



Australian Capital Territory

Long Service Leave (Contract Cleaning Industry) Act 1999

A1999-85

Republication No 9

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About this republication

The republished law

This is a republication of the *Long Service Leave (Contract Cleaning Industry) Act 1999* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 January 2006. It also includes any amendment, repeal or expiry affecting the republished law to 1 January 2006.

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.



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Australian Capital Territory

Long Service Leave (Contract Cleaning Industry) Act 1999

An Act to provide for long service leave for employees in the contract cleaning industry, and for related purposes

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Part 1 Preliminary

1 Name of Act

This Act is the *Long Service Leave (Contract Cleaning Industry) Act 1999*.

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 words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '*section 29 register*—see section 29.' means that the expression 'section 29 register' is defined in that section 29.

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 appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

2A Notes

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

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

3 What are *cleaning work* and the *contract cleaning industry*

- (1) For this Act, *cleaning work* is—
- (a) work carried out in the ACT that has, as its sole or main component, the bringing of premises into, or maintaining premises in, a clean condition; or

- (b) work carried out by an employee outside the ACT that is taken to be cleaning work under section 4 (Work outside the ACT); or
 - (c) work declared by the Minister under section 3C (1) (c) to be cleaning work.
- (2) For this Act, the *contract cleaning industry* is the industry in which employers provide cleaning work to other people through the provision of employees' services.

3A Who is an employer

- (1) For this Act, a person is an *employer*—
- (a) if the person—
 - (i) is engaged in the contract cleaning industry in the ACT; and
 - (ii) employs (whether in the ACT or elsewhere) 1 or more people to carry out cleaning work; and
 - (iii) is not a person mentioned in subsection (2); or
 - (b) if the person is declared to be an employer by the Minister under section 3C (Declarations by Minister about coverage of Act).
- (2) The following are not employers for this Act:
- (a) the Territory;
 - (b) the Commonwealth;
 - (c) the Australian National University;
 - (d) the University of Canberra.

3B Who is an employee

For this Act, a person is an *employee* if—

- (a) the person is employed (whether in the ACT or elsewhere) by an employer to carry out cleaning work; or
- (b) if the person is declared to be an employee by the Minister under section 3C.

3C Declarations by Minister about coverage of Act

- (1) The Minister may, in writing, declare—
 - (a) a person to be an employer; or
 - (b) a person to be an employee or an employee of a particular employer; or
 - (c) a kind of work to be cleaning work.
- (2) The Minister may not declare under subsection (1) (a) a person mentioned in section 3 (2).
- (3) A person declared to be an employer by the Minister under subsection (1) (a) is taken, for this Act, to be engaged in the contract cleaning industry.
- (4) A person declared to be an employee of a particular employer is taken, for this Act, to be employed by the person who is declared to be the person's employer.
- (5) A declaration under subsection (1) is a disallowable instrument.

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

3D What is an *employment period*

- (1) An *employment period* of a registered employee is a period—
 - (a) beginning on a day when the person becomes an employee of an employer (and is not already an employee of another employer); and

- (b) ending on the day when the person next ceases to be an employee of an employer (and is not already an employee of another employer).
- (2) For subsection (1), the continuity of the employment period of a registered employee who ceases to be the employee of an employer but on the next day becomes the employee of another employer is not interrupted by the change in employment.
- (3) For subsection (1), an employment period of a registered employee is taken to end on the last day of the employment period if, for the next employment period (the *later period*)—
 - (a) the employer of the employee gives to the authority a return under section 39 (Quarterly returns) showing that the employer made no payment of ordinary wages to the employee in the later period; or
 - (b) if the employee had 2 or more employers for the later period—each of the employers gives a return to the authority showing that the employer made no payment of ordinary wages to the employee in the later period.
- (4) Despite subsection (1), a registered employee's employment period is taken to include any days when the employee does not carry out cleaning work because—
 - (a) of incapacity for an injury for which the employee is entitled to be paid compensation under the *Workers Compensation Act 1951* by an employer; or
 - (b) the employee has been dismissed by an employer to ensure that the employee does not take long service leave while in the employer's employment.
- (5) For this section, a person is taken to have become an employee on the later of—
 - (a) 23 June 2000; and

- (b) the date when the person became an employee.

4 Work outside the ACT

Work carried out by an employee outside the ACT is taken to be cleaning work if—

- (a) that work would, if it were carried out in the ACT, be cleaning work; and
- (b) the employer of the employee give to the authority a return under section 39 (Quarterly returns) and pays to the authority the amount payable under section 39A (Levy payments) for the employment of the 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 Cleaning 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.

5 Establishment of authority

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

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

6 Authority not territory instrumentality etc

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

7 Functions of authority

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 section 29 register and section 36 register;
- (d) exercising any other function given to the authority under this Act or any other territory law.

8 Delegation by authority

The authority may delegate its functions to the registrar or a public servant.

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

9 Establishment of governing board

The authority has a governing board.

10 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.

11 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).

12 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 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.

13 Functions of governing board

The governing board has the following functions:

- (a) making recommendations to the Minister under section 39B (1) (Determination of levy);

- (b) exercising any other function given to the board under this Act or any other territory law.

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

14 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

15 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 s 207).

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

16 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.
- (5) Subsection (2) applies only in relation to a card given by the registrar after the commencement of this section.
- (6) Subsection (5) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (7) Subsections (5) and (6) and this subsection expire on the day this section commences.

17 Powers in relation to 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.

18 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.

19 Consent to entry by inspectors

(1) When seeking the consent of an occupier to enter premises under section 17 (2) (b) (Powers in relation to 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.

20 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 of the employer to check the accuracy of information given to, or held by, the authority;
- (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 reasonably required by the inspector to check the accuracy of information given to, or held by, the authority.

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).

21 Contravention of requirement by inspector

A person must take all reasonable steps to comply with a requirement made of the person under section 20 (b) or (c).

Maximum penalty: 50 penalty units.

22 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

23 Money of authority

The money of the authority consists of—

- (a) amounts received by the authority under section 39A (Levy payments); and
- (b) income derived from the investment of money of the authority; and
- (c) amounts borrowed by the authority; and
- (d) any other amounts paid to the authority under this Act.

