

Queensland



**BUILDING AND
CONSTRUCTION INDUSTRY
(PORTABLE LONG SERVICE
LEAVE) AMENDMENT BILL
1994**

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**BUILDING AND CONSTRUCTION
INDUSTRY (PORTABLE LONG SERVICE
LEAVE) AMENDMENT BILL 1994**

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1994

A BILL

FOR

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

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

The Parliament of Queensland enacts—

	Short title	2
Clause	1. This Act may be cited as the <i>Building and Construction Industry (Portable Long Service Leave) Amendment Act 1994</i> .	3 4
	Commencement	5
Clause	2. This Act commences on 1 January 1995.	6
	Act amended	7
Clause	3. This Act amends the <i>Building and Construction Industry (Portable Long Service Leave) Act 1991</i> .	8 9
	Amendment of s 3 (Interpretation)	10
Clause	4.(1) Section 3, definitions “ approved form ”, “ award ”, “ Board ”, “ employee ”, “ Manager ”, “ register of employees ” and “ register of employers ”—	11 12 13
	<i>omit.</i>	14
	(2) Section 3—	15
	<i>insert—</i>	16
	“ approved form ” means a form approved by the Authority.	17
	“ Authority ” means the Building and Construction Industry (Portable Long Service Leave) Authority.	18 19
	“ award ” means an award within the meaning of—	20
	(a) the <i>Industrial Relations Act 1990</i> ; or	21
	(b) the <i>Industrial Relations Act 1988</i> (Cwlth).	22
	“ board ” means the Authority’s board of directors.	23

*Building and Construction Industry (Portable
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- “building and construction industry award or agreement”** means an award or industrial agreement applying to the building and construction industry. 1
2
3
- “employee”** means a person who, in the Authority’s opinion, for the majority of the person’s ordinary hours of work, performs, or usually performs, work under a contract of employment for which a rate of pay is fixed by a building and construction industry award or agreement, but does not include— 4
5
6
7
8
- (a) a person prescribed under the regulations to be exempt from this Act; or 9
10
- (b) a person who performs or supervises the performance of building and construction work under a contract of employment with— 11
12
- (i) a local government; or 13
- (ii) a government entity; or 14
- (iii) an entity established under an Act of the Commonwealth or another State. 15
16
- “General Manager”** means the Authority’s general manager. 17
- “industrial agreement”** means an industrial agreement, certified agreement or enterprise flexibility agreement under the *Industrial Relations Act 1990*. 18
19
20
- “register of employees”** means the register of employees kept by the Authority under this Act. 21
22
- “register of employers”** means the register of employers kept by the Authority under this Act. 23
24
- “State”** includes Territory.’. 25
- (3) Section 3, definition **“building and construction industry”**, paragraphs (a)(xviii) and (xix), ‘in the opinion of the Board’— 26
27
omit, insert— 28
‘in the Authority’s opinion’. 29

*Building and Construction Industry (Portable
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	Replacement of s 4 (Act binds Crown)	1
Clause	5. Section 4—	2
	<i>omit, insert—</i>	3
	‘Act binds all persons	4
	‘4. This Act binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.’	5 6 7
	Insertion of new Pt 1A	8
Clause	6. After Part 1—	9
	<i>insert—</i>	10
	‘PART 1A—BUILDING AND CONSTRUCTION INDUSTRY (PORTABLE LONG SERVICE LEAVE) AUTHORITY	11 12 13
	<i>‘Division 1—Establishment of Authority</i>	14
	‘Establishment of Authority	15
	‘4A. The Building and Construction Industry (Portable Long Service Leave) Authority is established.	16 17
	‘Legal status of Authority	18
	‘4B.(1) The Authority—	19
	(a) is a body corporate; and	20
	(b) has a seal; and	21
	(c) may sue and be sued in its corporate name.	22
	‘(2) The Authority does not represent the State.	23

