



Australian Capital Territory

Long Service Leave (Contract Cleaning Industry) Act 1999

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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 26 August 2008. It also includes any amendment, repeal or expiry affecting the republished law to 26 August 2008.

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

Kinds of republications

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- 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 workers in the contract cleaning industry

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

For example, the signpost definition '*workers register*—see section 40.' means that the term 'workers register' is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) 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 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 *contract cleaning industry*

For this Act, the *contract cleaning industry* is—

- (a) in relation to the ACT—the industry in which employers provide cleaning work to other people through the provision of workers' services; and
- (b) in relation to a reciprocating State—the contract cleaning 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 *cleaning work*

(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

Note See s 53 (3) for when cleaning work is taken not to be cleaning work.

- (b) work declared by the Minister under section 9 (1) (d) (Declarations by Minister about coverage of Act) to be cleaning work.
- (2) Work carried out by a person outside the ACT is taken to be **cleaning work** if the work would, if carried out in the ACT, be cleaning work and—
 - (a) if the person is a registered employee—the worker’s employer gives the authority a return under section 49 (Quarterly returns by employers) for the work and pays to the authority the amount payable under section 51 (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 55 (Quarterly returns by contractors) for the work and pays to the authority the amount payable under section 57 (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 engaged in the contract cleaning industry in the ACT who—
 - (a) employs 1 or more employees (whether in the ACT or elsewhere) to carry out cleaning work; or
 - (b) is declared to be an employer under section 9 (1) (a) (Declarations by Minister about coverage of Act).
- (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—
 - (a) an individual (other than an employee) who carries out cleaning work for reward on the individual's own account; or
 - (b) an individual who is declared to be a contractor under section 9 (1) (b).
- (2) For this Act, an *employee* is an individual who is—
 - (a) employed by an employer to carry out cleaning work (whether in the ACT or elsewhere) and includes the following:
 - (i) a part-time employee;
 - (ii) a casual employee;
 - (iii) an employee remunerated at piecework rates; or
 - (b) an individual who is declared to be an employee under section 9 (1) (c).
- (3) For this Act, a *worker* is—
 - (a) a contractor; or
 - (b) an employee.

9 Declarations by Minister about coverage of Act

- (1) The Minister may declare—
 - (a) a stated person to be an employer; or
 - (b) a stated individual to be a contractor; or
 - (c) a stated individual to be an employee, or an employee of a stated employer; or
 - (d) a kind of work to be cleaning work.

- (2) For this Act, a person declared under subsection (1) (a) to be an employer is taken to be engaged in the contract cleaning industry.
- (3) For this Act, an individual declared under subsection (1) (b) to be a contractor is taken to be a contractor carrying out cleaning work.
- (4) For this Act, an individual declared under subsection (1) (c) to be an employee of a stated employer is taken to be employed by the employer to carry out cleaning work.
- (5) A declaration is a disallowable instrument.

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

10 What is a *service period*?

- (1) A *service period* of a registered worker is a period—
 - (a) starting on a day when the person becomes a worker for an employer (and is not already a worker for another employer); and
 - (b) ending on the day when the person next stops being a worker for an employer (and is not already a worker for another employer).
- (2) For subsection (1), the continuity of the service period of a registered worker who stops being a worker for an employer but on the next day becomes a worker for another employer is not interrupted by the change of employer.
- (3) For subsection (1), a person stops being an employee for an employer (the *former employer*) if, for the employee's next service period (the *later period*)—
 - (a) any return under section 49 (Quarterly returns by employers) by the former employer shows no ordinary remuneration for the employee in the later period; or

- (b) if the employee had 2 or more employers for the later period—any returns under section 49 by the former employers show no ordinary remuneration for the employee in the later period by each employer.
- (4) Despite subsection (1), a registered worker's service period is taken to include any day when the worker does not carry out cleaning work because—
 - (a) of incapacity for an injury for which the worker is entitled to compensation under the *Workers Compensation Act 1951* by an employer; or
 - (b) if the worker is an employee—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; or
 - (c) if the worker is a contractor—the contractor's engagement by the employer is ended to ensure that the contractor does not take long service leave while engaged by the employer.
- (5) For this section, a person is taken to become a worker on the person's registration day as a worker.

Note **Registration day**—see s 46 (3).

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.

11 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).

12 Authority not territory instrumentality etc

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

13 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.

14 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.

15 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)).

16 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.

17 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).

18 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.

19 Functions of governing board

The governing board has the following functions:

- (a) making recommendations to the Minister under section 51 (Determination of levy—employers) or section 57 (Determination of levy—contractors);
- (b) recommending to the Minister laws to be declared to be corresponding laws under section 90 (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*.

20 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

21 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).

22 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.

23 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.

24 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.

25 Consent to entry by inspectors

- (1) When seeking the consent of an occupier to enter premises under section 23 (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.

26 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).

27 Contravention of requirement by inspector

A person must take all reasonable steps to comply with a requirement made of the person under section 26 (b) or (c).

Maximum penalty: 50 penalty units.

28 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

29 Money of authority

The money of the authority consists of—

- (a) amounts received by the authority under section 51 (Determination of levy—employers) or section 57 (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.

30 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.

31 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

32 Employers register

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

33 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 93 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).

34 Order to apply for registration

- (1) If a court finds a person guilty of an offence against section 33 (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 33 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 51

(Determination of levy—employers) if the person had complied with this Act since becoming an employer.

- (2) A person commits an offence if—
- (a) a court makes an order against the person under subsection (1) (a); and
 - (b) the person does not 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.

35 How applications under s 33 (1) are dealt with

- (1) This section applies if a person applies to the registrar under section 33 (1) 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.

36 How applications under s 33 (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 33 (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 50 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).

37 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.

38 Certificate of registration for employers

- (1) The registrar must give a person registered as an employer under section 37 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 93 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.

39 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

40 Workers register

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

41 Application for registration as worker

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

Note If a form is approved under s 93 for an application, the form must be used.

42 How applications for registration as worker are dealt with

- (1) This section applies if a person applies under section 41 for registration as a worker.
- (2) The registrar must—
 - (a) if satisfied that the applicant is a contractor—register the applicant as a worker; or
 - (b) if satisfied that the applicant is an employee and that all the applicant's employers since the applicant became an employee are or have been registered employers—register the applicant as a worker; or
 - (c) if satisfied that the applicant is an employee but not satisfied that all the applicant's employers since the applicant became an employee are or have been registered employers—refer the application to the governing board; or
 - (d) in any other case—refuse to register the applicant as a worker.