24 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.

25 Three-yearly investigation by actuary

- (1) The Treasurer must, in writing, 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 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 periodic payments payable to the authority by employers under this Act.
- (4) The actuary must give the Minister a copy of each report made under this section.

Part 3 Registration of employers

29 Section 29 register

The authority must keep a register of registered employers (the *section 29 register*).

30 Application for registration by employers

- (1) An employer must apply to the registrar for registration as an employer within—
 - (a) 1 month after becoming an employer; or
 - (b) any additional time that the registrar allows.

Maximum penalty: 50 penalty units.

Note If a form is approved under s 64A (Approved forms) for an application, the form must be used.

- (2) The registrar may allow additional time for subsection (1) (b) before or after the end of the period of 1 month mentioned in subsection (1) (a).
- (3) A person who is in contravention of subsection (1) may apply to the registrar for registration as an employer.

31 Order to apply for registration

- (1) If a court finds a person guilty of an offence against section 30 (1) or subsection (2) of this section (whether or not it convicts the person), the court may, in addition to imposing a penalty on the person—
 - (a) order that the person apply to the registrar under section 30 for registration as an employer within a stated time; and

(b) order that the person pay to the authority all amounts that would have been payable by the person under section 39A (Levy payments) if the person had complied with this Act since becoming an employer.

- (2) A person against whom an order under subsection (1) (a) has been made must comply with the order.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) A certified copy of an order under subsection (1) (b) may be filed in a court having civil jurisdiction to the extent of the amount stated in the order and, if so filed, has effect in all respects as if it were a judgment of the court.

32 How applications under s 30 (1) are dealt with

- (1) This section applies if a person applies to the registrar under section 30 (1) for registration as an employer.
- (2) If the registrar is satisfied that the person is an employer, the registrar must register the person as an employer.
- (3) If the registrar is not satisfied that the person is an employer, the registrar must refuse to register the person as an employer.

33 How applications under s 30 (3) are dealt with

- (1) This section applies if a person applies to the registrar for registration as an employer later than 1 month after becoming an employer and after the end of any additional time allowed by the registrar under section 30 (1) (b).
- (2) The registrar must refer the application to the governing board.
- (3) The governing board must direct the registrar to register the person as an employer if satisfied that—
- (a) the person is an employer; and

- (b) the person has paid to the authority all the amounts that would have been payable by the person under section 39A if the person had complied with this Act since becoming an employer.
- (4) The governing board must direct the registrar to refuse to register the person as an employer if not satisfied of a matter mentioned in subsection (3).
- (5) The registrar must give effect to a direction under subsection (3) or (4).

34 Registration as an employer

- (1) The registrar registers a person as an employer by entering in the section 29 register—
 - (a) the person's name and address; and
 - (b) the name and address of the principal place of business of the person; and
 - (c) if the person is a corporation—the address of its registered office; and
 - (d) the date when the registration takes effect; and
 - (e) any other particulars that the governing board directs the registrar to enter in the register.
- (2) A person's registration as an employer takes effect on the later of—
 - (a) 23 June 2000; and
 - (b) the date when the person became an employer.

35 Certificate of registration

- (1) As soon as practicable after registering a person as an employer under section 34 (Registration as an employer), the registrar must

Part 3 Registration of employers

Section 35

give to the person a certificate of registration that states the date when the person's registration took effect.

Note If a form is approved under s 64A (Approved forms) for a certificate, the form must be used.

- (2) If satisfied that a certificate of registration has been stolen, lost or destroyed, the registrar may give to the person a replacement certificate of registration.
- (3) A certificate of registration is evidence of the particulars stated in the certificate.

Part 4 Registration of employees

36 Section 36 register

The authority must keep a register of registered employees (the *section 36 register*).

37 Application for registration by employees

A person may apply to the registrar in writing for registration as an employee.

Note If a form is approved under s 64A (Approved forms) for an application, the form must be used.

37A How applications under s 37 are dealt with

- (1) This section applies if a person applies to the registrar under section 37 for registration as an employee.
- (2) The registrar must register the person if satisfied that—
 - (a) the person is an employee; and
 - (b) all employers of the person since the person became an employee are or have been registered.
- (3) The registrar must refuse to register a person if not satisfied that the person is an employee.
- (4) The registrar must refer a person's application to the governing board if the registrar—
 - (a) is satisfied that the person is an employee; but
 - (b) is not satisfied that all employers of the person since the person became an employee are or have been registered.
- (5) The governing board must—

- (a) direct the registrar to register a person as an employee if the board is satisfied that all employers of the person since the person became an employee are or have been registered; or
 - (b) direct the registrar to refuse to register a person if the board is not so satisfied.
- (6) The registrar must give effect to a direction under subsection (5).
- (7) For this section, a person is taken to have become an employee on the later of—
- (a) 23 June 2000; and
 - (b) the date when the person became an employee.

38 Registration as an employee

- (1) The registrar registers a person as an employee by entering in the section 36 register—
- (a) the person's name, address and date of birth; and
 - (b) the name and address of the principal place of business of each employer of the person; and
 - (c) if any employer of the person is a corporation—the address of its registered office; and
 - (d) the date when the registration takes effect; and
 - (e) any other particulars that the governing board directs the registrar to enter in the register.
- (2) A person's registration as an employee takes effect on the later of—
- (a) 23 June 2000; and
 - (b) the date when the person became an employee.

38A Appeals against refusal of registrar to register

- (1) If the registrar refuses, under section 37A (How applications under s 37 are dealt with), to register a person as an employee, the registrar must give to the person, within 7 days after making the decision, written notice of the decision and the reasons for the decision.
- (2) The person may apply to the governing board in writing for review of the registrar's decision within 2 months after receiving notice of the decision.
- (3) The governing board must—
 - (a) confirm the registrar's decision; or
 - (b) direct the registrar to register the person as an employee.
- (4) Within 7 days after making a decision under subsection (3), the governing board must give to the person written notice of the decision and the reasons for the decision.

Note 1 The *Legislation Act 2001*, s 179 deals with the contents of a statement of reasons for a decision.