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

‘(3) The Authority is an exempt public authority under the Corporations Law.	1 2
‘Authority may operate under trading name	3
‘4C. The Authority may operate under a trading name prescribed under the regulations.	4 5
<i>‘Division 2—Functions and powers of Authority</i>	6
‘Authority’s functions	7
‘4D.(1) The Authority’s primary function is to provide an equitable and efficient system of portable long service leave for employees in the building and construction industry.	8 9 10
‘(2) The other functions of the Authority are—	11
(a) to provide educational and awareness programs to the building and construction industry to encourage employee membership and industry compliance with this Act; and	12 13 14
(b) to give advice and make recommendations to the Minister on issues affecting the provision of long service leave in the industry and the operation of this Act; and	15 16 17
(c) to perform other functions given to the Authority under this or another Act; and	18 19
(d) to perform functions incidental to its other functions; and	20
(e) other functions prescribed under the regulations.	21
‘Authority’s powers	22
‘4E.(1) The Authority has all the powers of an individual and may, for example—	23 24
(a) enter into contracts; and	25
(b) acquire, hold, deal with and dispose of property; and	26

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

- (c) appoint agents and attorneys; and 1
- (d) charge for, and fix conditions for the supply of, the goods,
services and information it supplies; and 2
3
- (e) engage consultants; and 4
- (f) do anything else necessary or convenient to be done in
performing its functions. 5
6

‘(2) Without limiting subsection (1), the Authority has the powers given
to it under this or another Act. 7
8

‘(3) However, if the Authority intends to exercise borrowing powers, a
regulation must be made under section 47 of the *Statutory Bodies Financial
Arrangements Act 1982* that— 9
10
11

(a) declares the provisions of Part 4 of that Act that apply to the
borrowing; and 12
13

(b) prescribes the terms on which the declared provisions apply. 14

‘(4) The Authority may exercise its powers inside and outside
Queensland. 15
16

‘(5) Without limiting subsection (4), the Authority may exercise its
powers outside Australia.’. 17
18

**Replacement of Pt heading (Building and Construction Industry
(Portable Long Service Leave) Board) 19
20**

Clause 7. Part 2, heading— 21

omit, insert— 22

**‘PART 2—OTHER PROVISIONS ABOUT THE
AUTHORITY’. 23
24**

Replacement of ss 5 to 8 25

Clause 8. Sections 5 to 8— 26

omit, insert— 27

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

‘The board	1
‘5. The Authority has a board of directors.	2
‘Role of board	3
‘6. The board’s role includes—	4
(a) responsibility for the Authority’s commercial policy and management; and	5 6
(b) ensuring, as far as possible, the Authority achieves, and acts in accordance with, its corporate goals and carries out its corporate objectives outlined in its corporate plan; and	7 8 9
(c) providing advice and recommendations to the Minister on issues affecting the provision of long service leave in the industry and the operation of this Act; and	10 11 12
(d) ensuring the Authority otherwise performs its functions in an appropriate, effective and efficient way.	13 14
‘Composition of board	15
‘7. The board consists of the following 8 directors—	16
(a) the chairperson;	17
(b) the deputy chairperson who must have knowledge of, and experience in, financial affairs;	18 19
(c) 3 directors representing employers in the building and construction industry;	20 21
(d) 3 directors representing employees who perform building and construction work.	22 23
‘Appointment of directors	24
‘8. The directors are to be appointed by the Governor in Council.’.	25

