

renum as s 67

pres s 50

(prev s 37A) ins 1993 No 39 s 19

am 2001 No 44 amdt 1.2690-1.2693; pars renum R5 LA;

A2005-52 amdt 1.178, amdt 1.179

sub A2007-18 amdt 1.12

renum as s 50 A2007-18 amdt 1.39

Quarterly returns by contractors

s 51

orig s 51

renum as s 68

pres s 51

(prev s 38) am ord 1987 No 74; 1993 No 39 sch; 1994 No 81

sch; 2001 No 44 amdt 1.2694, amdt 1.2695; A2005-20

amdt 3.192; A2005-52 amdt 1.178, amdt 1.179

sub A2007-18 s 12

renum as s 51 A2007-18 amdt 1.39

Levy payments by contractors

s 52

orig s 52

renum as s 69

pres s 52

(prev s 38A) ins A2007-18 s 12

renum as s 52 A2007-18 amdt 1.39

Determination of levy—contractors

s 53

orig s 53

renum as s 70

pres s 53

(prev s 38B) ins A2007-18 s 12

renum as s 53 A2007-18 amdt 1.39

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Employers to keep records

s 54

orig s 54

sub ord 1987 No 16
am 1993 No 39 sch; 1996 No 80 s 7
om A2007-18 s 15

pres s 54

(prev s 39) am ord 1984 No 12; 1993 No 39 s 20, sch; 1994
No 81 sch
sub A2007-18 amdt 2.2
renum as s 54 A2007-18 amdt 1.39

Registered contractors to keep records

s 55

orig s 55

renum as s 71

pres s 55

(prev s 39A) ins A2007-18 s 13
renum as s 55 A2007-18 amdt 1.39

Particulars to be entered in workers register

s 56

orig s 56

renum as s 72

pres s 56

(prev s 40) am ord 1987 No 16; 1993 No 39 s 21, sch;
A2005-52 amdt 1.155, amdt 1.179
sub A2007-18 amdt 1.13
renum as s 56 A2007-18 amdt 1.39

How are leave payments worked out?

s 56A

renum as s 73

Leave payments for service as registered employee

s 56B

renum as s 74

Leave payments for service as registered contractor

s 56C

renum as s 75

Payment by authority on reciprocal authority's behalf

s 56D

renum as s 76

Review of ordinary remuneration by governing board

s 57 hdg

(prev s 41 hdg) am A2005-52 amdt 1.179

s 57

orig s 57

renum as s 77

pres s 57

(prev s 41) am ord 1987 No 74; 1993 No 39 sch; A2005-52
amdt 1.178, amdt 1.179
sub A2007-18 s 14
renum as s 57 A2007-18 amdt 1.39

Records of payments and service

s 57A renum as s 78

Notice of governing board's decision on review of ordinary remuneration

s 58 **orig s 58**
renum as s 79
pres s 58
(prev s 41A) ins A2007-18 s 14
renum as s 58 A2007-18 amdt 1.39
am A2008-37 amdt 1.310

Effect of variation of ordinary remuneration

s 59 **orig s 59**
renum as s 80
pres s 59
(prev s 41B) ins A2007-18 s 14
renum as s 59 A2007-18 amdt 1.39

Notice of reviewable decisions

s 59A renum as s 81

Evidentiary certificates

s 59B renum as s 82

Disclosure of information to territory entities and reciprocal authorities

s 59C renum as s 83

Variation of ordinary remuneration—payment of additional amount of levy

s 60 **orig s 60**
renum as s 84
pres s 60
(prev s 41C) ins A2007-18 s 14
renum as s 60 A2007-18 amdt 1.39

Service credit—registered worker's service

s 61 **orig s 61**
renum as s 85
pres s 61
(prev s 42) am ord 1984 No 12; ord 1987 No 16; ord 1987
No 74; 1991 No 106 sch; 1993 No 39 s 22, sch; ss and pars
renum R5 LA; A2004-39 amdt 5.16; A2005-52 amdt 1.178
sub A2007-18 s 14
renum as s 61 A2007-18 amdt 1.39

Endnotes

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Removing registration from workers register

s 62 **orig s 62**
renum as s 86
pres s 62
(prev s 45) am ord 1987 No 16; ord 1987 No 74; 1993 No 39
s 23, sch; ss renum R5 LA; A2005-52 amdts 1.156-1.158,
amdt 1.178, amdt 1.179
sub A2007-18 amdt 1.15
renum as s 62 A2007-18 amdt 1.39
am A2008-43 s 12