Note 2 The *Legislation Act 2001*, pt 18.5 deals with service of documents.

Part 5 Periodic notices and payments

39 Quarterly returns

- (1) Within 15 days after the end of each quarter or any longer period allowed by the registrar, a person who is (or was at any time during the quarter) an employer must give to the authority a return for the quarter that complies with this Act.

Maximum penalty: 20 penalty units.

Note If a form is approved under section 64A (Approved forms) for a return, the form must be used.

- (2) The return must set out, in relation to each person who was an employee of the person during the quarter—
 - (a) the total ordinary wages paid by the employer to the employee during the quarter for cleaning work carried out by the employee; and
 - (b) if the employee's employment as an employee of the person began or ended during the quarter—the date of the beginning or end (or both) of the employment during the quarter.

39A Levy payments

- (1) If a person gives a return to the authority under section 39, the person must, at the same time, pay to the authority the amount of levy payable by the person for the quarter.

Maximum penalty: 20 penalty units.

- (2) The amount of levy payable by the person is the amount worked out in accordance with the determination under section 39B applying to the quarter.

39B Determination of levy

- (1) The governing board must, from time to time, recommend in writing to the Minister the levy that should be payable by employers for a quarter.
- (2) The Minister may, in writing, determine the levy payable by employers for a quarter.

Note The *Legislation Act 2001*, 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.

- (3) Before making a determination in relation to a quarter, the Minister must have regard to the recommendation made under subsection (1) in relation to the quarter, but need not follow it.
- (4) A determination under subsection (2) is a disallowable instrument.

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

40 Failure to give quarterly returns or make quarterly payments

- (1) If a person who is required to give the authority a return under section 39 (Quarterly returns) fails to give the return to the authority in accordance with that section, the person is liable to pay to the authority \$25 for each month or part of a month in the period from the day after the last day when the return should have been given in accordance with that section to the day when it is given.
- (2) If a person who is required to pay an amount to the authority under section 39A (Levy payments) fails to pay the amount to the authority in accordance with that section, the person is liable to pay to the authority, in addition to the amount, \$25 for each month or part of a month in the period from the day after the last day when the amount should have been paid in accordance with that section to the day when it is paid.

- (3) The registrar may, on the application of the person liable to pay an amount under subsection (1) or (2) or on the registrar's own initiative, remit all or part of the amount if satisfied that—
 - (a) the circumstances that gave rise to the contravention were not caused 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 39 (1) (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 any amount that is payable under subsection (1) to the date of the order.
- (5) If a court finds a person guilty of an offence against section 39A (1) (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) the amount that was the subject of the prosecution; and
 - (b) any amount that is payable under subsection (2) to the date of the order.
- (6) A certified copy of an order under subsection (4) or (5) may be filed in a court having civil jurisdiction to the extent of the amount stated in the order and, if so filed, has effect in all respects as if it were a judgment of the court.

41 Exemption from payments for working directors

- (1) The authority must, on application, grant the employer of a working director an exemption from payment of an amount payable under section 39B (1) for cleaning work carried out by the working director.

Note If a form is approved under s 64A (Approved forms) 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 cleaning work;
 - (b) the working director notifies the authority in writing that he or she no longer wishes the exemption to apply to him or her.
- (3) The working director is taken not to be an employee under this Act while the exemption is in force.

42 Employers to keep records

- (1) An employer must, for each employee employed by him or her, make a record showing particulars of—
 - (a) the name of the employee and his or her date of birth; and
 - (b) the nature of the cleaning work carried out by the employee; and
 - (c) the ordinary pay of the employee; and
 - (d) the number of days worked in each quarter by the employee; and
 - (e) the date when the employee began employment with the employer; and
 - (f) long service leave granted, or payment instead of leave made, to the employee; and

(g) if the employee ceases to be employed by the employer—the date on which he or she ceased employment.

Maximum penalty: 20 penalty units.

(2) The employer must keep the record for 6 years after the date the employee ceases employment in the contract cleaning industry with the employer.

Maximum penalty: 20 penalty units.

Part 6 Entries in section 36 register

43 Particulars to be entered in section 36 register

The registrar must enter the following particulars in the section 36 register for a registered employee:

- (a) the number of days employment, with each employer of the employee, with which the employee is credited under this Act;
- (b) the total ordinary wages of the employee for cleaning work carried out by the employee;
- (c) the employee's entitlement to long service leave;
- (d) details of the long service leave granted to, or taken by, the employee, or payment instead of long service leave made to the employee (whether under this Act or the *Long Service Leave Act 1976*);
- (e) if the employee has ceased employment in the contract cleaning industry—the date when the employment ceased;
- (f) any other particulars that the governing board directs.

44 Decisions about ordinary wages by governing board

- (1) This section applies if the governing board is of the opinion that the total ordinary wages stated in a return given to the authority under section 39 (Quarterly returns) for a quarter for an employee is insufficient or excessive because of the nature of the cleaning work carried out by the employee in the quarter.
- (2) The governing board must give to the employer and the employee a written notice that summarises their rights under subsection (3).
- (3) The employer or employee may, within 1 month of being given the notice—

- (a) by written statement to the governing board, ask the board to take into account any matters set out in the statement; and
 - (b) ask the board to arrange for the employer or employee to appear before the board, either in person or by a representative, and make representations about the matter.
- (4) If asked under subsection (3) (b), the governing board must arrange for the employer or employee 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 wages stated in the return for the quarter is reasonable; or
 - (b) fix another amount as the total ordinary wages of the employee for the quarter.
- (6) If the governing board fixes an amount under subsection (5) (b), the amount is taken, for this Act, to be the total ordinary wages paid by the employer to the employee during the quarter for cleaning work carried out by the employee.
- (7) If the amount fixed under subsection (5) (b) is more than the amount shown as the total ordinary wages of the employee in the return, the employer must pay to the authority the difference between the amount paid under section 39A (Levy payments) for the quarter and the amount that would have been payable if the amount fixed by the governing board had been shown in the return as the total ordinary wages of the employee for the quarter.
- (8) If the amount fixed under subsection (5) (b) is less than the amount shown as total ordinary wages of the employee in the return, the authority must pay to the employer the difference between the amount paid under section 39A for the quarter and the amount that would have been payable if the amount fixed by the governing

board had been shown in the return as the total ordinary wages of the employee for the quarter.

