

Queensland



**BUILDING AND
CONSTRUCTION INDUSTRY
(PORTABLE LONG SERVICE
LEAVE) AMENDMENT ACT
1993**

Act No. 66 of 1993

Queensland



BUILDING AND CONSTRUCTION INDUSTRY (PORTABLE LONG SERVICE LEAVE) AMENDMENT ACT 1993

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*Building and Construction Industry (Portable
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MINOR AND CONSEQUENTIAL AMENDMENTS

Queensland



**Building and Construction Industry (Portable
Long Service Leave) Amendment Act 1993**

Act No. 66 of 1993

**An Act to amend the *Building and Construction Industry (Portable
Long Service Leave) Act 1991***

[Assented to 23 November 1993]

The Parliament of Queensland enacts—

Short title

1. This Act may be cited as the *Building and Construction Industry (Portable Long Service Leave) Amendment Act 1993*.

Commencement

2. This Act commences on 1 January 1994.

Amended Act

3. The *Building and Construction Industry (Portable Long Service Leave) Act 1991* is amended as set out in this Act.

Amendment of s.3 (Interpretation)

4.(1) Section 3—

insert—

“**government entity**” means—

- (a) a government company within the meaning of the *Government Owned Corporations Act 1993*; or
- (b) a State instrumentality, agency, authority or entity; or
- (c) a department of government; or
- (d) an entity declared by regulation to be a government entity;

“**owner-builder permit**” means an owner-builder permit under the *Queensland Building Services Authority Act 1991*;

“**person**” includes government entity and unincorporated body;

“**substantially engaged in the building and construction industry**” has the meaning given by section 3A;’.

(2) Section 3 (definition “**employee**”, paragraph (b)(ii))—
omit, insert—

- ‘(ii) a government entity; or
- (iii) a body constituted by an Act of the Commonwealth, another State or a Territory.’.

Insertion of new s.3A

5. After section 3—
insert—

‘Meaning of “substantially engaged in the building and construction industry”

‘3A. A person is “**substantially engaged in the building and construction industry**” if the person—

- (a) is ordinarily engaged in work in the building and construction industry as part of the person’s usual business activities; or
- (b) is ordinarily ready to perform, for reward, work in the building and construction industry.’.

Replacement of ss.60–65

6. Sections 60 to 65—
omit, insert—

‘Imposition of levy

‘60. Long service leave levy is imposed on building and construction work.

‘Power of Board to decide day when building and construction work starts and ends

‘61. For the purposes of this Part, the Board may decide the day on which building and construction work starts and the day on which it ends.

‘No levy for building and construction work started before 1 July 1992

‘62. Levy is not payable for building and construction work if the work started before 1 July 1992.

‘No levy for certain other building and construction work

‘63.(1) Levy is not payable for building and construction work, or the part of the work, that the Board decides—

- (a) is to be carried out by or for a person (other than an individual carrying out building and construction work under an owner-builder permit) who is not substantially engaged in the building and construction industry; and
- (b) is carried out by the person’s employees.

‘(2) A regulation may provide that levy is not payable for—

- (a) specified building and construction work; or
- (b) a specified part of specified building and construction work.

‘Rate of levy

‘64.(1) The amount of the levy for building and construction work is the percentage prescribed by regulation of the cost of the work.

‘(2) An amount calculated under subsection (1) is to be rounded to the nearest dollar (with 50c to be rounded downwards).

‘Meaning of “cost of building and construction work”

‘65.(1) The “cost of building and construction work” is—

- (a) for work that is carried out by an individual under an owner-builder permit issued to the individual—the cost of the work as decided by the Board less the value, under subsection (2), of the part of the work carried out personally by the individual; or
- (b) for other work—

- (i) the contract price for the work or, if the work involves more than 1 contract, the total of the contract prices; or
- (ii) if there is no contract price—the cost of the work as decided by the Board.

‘(2) The value under subsection (1)(a) of the part of the work carried out personally by the individual is—

- (a) the percentage prescribed by regulation of the cost of the work; or
- (b) if the individual can establish, to the satisfaction of the Board, a higher value for the part of the work carried out personally by the individual—that value.

‘(3) Despite subsection (1)(b)(i), if the Board is satisfied that the contract price for carrying out building and construction work is not an accurate estimate of the cost of the work, the cost may be decided by the Board.

‘Liability for levy

‘65A. Levy for building and construction work must be paid by—

- (a) if an application is made to a local authority under the *Building Act 1975* for approval of the work—the person who makes the application; or
- (b) in any other case—the person for whom the work is to be done.

‘When levy is payable

‘65B.(1) Levy for building and construction work to be carried out by a person (other than a government entity) must be paid—

- (a) before application is made to a local authority under the *Building Act 1975* for approval of the work; or
- (b) if application is not made under that Act for approval of the work—before the work is started or, if the Board allows a later time for payment, that time.

‘(2) Levy for building and construction work to be carried out by a

government entity must be paid before the time, after the start of the work, decided by the Board.

‘Government entity to notify of building and construction work

‘65C.(1) A government entity must notify the Board of building and construction work the entity carries out, or causes to be carried out, within 3 months of the start of the work.

‘(2) Subsection (1) applies only if the cost of the work is not less than the cost prescribed by regulation.

‘(3) Subsection (1) is in addition to section 70(2).