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

	Omission of s 18 (Authentication of documents)	1
Clause	9. Section 18—	2
	<i>omit.</i>	3
	Replacement of s 23 (Functions of Manager)	4
Clause	10. Section 23—	5
	<i>omit, insert—</i>	6
	‘Duties of general manager	7
	‘23. The Authority’s general manager is, under its board, to manage the Authority.	8 9
	‘Things done by general manager	10
	‘23A. Anything done in the name of, or for, the Authority by the general manager is taken to have been done by the Authority.’.	11 12
	Insertion of new s 27A	13
Clause	11. After section 27—	14
	<i>insert—</i>	15
	‘Funds manager	16
	‘27A.(1) The Authority may, with the Treasurer’s approval, engage a person (the “funds manager”) to invest the Authority’s funds that are not immediately needed by the Authority for performing its functions.	17 18 19
	‘(2) The Treasurer may impose conditions on the approval and may amend or revoke the approval’s conditions.	20 21
	‘(3) The funds manager may, with the board’s approval, invest the funds in ways in addition to the ways authorised under Part 5 of the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	22 23 24
	‘(4) However, the funds manager must—	25
	(a) comply with the conditions imposed by the Treasurer under	26

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

	subsection (2); and	1
	(b) operate within the investment strategy and policy decided by the board; and	2 3
	(c) report to the board about the state of the investments in the way and at the times decided by the board.	4 5
	‘(5) Subsection (3) has effect despite the limitations under section 29A(2) on the Authority’s power to invest its funds.’.	6 7
	Replacement of s 29 (Actuarial investigation of funds)	8
Clause	12. Section 29—	9
	<i>omit, insert—</i>	10
	‘Actuarial investigation of funds	11
	‘29.(1) The Authority must investigate the sufficiency of the Authority’s funds and the adequacy of the rate of long service leave levy to be made—	12 13
	(a) as at 1 July 1995; and	14
	(b) afterwards, at intervals of not more than 2 years.	15
	‘(2) An investigation must be made by an actuary.	16
	‘(3) An actuary who makes an investigation—	17
	(a) must finish the investigation, and report the outcome of the investigation to the Authority, as soon as practicable after the date at which the investigation is made; and	18 19 20
	(b) must express in the report an opinion about whether any reduction or increase should be made in the rate of long service leave levy.	21 22 23
	‘(4) As soon as practicable after it receives the report, the Authority must give the report to the Minister together with its recommendations on—	24 25
	(a) the opinion expressed by the actuary under subsection (3)(b); and	26
	(b) whether the funds available are adequate to carry out the Authority’s functions.	27 28
	‘(5) This section does not limit the Authority’s ability to make other	29

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

inquiries about the sufficiency of the Authority’s funds and the adequacy of
the rate of long service leave levy. 1
2

‘Application of Finance Acts 3

‘**29A.(1)** The Authority is a statutory body within the meaning of the
Financial Administration and Audit Act 1977. 4
5

‘**(2)** The Authority is a statutory body within the meaning of the
Statutory Bodies Financial Arrangements Act 1982 and Part 5 of that Act¹
applies for the Authority.’. 6
7
8

Amendment of s 31 (Application for registration) 9

Clause **13.** Section 31— 10

insert— 11

‘**(3)** The Authority, by written notice, may ask the applicant to give
further information or documents relevant to the application. 12
13

‘**(4)** The Authority may also ask the applicant to verify information or
documents by statutory declaration. 14
15

‘**(5)** The Authority may refuse the application if the applicant fails to
comply with the request without reasonable excuse.’. 16
17

**Amendment of s 32 (Approval or refusal of application for
registration)** 18
19

Clause **14.** Section 32— 20

insert— 21

‘**(2)** If the Authority refuses the application, it must give the applicant
reasons for the refusal. 22
23

‘**(3)** Subsection (1) does not require the Authority to consider an
application that it refuses under section 31(5).’ 24
25

¹ Part 5 of the Statutory Bodies Financial Arrangements Act sets out the
investment powers that may apply to statutory bodies.

