



Queensland

Building and Construction Industry (Portable Long Service Leave) Regulation 2024

Subordinate Legislation 2024 No. 162

made under the

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

*Community Services Industry (Portable Long Service Leave) Act
2020*

Contract Cleaning Industry (Portable Long Service Leave) Act 2005
Industrial Relations Act 2016

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Building and Construction Industry (Portable Long Service Leave) Regulation 2024*.

2 Definitions

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

Part 2 Administrative matters

3 Authority's trading name—Act, s 8

For section 8 of the Act, the trading name 'QLeave' is prescribed.

4 Fund for building and construction industry training levy payments—Act, s 33

For section 33 of the Act, the Building and Construction Industry Training Fund (Qld) is prescribed.

5 Certificate of service—Act, s 47

- (1) This section states requirements for an employer giving the authority a certificate of service for a worker under section 47(1)(a) of the Act.
- (2) If the worker is engaged by the employer as at 30 June in a financial year, a certificate for the financial year must be given within 1 month after that day.
- (3) If the worker stops being engaged by the employer before 30 June in a financial year, a certificate for the financial year

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must be given within 1 month after the last day the worker was engaged by the employer.

- (4) A certificate of service for a financial year given under subsection (3) is for the period—
 - (a) starting on 1 July of the financial year; and
 - (b) ending on the last day the worker was engaged by the employer.

6 Wage price index—Act, ss 59A and 62AA

- (1) For section 59A(6) of the Act, definition *WPI*, the index called ‘National construction industry wage price index’ (the *NCI index*) published by the Australian Bureau of Statistics is prescribed.
- (2) Also, for section 62AA(6) of the Act, definition *WPI*, the *NCI index* is prescribed.

Part 3 Levies

7 Building and construction work for which levy is not payable—Act, s 70

- (1) For section 70(2) of the Act, levy is not payable for building and construction work if the cost of the work is less than \$150,000.

Note—

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

- (2) Also, levy is not payable for building and construction work to be performed for a local government or government entity by a person engaged under a contract of service (a *contract person*).
- (3) However, if a person other than a contract person performs building and construction work for the local government or government entity, levy is payable for the percentage of the

cost of the building and construction work not performed by the contract person.

- (4) Also, work health and safety levy is not payable for building and construction work at—
- (a) a coal mine under the *Coal Mining Safety and Health Act 1999*; or
 - (b) a mine under the *Mining and Quarrying Safety and Health Act 1999*; or
 - (c) an operating plant under the *Petroleum and Gas (Production and Safety) Act 2004*, on land the subject of—
 - (i) a 1923 Act petroleum tenure under the *Petroleum Act 1923*; or
 - (ii) a petroleum authority under the *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (iii) a GHG authority under the *Greenhouse Gas Storage Act 2009*; or
 - (d) a facility or plant used for drilling or drilling related purposes in geothermal exploration under the *Geothermal Energy Act 2010*.
- (5) In addition, the following levies are not payable for building and construction work that is resources operational work—
- (a) building and construction industry training levy;
 - (b) long service leave levy.

8 Percentages for levy—Act, s 72

For section 72(1) of the Act, the following percentages are prescribed—

- (a) for the building and construction industry training levy—0.1%;
- (b) for the long service leave levy—0.35%;
- (c) for the work health and safety levy—0.125%.

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9 Cost of work—Act, s 76

For section 76(3) of the Act, the cost prescribed is \$150,000.

Note—

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

10 Rate of remuneration payable to assessment manager or local government—Act, s 77

(1) For section 77(3) of the Act, the rate prescribed for each approved form or written advice seen is—

- (a) \$6.14; or
- (b) the higher amount worked out under subsections (2) to (4).

(2) The rate is adjusted each year on 1 July using the formula—

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

where—

A is the rate immediately before 1 July in the year.

B is the CPI published for the March quarter in the year.

C is the CPI published for the corresponding quarter in the previous year.

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

(4) In this section—

CPI means the index number for Brisbane stated in the all groups consumer price index numbers and percentage changes published by the Australian Bureau of Statistics.

11 Amount for additional levy—Act, s 80

For section 80(6)(b) of the Act, the amount prescribed is \$20,000.

12 Additional levy—Act, s 80

- (1) For section 80(8) of the Act, the additional levy is the total of the amounts worked out by applying the percentages mentioned in section 8 to the difference between—
 - (a) the cost of the building and construction work for which levy has been paid; and
 - (b) the cost of the work for which levy is payable.
- (2) The additional levy must be rounded to the nearest dollar (rounding one-half downwards).

13 Amount for refund of levy—Act, s 81

For section 81(2)(c) of the Act, the amount prescribed is \$20,000.

14 Refund of levy—Act, s 81

- (1) For section 81(2) of the Act, the amount to be refunded is the total of the amounts worked out by applying the percentages mentioned in section 8 to the difference between—
 - (a) the cost of the building and construction work for which levy has been paid; and
 - (b) the cost of the building and construction work when the refund is applied for.
- (2) The amount to be refunded must be rounded to the nearest dollar (rounding one-half downwards).

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15 Amount for approval to pay levy by instalments—Act, s 82

For section 82(1)(a) of the Act, the amount prescribed is \$10m.

16 Interest rate—Act, s 84

For section 84(1) of the Act, the rate equal to the rate prescribed for unpaid tax interest under the *Taxation Administration Act 2001* is prescribed.