- (3) If the registrar refers the application to the governing board under subsection (2) (c), the board must—
- (a) if satisfied that all employers of the applicant since the person became an employee are or have been registered employers—direct the registrar to register the applicant as a worker; or
 - (b) in any other case—direct the registrar to refuse to register the applicant as a worker.
- (4) The registrar must give an applicant under section 41 written notice of a decision under subsection (3) not later than 7 days after the day the decision is made.

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

43 Notice of registrar's decisions

- (1) The registrar must give an applicant under section 41 written notice of a decision under the section (other than a decision under section 42 (2) (c)) not later than 7 days after the day the decision is 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 under section 42 (2) (d), the notice must include—
- (a) an explanation for the decision; and
 - (b) a statement of the effect of section 44.

44 Appeals against refusal of registrar to register

- (1) This section applies if the registrar has refused under section 42 (2) (d) (How applications for registration as worker are dealt with) to register a person as a worker.

- (2) The person may apply to the governing board, in writing, for review of the registrar's decision not later than 2 months after the day notice of the decision is received by the person.

Note If a form is approved under s 93 for an application, the form must be used.

- (3) 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.

- (4) The governing board must give the person written notice of the decision not later than 7 days after the day the decision is made.

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

45 Governing board may direct registration of employee

- (1) This section applies if—
- (a) the governing board becomes aware of information (other than because of an application under section 41) indicating that a person is, or was, an employee; and
 - (b) the board is satisfied that the person is, or was, an employee; and
 - (c) the board is satisfied that all employers of the person since the person became an employee are or have been registered employers.

Example—par (a)

a quarterly return under s 49 shows the person as an employee

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).

- (2) The governing board may direct the registrar to register the person as a worker.

46 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 each employer for the person;
 - (c) any recognised prior service for the person;
 - (d) 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 47 (Service credit—employee's prior service);
- (b) section 48 (Service credit—contractor's prior service).

- (3) For this Act:

registration day, in relation to a worker, means—

- (a) for an applicant under section 41 (Application for registration as worker)—the day the application is received by the registrar; or
- (b) for a person for whom a direction is given under section 45 (Governing board may direct registration of employee)—the day the governing board gives the direction.

47 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 day in the 4-year period before the person's registration day the person was

employed in the contract cleaning industry if the person's employer has given the authority, in relation to the person for the day—

- (a) a return under section 49 (Quarterly returns by employers); and
 - (b) payment under section 51 (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 contract cleaning industry.

Example

The governing board is satisfied that Joe, in the 1-year period before his registration day, had separate periods of service as an employee in the contract cleaning industry of 25 and 125 days. The governing board may credit Joe 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 51 includes a payment under section 41 (Application for registration as worker) as in force before the commencement of the amending Act.

return under section 49 includes a notice under section 41 (Application for registration as worker) 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.

48 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 day in the 1-year period before the person’s registration day for which—

- (a) either—
 - (i) the person worked as a contractor in the contract cleaning industry and for which the person has a record of the particulars mentioned in section 59 (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 contract cleaning industry; and
- (b) the person pays to the authority the amount determined under section 57 (Determination of levy—contractors) in relation to the person for the day.

Part 5 Quarterly returns and payments

49 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 93 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 cleaning 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 cleaning work for the employer during the quarter; and

- (b) the total ordinary remuneration paid or payable by the employer to each employee for cleaning work during the quarter; and
- (c) anything else prescribed by regulation.

50 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 49, pay to the authority the amount of the levy payable under section 51 for the quarter.

Maximum penalty: 20 penalty units.

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

51 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.

52 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 49 (Quarterly returns by employers); or
 - (b) pay the authority the amount payable under section 51 (Determination of levy—employers) for the quarter.
- (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 49 (1) (Quarterly returns by employers) or section 50 (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 50 (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.

53 Exemption from levy payments—payments to reciprocal authorities

- (1) This section applies if—
 - (a) an employee carries out cleaning 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 51 (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 cleaning work for this Act.

54 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 51 (Determination of levy—employers) for cleaning work carried out by the working director.

Note If a form is approved under s 93 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 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.

55 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 93 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 contractor's total ordinary remuneration for cleaning work during the quarter; and
- (b) anything else prescribed by regulation.

56 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 55, pay to the authority the amount of the levy payable under section 57 for the quarter.

Maximum penalty: 20 penalty units.

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

57 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.

58 Employers to keep records

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

Maximum penalty: 20 penalty units.

- (2) An employer 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.

- (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 cleaning work carried out by the employee for the employer; and
- (c) the employee's ordinary remuneration paid or payable by the employer for each quarter; and
- (d) the number of days worked by the employee for the employer in the cleaning 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, by the employer; and
- (g) if the employee stops service with the employer—the date of ceasing service.

59 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 contract cleaning industry by the contractor;
- (c) when and for whom the cleaning work was carried out;
- (d) the contractor's ordinary remuneration for 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 workers register

60 Particulars to be entered in workers register

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

- (a) the number of days service with which the worker is credited under this Act;
- (b) if the worker is an employee—the employers to whom the service relates;
- (c) the total ordinary remuneration of the worker for cleaning work carried out by the worker;
- (d) the worker's entitlement to long service leave;
- (e) 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*;
- (f) if the worker has stopped working in the contract cleaning industry—the date when the worker stopped working in the industry;
- (g) any other relevant particulars the governing board reasonably directs.

61 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 49 (Quarterly returns by employers) or section 55 (Quarterly returns by contractors) for a quarter is insufficient or excessive because of the nature of the cleaning 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 49—the employer who submitted the return and the employee;
 - (b) for a return under section 55—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.

62 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 61 (5), give written notice of the decision to—
 - (a) if the decision relates to a return under section 49—the employer who submitted the return and the employee; or

- (b) if the decision relates to a return under section 55—the contractor.
- (2) If the decision is to fix another amount under section 61 (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 63 and section 64 (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 85 (3)).

63 Effect of variation of ordinary remuneration

- (1) This section applies if the governing board fixes an amount under section 61 (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 cleaning work by the worker for the quarter.
- (3) The following provisions apply if the varied amount relates to a return under section 49 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 51 (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 51—refund the amount; or

- (ii) in any other case—credit the amount against future amounts payable under section 51 by the employer.
- (4) The following provisions apply if the varied amount relates to a return under section 55 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 57 (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 57—refund the amount; or
 - (ii) in any other case—credit the amount against future amounts payable under section 57 by the contractor.