Annual certificates

pt 7 hdg sub A2007-18 amdt 1.16

Annual certificates for workers

s 63 **orig s 63**
renum as s 87
pres s 63
(prev s 46) am ord 1987 No 16; 1993 No 39 s 24; A2005-52
amdt 1.178
sub A2007-18 amdt 1.16
renum as s 63 A2007-18 amdt 1.39

Annual certificates for employers

s 64 **orig s 64**
renum as s 88
pres s 64
(prev s 47) am ord 1987 No 16; 1993 No 39 sch; A2005-52
amdt 1.178
sub A2007-18 amdt 1.16
renum as s 64 A2007-18 amdt 1.39

Objection to matter stated in annual certificate

s 65 **orig s 65**
om ord 1987 No 16
prev s 65
renum as s 89
pres s 65
(prev s 48) am A2005-52 amdt 1.178, amdt 1.179
sub A2007-18 amdt 1.16
renum as s 65 A2007-18 amdt 1.39

Long service leave

s 66 **orig s 66**
renum as s 90
pres s 66
(prev s 49) sub A2007-18 amdt 1.17
renum as s 66 A2007-18 amdt 1.39

Year of service

s 67

orig s 67

ins A2005-52 amdt 1.176

exp 1 February 2006 (s 67 (2))

pres s 67

(prev s 50) sub ord 1987 No 16; A2007-18 amdt 1.17

renum as s 67 A2007-18 amdt 1.39

Amount of leave

s 68

(prev s 51) am ord 1987 No 16; 1993 No 39 sch; 1996 No 80 s 5

sub A2007-18 amdt 1.17

renum as s 68 A2007-18 amdt 1.39

Grant of leave by employers

s 69

(prev s 52) am 1994 No 81 sch; A2005-52 amdt 1.179

sub A2007-18 amdt 2.3

renum as s 69 A2007-18 amdt 1.39

Entitlement to payment instead of leave

s 70

(prev s 53) sub ord 1987 No 16

am 1993 No 39 s 25, sch; 1996 No 80 s 6; ss and pars renum

R5 LA; A2005-52 amdt 1.178, amdt 1.179

sub A2007-18 s 15

renum as s 70 A2007-18 amdt 1.39

Payment for leave

s 71

(prev s 55) am ord 1987 No 16; 1990 No 9 s 10; A2005-52 amdt 1.159, amdt 1.178

sub A2007-18 amdt 1.18

renum as s 71 A2007-18 amdt 1.39

Payment instead of leave

s 72

(prev s 56) am ord 1987 No 16; 1993 No 39 sch; A2004-39 amdt 5.16, amdt 5.17; A2005-52 amdt 1.160, amdt 1.178, amdt 1.179

sub A2007-18 amdt 1.18

renum as s 72 A2007-18 amdt 1.39

How are leave payments worked out?

s 73

(prev s 56A) ins ord 1987 No 16

am 1990 No 9 s 11; 1993 No 39 s 26; A2005-20 amdt 5.15;

A2005-52 amdt 1.161, amdt 1.178

sub A2007-18 s 16

renum as s 73 A2007-18 amdt 1.39

Endnotes

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Leave payments for service as registered employee

s 74 hdg (prev s 56B hdg) sub A2005-52 amdt 1.162
s 74 (prev s 56B) ins ord 1987 No 16
am 1993 No 39 sch; A2004-39 amdt 5.16, amdt 5.17;
A2005-52 amdts 1.163-1.165; pars renum A2005-52
amdt 1.166, amdt 1.178, amdt 1.179
sub A2007-18 s 16
renum as s 74 A2007-18 amdt 1.39
am A2008-28 amdt 3.108

Leave payments for service as registered contractor

s 75 (prev s 56C) ins A2007-18 s 16
renum as s 75 A2007-18 amdt 1.39

Payment by authority on reciprocal authority's behalf

s 76 (prev s 56D) ins A2007-18 s 16
renum as s 76 A2007-18 amdt 1.39

Payments by reciprocal authority on authority's behalf

s 77 (prev s 57) sub ord 1987 No 16 s 12
am ord 1988 No 49; 1990 No 9; 1991 No 106 sch; 1993 No 39
s 27; 1996 No 80 s 8; ss renum R5 LA; A2005-52
amdt 1.178, amdt 1.179
sub A2007-18 s 16
renum as s 77 A2007-18 amdt 1.39