45 Employment credits

- (1) A registered employee is to be credited in the section 36 register with 1 day's employment for each day (including a day when the employee does not carry out cleaning duties) in each employment period of the employee.

Example

A day when an employee attends a court in accordance with a summons to serve as a juror or a subpoena to give evidence or produce documents is a day in the employee's employment period when the employee does not carry out cleaning duties.

- (2) A registered employee must not be credited with more than 365 days in a financial year.

46 Removing names from section 36 register

- (1) The authority must remove from the section 36 register the name of, and particulars relating to, a registered employee if the employee has not been credited with any day's employment for 4 consecutive years.
- (2) If an employee's name and particulars are removed under subsection (1)—
 - (a) the employee ceases to be a registered employee on the date they are removed; and
 - (b) the employee is not entitled to apply for, or be paid an amount for or instead of, long service leave for any employment days entered in the register before the day the employee's registration ceased.
- (3) However, an employee to whom subsection (2) (b) applies is entitled to be paid an amount instead of long service leave for the employment days entered in the register before the employee's

Part 6 Entries in section 36 register

Section 46

registration ceased if the employee would have been entitled to the payment under section 54 (Entitlement to payment instead of leave) if the registration had not ceased.

- (4) This section does not affect any right that a person whose name has been removed from the section 36 register may have to again become a registered employee.

Part 7 Annual certificates

47 Annual certificates for employees

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

- (a) the number of days employment, from the date of registration to the end of the previous financial year, that the employee has been credited with in the section 36 register; and
- (b) the number of days employment that the employee has been credited with for the previous financial year; and
- (c) the total ordinary wages paid to the employee during the previous financial year for cleaning work carried out by the employee.

48 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 section 36 register; and
- (b) for each registered employee of the employer—the number of days employment, from the date of registration of the employee to the end of the previous financial year, that the employee has been credited with in the section 36 register; and
- (c) for each registered employee of the employer—the number of days employment that the employee has been credited with for the previous financial year for cleaning work carried out by the employee; and

- (d) the total of all amounts paid by the employer under section 39A (Levy payments) for the previous financial year.

49 Objection to matter stated in annual certificate

- (1) An employee or employer who is given a certificate under section 47 or 48 may, within 6 months after being given the certificate, make an objection in writing to the governing board about the accuracy of a matter stated in the certificate.
- (2) If an objection is made to the governing board, the governing board must decide the objection and must, if it allows the objection—
 - (a) make any necessary correction in the section 36 register; and
 - (b) give an amended certificate to the person who made the objection.

Part 8 Long service leave and payments

50 Years of recognised service

A registered employee is taken to have completed a year of recognised service for each 365 days of recognised service.

51 Long service leave formula

- (1) The following formula is the long service leave formula:

$$W = \frac{13}{15} \times \frac{RS}{365}$$

- (2) In this section:

RS means the applicant's number of days recognised service.

W means the number of weeks long service leave.

52 Amount of leave

- (1) A registered employee who has 10 years or more recognised service is entitled to the number of weeks long service leave calculated in accordance with the long service leave formula.
- (2) A registered employee who—
- (a) has become entitled to long service leave under this Act; and
 - (b) is credited with additional employment days in the section 36 register after becoming entitled to long service leave;

is entitled to long service leave for the additional employment days calculated in accordance with the long service leave formula.

53 Grant of leave

- (1) An employer must grant a registered employee's long service leave within 6 months after the leave has accrued unless—
 - (a) the governing board allows an additional period (on application made by the employer or the employee); or
 - (b) the employer and employee agree on an additional period.

Maximum penalty: 50 penalty units.

- (2) Long service leave must not be granted in a period of less than 2 weeks.
- (3) The employer must give to the employee a written notice, in accordance with subsection (4), stating the date when the long service leave starts and the date when it ends.

Maximum penalty: 50 penalty units.

- (4) Unless the employee otherwise agrees, the notice must be given to the employee at least 2 months before the date in the notice when the long service leave starts.

54 Entitlement to payment instead of leave

- (1) A person to whom this section applies is entitled to payment instead of long service leave for the number of weeks long service leave calculated in accordance with the long service leave formula.
- (2) This section applies to—
 - (a) a registered employee if—
 - (i) the governing board is satisfied that the employee has permanently ceased cleaning work because of total incapacity; and
 - (ii) the employee is credited with a period of recognised service longer than 54 days but shorter than 10 years; and

- (b) the personal representative of a registered employee who—
 - (i) has died; and
 - (ii) at the date of death was credited with a period of recognised service longer than 54 days but shorter than 10 years.
- (3) This section applies to a registered employee if—
 - (a) the employee is a working director, or has been a working director while a registered employee; and
 - (b) the employee's period of recognised service is longer than 5 years but shorter than 10 years.
- (4) This section applies to a registered employee if—
 - (a) the employee is not a working director, and has not been a working director while registered as an employee; and
 - (b) the employee's period of recognised service is longer than 5 years but shorter than 10 years; and
 - (c) the employee has ceased work in the contract cleaning industry for a reason other than total incapacity, death, or retirement with the intention of leaving the industry permanently; and
 - (d) either—
 - (i) at least 20 weeks have passed since the last employment day credited to the employee; or
 - (ii) the governing board is satisfied that the employee intends to live in a foreign country.

55 Payment for leave

- (1) A registered employee who has been granted long service leave under section 53 may apply to the authority for payment for that leave.

- (2) An application must—
 - (a) be in writing signed by the applicant; and
 - (b) be given to the authority; and
 - (c) state the period of long service leave for which the payment is sought; and
 - (d) be accompanied by the notice mentioned in section 53 (3).
- (3) If, on receipt of an application, the governing board is satisfied that the applicant is entitled to long service leave, the authority must pay to the applicant out of the money of the authority an amount calculated in accordance with section 57.
- (4) The authority must pay an applicant any amount payable under subsection (3) at least 7 days before the applicant becomes entitled to that 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 makes such a request in the application.

