

Queensland



**BUILDING AND
CONSTRUCTION INDUSTRY
(PORTABLE LONG SERVICE
LEAVE) AMENDMENT BILL
1998**

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INDUSTRY (PORTABLE LONG SERVICE
LEAVE) AMENDMENT BILL 1998**

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MINOR AND CONSEQUENTIAL AMENDMENTS

1998

A BILL

FOR

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

*Building and Construction Industry (Portable
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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 1998</i> .	3 4
	Commencement	5
Clause	2. This Act commences on 1 October 1998.	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 title	10
Clause	4. Title, after ‘industry’— <i>insert—</i> ‘, and to allocate funds for training in the building and construction industry’.	11 12 13 14
	Amendment of s 3 (Definitions)	15
Clause	5.(1) Section 3, definitions “ employee ”, “ register of employees ” and “ registered employee ”— <i>omit.</i> (2) Section 3— <i>insert—</i> “ eligible worker ” see section 3A. “ employer ” means a person who, by oral or written contract, engages an eligible worker to perform building and construction work.	16 17 18 19 20 21 22 23

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“non-Queensland government entity”	means—	1
(a)	a corporation incorporated under the Corporations Law all the stock or shares in the capital of which is or are beneficially owned by the Commonwealth or another State; or	2 3 4
(b)	an instrumentality, agency, authority or entity of the Commonwealth or another State; or	5 6
(c)	a department of government of the Commonwealth or another State.	7 8
“register of workers”	means the register of workers kept by the Authority under this Act.	9 10
“registered worker”	means a worker whose name is in the register of workers.	11 12
“worker”	means eligible worker.’.	13
(3)	Section 3, definition “government entity” , paragraph (a)—	14
	<i>omit, insert—</i>	15
‘(a)	a corporation incorporated under the Corporations Law all the stock or shares in the capital of which is or are beneficially owned by the State; or’.	16 17 18
Insertion of new s 3A		19
Clause 6.	After section 3—	20
	<i>insert—</i>	21
‘Meaning of “eligible worker”		22
‘3A.(1)	A person is an “eligible worker” if the person is an individual who, for the majority of the person’s ordinary hours of work, performs or usually performs building and construction work—	23 24 25
(a)	under a contract of employment for which a rate of pay is fixed by a building and construction industry award or agreement; or	26 27
(b)	under a subcontract to provide services of labour only that would, if performed under a contract of employment, be work for which a rate of pay is fixed by a building and construction industry	28 29 30

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	award or agreement; or	1
	(c) under a contract of employment as a foreperson, subforeperson or like position directly supervising a person mentioned in paragraph (a) or (b).	2 3 4
	‘(2) However, a person is not an “ eligible worker ” if—	5
	(a) a regulation declares that the person is not an eligible worker; or	6
	(b) the person is engaged under a contract of employment with—	7
	(i) a local government; or	8
	(ii) a government entity; or	9
	(iii) a non-Queensland government entity; or	10
	(c) the person is engaged in a managerial, clerical, professional or ancillary capacity.’.	11 12
	Amendment of s 9 (Authority’s functions)	13
Clause	7. Section 9(1)—	14
	<i>omit, insert—</i>	15
	‘9.(1) The Authority’s primary functions are—	16
	(a) to provide an equitable and efficient system of portable long service leave for eligible workers in the building and construction industry; and	17 18 19
	(b) to provide funds for training for persons in the building and construction industry.’.	20 21
	Insertion of new s 33	22
Clause	8. After section 32—	23
	<i>insert—</i>	24
	‘ Funds for training	25
	‘33.(1) Funds of the Authority are also to be allocated for the training of persons in the building and construction industry.	26 27

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‘(2) The amount to be allocated for training is an amount equivalent to 0.05% of the cost of building and construction work used to calculate the levy for each financial year, other than that part of the cost attributable to any exemptions from the levy approved under sections 71, 78 and 79.¹

‘(3) The amount is to be paid by the Authority as a grant to a building and construction industry training fund to be held in trust for the training by an entity prescribed under a regulation.

‘(4) The amount is to be paid to the entity in accordance with a regulation.’.

Amendment of s 40 (Date of registration)

Clause 9. Section 40(4)—

omit, insert—

‘(4) The Authority must not, in any case, fix a date earlier than—

(a) if the applicant is a person mentioned in section 3A(1)(a)²—1 July 1992; or

(b) if the applicant is a person mentioned in section 3A(1)(b) or (c)—1 October 1998.’.

Amendment of s 50 (Number of days’ service)

Clause 10.(1) Section 50, ‘employed under a contract of employment’—

omit, insert—

‘engaged’.

(2) Section 50(a) and (b), ‘employment’—

omit, insert—

‘engagement’.

¹ Sections 71 (Exemption from payment of levy), 78 (Building and construction work for public authority) and 79 (Voluntary performance of building and construction work)

² Section 3A (Meaning of “eligible worker”)

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(3) Section 50—

insert—

‘(2) Subsection (1) does not apply if the work is performed under a contract for services other than a contract for labour only.’.

Amendment of s 52 (Limitations on service credits)

Clause 11. Section 52(5) and (6)—

omit, insert—

‘(5) If payment for long service leave is made to a person because the person makes an application under section 56(1) or a corresponding law that corresponds to section 56(1), the person must not be credited in the register of workers with any day’s service for building and construction work performed by the person during the period of long service leave.