Records of payments and service

s 78 (prev s 57A) ins ord 1987 No 16
am A2005-52 amdt 1.167, amdt 1.178
sub A2007-18 amdt 1.19
renum as s 78 A2007-18 amdt 1.39

Public holidays etc not to count as leave

s 79 (prev s 58) sub A2003-45 s 7; A2007-18 amdt 1.20
renum as s 79 A2007-18 amdt 1.39

Notification and review of decisions

pt 8B ins A2008-37 amdt 1.311

Definitions—pt 8B

s 79C ins A2008-37 amdt 1.311
def **decision-maker** ins A2008-37 amdt 1.311
def **reviewable decision** ins A2008-37 amdt 1.311

Reviewable decision notices

s 79D ins A2008-37 amdt 1.311

Applications for review

s 79E ins A2008-37 amdt 1.311

Decisions reviewable by AAT

s 80 (prev s 59) am ord 1987 No 16
 sub ord 1987 No 74
 am ord 1988 No 49; ord 1989 No 38 sch 1; 1993 No 39 s 28;
 1994 No 60 sch 1; pars renum R5 LA; A2005-52
 amds 1.168-1.171; pars renum A2005-52 amdt 1.172;
 A2005-52 amdt 1.173, amdt 1.174, amdt 1.179
 sub A2007-18 amdt 1.21
 renum as s 80 A2007-18 amdt 1.39
om A2008-37 amdt 1.312

Notice of reviewable decisions

s 81 (prev s 59A) ins ord 1987 No 74
 am ord 1989 No 38 sch 1; 1994 No 60 sch 1
 sub A2005-52 amdt 1.175; A2007-18 amdt 1.21
 renum as s 81 A2007-18 amdt 1.39
om A2008-37 amdt 1.312

Evidentiary certificates

s 82 (prev s 59B) ins ord 1987 No 74
 sub A2007-18 amdt 1.21
 renum as s 82 A2007-18 amdt 1.39

Disclosure of information to territory entities and reciprocal authorities

s 83 (prev s 59C) ins A2007-18 s 17
 renum as s 83 A2007-18 amdt 1.39

Inspection of register

s 84 (prev s 60) am 1993 No 39 s 29
 sub A2007-18 amdt 1.21
 renum as s 84 A2007-18 amdt 1.39

No contracting out by employees

s 85 (prev s 61) sub A2007-18 s 18
 renum as s 85 A2007-18 amdt 1.39

Declaration of corresponding laws

s 86 (prev s 62) am ord 1987 No 16; 2001 No 44 amds 1.2696-
 1.2698; ss renum R5 LA (see 2001 No 44 amdt 1.2699);
 A2005-52 amdt 1.179
 sub A2007-18 amdt 1.22
 renum as s 86 A2007-18 amdt 1.39

Benefits under other laws—election

s 87 (prev s 63) am ord 1987 No 16; 1993 No 39 s 30, sch;
 A2005-52 amdt 1.178, amdt 1.179
 sub A2007-18 amdt 1.22
 renum as s 87 A2007-18 amdt 1.39
 sub A2008-43 s 13

Endnotes

4 Amendment history

Benefits under other laws—reimbursement of employer

s 87A ins A2008-43 s 13

Reciprocal agreements for corresponding laws

s 88 hdg (prev s 64 hdg) am 2001 No 44 amdt 1.2700
s 88 (prev s 64) am ord 1987 No 16; 2001 No 44 amdt 1.2701,
amdt 1.2702; A2005-52 amdt 1.178
sub A2007-18 amdt 1.22
renum as s 88 A2007-18 amdt 1.39

Approved forms

s 89 (prev s 65) ins 2001 No 44 amdt 1.2703
am A2007-18 amdt 1.23, amdt 1.24
renum as s 89 A2007-18 amdt 1.39

Regulation-making power

s 90 (prev s 66) am ord 1989 No 38 sch 1
sub 2001 No 44 amdt 1.2703
renum as s 90 A2007-18 amdt 1.39

Transitional

pt 15 hdg ins A2007-18 s 19
exp 30 June 2008 (s 204)

