



Queensland

Building and Construction Industry (Portable Long Service Leave) Amendment Regulation (No. 1) 2014

Subordinate Legislation 2014 No. 133

made under the

*Building and Construction Industry (Portable Long Service Leave)
Act 1991*

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1 Short title

This regulation may be cited as the *Building and Construction Industry (Portable Long Service Leave) Amendment Regulation (No. 1) 2014*.

2 Commencement

This regulation commences on 1 July 2014.

3 Regulation amended

This regulation amends the *Building and Construction Industry (Portable Long Service Leave) Regulation 2013*.

4 Insertion of new s 1A

After section 1—

insert—

1A Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

5 Amendment of s 5 (Building and construction work for which levy is not payable—Act, s 70)

(1) Section 5(1), ‘\$80000 (including GST)’—

omit, insert—

\$150000

(2) Section 5(1)—

insert—

Note—

Under section 73(1) of the Act, the cost of building and construction work is exclusive of GST.

(3) Section 5—

insert—

- (4A) In addition, the following levies are not payable for building and construction work that is also resources operational work—
 - (a) building and construction industry training levy;
 - (b) long service leave levy.
- (4) Section 5(4A) and (5)—
renumber as section 5(5) and (6).

6 Amendment of s 6 (Percentages for levy—Act, s 72)

- (1) Section 6(a) to (c)—
omit, insert—
 - (a) if the cost of building and construction work is less than \$1bn—prescribed in schedule 1, column 2 opposite the levy mentioned in column 1 of schedule 1; and
 - (b) if the cost of building and construction work is not less than \$1bn, but is less than \$5bn—
 - (i) for the part of the cost that is less than \$1bn—the percentage for the levy as prescribed in paragraph (a); and
 - (ii) for the remainder of the cost—the percentage for the levy prescribed in schedule 1, column 3 opposite the levy mentioned in column 1 of that schedule; and
 - (c) if the cost of building and construction work is \$5bn or more—
 - (i) for the part of the cost that is less than \$5bn—the percentage worked out under (b); and
 - (ii) for the remainder of the cost—nil.
- (2) Section 6—

insert—

- (2) The monetary amounts mentioned in subsection (1)(a) to (c) are adjusted each year (the *current year*) on 1 July using the formula—

$$\frac{A \times B}{C}$$

where—

A is the monetary amount immediately before 1 July in the current year.

B is the index number published for the December quarter of the year immediately preceding the current year (the *previous year*).

C is the index number published for the December quarter of the year immediately preceding the previous year.

- (3) However, if in a particular year the adjustment of the monetary amount under subsection (2) would reduce the amount, the amount must not be adjusted in that year.

- (4) In this section—

index number, published for a quarter, means the index number for the quarter in the Australian Bureau of Statistics Producer Price Indexes, Building Construction Queensland (6427.0, Table 17) Index; 30 Building Construction Queensland (Series ID–A2333712W) published by the Australian Statistician.

7 Amendment of s 7 (Cost of work—Act, s 76)

- (1) Section 7, ‘\$80000 (including GST)’—

omit, insert—

\$150000

- (2) Section 7—

insert—

Note—

Under section 73(1) of the Act, the cost of building and construction work is exclusive of GST.

8 Amendment of s 8 (Rate of remuneration payable to local government—Act, s 77)

Section 8, heading, ‘local government’—

omit, insert—

assessment manager

9 Amendment of s 9 (Amount for additional levy—Act, s 80)

Section 9, ‘(including GST)’—

omit, insert—

(excluding GST)

10 Amendment of s 11 (Amount for refund of levy—Act, s 81)

Section 11, ‘(including GST)’—

omit, insert—

(excluding GST)

11 Amendment of s 13 (Amount for approval to pay levy by instalments—Act, s 82)

Section 13, ‘(including GST)’—

omit, insert—

(excluding GST)

12 Replacement of s 14 (Interest rate—Act, s 84(1))

Section 14—

omit, insert—

14 Interest rate—Act, s 84(1)

For section 84(1) of the Act, interest accrues daily at the prescribed rate, within the meaning of the *Taxation Administration Act 2001*, for unpaid tax interest.

13 Insertion of new pt 7, div 1 hdg

Part 7, before section 18—

insert—

Division 1 Repeal

14 Insertion of new pt 7, div 2 hdg

Part 7, after section 18—

insert—

**Division 2 Transitional provision for
2013 SL No. 38**

15 Insertion of new pt 7, div 3

Part 7—

insert—

**Division 3 Transitional provisions for
Building and Construction
Industry (Portable Long
Service Leave)
Amendment Regulation
(No. 1) 2014**

20 Definition for div 3

In this division—

commencement means the commencement of this division.

21 Refund of levy applied for immediately before commencement

- (1) This section applies to an application under section 81(2) of the Act made, but not decided before the commencement.
- (2) Section 11 as in force immediately before the commencement continues to apply in relation to the application.