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

- (1) A person who must pay an amount under section 63 (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 62 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).

65 Service credit—registered worker’s service

- (1) A registered worker is to be credited in the workers register with 1 day’s service for each day (including a day when the worker does not carry out cleaning work) in each service period of the worker on or after the worker’s registration day.

Example

A day when a worker 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 worker’s period of service when the worker does not carry out cleaning work.

Note 1 See s 47 and s 48 for crediting of service prior to the worker’s registration day.

Note 2 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).

- (2) However, a registered worker must not be credited with more than 365 days in a financial year.

66 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) The governing board must direct the registrar to remove a person’s registration from the workers register if—
- (a) the person is someone for whom a direction (a **section 45 direction**) was given under section 45 (Governing board may direct registration of employee); and
 - (b) the governing board is satisfied that the person was not an employee for the purposes of the section 45 direction.

- (3) If a person's registration is removed under subsection (1) or (2)—
- (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.
- (4) However, a person to whom subsection (3) (b) applies is entitled to be paid an amount instead of long service leave for the days of service entered in the register before the person's registration ended if the person would have been entitled to the payment under section 74 (Entitlement to payment instead of leave) if the registration had not ended.
- (5) 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.
- (6) If a person is re-registered under subsection (5), this Act applies in relation to the person as if the person's registration had not been removed from the register.
- (7) 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

67 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) the worker's total ordinary remuneration during the previous financial year for cleaning work; and
- (d) if the worker is an employee—the name of each employer for the worker's recognised service.

68 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 51 (Determination of levy—employers) for the previous financial year.

69 Objection to matter stated in annual certificate

- (1) A worker or employer who is given a certificate under section 67 or section 68 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 governing 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

70 Years of recognised service

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

71 Long service leave formula

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

$$W = 0.8667 \times \frac{RS}{365}$$

- (2) In this section:

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

W means the number of weeks long service leave.

72 Amount of leave

- (1) A registered worker who has 10 years or more recognised service is entitled to the number of weeks long service leave worked out in accordance with the long service leave formula.
- (2) A registered worker is entitled to long service leave for additional days of service worked out in accordance with the long service leave formula if the worker—
- (a) becomes entitled to long service leave under this Act; and
 - (b) is credited with the additional days in the workers register after becoming entitled to long service leave.

73 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.

74 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 contract cleaning 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 contract cleaning industry because of total incapacity;
 - (b) the worker has reached the prescribed retiring age;
 - (c) the worker has died.
- (3) 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 number of weeks long service leave worked out in accordance with the long service leave formula.
- (4) In this section:

prescribed retiring age means—

 - (a) for 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.

75 Payment for leave

- (1) A registered employee who has been granted long service leave under section 73, 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 93 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 77 (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.

76 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 93 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 contract cleaning 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 77 (How are leave payments worked out?).

77 How are leave payments worked out?

- (1) For section 75 (Payment for leave) and section 76 (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 78; and
 - (b) for any part of the entitlement to long service leave accrued as a contractor—the amount worked out in accordance with section 79.
- (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 77

Patricia has 10 years of service in the contact cleaning industry giving her an entitlement to 8.3 weeks long service leave. She first worked in the industry as a

registered employee and accrued 5 weeks of the entitlement in that capacity. Patricia then worked as a registered contractor and accrued 3.3 weeks of the entitlement in that capacity.

Patricia decides to take 7 weeks long service leave. The payment for the leave is the total of the following amounts:

- the amount calculated under s 78 where 'D' is 1825 (ie it took 1825 days service as a registered employee to accrue the first 5 weeks of her long service leave entitlement);
- the amount calculated under s 79 which is the total of the amounts paid to authority under s 57 for her first 2.41 years work as a registered contractor (ie it took that period of service as a registered contractor to accrue the next 2 weeks of her long service leave entitlement) and the interest under s 79 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).

78 Working out leave payments—registered employees

- (1) For section 77, 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:

$$0.8667 \times \frac{D}{365} \times R$$

- (2) In this section:

D means the number of days service credited to the registered worker in the workers register to which the payment relates.

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 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:

- (a) the most recent 2 quarters of service as a registered worker before the designated day;
- (b) the most recent 4 quarters of service as a registered worker before the designated day;
- (c) the most recent 20 quarters of service as a registered worker before the designated day;
- (d) the most recent 40 quarters of service as a registered worker before the designated day.

Example—R

Henry has worked in the cleaning industry for 7 years. The periods in paragraphs (a), (b) and (c) apply to Henry because he has completed more than 20 quarters (or 5 years), but less than 40 quarters (or 10 years), relevant service.

Henry's average weekly income for the 2 quarters before the designated day is \$283. His weekly averages for the 4 and 20 quarters before the designated day are \$427 and \$375, respectively. Accordingly, **R** is \$427 because it is the highest of the weekly averages.

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).

79 Working out leave payments—registered contractors

- (1) For section 77 (How are leave payments worked out?), the amount payable to a registered worker for long service leave for service accrued as a registered contractor is the total of the following for the service:
 - (a) amounts paid by the worker to the authority under section 57 (Determination of levy—contractors);

- (b) interest at the determined rate worked out from the date of receipt of each amount paid under section 57 until the designated day for the leave.
- (2) The governing board must determine an interim rate of interest from time to time before 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 78.

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.

80 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 93 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.

81 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:

$$0.8667 \times \frac{D}{365} \times R$$

- (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 registered employee in the workers register and to which the payment relates.

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

82 Records of payments and service

- (1) This section applies if the authority—
 - (a) pays an amount to a registered worker under section 75 (Payment for leave) or section 76 (Payment instead of leave); or
 - (b) reimburses a reciprocal authority under section 81 (Payments by reciprocal authority on authority's behalf) for an amount paid to a registered worker.
- (2) The authority must delete from the workers register the details relating to the service period for which the worker has been paid.
- (3) However, the authority must keep another record of—
 - (a) the period of the 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.

83 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 worker.
- (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 contract cleaning industry under an award, or a determination or industrial agreement, under the *Workplace Relations Act 1996* (Cwlth).

Part 9 Miscellaneous

84 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.

85 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).