Transitional—change from 2 monthly to quarterly returns

s 200 ins A2007-18 s 19
exp 30 June 2008 (s 204 (LA s 88 declaration applies))

Employers and employees and contractors registers

s 201 ins A2007-18 s 19
exp 30 June 2008 (s 204)

Repeal of s 43 and s 44

s 202 ins A2007-18 s 19
exp 30 June 2008 (s 204)

Transitional regulations

s 203 ins A2007-18 s 19
exp 30 June 2008 (s 204)

Expiry—pt 15

s 204 ins A2007-18 s 19
exp 30 June 2008 (s 204)

Reviewable decisions

sch 1 ins A2007-18 amdt 1.25
sub A2008-37 amdt 1.313

Dictionary
 dict

ins A2005-52 amdt 1.177
 am A2007-18 amdt 1.26; A2008-37 amdt 1.314
 def **agreement** am 1991 No 106 sch
 sub 2001 No 56 amdt 3.446
 reloc from s 3 A2005-52 amdt 1.152
 def **authority** ins A2005-52 amdt 1.177
 def **award** am 1991 No 106 sch
 sub 2001 No 56 amdt 3.446
 reloc from s 3 A2005-52 amdt 1.152
 def **award holiday** reloc from s 3 A2005-52 amdt 1.152
 om A2007-18 amdt 1.27
 def **building and construction industry** reloc from s 3
 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.28
 def **building and construction work** reloc from s 3 A2005-52
 amdt 1.152
 sub A2007-18 amdt 1.28
 def **contractor** am 1993 No 39 sch
 reloc from s 3 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.28
 def **corresponding law** reloc from s 3 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.28
 def **decision-maker** ins A2008-37 amdt 1.315
 def **defined fraction** ins 1996 No 80 s 4
 reloc from s 3 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.28
 def **determination** sub ord 1989 No 38 sch 1
 reloc from s 3 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.28
 def **employee** am ord 1989 No 38 sch 1; 1993 No 39 s 3
 reloc from s 3 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.28
 def **employees and contractors register** reloc from s 3
 A2005-52 amdt 1.152
 om A2007-18 amdt 1.29
 def **employer** am ord 1989 No 38 sch 1; 1993 No 39 s 3
 reloc from s 3 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.30
 def **employers register** reloc from s 3 A2005-52 amdt 1.152
 sub A2007-18 amdt 1.30
 def **governing board** ins A2005-52 amdt 1.177
 def **Long Service Leave Act** reloc from s 3 A2005-52
 amdt 1.152
 om A2007-18 amdt 1.31
 def **ordinary remuneration** am 1993 No 39 s 3, sch
 reloc from s 3 A2005-52 amdt 1.152

Endnotes

5 Earlier republications

sub A2007-18 amdt 1.32
def **prescribed retiring age** reloc from s 3 A2005-52
amdt 1.152
om A2007-18 amdt 1.33
def **reciprocal agreement** ins A2007-18 amdt 1.34
def **reciprocal agreement or reciprocal arrangement** reloc
from s 3 A2005-52 amdt 1.152
om A2007-18 amdt 1.34
def **reciprocal authority** reloc from s 3 A2005-52 amdt 1.152
sub A2007-18 amdt 1.34
def **reciprocating State** ins A2007-18 amdt 1.34
def **reciprocating State or territory** reloc from s 3 A2005-52
amdt 1.152
om A2007-18 amdt 1.34
def **recognised service** reloc from s 3 A2005-52 amdt 1.152
sub A2007-18 amdt 1.34
def **registered** reloc from s 3 A2005-52 amdt 1.152
def **registrar** ins A2005-52 amdt 1.177
sub A2007-18 amdt 1.35
def **registration day** ins A2007-18 amdt 1.36
def **reviewable decision** ins A2008-37 amdt 1.315
def **salary or wages** reloc from s 3 A2005-52 amdt 1.152
am A2007-18 amdt 1.37
def **service** reloc from s 3 A2005-52 amdt 1.152
def **worker** ins A2007-18 amdt 1.38
def **workers register** ins A2007-18 amdt 1.38
def **working day** reloc from s 3 A2005-52 amdt 1.152
om A2007-18 s 20
def **working director** ins 1993 No 39 s 3
reloc from s 3 A2005-52 amdt 1.152
sub A2007-18 s 21