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

Amendment of s 33 (Date of registration)

Clause	15. Section 33—	1
	<i>insert—</i>	2
	‘(4) The Authority must not, in any case, fix a date earlier than 1 July 1992.’.	3
		4
		5

Amendment of s 36 (Application for registration)

Clause	16. Section 36—	6
	<i>insert—</i>	7
	‘(3) The approved form may require an employer—	8
	(a) to state—	9
	(i) each name under which the employer is, or has been, engaged in the building and construction industry; and	10
	(ii) each business address of the employer; and	11
	(iii) each place in Queensland where books and records mentioned in section 82 ² may be inspected during normal business hours; and	12
	(b) to provide other information or produce documents that, in the Authority’s opinion, are relevant to the administration or enforcement of this Act.	13
	‘(4) The Authority may require an applicant to supply further stated information or documents to satisfy the Authority the applicant is an employer in the building and construction industry who employs employees.	14
		15
		16
		17
		18
		19
	‘(5) The Authority may require the applicant to verify information or documents by statutory declaration.	20
		21
		22
		23
	‘(6) The applicant must comply with a requirement under subsection (3),	24
		25
		26

² Section 82 deals with the keeping of books and records.

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

(4) or (5), unless the applicant has a reasonable excuse. 1

Maximum penalty for subsection (6)—16 penalty units.’. 2

Replacement of ss 37 to 39 3

Clause 17. Sections 37 to 39— 4

omit, insert— 5

‘Approval or refusal of application for registration 6

‘37.(1) The Authority must consider each application made under 7
section 36 and must— 8

(a) if satisfied that the applicant is an employer in the building and 9
construction industry who employs employees—approve the 10
application; or 11

(b) if not satisfied—refuse the application. 12

‘(2) If the Authority refuses the application, it must give the applicant 13
reasons for the refusal. 14

‘Employer to notify Authority of any change in circumstance 15

‘38. An employer must give written notice to the Authority of any 16
change to information given to the Authority under section 36(3) or (4) 17
within 14 days of the change happening. 18

Maximum penalty—16 penalty units.’. 19

Replacement of s 43 (Exemptions) 20

Clause 18. Section 43— 21

omit, insert— 22

‘Exemptions 23

‘43.(1) An employer may apply to the Authority for an exemption from 24
the requirement to give a certificate of service under section 41 for an 25
employee or class of employees. 26

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

- ‘(2) The Authority may grant the exemption if the employer satisfies the Authority—
- (a) the employer no longer employs the employee or class of employees; or
 - (b) the employer complies with, or makes contributions to, a similar scheme in another State about the payment of long service leave payments for the employee or class of employees.
- ‘(3) The Authority may, by written notice to the employer, cancel an exemption granted under subsection (2) if it is satisfied the exemption should no longer be given.
- ‘(4) If the Authority revokes the exemption, it must give the employer reasons for the revocation.’.

Amendment of s 53 (Amount of long service leave payment)

- Clause **19.** Section 53(1) and (2)—
- omit, insert—*
- ‘**53.(1)** In this section—
- “**LSLP**” (long service leave payment) means the amount of long service leave payment.
- “**P**” (pay) means the amount of ordinary pay for a normal working week that is, in the Authority’s opinion, payable to the registered employee on the day the employee starts long service leave.
- “**relevant award or agreement**” means the relevant building and construction industry award or agreement.
- “**S**” (service) means the number of days’ service with which the registered employee for whom the application is made is credited in the register of employees—
- (a) on the day when the entitlement to long service leave payment first arose; or
 - (b) if the employee or personal representative asks—on the day the application is filed with the Authority.

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

‘(2) As soon as practicable after an application is made under section 50, the Authority must pay to the applicant long service leave payment worked out under the following formula—

$$\text{LSLP} = \frac{\text{S}}{220} \times \frac{13}{15} \times \text{P}.$$

‘(2A) Subsection (2) is subject to the following sections—

- section 51 (Entitlement to long service leave)
- section 54 (Long service leave payment not payable in certain cases).’.

Insertion of new ss 60A and 60B

Clause 20. After section 60—

insert—

‘Notification of building and construction work

‘60A.(1) If building and construction work is to be carried out, an approved form must be filed with the Authority or its agent by or for the person for whom the work is to be done.