86 Evidentiary certificates

- (1) In a proceeding for an offence against section 49 (Quarterly returns by employers) or section 55 (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 50 (Levy payments by employers) or section 56 (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.

87 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.

88 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.

89 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.

90 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.

91 Benefits under other laws

- (1) A registered employee must elect the law under which long service leave benefits are to be taken if the employee 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 contract cleaning industry.

- (2) If a registered employee makes an election under subsection (1), the employee 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 employee elects to take long service benefits under a law mentioned in subsection (1) (a), (b) or (c), the authority must remove from the workers register the employee's credits for the service period.
- (4) However, the authority must keep a record of the deleted credits.
- (5) An employer may apply to the authority for reimbursement of an amount paid under the *Long Service Leave Act 1976*, section 8 (Manner of payment for leave) or under a law prescribed by regulation for a registered employee who has elected to take long service benefits under that Act or the prescribed law for a service period in the contract cleaning industry.
- (6) If an application is made to the authority under subsection (5) 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 prescribed law, the authority must pay the employer the amount applied for less any amount outstanding that is payable by the employer to the authority.

92 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 cleaning work in the contract cleaning 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 service 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.

93 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*.

94 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 Decisions reviewable by AAT

(see s 84)

Table 1.1 Governing board—decisions reviewable by AAT

column 1 item	column 2 decision	column 3 affected person
1	section 41 (3) (b)—directing the registrar to refuse to register applicant as worker	applicant
2	section 44 (3) (a)—confirming registrar’s decision to refuse to register applicant as worker	applicant
3	section 45 (2)—directing the registrar to register person as worker	person
4	section 47 (2)— <ul style="list-style-type: none"> • refusing to credit employee with prior service • amount of prior service credited 	employee
5	section 48 (b)— <ul style="list-style-type: none"> • refusing to credit contractor with prior service • amount of prior service credited 	contractor
6	section 53 (2)—refusing to exempt employer from levy	employer
7	section 61 (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
8	section 66 (5) (b)—refusing to direct registrar to re-register person	person

column 1 item	column 2 decision	column 3 affected person
9	section 69 (2)—allowing, or refusing to allow, objection to matter in certificate given to worker under section 67	<ul style="list-style-type: none"> • worker • if the worker is an employee—the worker’s employer
10	section 69 (2)—allowing, or refusing to allow, objection to matter in certificate given to employer under section 48	<ul style="list-style-type: none"> • employer • employee to whom objection relates
11	section 73—refusing to allow additional period	applicant
12	section 74 (3)—not satisfied that section applies to applicant	applicant
13	section 75 (2)—not satisfied that applicant entitled to long service leave	applicant
14	section 76 (6)—not satisfied that applicant entitled to payment instead of long service leave	applicant
15	section 91 (6)—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 33 (1) (b)—refusing to allow additional time for application for registration by employer	employer
2	section 35 (3)—refusing to register a person as an employer	applicant for registration
3	section 49 (1) (b)—refusing to allow employer additional time for giving return to authority	employer
4	section 52 (3)—refusing to remit all or part of amount to employer	employer

Schedule 1 Decisions reviewable by AAT

column 1 item	column 2 decision	column 3 affected person
5	section 55 (1) (b)—refusing to allow registered contractor additional time for giving return to authority	registered contractor

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)
- entity
- exercise
- function
- public servant
- quarter
- under.

authority means the Cleaning Industry Long Service Leave Authority.

cleaning work—see section 5 (1).

contract cleaning industry—see section 5.

contractor—see section 8.

corresponding law means a law of a State declared under section 90 to be a corresponding law.

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

employee—see section 8.

employer—see section 7.

employers register—see section 32.

employment period—see section 9.

governing board means the governing board of the authority.

long service leave formula—see section 71.

ordinary remuneration, for a person, means the amount paid or payable to the person for cleaning work, other than any amounts for—

- (a) overtime; or
- (b) expenses incurred by the person; or
- (c) the use of materials, equipment or a motor vehicle provided by the person.

reciprocal agreement—see section 92.

reciprocal authority means the entity under a corresponding law that administers the scheme of long service benefits established by the 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, for a registered worker, means the total number of days for all service periods entered in the workers register for the worker.

registered employer means a person who is registered under section 37.

registered worker means an individual who is registered under section 46.

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 46 (3).

service means service in the contract cleaning industry.

service period—see section 10.

worker—see section 8.

workers register—see section 40.

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

Endnotes

1 About the endnotes

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

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))

Endnotes

4 Amendment history

Long Service Leave (Contract Cleaning Industry) Amendment Act 2006 A2006-53

notified LR 29 November 2006

s 1, s 2 commenced 29 November 2006 (LA s 75 (1))

remainder commenced 30 November 2006 (s 2)

Long Service Leave (Building and Construction and Contract Cleaning Industries) Legislation Amendment Act 2007 A2007-18 pt 3, sch 1 pt 1.2, sch 2 pt 2.2

notified LR 19 June 2007

s 1, s 2 commenced 19 June 2007 (LA s 75 (1))

pt 3, sch 1 pt 1.2, sch 2 pt 2.2 commenced 30 June 2007 (s 2 and CN2007-5)

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.39

notified LR 12 August 2008

s 1, s 2 commenced 12 August 2008 (LA s 75 (1))

sch 3 pt 3.39 commenced 26 August 2008 (s 2)

4 Amendment history

Title

title am 2001 No 92 s 4
sub A2007-18 s 23

Name of Act

s 1 sub 2001 No 92 s 5

Dictionary

s 2 om R1 LRA
ins 2001 No 92 s 5
am A2007-18 amdt 1.40

Notes

s 2A renum as s 3

Offences against Act—application of Criminal Code etc

s 2B renum as s 4

Notes

s 3 **orig s 3**
renum as s 5
pres s 3
(prev s 2A) ins A2003-56 amdt 3.155
renum as s 3 A2007-18 amdt 1.75

Meaning of *cleaning work*

s 3A renum as s 6

Who is an *employer*?

s 3B renum as s 7

Meaning of *contractor, employee and worker*

s 3C renum as s 8

Declarations by Minister about coverage of Act

s 3D renum as s 9

Offences against Act—application of Criminal Code etc

s 4 **orig s 4**
renum as s 10
pres s 4
(prev s 2B) ins A2007-18 amdt 2.4
renum as s 4 A2007-18 amdt 1.75