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1992 No 15	2 June 1992

page 94	Long Service Leave (Building and Construction Industry) Act 1981 Effective: 10/09/08-01/02/09	R15 10/09/08
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Republication No	Amendments to	Republication date
2	Act 1993 No 102	1 January 1994
3	Act 1994 No 97	31 January 1995
4	Act 1998 No 54	30 June 1998
5	Act 2001 No 56	8 February 2002
5 (RI)	A2002-49 ‡	12 February 2003
6	A2003-45	3 October 2003
7	A2005-20	2 June 2005
8	A2005-20	7 July 2005
9	A2005-52	1 January 2006
10	A2005-52	2 January 2006
11	A2005-52	2 February 2006
12	A2007-18	30 June 2007
13	A2007-18	1 July 2008
14	A2008-28	26 August 2008

‡ includes retrospective amendments by A2002-49

6 Renumbered provisions

as made by *Long Service Leave (Building and Construction and Contract Cleaning Industries) Legislation Amendment Act 2007* A2007-18 amdt 1.39 and under the *Legislation Act 2001*

previous number	provision heading	renumbered or inserted as
Part 1	Preliminary	
1	Name of Act	1
2	Dictionary	2
3	Notes	3
4	Offences against Act—application of Criminal Code etc	4
5	Meaning of <i>building and construction industry</i>	5

R15 10/09/08	Long Service Leave (Building and Construction Industry) Act 1981 Effective: 10/09/08-01/02/09	page 95
-----------------	---	---------

Endnotes

6 Renumbered provisions

previous number	provision heading	renumbered or inserted as
5A	Meaning of <i>building and construction work</i>	6
6	Who is an employer?	7
7	Meaning of <i>contractor, employee and worker</i>	8
Part 2	Administration	
Division 2.1	The authority, governing board and staff	
8	Establishment of authority	9
9	Authority not territory instrumentality etc	10
10	Functions of authority	11
11	Delegation by authority	12
12	Establishment of governing board	13
13	Governing board members	14
14	No deputy chair	15
15	Deputy registrar	16
16	Functions of governing board	17
17	Arrangements for staff	18
Division 2.2	Inspectors and their powers	
18	Inspectors	19
19	Identity cards	20
20	Powers in relation to employers' premises	21
21	Production of identity card by inspectors	22
22	Consent to entry by inspectors	23
23	General powers of inspectors for premises	24
24	Contravention of requirement by inspector	25
25	Duty to give information or documents	26
Division 2.3	Finances	
25A	Money of authority	27

previous number	provision heading	renumbered or inserted as
25B	Application of authority money	28
25C	3-yearly investigation by actuary	29
Part 3	Registration of employers	
26	Employers register	30
27	Application for registration by employers	31
28	How applications for registration as employer are dealt with	32
28A	Registration as an employer	33
29	Certificate of registration for employers	34
30	Registered employers to notify change of details	35
Part 4	Registration of workers	
31	Workers register	36
32	Applications for registration by workers	37
32A	Application by employer for registration of employee	38
33	How applications for registration as worker are dealt with	39
34	Notice of registrar's decisions	40
35	Appeals against refusal of registrar to register	41
36	Registration as worker	42
36A	Service credit—employee's prior service	43
36B	Service credit—contractor's prior service	44
Part 5	Quarterly returns and payments	
37	Quarterly returns by employers	45
37AA	Levy payments by employers	46
37AB	Determination of levy—employers	47
37AC	Civil penalty—failure by employers to give quarterly returns or make levy payments	48

Endnotes

6 Renumbered provisions

previous number	provision heading	renumbered or inserted as
37AD	Exemption from levy payments—payments to reciprocal authorities	49
37A	Exemption from levy payments—working directors	50
38	Quarterly returns by contractors	51
38A	Levy payments by contractors	52
38B	Determination of levy—contractors	53
39	Employers to keep records	54
39A	Registered contractors to keep records	55
Part 6	Entries in employees and contractors register	
40	Particulars to be entered in workers register	56
41	Review of ordinary remuneration by governing board	57
41A	Notice of governing board's decision on review of ordinary remuneration	58
41B	Effect of variation of ordinary remuneration	59
41C	Variation of ordinary remuneration—payment of additional amount of levy	60
42	Service credit—registered worker's service	61
45	Removing registration from workers register	62
Part 7	Annual certificates	
46	Annual certificates for workers	63
47	Annual certificates for employers	64
48	Objection to matter stated in annual certificate	65
Part 8	Long service leave and payments	
49	Long service leave	66
50	Year of service	67
51	Amount of leave	68