Maximum penalty—16 penalty units.

‘(2) However, the form need not be filed if levy is not payable because of section 62(2)(a).

‘Offence for failure to pay levy

‘60B. A person liable to pay levy and not fully exempt from payment under section 63 must pay to the Authority or its agent the amount of levy at or before the time for its payment.

Maximum penalty—16 penalty units.’.

Replacement of ss 62 and 63

Clause 21. Sections 62 and 63—

omit, insert—

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

‘No levy for certain building and construction work

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

‘(2) Also, 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.

‘Exemption from payment of levy

‘63.(1) A person carrying out work under an owner-builder permit is exempt from payment of levy on all work carried out under the permit.

‘(2) The Authority may exempt a person who is not substantially engaged in the building and construction industry from payment of levy for building and construction work, or part of the work, that the Authority is satisfied is carried out for the person by the person or the person’s employees.’.

Replacement of ss 65 and 65A

Clause **22.** Sections 65 and 65A—

omit, insert—

‘Meaning of “cost of building and construction work”

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

- (a) the contract price for the work; or
- (b) if the work is being done for someone other than the Commonwealth and involves more than 1 contract—the total of the contract prices; or
- (c) if there is no contract price—the cost of the work as decided by the Authority.

‘(2) Despite subsection (1)(a) and (b), if the Authority is satisfied that the contract price, or the total of the contract prices, 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 Authority.

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

	‘Liability for levy	1
	‘65A. Levy for building and construction work must be paid by—	2
	(a) if the work is being done for the Commonwealth—the contractor engaged by the Commonwealth to carry out the work; or	3 4
	(b) if paragraph (a) does not apply and an application is made to a local government under the <i>Building Act 1975</i> for approval of the work—the person who makes the application; or	5 6 7
	(c) if paragraphs (a) and (b) do not apply—the person for whom the work is to be done.’.	8 9
	 Amendment of s 65D (Duty of local authority to sight approved form)	 10
Clause	23. Section 65D—	11
	<i>insert—</i>	12
	‘(3) Subsection (1) does not apply to an application about building and construction work if no levy is payable for the work under section 62(2).’.	13 14
	 Replacement of s 67 (Voluntary performance of building and construction work)	 15 16
Clause	24. Section 67—	17
	<i>omit, insert—</i>	18
	‘Voluntary performance of building and construction work	19
	‘67.(1) Levy is not payable for the voluntary component of building and construction work to be carried out by or for an entity that, in the Authority’s opinion, is a nonprofit organisation.	20 21 22
	‘(2) In this section—	23
	“nonprofit organisation” means an entity formed, or carried on, for a purpose other than pecuniary gain to its members.	24 25
	“voluntary component” means the cost, in the Authority’s opinion, attributable to voluntary labour and donated building materials.’.	26 27

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

	Omission of s 68 (Offence for failure to pay levy)	1
Clause	25. Section 68—	2
	<i>omit.</i>	3
	Replacement of s 70 (Additional levy)	4
Clause	26. Section 70—	5
	<i>omit, insert—</i>	6
	‘Additional provisions about levy	7
	‘70.(1) Subsection (2) applies if the Authority believes, on reasonable grounds, that a person is liable to pay levy for building and construction work.	8 9 10
	‘(2) The Authority may, by written notice, require the person to give the Authority the information and documents about the work, including the actual cost of carrying out the work, asked for in the notice within the reasonable time stated in the notice.	11 12 13 14
	‘(3) The person must comply with the notice, unless the person has a reasonable excuse.	15 16
	Maximum penalty—16 penalty units.	17
	‘(4) If—	18
	(a) the levy payable for the actual cost of carrying out the work is more than the levy that has been paid for the work; and	19 20
	(b) the difference between the cost of the work for which levy has been paid and the cost of the work for which levy is payable is more than the amount prescribed under the regulations;	21 22 23
	the person must pay the additional levy to the Authority without delay.	24
	Maximum penalty—16 penalty units.	25
	‘(5) Payment of additional levy may be claimed and ordered in a proceeding for—	26 27
	(a) recovery of the additional levy brought in a court of competent jurisdiction; or	28 29