56 Payment instead of leave

- (1) If a registered employee is entitled to payment instead of long service leave under this Act, the employee may apply to the authority for payment accordingly.
- (2) An application under subsection (1) must—
 - (a) be in writing signed by the applicant; and
 - (b) be given to the authority; and
 - (c) for an application by a registered employee on the ground that the employee has ceased work in the contract cleaning industry because of total incapacity—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) (c) 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 refuses or fails, without reasonable excuse, to comply with a requirement of the governing board under subsection (3), the board may refuse the application.
- (6) If an application is made under subsection (1) and the governing board is satisfied the applicant is entitled to payment instead of leave under this Act, the authority must pay to the applicant out of the money of the authority an amount calculated in accordance with section 57.

57 Calculation of leave payments

- (1) This section deals with the total and weekly amounts payable by the authority to a registered employee under section 55 (Payment for leave) or section 56 (Payment instead of leave) in relation to a long service period of the employee.
- (2) The **total amount** is the amount worked out in accordance with the following formula:

$$\sum \text{relevant years} \left(\frac{\text{actual pay}}{\text{relevant annual award pay}} \right) \times \left(\frac{\text{current annual award pay}}{60} \right)$$

- (3) The **weekly amount** is the amount worked out in accordance with the following formula:

$$\frac{\text{total amount}}{\left(\frac{13}{15} \times \text{number of relevant years} \right)}$$

(4) In this section:

actual pay, of the registered employee, means the total ordinary pay of the employee in the long service period, as recorded by the authority.

annual award pay means—

- (a) 52 times the weekly day shift worker rate for a full-time employee who is a cleaner under the Cleaning (Building and Property Services) (ACT) Award 1998; or
- (b) if the regulations prescribe a different rate—that rate.

current annual award pay, for a long service leave period, means the relevant annual award pay for the last of the relevant years in the long service leave period.

long service period, of the registered employee, means the period in relation to which the employee is entitled to payment under section 55 (Payment for leave) or section 56 (Payment instead of leave).

relevant annual award pay, for a relevant year, means the annual award pay recorded by the authority as applying to the registered employee, on 1 July in the year, under the award or agreement that, on that date, applied to the employee.

relevant year, for a registered employee, means a financial year that falls (completely or partly) in the long service period.

Examples

For examples of the application of the formulas in this section, see schedule 1.

58 Records of payments and employment

If the authority pays an amount to a registered employee in accordance with section 55 (Payment for leave) or section 56 (Payment instead of leave), the authority may delete from the section 36 register the particulars relating to the employment period for which the employee has been paid, but must keep another record of—

- (a) the period of employment; and
- (b) the amount paid to the employee 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 employee.

59 Public holidays not to count as leave

- (1) This section applies if a public holiday or an award 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 such holiday.
- (3) In this section:

award holiday means a day that is a holiday for people employed in the contract cleaning industry because of an award or agreement.

Part 9 Miscellaneous

60 Review of decisions of governing board and registrar

- (1) Application may be made to the administrative appeals tribunal for review of a decision by the governing board—
 - (a) directing the registrar under section 33 (4) to refuse to register a person as an employer; or
 - (b) directing the registrar under section 37A (5) (b) to refuse to register a person as an employee; or
 - (c) confirming, under section 38A (3) (a), a decision of the registrar to refuse to register a person as an employee; or
 - (d) that it is not satisfied that a person to whom a notice under section 41 (1) relates is a working director; or
 - (e) fixing, under section 44 (5), another amount as the total ordinary wages of an employee for a quarter; or
 - (f) to allow, or not allow, an objection to matter stated in an annual certificate under section 49 (2); or
 - (g) allowing, or not allowing, an additional period mentioned in section 53 (1) (a); or
 - (h) that it is not satisfied that an applicant is entitled to payment mentioned in section 54 (1); or
 - (i) that it is not satisfied under section 55 (3) that an applicant is entitled to long service leave; or
 - (j) that it is not satisfied under section 56 (6) that an applicant is entitled to payment instead of leave under this Act; or
 - (k) that it is not satisfied under section 64 (5) that an amount paid by an employer was properly paid.

- (2) Application may be made to the administrative appeals tribunal for review of a decision by the registrar—
 - (a) refusing, under section 32 (3), to register a person as an employer; or
 - (b) refusing, under section 39 (1), to allow a longer period for giving a return to the authority; or
 - (c) refusing, under section 40 (3), to remit all or part of an amount on application by a person.

61 Notification of decisions

- (1) If the governing board or registrar makes a decision mentioned in section 60, the registrar must give written notice of the decision to the person whose interests are affected by the decision.
- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

62 Evidentiary certificates

- (1) In a proceeding for a contravention of section 39 (Quarterly returns), a certificate signed by or on behalf of the registrar to the effect of any of the following paragraphs is evidence of the matters stated in the certificate:
 - (a) that the registrar had allowed a stated person an additional stated period to give to the authority a return under that section for a stated quarter;
 - (b) that the registrar had not allowed a stated person an additional period to give to the authority a return under that section for a stated quarter;
 - (c) that a stated person had not given to the authority a return under that section for a stated quarter on or before a stated date;

- (d) that a stated person had given to the authority a return under that section for a stated quarter on a stated date.
- (2) In a proceeding (including a proceeding for a contravention of section 39A), a certificate signed by or on behalf of the registrar to the effect of any of the following paragraphs is evidence of the matters stated in the certificate:
 - (a) that a stated amount of levy under section 39A was payable by a stated person for a stated quarter;
 - (b) that, on or before a stated date, a stated person had not paid to the authority, under that section, a stated amount of levy that was payable by the person for a stated quarter;
 - (c) that, on a stated date, a stated person paid to the authority a stated amount of levy under that section that was payable by the person for a stated quarter.
- (3) Unless the contrary is proved, a document that purports to be a certificate mentioned in subsection (1) or (2) is taken to be such a certificate.
- (4) In this section:

stated means stated in the certificate.