Meaning of *contract cleaning industry*

s 5 **orig s 5**
renum as s 11
pres s 5
(prev s 3) sub 2001 No 92 s 5; A2007-18 s 24
renum as s 5 A2007-18 amdt 1.75

Meaning of *cleaning work*

s 6 **orig s 6**
renum as s 12
pres s 6
(prev s 3A) ins 2001 No 92 s 5
sub A2007-18 s 24
renum as s 6 A2007-18 amdt 1.75

Who is an *employer*?

s 7 **orig s 7**
renum as s 13
pres s 7
(prev s 3B) ins 2001 No 92 s 5
sub A2007-18 s 24
renum as s 7 A2007-18 amdt 1.75

Meaning of *contractor, employee and worker*

s 8 **orig s 8**
renum as s 14
pres s 8
(prev s 3C) ins 2001 No 92 s 5
sub A2007-18 s 24
renum as s 8 A2007-18 amdt 1.75

Endnotes

4 Amendment history

Declarations by Minister about coverage of Act

s 9 **orig s 9**
renum as s 15
pres s 9
(prev s 3D) ins 2001 No 92 s 5
am A2005-52 amdt 1.191
sub A2007-18 s 24
renum as s 9 A2007-18 amdt 1.75

What is a *service period*?

s 10 **orig s 10**
renum as s 16
pres s 10
(prev s 4) am 2001 No 92 s 6, amdt 1.1; A2005-52 amdt 1.191
sub A2007-18 s 24
renum as s 10 A2007-18 amdt 1.75

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 11 **orig s 11**
renum as s 17
pres s 11
(prev s 5) sub A2005-52 amdt 1.180
renum as s 11 A2007-18 amdt 1.75

Authority not territory instrumentality etc

s 12 **orig s 12**
om 2001 No 92 amdt 1.4
prev s 12
renum as s 18
pres s 12
(prev s 6) am 2001 No 92 amdt 1.2
sub A2005-52 amdt 1.180
renum as s 12 A2007-18 amdt 1.75

Functions of authority

s 13 **orig s 13**
renum as s 19
pres s 13
(prev s 7) sub 2001 No 92 s 7; A2005-52 amdt 1.180;
A2007-18 s 25
renum as s 13 A2007-18 amdt 1.75

Delegation by authority

s 14 **orig s 14**
renum as s 20
pres s 14
(prev s 8) am 2001 No 92 amdt 1.3
sub A2005-52 amdt 1.180
renum as s 14 A2007-18 amdt 1.75

Establishment of governing board

s 15 **orig s 15**
renum as s 21
pres s 15
(prev s 9) sub A2003-56 amdt 3.156; A2005-52 amdt 1.180
renum as s 15 A2007-18 amdt 1.75
am A2008-28 amdt 3.109

Governing board members

s 16 **orig s 16**
renum as s 22
pres s 16
(prev s 10) sub 2001 No 92 amdt 1.4; A2005-52 amdt 1.180
renum as s 16 A2007-18 amdt 1.75

No deputy chair

s 17 **orig s 17**
renum as s 23
pres s 17
(prev s 11) sub 2001 No 92 amdt 1.4; A2003-56 amdt 3.157;
A2005-52 amdt 1.180
renum as s 17 A2007-18 amdt 1.75

Deputy registrar

s 18 **orig s 18**
renum as s 24
pres s 18
(prev s 12) ins A2005-52 amdt 1.180
renum as s 18 A2007-18 amdt 1.75

Functions of governing board

s 19 hdg (prev s 13 hdg) sub A2003-56 amdt 3.158
s 19 **orig s 19**
renum as s 25
pres s 19
(prev s 13) am A2003-56 amdt 3.159
sub A2005-52 amdt 1.180; A2007-18 s 26
renum as s 19 A2007-18 amdt 1.75

Consent to entry by inspectors

s 25 **orig s 25**
renum as s 31
pres s 25
(prev s 19) sub A2003-56 amdt 3.160
(3)-(5) exp 19 December 2004 (s 19 (5))
sub A2005-52 amdt 1.180
am A2007-18 amdt 1.42
renum as s 25 A2007-18 amdt 1.75

General powers of inspectors for premises

s 26 **orig s 26**
om A2005-52 amdt 1.180
pres s 26
(prev s 20) sub A2003-56 amdt 3.160
(3)-(5) exp 19 December 2004 (s 20 (5))
sub A2005-52 amdt 1.180
renum as s 26 A2007-18 amdt 1.75

Contravention of requirement by inspector

s 27 **orig s 27**
om A2005-52 amdt 1.180
pres s 27
(prev s 21) sub A2005-52 amdt 1.180
renum as s 27 A2007-18 amdt 1.75

Duty to give information or documents

s 28 **orig s 28**
om A2005-52 amdt 1.180
pres s 28
(prev s 22) am 2001 No 92 s 8, amdt 1.6
sub A2005-52 amdt 1.180
renum as s 28 A2007-18 amdt 1.75

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 29 **orig s 29**
renum as s 32
pres s 29
(prev s 23) sub A2005-52 amdt 1.180; A2007-18 s 27
renum as s 29 A2007-18 amdt 1.75

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Application of authority money

s 30 **orig s 30**
renum as s 33
pres s 30
(prev s 24) am 2001 No 92 amdt 1.7
sub A2005-52 amdt 1.180
renum as s 30 A2007-18 amdt 1.75

3-yearly investigation by actuary

s 31 hdg (prev s 25 hdg) sub A2007-18 amdt 1.43
s 31 **orig s 31**
renum as s 34
pres s 31
(prev s 25) sub A2005-52 amdt 1.180
am A2007-18 s 28, amdt 1.44
renum as s 31 A2007-18 amdt 1.75

Registration of employers

pt 3 hdg sub 2001 No 92 s 9

Employers register

s 32 **orig s 32**
renum as s 35
pres s 32
(prev s 29) sub 2001 No 92 s 9
am A2005-52 amdt 1.191
sub A2007-18 amdt 1.45
renum as s 32 A2007-18 amdt 1.75

Application for registration by employers

s 33 **orig s 33**
renum as s 36
pres s 33
(prev s 30) sub 2001 No 92 s 9; A2007-18 amdt 2.5
renum as s 33 A2007-18 amdt 1.75