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

(b) an offence against subsection (4) brought against the person liable to pay the additional levy. 1
2

‘(6) The additional levy must be worked out under the regulations.’. 3

Amendment of s 72 (Payment of levy by instalments) 4

Clause 27. Section 72(1) and (2)— 5

omit, insert— 6

‘72.(1) Despite section 65B,³ the person liable to pay long service leave levy may pay the levy by instalments under this section if— 7
8

(a) the cost of the building and construction work is more than an amount prescribed under the regulations; and 9
10

(b) the time reasonably needed to perform the work is longer than 1 year. 11
12

‘(2) The first instalment must not be less than the levy that would be payable for building and construction work costing the amount prescribed by regulation under subsection (1)(a). 13
14
15

‘(2A) Each subsequent instalment of levy for the work is the amount decided by the Authority and notified to the person liable to pay the levy. 16
17

‘(2B) An instalment is payable— 18

(a) if it is the first instalment—before the time the levy would be payable if it were not payable by instalments; and 19
20

(b) for other instalments—at the times before the finish of the building and construction work decided by the Authority and notified to the person.’. 21
22
23

Amendment of s 74 (Interest on, and extension of time for payment of, levy) 24
25

Clause 28. Section 74(3)— 26

omit, insert— 27

³ Section 65B deals with when levy is payable.

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

- ‘(3) The Authority may, in special circumstances, direct that— 1
- (a) the time for payment of long service leave levy be changed to a 2
later stated time; or 3
- (b) levy be payable in instalments of amounts, and at intervals, 4
decided by the Authority; or 5
- (c) the amount of any interest payable under subsection (1) be 6
waived or reduced by a stated amount. 7
- ‘(4) Subsection (3) applies despite the following sections— 8
- section 65B (When levy is payable) 9
 - section 70 (Additional provisions about levy) 10
 - section 72 (Payment of levy by instalments).’ 11

Amendment of s 75 (Recovery of levy) 12

- Clause 29. Section 75(1)— 13
- omit, insert— 14*
- ‘75.(1) Levy that has become payable to the Authority is a debt payable 15
to it.’. 16

Amendment of s 77 (Reconsideration by Board) 17

- Clause 30.(1) Section 77(1)(c), ‘90 days’— 18
- omit, insert— 19*
- ‘45 days’. 20
- (2) Section 77(1)(d)— 21
- omit, insert— 22*
- ‘(d) within a longer period prescribed under the regulations; or’. 23

Replacement of s 78 (Appeal to Industrial Magistrate) 24

- Clause 31. Section 78— 25

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omit, insert—

‘Appeal to Industrial Magistrate

‘78.(1) A person mentioned in section 77(1) may appeal to an Industrial Magistrate—

- (a) instead of taking action under that section; or
- (b) if dissatisfied with a decision of the Authority under section 77(2).

‘(2) A regulation may provide for—

- (a) the way an appeal to an Industrial Magistrate may be started and conducted; and
- (b) the powers of an Industrial Magistrate to summon witnesses and documents.

‘(3) In deciding an appeal, the Industrial Magistrate may—

- (a) confirm the decision appealed against; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the Authority with directions the Industrial Magistrate considers appropriate.

‘(4) In substituting another decision, the Industrial Magistrate has the same powers as the Authority.

‘(5) If the Industrial Magistrate substitutes another decision, the substituted decision is taken, for this Act, to be the Authority’s decision.

‘(6) The Industrial Magistrate may make an order about costs the magistrate considers just.’.