previous number	provision heading	renumbered or inserted as
52	Grant of leave by employers	69
53	Entitlement to payment instead of leave	70
55	Payment for leave	71
56	Payment instead of leave	72
56A	How are leave payments worked out?	73
56B	Leave payments for service as registered employee	74
56C	Leave payments for service as registered contractor	75
56D	Payment by authority on reciprocal authority's behalf	76
57	Payments by reciprocal authority on authority's behalf	77
57A	Records of payments and service	78
58	Public holidays etc not to count as leave	79
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59	Decisions reviewable by AAT	80
59A	Notice of reviewable decisions	81
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Endnotes

7 Uncommenced amendments

7 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.72

Part 1.72 Long Service Leave (Building and Construction Industry) Act 1981

[1.310] Section 58 (2), note

substitute

Note The governing board's decision to fix another amount under s 57 (5) (b) is a reviewable decision (see s 79C, def **reviewable decision**), and the board must give a reviewable decision notice to the worker and, if the worker is an employee, the worker's employer (see s 79D).

[1.311] New part 8B

insert

Part 8B Notification and review of decisions

79C Definitions—pt 8B

In this part:

decision-maker, for a reviewable decision, means an entity mentioned in schedule 1, column 5 for the decision.

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

79D Reviewable decision notices

If a decision-maker makes a reviewable decision, the decision-maker must give a reviewable decision notice only to—

- (a) each entity mentioned in schedule 1, column 4 in relation to the decision; and
- (b) any other person prescribed by regulation.

Note The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

79E Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person prescribed by regulation.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

[1.312] Sections 80 and 81

omit

Endnotes

7 Uncommenced amendments

[1.313] Schedule 1

substitute

Schedule 1 Reviewable decisions

(see pt 8B)

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
1	31 (1) (b)	refuse to allow additional time for application for registration by employer	employer	registrar
2	32 (2) (b)	refuse to register person as an employer	applicant for registration	registrar
3	41 (4) (a)	confirm registrar's decision to refuse to register person as worker	applicant	governing board
4	43 (2)	refuse to credit employee with prior service	employee	governing board
5	43 (2)	amount of prior service credited	employee	governing board
6	44 (b)	refuse to credit contractor with prior service	contractor	governing board

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
7	44 (b)	amount of prior service credited	contractor	governing board
8	45 (1) (b)	refuse to allow employer additional time for giving return to authority	employer	registrar
9	48 (3)	refuse to remit all or part of amount to employer	employer	registrar
10	49 (2)	refuse to exempt employer from levy	employer	governing board
11	51 (1) (b)	refuse to allow registered contractor additional time for giving return to authority	registered contractor	registrar
12	57 (5) (b)	fix another amount as the total ordinary remuneration of worker for quarter	<ul style="list-style-type: none"> worker if the worker is an employee—the worker's employer 	governing board
13	61 (4)	refuse to credit period of service	employee	registrar

Endnotes

7 Uncommenced amendments

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
14	62 (6) (b)	refuse to direct registrar to re-register person	person	governing board
15	65 (2)	allow, or refuse to allow, objection to matter in certificate given to worker under s 63	<ul style="list-style-type: none"> worker if the worker is an employee—the worker's employer 	governing board
16	65 (2)	allow, or refuse to allow, objection to matter in certificate given to employer under s 64	<ul style="list-style-type: none"> employer employee to whom objection relates 	governing board
17	69	refuse to allow additional period	applicant	governing board
18	70 (3)	not satisfied that section applies to applicant	applicant	governing board
19	71 (2)	not satisfied that applicant entitled to long service leave	applicant	governing board

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
20	72 (6)	not satisfied that applicant entitled to payment instead of long service leave	applicant	governing board
21	87A (3) (b)	not satisfied that amount paid by employer properly paid	employer	governing board

[1.314] Dictionary, note 2, new dot points

insert

- ACAT
- reviewable decision notice

[1.315] Dictionary, new definitions

insert

decision-maker, for a reviewable decision, for part 8B (Notification and review of decisions)—see section 79C.

reviewable decision, for part 8B (Notification and review of decisions)—see section 79C.

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