63 Inspection of register

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

64 Benefits under other laws

- (1) A registered employee who is eligible for long service benefits under this Act and the *Long Service Leave Act 1976* or a law prescribed under the regulations for employment in the contract cleaning industry must elect whether to take the benefits provided

under this Act or the *Long Service Leave Act 1976* or the prescribed law.

- (2) The registered employee must notify the authority in writing of the nature of his or her election and the employment period for which the election is made.
- (3) If a registered employee elects to take long service benefits under the *Long Service Leave Act 1976* or a prescribed law, the authority must remove from the section 36 register the employee's credits for that employment period.
- (4) If an employer makes a payment in accordance with the *Long Service Leave Act 1976*, section 8 or in accordance with a prescribed law for, or instead of, long service leave to, or in relation to, a registered employee who has elected to take long service benefits under that Act or the prescribed law for a employment period in the contract cleaning industry, the employer may apply to the authority for reimbursement of the amount paid.
- (5) If an application is made to the authority by an employer under subsection (4) and the governing board is satisfied the amount paid by the employer was properly paid in accordance with the *Long Service Leave Act 1976*, section 8 or in accordance with the prescribed law, the authority must pay to the employer out of the money of the authority the amount applied for less any amount outstanding that is payable by the employer to the authority.
- (6) This section expires on 31 December 2006.

64A Approved forms

- (1) The registrar may, in writing, 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.
- (3) An approved form is a notifiable instrument.

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

65 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*.

Schedule 1 Examples of calculation of leave payments

(see s 57)

Example 1

Full-time employee receiving above award

Year	Actual pay	Relevant annual award pay	Actual pay ÷ relevant annual award pay
Year 1	20800	19000	1.094736842
Year 2	21800	19000	1.147368421
Year 3	22000	19000	1.157894737
Year 4	22800	20000	1.14
Year 5	23000	21000	1.095238095
Year 6	23100	21000	1.1
Year 7	24100	21000	1.147619048
Year 8	24150	22000	1.097727273
Year 9	25000	22000	1.136363636
Year 10	25200	23000	1.095652174
Total	231950	207000	11.21260023

The total amount formula is—

$$\sum_{\text{relevant years}} \left(\frac{\text{actual pay}}{\text{relevant annual award pay}} \right) \times \left(\frac{\text{current annual award pay}}{60} \right)$$

Applying the formula to this example gives:

$$11.2126 \times \left(\frac{23000}{60} \right) = 4298.16342$$

Which is \$4298.16.

The weekly amount formula is:

$$\sum \text{relevant years} \left(\frac{\text{actual pay}}{\text{relevant annual award pay}} \right) \times \left(\frac{\text{current annual award pay}}{60} \right) \div \left(\frac{13}{15} \times 10 \right)$$

As a weekly payment the amount would be:

$$4298.16 \div \left(\frac{13}{15} \times 10 \right) = \$495.94.$$

Example 2

Part-time employee—5 days a week at various hours

Year	Actual pay	Relevant annual award pay	Actual pay÷ relevant annual award pay
Year 1	10400	19000	0.547368421
Year 2	11400	19000	0.6
Year 3	11400	19000	0.6
Year 4	15000	20000	0.75
Year 5	14000	21000	0.666666667
Year 6	11000	21000	0.523809524
Year 7	19000	21000	0.904761905
Year 8	5000	22000	0.227272727
Year 9	14000	22000	0.636363636
Year 10	8000	23000	0.347826087
Total	119200	207000	5.804068967

The formula:

$$\sum_{\text{relevant years}} \left(\frac{\text{actual pay}}{\text{relevant annual award pay}} \right) \times \left(\frac{\text{current annual award pay}}{60} \right)$$

Applying the formula to this example gives:

$$5.804069 \times \left(\frac{23000}{60} \right) = 2224.893104$$

Which is \$2224.89.

Schedule 1 Examples of calculation of leave payments

The weekly amount formula is:

$$\sum_{\text{relevant years}} \left(\frac{\text{actual pay}}{\text{relevant annual award pay}} \right) \times \left(\frac{\text{current annual award pay}}{60} \right) \div \left(\frac{13}{15} \times 10 \right)$$

As a weekly payment, the amount would be:

$$2224.89 \div \left(\frac{13}{15} \times 10 \right) = \$256.72.$$

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
- under.

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

authority means the Cleaning Industry Long Service Leave Authority.

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

chair means the chair of the governing board.

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

cleaning work—see section 3 (1).

contract cleaning work—see section 3 (2).

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

employee—see section 3B.

employer—see section 3A.

employment period—see section 3D.

governing board means the governing board of the authority.

long service leave formula means the formula in section 51.

ordinary wages, for a person who is or has been an employee, means the amount of wages paid or payable to the person for contract cleaning work under the award or agreement applying to the person for that work, and includes the following kinds of payments (if payable to the person under the award or agreement):

- (a) over-award payments;
- (b) any weekend and public holiday penalty rates earned by shift workers on normal rostered shifts forming the ordinary hours of duty, other than when worked as overtime;
- (c) allowances relating to the person's work (other than allowances for expenses incurred by, or for the use of equipment or a motor vehicle provided by, the person).

recognised service, for a registered employee, means the total number of days for all employment periods entered in the section 36 register for the employee.

registered employee means a person registered under section 38 (Registration as an employee).

registered employer means a person registered under section 34 (Registration as an employer).

registrar means the chief executive officer of the authority.

section 29 register—see section 29.

section 36 register—see section 36.

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

- (a) the company has no other employees; or
- (b) all of the employees of the company are also directors.

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 (Contract Cleaning Industry) Act 1999* was originally the *Long Service Leave (Cleaning, Building and Property Services) Act 1999*. It was renamed by the *Long Service Leave (Cleaning, Building and Property Services) Amendment Act 2001* (see s 4).