Replacement of s 82 (Keeping of books and records)

Clause **32.(1)** Section 82—

omit, insert—

‘Keeping, and inspection, of books and records

‘82.(1) A person who employs employees to perform building and construction work must keep the books and records about employees

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prescribed under the regulations.	1
‘(2) The regulations may prescribe the particulars about employees the books and records must contain.	2 3
‘(3) The person must—	4
(a) preserve each book and record for at least 6 years after the last entry is made in it; and	5 6
(b) make available for inspection by an authorised officer, or produce to the authorised officer for inspection, the books and records at a reasonable time and place nominated by an authorised officer; and	7 8 9
(c) permit the authorised officer to make a copy of a book or record.	10
Maximum penalty—16 penalty units.	11
‘(4) A requirement under subsection (3)(b) may be made orally, but must be confirmed in writing as soon as practicable.’.	12 13

Amendment of s 89 (General powers of authorised officer in relation to places)	14 15
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Clause 33. Section 89(1)(d)—	16
<i>omit, insert—</i>	17
‘(d) to take into the place any persons, equipment and materials the authorised officer reasonably requires to exercise powers in relation to the place;’.	18 19 20

Amendment of s 95 (Proceedings for offences)	21
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Clause 34. Section 95(2)—	22
<i>omit, insert—</i>	23
‘(2) Proceedings for an offence against this Act must start—	24
(a) within 1 year after the commission of the offence; or	25
(b) within 1 year after the offence comes to the complainant’s knowledge, but within 2 years after the commission of the offence.’.	26 27 28

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	Replacement of ss 97 and 98	1
Clause	35. Sections 97 and 98—	2
	<i>omit, insert—</i>	3
	‘Powers of Industrial Magistrate	4
	‘97. For this Act, an Industrial Magistrate has all the powers conferred	5
	on an Industrial Magistrate under the <i>Industrial Relations Act 1990</i> , as far	6
	as the powers are appropriate for issues to be decided under this Act.	7
	‘Evidentiary provisions	8
	‘98.(1) This section applies to a proceeding under this Act or another Act	9
	prescribed under the regulations.	10
	‘(2) The appointment of a director of the board or a person appointed	11
	under this Act and the authority of the chairperson of the board, or another	12
	person appointed under this Act, to do anything under this Act must be	13
	presumed unless a party, by reasonable notice, requires proof of the	14
	appointment or authority.	15
	‘(3) A signature purporting to be the signature of the chairperson or other	16
	appointed person is evidence of the signature it purports to be.	17
	‘(4) A certificate purporting to be signed by the General Manager stating	18
	any of the following matters is evidence of the matter—	19
	(a) a stated document is—	20
	(i) an appointment or approval or a copy of an appointment or	21
	approval; or	22
	(ii) a record or document, a copy of a record or document, or an	23
	extract from a record or document, kept under this Act;	24
	(b) on a stated day, a stated person was or was not listed in the	25
	register of employers or the register of employees;	26
	(c) on a stated day, an application for registration as an employer	27
	under section 36 had, or had not, been received by the Authority;	28
	(d) on a stated day, a certificate of service under section 41(1)(a) or	29
	(b) had, or had not, been received by the Authority;	30

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(e) on a stated day, a stated direction was made or given by the Authority. 1
2

‘(5) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant’s knowledge on a stated day is evidence of the matter.’. 3
4
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Insertion of new Pt 10 6

Clause 36. After Part 9— 7

insert— 8

‘PART 10—TRANSITIONAL 9

‘Members of the board 10

‘103.(1) The person who, immediately before the commencement, was the chairperson of the former board becomes, on the commencement, a director and the chairperson of the new board. 11
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‘(2) The person who, immediately before the commencement, was the deputy chairperson of the former board becomes, on the commencement, a director and the deputy chairperson of the new board. 14
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‘(3) A person who, immediately before the commencement, was a member of the former board representing employers in the building and construction industry becomes, on the commencement, a director of the new board representing employers in the building and construction industry. 17
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‘(4) A person who, immediately before the commencement, was a member of the former board representing employees who perform building and construction work becomes, on the commencement, a director of the new board representing employees who perform building and construction work. 22
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‘(5) A person mentioned in subsections (1) to (4) is entitled to the same remuneration and continues in office for the same term that applied to the person as a member of the former board immediately before the commencement. 27
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29
30