Order to apply for registration

s 34 **orig s 34**
renum as s 37
pres s 34
(prev s 31) sub 2001 No 92 s 9
am A2005-52 amdt 1.191; A2007-18 amdt 1.46, amdt 2.6
renum as s 34 A2007-18 amdt 1.75

How applications under s 33 (1) are dealt with

s 35 **orig s 35**
 renum as s 38
 pres s 35
 (prev s 32) sub 2001 No 92 s 9
 am A2007-18 amdt 1.47
 renum as s 35 A2007-18 amdt 1.75

Registered employers to notify change of details

s 35A renum as s 39

How applications under s 33 (3) are dealt with

s 36 **orig s 36**
 renum as s 40
 pres s 36
 (prev s 33) sub 2001 No 92 s 9
 am A2005-52 amdt 1.191, amdt 1.192
 renum as s 36 A2007-18 amdt 1.75

Registration as an employer

s 37 **orig s 37**
 renum as s 41
 pres s 37
 (prev s 34) sub 2001 No 92 s 9
 am A2005-52 amdt 1.192
 sub A2007-18 s 29
 renum as s 37 A2007-18 amdt 1.75

How applications for registration as worker are dealt with

s 37A renum as s 42

Notice of registrar's decisions

s 37B renum as s 43

Appeals against refusal of registrar to register

s 37C renum as s 44

Governing board may direct registration of employee

s 37D renum as s 45

Certificate of registration for employers

s 38 **orig s 38**
 renum as s 46
 pres s 38
 (prev s 35) sub 2001 No 92 s 9; A2007-18 s 29
 renum as s 38 A2007-18 amdt 1.75

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Service credit—employee’s prior service

s 38A renum as s 47

Service credit—contractor’s prior service

s 38B renum as s 48

Registered employers to notify change of details

s 39 **orig s 39**
renum as s 49
pres s 39
(prev s 35A) ins A2007-18 s 29
renum as s 39 A2007-18 amdt 1.75

Levy payments by employers

s 39A renum as s 50

Determination of levy—employers

s 39B renum as s 51

Registration of workers

pt 4 hdg sub 2001 No 92 s 9; A2007-18 s 30

Workers register

s 40 **orig s 40**
renum as s 52
pres s 40
(prev s 36) sub 2001 No 92 s 9
am A2005-52 amdt 1.191
sub A2007-18 s 30
renum as s 40 A2007-18 amdt 1.75

Exemption from levy payments—payments to reciprocal authorities

s 40A renum as s 53

Application for registration as worker

s 41 **orig s 41**
renum as s 54
pres s 41
(prev s 37) sub 2001 No 92 s 9; A2007-18 s 30
renum as s 41 A2007-18 amdt 1.75

Quarterly returns by contractors

s 41A renum as s 55

Levy payments by contractors

s 41B renum as s 56

Determination of levy—contractors

s 41C renum as s 57

How applications for registration as worker are dealt with

s 42 **orig s 42**
renum as s 58
pres s 42
(prev s 37A) ins 2001 No 92 s 9
am A2005-52 amdt 1.192
sub A2007-18 s 30
renum as s 42 A2007-18 amdt 1.75

Registered contractors to keep records

s 42A renum as s 59

Notice of registrar's decisions

s 43 **orig s 43**
renum as s 60
pres s 43
(prev s 37B) ins A2007-18 s 30
renum as s 43 A2007-18 amdt 1.75

Appeals against refusal of registrar to register

s 44 **orig s 44**
renum as s 61
pres s 44
(prev s 37C) ins A2007-18 s 30
renum as s 44 A2007-18 amdt 1.75

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

s 44A renum as s 62

Effect of variation of ordinary remuneration

s 44B renum as s 63

Variation of ordinary remuneration—payment of additional amount of levy

s 44C renum as s 64

Governing board may direct registration of employee

s 45 **orig s 45**
renum as s 65
pres s 45
(prev s 37D) ins A2007-18 s 30
renum as s 45 A2007-18 amdt 1.75

Registration as worker

s 46 **orig s 46**
renum as s 66
pres s 46
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am A2005-52 amdt 1.192
sub A2007-18 s 30
renum as s 46 A2007-18 amdt 1.75

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Service credit—employee's prior service

s 47 **orig s 47**
renum as s 67
pres s 47
(prev s 38A) ins 2001 No 92 s 9
am A2005-52 amdt 1.192
sub A2007-18 s 30
renum as s 47 A2007-18 amdt 1.75
(3), (4) exp 30 June 2011 (s 47 (4))

Service credit—contractor's prior service

s 48 **orig s 48**
renum as s 68
pres s 48
(prev s 38B) ins A2007-18 s 30
renum as s 48 A2007-18 amdt 1.75

Quarterly returns and payments

pt 5 hdg sub A2007-18 amdt 1.48

Quarterly returns by employers

s 49 **orig s 49**
renum as s 69
pres s 49
(prev s 39) sub 2001 No 92 s 10
am A2005-52 amdt 1.191
sub A2007-18 s 31
renum as s 49 A2007-18 amdt 1.75

Levy payments by employers

s 50 **orig s 50**
renum as s 70
pres s 50
(prev s 39A) ins 2001 No 92 s 10
am A2005-52 amdt 1.191
sub A2007-18 amdt 2.7
renum as s 50 A2007-18 amdt 1.75

Determination of levy—employers

s 51 **orig s 51**
renum as s 71
pres s 51
(prev s 39B) ins 2001 No 92 s 10
am A2005-52 amdt 1.192
sub A2007-18 amdt 1.49
renum as s 51 A2007-18 amdt 1.75

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

s 52 **orig s 52**
renum as s 72
pres s 52
(prev s 40) sub 2001 No 92 s 10
am A2005-52 amdt 1.191
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renum as s 52 A2007-18 amdt 1.75

Exemption from levy payments—payments to reciprocal authorities

s 53 **orig s 53**
renum as s 73
pres s 53
(prev s 40A) ins A2007-18 s 32
renum as s 53 A2007-18 amdt 1.75

Exemption from levy payments—working directors

s 54 **orig s 54**
renum as s 74
pres s 54
(prev s 41) am 2001 No 44 amdts 1.2704-1.2706; 2001 No 92
amdt 1.9; A2005-52 amdt 1.191
sub A2007-18 amdt 1.50
renum as s 54 A2007-18 amdt 1.75

Quarterly returns by contractors

s 55 **orig s 55**
renum as s 75
pres s 55
(prev s 41A) ins A2007-18 s 33
renum as s 55 A2007-18 amdt 1.75

