



AUSTRALIAN CAPITAL TERRITORY

Building and Construction Industry Training Levy Amendment Act 1999

No. 68 of 1999

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Building and Construction Industry Training Levy Amendment Act 1999

No. 68 of 1999

An Act to amend the *Building and Construction Industry Training Levy Act 1999*

[Notified in ACT Gazette S62: 3 December 1999]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Building and Construction Industry Training Levy Amendment Act 1999*.

2 Commencement

(1) Sections 1, 2 and 3 commence on the day this Act is notified in the Gazette.

(2) The remaining provisions commence on the day section 4 of the *Building and Construction Industry Training Levy Act 1999* commences.

3 Act amended

This Act amends the *Building and Construction Industry Training Levy Act 1999*.

4 Definitions

Section 3 is amended—

- (a) by omitting the heading and substituting the following heading:
“3 **Definitions**”; and
- (b) by omitting the definition of “provisional levy”.

5 Repeal of heading

The heading to Division 1 of Part 3 is omitted.

6 Definitions for Part 3

Section 15 is amended—

- (a) by omitting the heading and substituting the following heading:
“15 **Definitions for Part 3**”; and
- (b) by omitting the definitions of “building approval” and “project owner” and substituting the following definitions:
 - “*building approval* means a building approval under the Building Act.
 - “*project owner*, for work, means the owner of the land on which the work has been, is being or will be carried out.”; and
- (c) by inserting the following definitions:
 - “*Building Act* means the *Building Act 1972*.
 - “*building controller* means the building controller under the Building Act.
 - “*building work* has the same meaning as in the Building Act.
 - “*owner*, for land, has the same meaning as in the Building Act.
 - “*value*, for work, means the value assessed under section 19.”.

7 Repeal of heading

The heading to Division 2 of Part 3 is omitted.

8 Training levy liability

Section 17 is amended by adding at the end the following subsection:

“(3) Training levy for building work may be paid to the building controller as agent for the board.”.

9 Calculation of training levy

Section 18 is amended by omitting subsection (2).

10 Substitution

Division 3 of Part 3 is repealed and the following sections are substituted:

“19 Assessment of value of work

“(1) The value of work on which levy is payable is—

- (a) if the work is building work—the value used for calculating the determined fee payable within 7 days of the issue of a building approval under subparagraph 34 (7) (b) (iv) of the Building Act; or
- (b) in any other case—the value agreed by the board and the project owner or, if they disagree, the value assessed by a valuer appointed under this section.

“(2) The board or the project owner may, if reasonably satisfied that they are unlikely to agree on value, ask the council to appoint a qualified valuer to assess the value of the work.

“(3) The council must give effect to a request under subsection (2).

“(4) The reasonable cost of the appointment of a valuer under this section is payable by the board and the project owner equally.

“20 Payment of levy

“(1) If training levy is payable in respect of work, the project owner must pay it—

- (a) if the work is building work—before the issue of the building approval; or
- (b) if the work is not building work—within 7 days after the commencement of the work.

“(2) A project owner must not, without reasonable excuse, contravene subsection (1).

Maximum penalty: 50 penalty units.

“21 Refund of levy if work not carried out

“(1) If—

- (a) training levy has been paid for work before its commencement; and

- (b) the work does not commence;

the board must refund to the project owner the amount paid.

“(2) The board must make a refund under subsection (1) within 1 month after receiving a written request for it from the project owner.

“22 **Adjustment of levy**

“(1) This section applies if training levy has been paid for work other than building work and, in the opinion of the board or the project owner, the value of the work—

- (a) at the completion of the work; or
(b) if the work is abandoned before completion—when the work is abandoned;

differs from the value on which the training levy was based.

“(2) The board or the project owner may tell the other in writing that the amount of the training levy should be recalculated on the basis of the value of the work at its completion or abandonment (as the case requires).

“(3) If a notice under subsection (2) is given, the value of the work at its completion or abandonment must be assessed in accordance with section 19.

“(4) If the amount of training levy paid is smaller than the amount that would have been payable if the levy had been calculated on the value of the work ascertained by virtue of this section, the project owner must pay to the board an amount equal to the difference.

“(5) If the amount of training levy paid is greater than the amount that would have been payable if the levy had been calculated on the value of the work ascertained by virtue of this section, the board must pay to the project owner an amount equal to the difference.

“(6) An amount payable under subsection (4) or (5) is payable within 1 month of the ascertainment of the value of the work under subsection (3).”.

11 Establishment and operation of fund

Section 23 is amended by omitting from paragraph (2) (a) “provisional or training levy” and substituting “training levy or amounts payable under subsection 22 (4) after reassessment of the value of work”.

12 Application of fund

Section 24 is amended by omitting paragraph (c) and substituting the following paragraph:

“(c) to make payments of refunds under section 21 or subsection 22 (5);”.

13 Powers of entry

Section 31 is amended by omitting from paragraph (1) (b) “provisional levy or”.

14 Search warrants

Section 33 is amended by omitting from paragraph (1) (a) “provisional levy or”.

Endnotes

Act amended

1 Act 1999 No 30 (not republished).

Penalty units

2 Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 16 November 1999]