‘Duty of local authority to sight approved form

‘65D.(1) A local authority may accept an application under the *Building Act 1975* for the approval of building and construction work only if the local authority has seen an approved form issued by the Board signifying, for the work—

- (a) payment of levy; or
- (b) payment of the first instalment of levy; or
- (c) an exemption from payment of levy; or
- (d) an exemption from immediate payment of levy.

‘(2) A local authority is entitled to be paid remuneration by the Board for carrying out its duty under this section at the rate prescribed by regulation.’.

Amendment of s.66 (Building and construction work for public authority)

7.(1) Section 66(a)(ii)—

omit, insert—

- ‘(ii) a government entity; or
- (iii) a body constituted by an Act of the Commonwealth, another State or a Territory; and’.

(2) Section 66(b)—

omit ‘Local Authority or the other body’,

insert ‘local authority, government entity or the other body’.

Amendment of s.68 (Offence for failure to pay levy)

8. Section 68(a)—

omit ‘before the due date for its payment’,

insert ‘at or before the time for its payment’.

Omission of s.69 (Determination of cost of building and construction work)

9. Section 69—

omit.

Amendment of s.72 (Payment of levy by instalments)

10. Section 72(2)(b)—

omit, insert—

‘(b) the first instalment is payable before the time that the levy would be payable if it were not payable by instalments; and’.

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

section 3

1. Section 3 (definition “building and construction industry”, paragraph (a)(viii))—

omit ‘by products’, *insert* ‘by-products’.

2. Section 3 (definition “Local Authority”)—

omit.

3. Section 11(2)—

omit.

4. Section 19—

omit.

5. Section 36(1) (Penalty)—

omit, insert—

‘Maximum penalty—16 penalty units.’.

6. Section 37 (Penalty)—

omit, insert—

‘Maximum penalty—16 penalty units.’.

SCHEDULE (continued)

7. Section 41(1) (Penalty)—

omit, insert—

‘Maximum penalty—16 penalty units.’

8. Section 52 (Penalty)—

omit, insert—

‘Maximum penalty—16 penalty units.’

9. Section 55(4)—

omit ‘section 11.35’, insert ‘section 172’.

10. Section 56(8)—

omit ‘section 11.29’, insert ‘section 166’.

11. Section 59(1) and (2)—

omit ‘due’, insert ‘payable’.

12. Section 67(2) (definition “voluntary component”)—

omit ‘total cost’, insert ‘cost’.

13. Section 68—

omit ‘or body’.

14. Section 68 (Penalty)—

omit, insert—

‘Maximum penalty—16 penalty units.’

SCHEDULE (continued)**15. Section 70(1)—***omit.***16. Section 70(2) and (3)—***omit ‘or body’.***17. Section 70(2) and (5) (Penalties)—***omit, insert—**‘Maximum penalty—16 penalty units.’.***18. Section 70(5)—***omit ‘or body that’, insert ‘who’.***19. Section 71(1) and (2)—***omit ‘or body that’, insert ‘who’.***20. Section 72(1) to (4)—***omit ‘or body’.***21. Section 72(1)—***omit ‘section 63’, insert ‘section 65B’.***22. Section 72(2)(c), (3) and (4)(a)—***omit ‘due and’.***23. Section 72(4)—***omit ‘on or before the due date’, insert ‘at or before the time’.*

SCHEDULE (continued)

24. Section 72(5)—

omit 'due date', insert 'time'.

25. Section 72(6)—

omit 'on the due date', insert 'at the time'.

26. Section 74(1)—

omit 'before the due date', insert 'at or before the time'.

27. Section 74(3)(a)—

omit 'due date', insert 'time'.

28. Section 74(3)(a)—

omit 'specified date', insert 'specified time'.

29. Section 75(1)—

omit 'due and'.

30. Section 75(3)—

omit 'or body'.

31. Section 75(4)—

omit 'or body to which', insert 'to whom'.

32. Section 76—

omit 'or body'.

SCHEDULE (continued)

33. Section 77(1)—

omit ‘or body that’, *insert* ‘who’.

34. Section 77(1)(b)(i) and (c)—

omit ‘or body’.

35. Section 78—

omit ‘or body’.

36. Section 79(1)—

omit ‘a person or body’, *insert* ‘a person’.

37. Section 79(1)—

omit ‘, person or body’, *insert* ‘or person’.

38. Section 82(1) and (2)—

omit ‘or body that’, *insert* ‘who’.

39. Section 82 (Penalty)—

omit, insert—

‘Maximum penalty—16 penalty units.’.

40. Section 85(4) (Penalty)—

omit ‘contravention of’.

41. Section 88(1) and 91(2)—

omit ‘in this section called’.

SCHEDULE (continued)

42. Section 94(1) (definition “protected document”)—

omit ‘or body’.

43. Section 94(1) (definition “protected information”)—

omit ‘or body’.

44. Section 94(2)(b)—

omit ‘or a body’.

45. Section 97(1)—

omit ‘section 18.52’, *insert* ‘section 471’.

46. Section 101 (Penalty)—

omit, insert—

‘Maximum penalty—16 penalty units.’.

47. Section 102—

omit, insert—

‘Regulations

‘102.(1) The Governor in Council may make regulations for the purposes of this Act.

‘(2) A regulation may provide that contravention of a regulation is an offence and prescribe a maximum penalty, of not more than 16 penalty units, for the offence.’.