Levy payments by contractors

s 56 **orig s 56**
renum as s 76
pres s 56
(prev s 41B) ins A2007-18 s 33
renum as s 56 A2007-18 amdt 1.75

Determination of levy—contractors

s 57 **orig s 57**
renum as s 77
pres s 57
(prev s 41C) ins A2007-18 s 33
renum as s 57 A2007-18 amdt 1.75

Working out leave payments—registered employees

s 57A renum as s 78

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Working out leave payments—registered contractors

s 57B renum as s 79

Payment by authority on reciprocal authority's behalf

s 57C renum as s 80

Payments by reciprocal authority on authority's behalf

s 57D renum as s 81

Employers to keep records

s 58 **orig s 58**
renum as s 82
pres s 58
(prev s 42) am 2001 No 92 amdts 1.10-1.13
sub A2007-18 amdt 2.8
renum as s 58 A2007-18 amdt 1.75

Registered contractors to keep records

s 59 **orig s 59**
renum as s 83
pres s 59
(prev s 42A) ins A2007-18 s 34
renum as s 59 A2007-18 amdt 1.75

Entries in workers register

pt 6 hdg sub 2001 No 92 s 11; A2007-18 amdt 1.51

Particulars to be entered in workers register

s 60 **orig s 60**
renum as s 84
pres s 60
(prev s 43) sub 2001 No 92 s 11
am A2005-52 amdt 1.192
sub A2007-18 amdt 1.51
renum as s 60 A2007-18 amdt 1.75

Review of ordinary remuneration by governing board

s 61 hdg (prev s 44 hdg) sub A2005-52 amdt 1.181
s 61 **orig s 61**
renum as s 85
pres s 61
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am A2005-52 amdt 1.191, amdt 1.192
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renum as s 61 A2007-18 amdt 1.75

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

s 62 **orig s 62**
renum as s 86
pres s 62
(prev s 44A) ins A2007-18 amdt 1.51
renum as s 62 A2007-18 amdt 1.75

Disclosure of information to territory entities and reciprocal authorities

s 62A renum as s 87

Effect of variation of ordinary remuneration

s 63 **orig s 63**
renum as s 88
pres s 63
(prev s 44B) ins A2007-18 amdt 1.51
renum as s 63 A2007-18 amdt 1.75

No contracting out by employees

s 63A renum as s 89

Declaration of corresponding laws

s 63B renum as s 90

Variation of ordinary remuneration—payment of additional amount of levy

s 64 **orig s 64**
renum as s 91
pres s 64
(prev s 44C) ins A2007-18 amdt 1.51
renum as s 64 A2007-18 amdt 1.75

Reciprocal agreements for corresponding laws

s 64AA renum as s 92

Approved forms

s 64A renum as s 93

Service credit—registered worker's service

s 65 **orig s 65**
renum as s 94
pres s 65
(prev s 45) sub 2001 No 92 s 11; A2007-18 amdt 1.51
renum as s 65 A2007-18 amdt 1.75

Removing registration from workers register

s 66 **orig s 66**
exp 23 June 2002 (s 66 (2))
pres s 66
(prev s 46) sub 2001 No 92 s 11
am A2005-52 amdt 1.191
sub A2007-18 amdt 1.51
renum as s 66 A2007-18 amdt 1.75

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Annual certificates

pt 7 hdg sub A2007-18 amdt 1.51

Annual certificates for workers

s 67 **orig s 67**
exp 23 June 2002 (s 67 (2))
pres s 67
(prev s 47) am 2001 No 92 s 12
sub A2007-18 amdt 1.51
renum as s 67 A2007-18 amdt 1.75

Annual certificates for employers

s 68 hdg **orig s 68 hdg**
sub 2001 No 92 amdt 1.31
s 68 **orig s 68**
am 2001 No 92 s 25, s 26, amdt 1.32, amdt 1.33
exp 23 June 2002 (s 68 (3))
pres s 68
(prev s 48) am 2001 No 92 s 13
sub A2007-18 amdt 1.51
renum as s 68 A2007-18 amdt 1.75

Objection to matter stated in annual certificate

s 69 **orig s 69**
om R1 LRA
prev s 69
ins 2001 No 92 s 27
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(prev s 49) am 2001 No 92 amdt 1.14-1.16; A2005-52
amdt 1.192
sub A2007-18 amdt 1.51
renum as s 69 A2007-18 amdt 1.75

Years of recognised service

s 70 **orig s 70**
om R1 LRA
pres s 70
(prev s 50) sub 2001 No 92 s 14
am A2007-18 amdt 1.74
renum as s 70 A2007-18 amdt 1.75

Long service leave formula

s 71 (prev s 51) am 2001 No 92 s 15; A2007-18 amdt 1.52
renum as s 71 A2007-18 amdt 1.75

Amount of leave

s 72 (prev s 52) am 2001 No 92 amdt 1.17
sub A2007-18 amdt 1.53
renum as s 72 A2007-18 amdt 1.75

Grant of leave by employers

s 73 (prev s 53) am 2001 No 92 amdt 1.18, amdt 1.19; A2005-52
amdt 1.192
sub A2007-18 amdt 2.9
renum as s 73 A2007-18 amdt 1.75

Entitlement to payment instead of leave

s 74 (prev s 54) sub 2001 No 92 s 16
am A2005-52 amdt 1.192
sub A2007-18 s 35
renum as s 74 A2007-18 amdt 1.75

Payment for leave

s 75 (prev s 55) am A2005-52 amdt 1.191, amdt 1.192
sub A2007-18 amdt 1.54
renum as s 75 A2007-18 amdt 1.75

Payment instead of leave

s 76 (prev s 56) am 2001 No 92 amdts 1.20-1.22; A2005-52
amdt 1.191, amdt 1.192
sub A2007-18 amdt 1.54
renum as s 76 A2007-18 amdt 1.75

How are leave payments worked out?

s 77 (prev s 57) sub 2001 No 92 s 17
am A2005-52 amdt 1.191
sub A2007-18 s 36
renum as s 77 A2007-18 amdt 1.75

Working out leave payments—registered employees

s 78 (prev s 57A) ins A2007-18 s 36
renum as s 78 A2007-18 amdt 1.75
am A2008-28 amdt 3.110