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‘(6) In this section—	1
“former board” means the Building and Construction Industry (Portable Long Service Leave) Board.	2 3
“new board” means the Authority’s board of directors.	4
‘(7) Section 20A of the <i>Acts Interpretation Act 1954</i> applies to this section.	5 6
‘(8) This section expires 6 months after the commencement.	7
‘Authority is legal successor of Board	8
‘104.(1) The Authority is the legal successor of the Building and Construction Industry (Portable Long Service Leave) Board and the assets and liabilities of the Board are, by force of this section, the assets and liabilities of the Authority.	9 10 11 12
‘(2) Section 20A of the <i>Acts Interpretation Act 1954</i> applies to this section.	13 14
‘(3) This section expires 6 months after the commencement.	15
‘Legal proceedings	16
‘105.(1) A legal proceeding by or against the Building and Construction Industry (Portable Long Service Leave) Board may be continued and completed by or against the Authority established under this Act.	17 18 19
‘(2) Section 20A of the <i>Acts Interpretation Act 1954</i> applies to this section.	20 21
‘(3) This section expires 6 months after the commencement.	22
‘References to Board	23
‘106. A reference at the commencement in an Act or instrument or other document to the Building and Construction Industry (Portable Long Service Leave) Board is taken to be a reference to the Building and Construction Industry (Portable Long Service Leave) Authority.	24 25 26 27

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‘Numbering and renumbering of Act

‘107. Section 43 (Numbering and renumbering of provisions) of the
Reprints Act 1992 must be used in the next reprint of the Act produced
under that Act.’.

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SCHEDULE

1

MINOR AMENDMENTS

2

section 3

3

1. Sections 14(10), 16(2) and (3), 22, 24, 25, 85 and 99, ‘Manager’—

4

omit, insert—

5

‘general manager’.

6

2. Section 16(1), ‘Manager’s’—

7

omit, insert—

8

‘general manager’s’.

9

3. Sections 65B(1)(a), 65D and 66(a)(i) and (b), ‘local authority’—

10

omit, insert—

11

‘local government’.

12

4. Sections 17, 21, 22, 26, 27, 28(1) and (3), 30, 32 to 35, 36(2), 40 to 42, 44, 46(4)(b), 47 to 50, 53(8), 54(1), 56 to 59, 61, 65B to 66, 71(1)(b) and (2), 72(3) to (6), 73, 75(2) to (4), 77, 79(1), 80(3)(b), 84(1)(b), (3)(b) and (4)(b), 94(1) (definition “person to whom this section applies”, paragraph (b)), 96(4) and 99 to 101, ‘Board’—

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17

omit, insert—

18

‘Authority’.

19

SCHEDULE (continued)

5. Sections 16(1) and (4), 24, 44(b) and 58 (heading), ‘Board’s’—	1
<i>omit, insert—</i>	2
‘Authority’s’.	3
6. Sections 9 to 12, 13(4), 14, 20, 83, 84(1)(a) and 94(1) (definition “person to whom this section applies”, paragraph (a)), ‘member’—	4
<i>omit, insert—</i>	6
‘director’.	7
7. Sections 14(3), (5) and (6), 15(1) and 20 (heading), ‘members’—	8
<i>omit, insert—</i>	9
‘directors’.	10
8. Sections 9(2) and 83(1), ‘member’s’—	11
<i>omit, insert—</i>	12
‘director’s’.	13
9. Section 9, heading—	14
<i>omit, insert—</i>	15
‘Disqualification from board’.	16
10. Sections 16 and 17(a), ‘common seal’—	17
<i>omit, insert—</i>	18
‘seal’.	19
	20