22 Levy not fully paid immediately before commencement

- (1) This section applies if—
 - (a) before the commencement, a person was served with a notice of assessment under section 85 of the Act for building and construction work the cost of which is more than \$5bn; and
 - (b) immediately before the commencement—
 - (i) levy due under the Act in relation to the building and construction work had not been paid in full; and
 - (ii) more than \$1bn of the cost of the building and construction work assessed had not been completed.
- (2) Despite the notice of assessment, the amount of levy due under the Act for the relevant portion is taken to be the amount of levy that would be due for the relevant portion if it were calculated by applying section 6, as in force on the commencement.
- (3) Nothing in this section affects the notice of assessment to the extent it relates to levy for the part of the cost of the building and construction work that is not the relevant portion.
- (4) In this section—

relevant portion means the part of the cost of the building and construction work mentioned in subsection (1)(a) that—

- (a) is not more than \$5bn; and
- (b) is for work that, immediately before the commencement, was uncompleted.

Note—

Under section 73(1) of the Act, the cost of building and construction work is exclusive of GST.

16 Insertion of new schs 1 and 2

After section 19—

insert—

Schedule 1 Percentages for levy

section 6

Column 1 Levy	Column 2 %	Column 3 %
building and construction industry training levy	0.1	0.05
long service leave levy	0.25	0.125
work health and safety levy	0.125	0.0625

Schedule 2 Dictionary

section 1A

mining means the extraction of substances, including any of the following, from air, earth, sea or seabed—

- (a) gemstone, salt or phosphate;
- (b) hydrocarbon;
- (c) metal, mineral or ore;
- (d) mineral sand;
- (e) quarried stone including limestone, marble or sandstone;
- (f) uranium and other radioactive substances;
- (g) a derivative of a substance mentioned in paragraphs (a) to (f).

mining tenement means an authority, claim, lease, licence, permit or other tenure under any of the following Acts—

- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*;
- (b) *Central Queensland Coal Associates Agreement Act 1968*;
- (c) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;
- (d) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;
- (e) *Central Queensland Coal Associates Agreement Amendment Act 1989*;
- (f) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;

- (g) *Geothermal Energy Act 2010*;
- (h) *Greenhouse Gas Storage Act 2009*;
- (i) *Mineral Resources Act 1989*;
- (j) *Mount Isa Mines Limited Agreement Act 1985*;
- (k) *Petroleum Act 1923*;
- (l) *Petroleum and Gas (Production and Safety) Act 2004*;
- (m) *Queensland Nickel Agreement Act 1970*;
- (n) *Queensland Nickel Agreement Act 1988*;
- (o) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*.

Examples—

- an authority under the *Petroleum and Gas (Production and Safety) Act 2004*
- an exploration permit, mineral development licence or mining lease granted under the *Mineral Resources Act 1989*
- a GHG authority under the *Greenhouse Gas Storage Act 2009*

mobile plant includes a dragline.

resources operation means—

- (a) mining under a mining tenement; or
- (b) separating, producing, gathering, storing, processing, refining or smelting a substance that is the product of mining (whether or not under a mining tenement); or
- (c) treatment operations undertaken in relation to a substance that is the product of mining (whether or not under a mining tenement).

resources operational work—

- 1 *Resources operational work* means the conduct of a resources operation.

- 2 *Resources operational work* also means activities that are ancillary to, or undertaken in connection with, a resources operation including, for example—
- (a) erecting, below or above a mine portal of an underground mine, a conveyor belt to be used substantially below the portal; or
 - (b) mining development activities below or substantially below the mine portal of an underground mine; or
 - (c) purchasing, mobilising and constructing mobile plant or equipment, other than a dragline, for a resources operation; or
 - (d) maintaining or repairing mobile plant, including a shutdown; or
 - (e) ancillary or incidental generation, supply or transmission of electric power or steam for resources operations; or
 - (f) loading or handling of bulk materials at a wharf; or
 - (g) installing wells, gathering lines and associated infrastructure to extract hydrocarbons and by-products, upstream of, but not in or on, a processing facility; or
 - (h) maintaining or extending haul roads used for a resources operation under a mining tenement; or
 - (i) maintaining or repairing fixed facilities, plant and equipment, other than a shutdown; or

-
- (j) prospecting or exploring activities undertaken in connection with mining under a mining tenement; or
 - (k) work, other than the construction of roads, to allow land access on or to a place where the following are being conducted—
 - (i) a resources operation;
 - (ii) activities mentioned in paragraph (j); or
 - (l) land clearing or rehabilitation work undertaken in connection with—
 - (i) activities mentioned in paragraph (j); or
 - (ii) mining under a mining tenement.
- 3 The following the activities are not *resources operational work* other than to the extent they are mentioned in paragraph 2(a) to (l)—
- (a) erecting a conveyor belt to be used substantially on the surface of land; or
 - (b) constructing a dragline, or the complete deconstruction and reconstruction of a dragline in a new location if it has not moved under its own power; or
 - (c) constructing, deconstructing or reconstructing fixed plant or equipment; or
 - (d) a shutdown of fixed plant or equipment.

shutdown, in relation to facilities, plant or equipment, means carrying out substantial maintenance or repair work on the facilities, plant

or equipment, that results in the cessation of the conduct of a resources operation if—

- (a) the cessation is for at least 30 days; and
- (b) the entire period of cessation is reasonably required for the carrying out of maintenance or repairs.

ENDNOTES

- 1 Made by the Governor in Council on 26 June 2014.
- 2 Notified on the Queensland legislation website on 27 June 2014.
- 3 The administering agency is the Department of Justice and Attorney-General.

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