

1991

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Long Service Leave (Building and
Construction Industry) (Amendment) Bill
1991**

A BILL

FOR

**An Act to amend the *Long Service Leave (Building
and Construction Industry) Act 1981***

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

Short title

5. 1. This Act may be cited as the *Long Service Leave (Building and Construction Industry) (Amendment) Act 1991*.

Principal Act

2. In this Act, "Principal Act" means the *Long Service Leave (Building and Construction Industry) Act 1981*.¹

Addition

10. 3. The Principal Act is amended by adding at the end of Part II the following Division:

81118 1991/118 (T118/91)

"Division 4—Personnel management

Interpretation

"25C. In this Division, unless the contrary intention appears—

5 'advancement' means movement within the Board resulting in an
employee undertaking work, and being remunerated, at a higher
level than previously;

'designated group' means any of the following classes of persons:

- 10 (a) members of the Aboriginal race of Australia or persons
who are descendants of indigenous inhabitants of the
Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first
language is a language other than English, and the children
of such persons;
- (c) persons who are physically or mentally disabled;
- 15 (d) any other class of persons declared by the regulations to be
a designated group for the purposes of this definition;

'employment matter', in relation to the Board, means—

- (a) the selection of persons by the Board for engagement and
advancement;
- 20 (b) the transfer of employees to positions in the Board;
- (c) training and staff development for employees of the Board;
- (d) the conditions of service of employees of the Board; or
- (e) any other matter related to the employment of persons by
the Board;

25 'equal employment opportunity program', in relation to the Board,
means a program designed to ensure that—

- (a) appropriate action is taken to eliminate unjustified
discrimination against women and persons in designated
groups in relation to employment matters; and
- 30 (b) measures are taken to enable employees who are women or
persons in designated groups—
- (i) to compete for engagement, transfer and
advancement; and
- (ii) to pursue careers;

as effectively as other persons and to have equal opportunities with others in relation to other employment matters;

'relevant staff organisation' means an organisation—

- 5 (a) within the meaning of the *Industrial Relations Act 1988* of the Commonwealth;
- (b) in which a person employed by the Board would be eligible for membership; and
- 10 (c) that is a party to an industrial award that applies in relation to the salary payable in respect of that employment;

'unjustified discrimination' includes—

- (a) discrimination that is unlawful under the *Human Rights and Equal Opportunity Act 1991*; and
- 15 (b) unjustified discrimination on the ground of age or social origin;

but does not include—

- (c) discrimination that is essential for the effective performance of the relevant duties, is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is prescribed; or
- 20 (d) discrimination that is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is in accordance with the equal employment opportunity program for the Board or with a prescribed program.

25 **Employment practices**

"25D. (1) The Board's powers in relation to employment matters shall be exercised—

- (a) without patronage, favouritism or unjustified discrimination; and
- 30 (b) with regard to the equal employment opportunity program for the Board.

"(2) Without limiting the generality of paragraph (1) (a), and subject to paragraph (1) (b), the Board's powers in relation to employment shall be exercised in accordance with procedures that ensure that where a person is to be selected for engagement for a period exceeding 3 months, or for advancement, by the Board—

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- (a) all persons who are eligible have, so far as practicable, a reasonable opportunity to apply for selection; and
- (b) the selection is made on the basis of an assessment of the relative suitability of the applicants having regard to—
- 5 (i) the nature of the duties to be performed; and
- (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the performance of the duties.

10 “(3) A reference in this section to the exercise of a power shall be read as including a reference to the making of a report or recommendation in relation to the exercise of that power.

 “(4) For the purposes of paragraph (1) (b), the Chairperson shall, after consulting with each relevant staff organisation and such other persons as the Chairperson considers appropriate—

- 15 (a) develop an equal employment opportunity program for the Board; and
- (b) from time to time, review that program.

20 “(5) The Chairperson shall comply with paragraph (4) (a) as soon as practicable and, in any event, within 12 months after the commencement of this section.

 “(6) As soon as practicable after the development or review of the equal employment opportunity program, the Chairperson shall provide the Head of Administration with written particulars of the program.

25 “(7) The Head of Administration may, from time to time, by notice in writing given to the Chairperson, issue guidelines to the Chairperson on the provisions to be made by the equal employment opportunity program, and on the development, implementation or review of the program.

30 “(8) The Chairperson shall take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines issued under subsection (7).

 “(9) The Chairperson shall furnish to the Minister a written report relating to the operation of this section during each financial year.”.

Chairperson

35 4. Each of the following provisions of the Principal Act is amended by omitting “Chairman” (wherever occurring) and substituting “Chairperson”:

 Subsection 3 (1) (definition of “Chairman”), paragraph 8 (1) (a) and subsections 13 (1), (3) and (4).

*Long Service Leave (Building and Construction
Industry) (Amendment) No. , 1991*

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NOTE

1. Ordinance No. 23, 1981 as amended by Nos. 12 and 56, 1984; No. 55, 1986; Nos. 16 and 74, 1987; Nos. 22, 49, 64 and 74, 1988; Nos. 21 and 38, 1989; Acts Nos. 9 and 25, 1990.

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