‘(6) If payment for long service leave is made to a person because the person permanently stops, or intends to permanently stop, work in the building and construction industry, the person must not be credited in the register of workers with any day’s service for building and construction work performed by the person during the year immediately after the day the person applies for payment.’.

Amendment of s 56 (Application for entitlement to long service leave)

Clause 12. Section 56(1)—

omit, insert—

‘56.(1) A registered worker who has 10 years service credited in the register of workers may apply to the Authority in the approved form for long service leave.’.

Amendment of s 57 (Entitlement to long service leave)

Clause 13. Section 57(1)(a) to (d)—

omit, insert—

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- ‘(a) if the registered worker has accrued 10 years service in the register of workers—8.67 weeks; and
- (b) after 10 years service, leave accruing for each additional day’s service recorded in the register at the rate that 8.67 weeks bears to 10 years.’.

Amendment of s 59 (Amount of long service leave payment) 6

Clause **14.(1)** Section 59(1), definition “P”, ‘on the day the employee starts long service leave’— 7
8

omit. 9

(2) Section 59(2), formula— 10

omit, insert— 11

‘**LSLP** = $\frac{\underline{S}}{220}$ x **0.867** x **P**.’. 12

220 13

Amendment of s 60 (Long service leave payment not payable in certain cases) 14
15

Clause **15.** Section 60(1)— 16

omit. 17

Amendment of s 62 (Payments to employers) 18

Clause **16.(1)** Section 62(1), formula— 19

omit, insert— 20

‘**EP** = $\frac{\underline{S}}{220}$ x **0.867** x **P**.’. 21

220 22

(2) Section 62(2), definition “P”, ‘on the day the employee starts long service leave’— 23
24

omit. 25

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(3) Section 62(2), definition “S”, ‘employed under contract of employment by the employer’— 1
2

omit, insert— 3

‘engaged in the performance of building and construction work by the employer, other than as a person mentioned in section 3A(1)(b).³’ 4
5

Amendment of s 78 (Building and construction work for public authority) 6
7

Clause **17.(1)** Section 78(a)(iii)— 8

omit, insert— 9

‘(iii) a non-Queensland government entity; and’. 10

(2) Section 78(b), ‘other body’— 11

omit, insert— 12

‘non-Queensland government entity’. 13

Insertion of new div hdg 14

Clause **18.** Part 11, before section 116— 15

insert— 16

‘Division 1—Transitional provision for Building and Construction 17

Industry (Portable Long Service Leave) Amendment Act 1994’. 18

Insertion of new div 2 19

Clause **19.** After section 116— 20

insert— 21

³ Section 3A (Meaning of “eligible worker”)

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***‘Division 2—Transitional provisions for Building and Construction
Industry (Portable Long Service Leave) Amendment Act 1998***

1
2

‘Register of employees

3

‘117. From the commencement of this section, a reference in a document to the register of employees is taken, if the context permits, to be a reference to the register of workers.

4
5
6

‘Registered employees

7

‘118. A person who immediately before the commencement of this section was a registered employee is taken to be a registered worker from the commencement.’.

8
9
10
11

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

	1
	2
section 3	3
1. Sections 9(2)(a) and 111 heading, ‘employee’—	4
<i>omit, insert—</i>	5
‘worker’.	6
2. Section 13(d), part 6, division 1 heading, sections 37, 41(1), (3) to (5), 43(1) and (4), 44(1)(a), 46, 49(1) and (2), 50, 51, 52(1) to (3), 53, 54(4), 56(2), 59(1), 60(2), 62(2), (4)(b) and (5), 71(2), 87(1)(b) and (e), 92(1) and (2) and 108(4)(b), ‘employees’—	7
<i>omit, insert—</i>	8
‘workers’.	9
	10
	11
	12
3. Sections 37(2)(b), 38(1), 40(1), 41, 50, 52(1), (2) and (3)(a), 53, 54, 59(1), (5), (6) and (9)(a), 60, 61(1), (3) and (4), 62(1)(b), (2), (5), (6)(b) and (7), 63(1) and (2), ‘registered employee’—	13
<i>omit, insert—</i>	14
‘registered worker’.	15
	16
	17
4. Sections 39(1)(a), 41(2), 47(1), 49(1), 51, 54(3), 58, 61(1) and (3)(a), 62(4)(b) and 64, ‘an employee’—	18
<i>omit, insert—</i>	19
‘a worker’.	20
	21

SCHEDULE (continued)

5. Sections 43(1) and (4), 44(1)(a), 46, 47(1), 49(2)(a) and 92(1), ‘employs’—	1 2
<i>omit, insert—</i>	3
‘engages’.	4
6. Sections 47(1)(a) and (b), 48(1)(b), (c) and (d), 49(2), 50(b), 51, 52(3), 54(2)(c) and (3), 58, 59(1), (6), (7), (8) and (9)(b), 60(1), 61(1) and (3), 62(2), (6) to (8), 63(2), 64, ‘the employee’—	5 6 7
<i>omit, insert—</i>	8
‘the worker’.	9
7. Sections 48(1)(b) and (c), 54(1) and 111, ‘employed’—	10
<i>omit, insert—</i>	11
‘engaged’.	12
8. Sections 59(5), (6) and (8) and 63(2), ‘employee’s’—	13
<i>omit, insert—</i>	14
‘worker’s’.	15
9. Section 58, heading, ‘Employees’—	16
<i>omit, insert—</i>	17
‘Workers’.	18
	19