Long Service Leave (Contract Cleaning Industry) Act 1999 No 85

notified 23 December 1999 (Gaz 1999 No S65)
pt 1, pt 2 commenced 23 December 1999 (s 2 (1))
remainder (ss 29-70) commenced 23 June 2000 (s 2 (3))

as amended by

Legislation (Consequential Amendments) Act 2001 No 44 pt 231

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 231 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Long Service Leave (Cleaning, Building and Property Services) Amendment Act 2001 No 92

notified LR 28 September 2001
s 1, s 2 commenced 28 September 2001 (LA s 75)
remainder taken to have commenced 23 June 2000 (s 2)

Long Service Leave Legislation Amendment Act 2003 A2003-45 pt 4

notified LR 2 October 2003
s 1, s 2 commenced 2 October 2003 (LA s 75 (1))
pt 4 commenced 3 October 2003 (s 2)

Statute Law Amendment Act 2003 (No 2) A2003-56 sch 3 pt 3.13

notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
sch 3 pt 3.13 commenced 19 December 2003 (s 2)

Financial Management Legislation Amendment Act 2005 A2005-52 sch 1 pt 1.14

notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.14 commenced 1 January 2006 (s 2 (2))

4 Amendment history

Title

title am 2001 No 92 s 4

Name of Act

s 1 sub 2001 No 92 s 5

Dictionary

s 2 om R1 (LRA)
ins 2001 No 92 s 5

Notes

s 2A ins A2003-56 amdt 3.155

What are *cleaning work* and the *contract cleaning industry*

s 3 sub 2001 No 92 s 5

Who is an *employer*

s 3A ins 2001 No 92 s 5

Who is an *employee*

s 3B ins 2001 No 92 s 5

Declarations by Minister about coverage of Act

s 3C ins 2001 No 92 s 5

What is an *employment period*

s 3D ins 2001 No 92 s 5
am A2005-52 amdt 1.191

Work outside the ACT

s 4 am 2001 No 92 s 6, amdt 1.1; A2005-52 amdt 1.191

Administration

pt 2 hdg sub A2005-52 amdt 1.180

The authority, governing board and staff

div 2.1 hdg (prev pt 2 div 1 hdg) renum R2 LA (see also 2001 No 92
amdt 1.8)
sub A2005-52 amdt 1.180

Establishment of authority

s 5 sub A2005-52 amdt 1.180

Authority not territory instrumentality etc

s 6 am 2001 No 92 amdt 1.2
sub A2005-52 amdt 1.180

Functions of authority

s 7 sub 2001 No 92 s 7; A2005-52 amdt 1.180

Endnotes

4 Amendment history

Delegation by authority

s 8 am 2001 No 92 amdt 1.3
sub A2005-52 amdt 1.180

Establishment of governing board

s 9 sub A2003-56 amdt 3.156; A2005-52 amdt 1.180

Governing board members

s 10 sub 2001 No 92 amdt 1.4; A2005-52 amdt 1.180

No deputy chair

s 11 sub 2001 No 92 amdt 1.4; A2003-56 amdt 3.157; A2005-52
amdt 1.180

Deputy registrar

s 12 om 2001 No 92 amdt 1.4
ins A2005-52 amdt 1.180

Functions of governing board

s 13 hdg sub A2003-56 amdt 3.158
s 13 am A2003-56 amdt 3.159
sub A2005-52 amdt 1.180

Arrangements for staff

s 14 sub A2005-52 amdt 1.180

Inspectors and their powers

div 2.2 hdg (prev pt 2 div 2 hdg) renum R2 LA (see also 2001 No 92
amdt 1.8)
sub A2005-52 amdt 1.180

Inspectors

s 15 sub A2005-52 amdt 1.180

Identity cards

s 16 sub 2001 No 92 amdt 1.5; A2005-52 amdt 1.180

Powers in relation to premises

s 17 sub 2001 No 92 amdt 1.5; A2005-52 amdt 1.180

Production of identity card by inspectors

s 18 sub A2005-52 amdt 1.180

Consent to entry by inspectors

s 19 sub A2003-56 amdt 3.160
(3)-(5) exp 19 December 2004 (s 19 (5))
sub A2005-52 amdt 1.180

General powers of inspectors for premises

s 20 sub A2003-56 amdt 3.160
(3)-(5) exp 19 December 2004 (s 20 (5))
sub A2005-52 amdt 1.180

Contravention of requirement by inspector

s 21 sub A2005-52 amdt 1.180

Duty to give information or documentss 22 am 2001 No 92 s 8, amdt 1.6
sub A2005-52 amdt 1.180**Finances**div 2.3 hdg (prev pt 2 div 3 hdg) renum R2 LA (see also 2001 No 92
amdt 1.8)
sub A2005-52 amdt 1.180**Money of authority**

s 23 sub A2005-52 amdt 1.180

Application of authority moneys 24 am 2001 No 92 amdt 1.7
sub A2005-52 amdt 1.180**Three-yearly investigation by actuary**

s 25 sub A2005-52 amdt 1.180

Borrowing by board

s 26 om A2005-52 amdt 1.180

Contracts

s 27 om A2005-52 amdt 1.180

Triennial investigation by actuary

s 28 om A2005-52 amdt 1.180

Registration of employers

pt 3 hdg sub 2001 No 92 s 9

Section 29 registers 29 sub 2001 No 92 s 9
am A2005-52 amdt 1.191**Application for registration by employers**

s 30 sub 2001 No 92 s 9

Order to apply for registrations 31 sub 2001 No 92 s 9
am A2005-52 amdt 1.191**How applications under s 30 (1) are dealt with**

s 32 sub 2001 No 92 s 9

How applications under s 30 (3) are dealt withs 33 sub 2001 No 92 s 9
am A2005-52 amdt 1.191, amdt 1.192

