



Queensland

Building and Construction Industry (Portable Long Service Leave) Regulation 2013

Explanatory Notes for SL 2013 No. 38

made under the

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

General outline

Short title

*Building and Construction Industry (Portable Long Service Leave)
Regulation 2013.*

Authorising law

Section 112 of the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

Policy objectives and the reasons for them

The *Building and Construction Industry (Portable Long Service Leave) Act 1991* governs the equitable and efficient system of portability of long service leave in the building and construction industry.

Section 112 of the Act provides that the Governor in Council may make regulations under the Act.

The *Building and Construction Industry (Portable Long Service Leave) Regulation 2005* (the current regulation) was due to expire on 1 September 2012 under the *Statutory Instruments Act 1992*. The Regulation was included as a regulation exempted from expiry pursuant to an application through the Department of the Premier and Cabinet on the basis that the Regulation was being remade.

The objective of the Regulation is to remake the current regulation in substantially the same form. The primary changes made by the Regulation are of a minor nature. The Regulation makes some changes proposed in the 2010 Scheme Review of QLeave.

The changes are to clarify the position that the Goods and Service Tax is included in the cost of work thresholds, to provide for a clearer description of what is required to be kept in books and records for the purposes of the Act and to take into account the cost of inflation when prescribing a minimum project cost for approval to pay levy by instalments.

The Regulation is drafted to be consistent with the regulation making powers in the Act and current drafting practice including formatting, syntax and other minor language amendments and omitting provisions that are obsolete or unnecessary.

Achievement of policy objectives

The Regulation achieves its objectives by remaking the current regulation in substantially the same form.

Consistent with the current regulation, the Regulation makes the following changes:

- For the purpose of clarification the Regulation provides that where a monetary sum is noted that the sum is inclusive of GST.
- Provides for prescribing a new minimum project cost for approval to pay a levy by instalments.
- Clarification has been provided that the *Industrial Relations Act 1999* applies to an appeal to an industrial magistrate.
- Further clarification of what books and records are to be kept has been provided.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objectives of the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

There are no costs associated with the implementation of the regulation.

Consistency with fundamental legislative principles

The regulation raises no fundamental legislative principle issues. The amendment has been drafted with regard to the fundamental legislative principles and is considered to comply with these principles.

Consultation

The Office of Queensland Parliamentary Counsel and Queensland Treasury were consulted. Consultation with industry stakeholders was undertaken throughout the 2010 Scheme Review.

Notes on Provisions

Clause 1 provides a short title of the Regulation as the *Building and Construction Industry (Portable Long Service Leave) Regulation 2013*.

Clause 2 prescribes the Authority's trading name as 'QLeave'.

Clause 3 prescribes the fund for the building and construction industry training levy.

Clause 4 prescribes the requirements for a certificate of service for a worker.

Clause 5 provides for when levy is not payable for building and construction work. The monetary value has been clarified to confirm that GST is included in the total cost of work.

Clause 6 prescribes the percentages for levy.

Clause 7 prescribes the cost of work threshold for which a Government entity need not notify of building and construction work. The Regulation confirms that the monetary value is inclusive of GST.

Clause 8 prescribes the rate of remuneration payable to local government for sighting approved forms. The Regulation prescribes the rate for the financial year starting on 1 July 2012 as \$3.15.

Clause 9 clarifies and confirms that GST is included in the prescribed amount for additional levy.

Clause 10 provides for calculating additional levy.

Clause 11 clarifies and confirms that GST is included in the prescribed amount for refund of levy.

Clause 12 provides for calculating refund of levy.

Clause 13 prescribes that the amount for approval to pay levy by instalments is \$10 million inclusive of GST.

Clause 14 prescribes the interest rate on levy not paid at or before the time of payment.

Clause 15 prescribes that the *Industrial Relations Act 1999* applies to an appeal to an industrial magistrate. The note mentions Parts 2 and 5 of the *Industrial Relations (Tribunals) Rules 2011*.

Clause 16 sets out the declaration of reciprocating States or Territories and of corresponding laws.

Clause 17 provides what books and records about workers are required to be kept by employers.

Clause 18 provides that the Building and Construction Industry (Portable Long Service Leave) Regulation 2002, SL No.144 is repealed.

Clause 19 provides the transitional provision for the Regulation for an appeal that has started but not finished before the commencement of this section. This provides that an appeal may be finalised under the repealed regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Justice and Attorney-General.

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