Working out leave payments—registered contractors

s 79 (prev s 57B) ins A2007-18 s 36
renum as s 79 A2007-18 amdt 1.75
am A2008-28 amdt 3.111, amdt 3.112

Payment by authority on reciprocal authority's behalf

s 80 (prev s 57C) ins A2007-18 s 36
renum as s 80 A2007-18 amdt 1.75

Payments by reciprocal authority on authority's behalf

s 81 (prev s 57D) ins A2007-18 s 36
renum as s 81 A2007-18 amdt 1.75

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Records of payments and service

s 82 (prev s 58) sub 2001 No 92 amdt 1.23
am A2005-52 amdt 1.191
sub A2007-18 s 36
renum as s 82 A2007-18 amdt 1.75

Public holidays etc not to count as leave

s 83 (prev s 59) am 2001 No 92 amdt 1.24, amdt 1.25
sub A2003-45 s 9; A2007-18 amdt 1.55
am A2007-18 amdt 1.74
renum as s 83 A2007-18 amdt 1.75

Decisions reviewable by AAT

s 84 hdg (prev s 60 hdg) am A2005-52 amdt 1.192
s 84 (prev s 60) am 2001 No 92 ss 18-20; A2005-52 amdt 1.182,
amdt 1.191, amdt 1.192
sub A2007-18 amdt 1.56
renum as s 84 A2007-18 amdt 1.75

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s 85 (prev s 61) sub A2005-52 amdt 1.183; A2007-18 amdt 1.56
renum as s 85 A2007-18 amdt 1.75

Evidentiary certificates

s 86 (prev s 62) sub 2001 No 92 s 21
am A2005-52 amdt 1.191
sub A2007-18 amdt 1.56
renum as s 86 A2007-18 amdt 1.75

Disclosure of information to territory entities and reciprocal authorities

s 87 (prev s 62A) ins A2007-18 s 37
renum as s 87 A2007-18 amdt 1.75

Inspection of register

s 88 (prev s 63) sub A2007-18 amdt 1.56
renum as s 88 A2007-18 amdt 1.75

No contracting out by employees

s 89 (prev s 63A) ins A2007-18 s 38
renum as s 89 A2007-18 amdt 1.75

Declaration of corresponding laws

s 90 (prev s 63B) ins A2007-18 s 38
renum as s 90 A2007-18 amdt 1.75

Benefits under other laws

s 91 hdg (prev s 64 hdg) sub 2001 No 92 amdt 1.29
s 91 (prev 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; A2006-53 s 4
sub A2007-18 amdt 1.57
renum as s 91 A2007-18 amdt 1.75

Reciprocal agreements for corresponding laws

s 92 (prev s 64AA) ins A2007-18 s 39
renum as s 92 A2007-18 amdt 1.75

Approved forms

s 93 (prev s 64A) ins 2001 No 44 amdt 1.2707
am A2007-18 amdt 1.58, amdt 1.59
renum as s 93 A2007-18 amdt 1.75

Regulation-making power

s 94 (prev s 65) am 2001 No 44 amdt 1.2708
renum as s 94 A2007-18 amdt 1.75

Transitional

pt 10 hdg om R5 LA

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pt 11 hdg om R1 LRA

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pt 15 hdg ins A2007-18 s 40
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s 200 ins A2007-18 s 40
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s 201 ins A2007-18 s 40
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Decisions reviewable by AAT

sch 1 ins 2001 No 92 sch 2
sub A2007-18 amdt 1.60

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dict ins A2001-92 s 28
am A2005-52 amdt 1.184; A2007-18 amdt 1.61
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om A2007-18 amdt 1.62
def **authority** ins A2005-52 amdt 1.185
def **award** ins A2001-92 s 28
om A2007-18 amdt 1.62
def **board** ins A2001-92 s 28
om A2005-52 amdt 1.186
def **chair** ins A2005-52 amdt 1.186
om A2007-18 amdt 1.62
def **chairperson** ins A2001-92 s 28
om A2005-52 amdt 1.186
def **cleaning work** ins A2001-92 s 28
def **contract cleaning industry** ins A2007-18 amdt 1.64

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- def **contract cleaning work** ins A2001-92 s 28
om A2007-18 amdt 1.63
- def **contractor** ins A2007-18 s 41
- def **corresponding law** ins A2007-18 s 41
- def **deputy registrar** ins A2001-92 s 28
om A2005-52 amdt 1.187
- def **determination** ins A2001-92 s 28
om A2007-18 amdt 1.65
- def **employee** ins A2001-92 s 28
sub A2007-18 amdt 1.66
- def **employer** ins A2001-92 s 28
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- def **employers register** ins A2007-18 amdt 1.67
- 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
sub A2007-18 amdt 1.68
- def **member** ins A2001-92 s 28
om A2005-52 amdt 1.189
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- def **ordinary wages** ins A2001-92 s 28
om A2007-18 s 43
- def **quarter** ins A2001-92 s 28
om A2005-52 amdt 1.189
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- def **reciprocal authority** ins A2007-18 s 44
- def **reciprocating State** ins A2007-18 s 44
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- def **registered employee** ins A2001-92 s 28
om A2007-18 s 45
- def **registered employer** ins A2001-92 s 28
sub A2007-18 amdt 1.70
- def **registered worker** ins A2007-18 s 47
- def **registrar** ins A2001-92 s 28
sub A2005-52 amdt 1.190; A2007-18 amdt 1.71
- def **registration day** ins A2007-18 s 46
- def **section 29 register** ins A2001-92 s 28
om A2007-18 amdt 1.72
- def **section 36 register** ins A2001-92 s 28
om A2007-18 amdt 1.72
- def **service** ins A2007-18 amdt 1.73
- def **service period** ins A2007-18 s 47
- def **worker** ins A2007-18 s 47
- def **workers register** ins A2007-18 amdt 1.73
- def **working director** ins A2001-92 s 28
sub A2007-18 s 48

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.

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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
9	A2005-52	1 January 2006
10	A2005-52	4 July 2006
11	A2006-53	30 November 2006
12	A2007-18	30 June 2007
12 (RI)	A2007-18	13 September 2007
13	A2007-18	1 July 2008

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6 Renumbered provisions

6 Renumbered provisions

as made by the *Long Service Leave (Building and Construction and Contract Cleaning Industries) Legislation Amendment Act 2007* A2007-18 amdt 1.75 and under the *Legislation Act 2001*

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