Endnotes

4 Amendment history

Registration as an employer

s 34 sub 2001 No 92 s 9
am A2005-52 amdt 1.192

Certificate of registration

s 35 sub 2001 No 92 s 9

Registration of employees

pt 4 hdg sub 2001 No 92 s 9

Section 36 register

s 36 sub 2001 No 92 s 9
am A2005-52 amdt 1.191

Application for registration by employees

s 37 sub 2001 No 92 s 9

How applications under s 37 are dealt with

s 37A ins 2001 No 92 s 9
am A2005-52 amdt 1.192

Registration as an employee

s 38 sub 2001 No 92 s 9
am A2005-52 amdt 1.192

Appeals against refusal of registrar to register

s 38A ins 2001 No 92 s 9
am A2005-52 amdt 1.192

Quarterly returns

s 39 sub 2001 No 92 s 10
am A2005-52 amdt 1.191

Levy payments

s 39A ins 2001 No 92 s 10
am A2005-52 amdt 1.191

Determination of levy

s 39B ins 2001 No 92 s 10
am A2005-52 amdt 1.192

Failure to give quarterly returns or make quarterly payments

s 40 sub 2001 No 92 s 10
am A2005-52 amdt 1.191

Exemption from payments for working directors

s 41 am 2001 No 44 amdts 1.2704-1.2706; 2001 No 92 amdt 1.9;
A2005-52 amdt 1.191

Employers to keep records

s 42 am 2001 No 92 amdts 1.10-1.13

Entries in section 36 register

pt 6 hdg sub 2001 No 92 s 11

Particulars to be entered in section 36 register

s 43 sub 2001 No 92 s 11
am A2005-52 amdt 1.192

Decisions about ordinary wages by governing board

s 44 hdg sub A2005-52 amdt 1.181
s 44 sub 2001 No 92 s 11
am A2005-52 amdt 1.191, amdt 1.192

Employment credits

s 45 sub 2001 No 92 s 11

Removing names from section 36 register

s 46 sub 2001 No 92 s 11
am A2005-52 amdt 1.191

Annual certificates for employees

s 47 am 2001 No 92 s 12

Annual certificates for employers

s 48 am 2001 No 92 s 13

Objection to matter stated in annual certificate

s 49 am 2001 No 92 amdt 1.14-1.16; A2005-52 amdt 1.192

Years of recognised service

s 50 sub 2001 No 92 s 14

Long service leave formula

s 51 am 2001 No 92 s 15

Amount of leave

s 52 am 2001 No 92 amdt 1.17

Grant of leave

s 53 am 2001 No 92 amdt 1.18, amdt 1.19; A2005-52 amdt 1.192

Entitlement to payment instead of leave

s 54 sub 2001 No 92 s 16
am A2005-52 amdt 1.192

Payment for leave

s 55 am A2005-52 amdt 1.191, amdt 1.192

Payment instead of leave

s 56 am 2001 No 92 amdts 1.20-1.22; A2005-52 amdt 1.191,
amdt 1.192

Calculation of leave payments

s 57 sub 2001 No 92 s 17
am A2005-52 amdt 1.191

Endnotes

4 Amendment history

Records of payments and employment

s 58 sub 2001 No 92 amdt 1.23
am A2005-52 amdt 1.191

Public holidays not to count as leave

s 59 am 2001 No 92 amdt 1.24, amdt 1.25
sub A2003-45 s 9

Review of decisions of governing board and registrar

s 60 hdg am A2005-52 amdt 1.192
s 60 am 2001 No 92 ss 18-20; A2005-52 amdt 1.182, amdt 1.191,
amdt 1.192

Notification of decisions

s 61 sub A2005-52 amdt 1.183

Evidentiary certificates

s 62 sub 2001 No 92 s 21
am A2005-52 amdt 1.191

Benefits under other laws

s 64 hdg sub 2001 No 92 amdt 1.29
s 64 am 2001 No 92 ss 22-24, amdt 1.26-1.28, amdt 1.30;
A2005-52 amdt 1.191, amdt 1.192
exp 31 December 2006 (s 64 (6))

Approved forms

s 64A ins 2001 No 44 amdt 1.2707

Regulation-making power

s 65 am 2001 No 44 amdt 1.2708

Transitional

pt 10 hdg om R5 LA

Application for registration by employer

s 66 exp 23 June 2002 (s 66 (2))

Periodic notices and payments by employers

s 67 exp 23 June 2002 (s 67 (2))

Employment credits for first year

s 68 hdg sub 2001 No 92 amdt 1.31
s 68 am 2001 No 92 s 25, s 26, amdt 1.32, amdt 1.33
exp 23 June 2002 (s 68 (3))

Consequential amendments

pt 11 hdg om R1 LRA

Transitional—Long Service Leave (Cleaning, Building and Property Services) Amendment Act 2001

s 69 om R1 LRA
ins 2001 No 92 s 27
exp 23 June 2000 (s 69 (6))

Amendment of the Workers' Compensation Act

s 70 om R1 LRA

Examples of calculation of leave payments

sch 1 ins 2001 No 92 sch 2

Dictionary

dict ins A2001-92 s 28
am A2005-52 amdt 1.184
def **agreement** ins A2001-92 s 28
def **authority** ins A2005-52 amdt 1.185
def **award** ins A2001-92 s 28
def **board** ins A2001-92 s 28
om A2005-52 amdt 1.186
def **chair** ins A2005-52 amdt 1.186
def **chairperson** ins A2001-92 s 28
om A2005-52 amdt 1.186
def **cleaning work** ins A2001-92 s 28
def **contract cleaning work** ins A2001-92 s 28
def **deputy registrar** ins A2001-92 s 28
om A2005-52 amdt 1.187
def **determination** ins A2001-92 s 28
def **employee** ins A2001-92 s 28
def **employer** ins A2001-92 s 28
def **employment period** ins A2001-92 s 28
def **governing board** ins A2005-52 amdt 1.188
def **long service leave formula** ins A2001-92 s 28
def **member** ins A2001-92 s 28
om A2005-52 amdt 1.189
def **ordinary wages** ins A2001-92 s 28
def **quarter** ins A2001-92 s 28
om A2005-52 amdt 1.189
def **recognised service** ins A2001-92 s 28
def **registered employee** ins A2001-92 s 28
def **registered employer** ins A2001-92 s 28
def **registrar** ins A2001-92 s 28
sub A2005-52 amdt 1.190
def **section 29 register** ins A2001-92 s 28
def **section 36 register** ins A2001-92 s 28
def **working director** ins A2001-92 s 28

Endnotes

5 Earlier republications

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	not amended	24 July 2000
2	Act 2001 No 92	9 November 2001
3	Act 2001 No 92	9 November 2001
4	Act 2001 No 92	9 November 2001
5	A2001-92	24 October 2002
6	A2003-45	3 October 2003
7	A2003-56	19 December 2003
8	A2003-56	20 December 2004

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