Note—

See the *Taxation Administration Regulation 2022*, section 6(1).

Part 4 Appeals

17 Appeal to industrial magistrate—Act, s 88

For section 88(3) of the Act, the *Industrial Relations Act 2016* applies to an appeal to an industrial magistrate.

Note—

See the *Industrial Relations (Tribunals) Rules 2011*, parts 2 and 5.

Part 5 Miscellaneous

18 Declaration of reciprocating States or Territories and corresponding laws—Act, s 91

(1) For section 91(1)(a) of the Act, each of the following is declared to be a reciprocating State or Territory—

- (a) Australian Capital Territory;
- (b) New South Wales;
- (c) Northern Territory;
- (d) South Australia;

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- (e) Tasmania;
 - (f) Victoria;
 - (g) Western Australia.
- (2) For section 91(1)(b) of the Act, each of the following is declared to be a corresponding law—
- (a) the *Building and Construction Industry Long Service Payments Act 1986* (NSW);
 - (b) the *Construction Industry (Long Service) Act 1997* (Tas);
 - (c) the *Construction Industry Long Service Leave Act 1987* (SA);
 - (d) the *Construction Industry Long Service Leave Act 1997* (Vic);
 - (e) the *Construction Industry Long Service Leave and Benefits Act 2005* (NT);
 - (f) the *Construction Industry Portable Paid Long Service Leave Act 1985* (WA);
 - (g) the *Long Service Leave (Portable Schemes) Act 2009* (ACT).

19 Books and records about workers—Act, s 92

- (1) For section 92(1) of the Act, the following are prescribed—
- (a) building and construction industry awards or agreements or other written agreements or records that show the terms under which the workers are, or were, engaged;
 - (b) time sheets, attendance records or other records that show the workers' hours of work.
- (2) For section 92(2) of the Act, the following particulars are prescribed—
- (a) the worker's full name, address and date of birth;
 - (b) the type of work performed by the worker;

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- (c) the rate of pay for the worker;
- (d) the periods, and the proportions of the periods, when the worker performed building and construction work in the State;
- (e) if the worker is a registered worker—the worker’s number in the register of workers.

**20 Government entities—Act, schedule, definition
*government entity***

For the schedule of the Act, definition *government entity*, paragraph (d), each of the following entities is declared to be a government entity—

- (a) Energex Limited ACN 078 849 055;
- (b) Ergon Energy Corporation Limited ACN 087 646 062.

Part 6 Repeal and transitional provisions

Division 1 Repeal

21 Repeal

The Building and Construction Industry (Portable Long Service Leave) Regulation 2013, SL No. 38 is repealed.

Division 2 Transitional provisions

22 Definition for division

In this division—

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

23 Existing applications for refund of levy

- (1) This section applies in relation to an application to the authority under section 81(2) of the Act made, but not decided, before the commencement.
- (2) The repealed regulation continues to apply in relation to the application as if this regulation had not been made and the repealed regulation were still in force.

24 Existing applications for reconsideration by authority

- (1) This section applies in relation to an application to the authority under section 87 of the Act made, but not decided, before the commencement.
- (2) The repealed regulation continues to apply in relation to the application as if this regulation had not been made and the repealed regulation were still in force.

25 Existing appeals to industrial magistrate

- (1) This section applies in relation to an appeal to an industrial magistrate under section 88 of the Act started, but not decided, before the commencement.
- (2) The repealed regulation continues to apply in relation to the appeal as if this regulation had not been made and the repealed regulation were still in force.

26 Existing appeals to Industrial Court

- (1) This section applies in relation to an appeal to the Industrial Court under section 89 of the Act started, but not decided, before the commencement.

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- (2) The repealed regulation continues to apply in relation to the appeal as if this regulation had not been made and the repealed regulation were still in force.

Part 7 Amendment of legislation

Division 1 Amendment of Community Services Industry (Portable Long Service Leave) Regulation 2020

27 Regulation amended

This division amends the *Community Services Industry (Portable Long Service Leave) Regulation 2020*.

28 Replacement of s 7 (Interest on levy—Act, s 88)

Section 7—

omit, insert—

7 Interest rate—Act, s 88

For section 88(1) of the Act, the rate equal to the rate prescribed for unpaid tax interest under the *Taxation Administration Act 2001* is prescribed.

Note—

See the *Taxation Administration Regulation 2022*, section 6(1).

Division 2 **Amendment of Contract Cleaning
Industry (Portable Long Service
Leave) Regulation 2015**

29 **Regulation amended**

This division amends the *Contract Cleaning Industry (Portable Long Service Leave) Regulation 2015*.

30 **Replacement of s 6 (Interest rate—Act, s 87(1))**

Section 6—

omit, insert—

6 **Interest rate—Act, s 87**

For section 87(1) of the Act, the rate equal to the rate prescribed for unpaid tax interest under the *Taxation Administration Act 2001* is prescribed.

Note—

See the *Taxation Administration Regulation 2022*, section 6(1).

Division 3 **Amendment of Industrial Relations
(Tribunals) Rules 2011**

31 **Rule amended**

This division amends the *Industrial Relations (Tribunals) Rules 2011*.

32 **Amendment of sch 2 (Dictionary)**

Schedule 2, definition *appeal Act*, paragraph (a), note—

omit, insert—

[s 32]

Note—

See also the *Building and Construction Industry (Portable Long Service Leave) Regulation 2024*.

Schedule Dictionary

section 2

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) the *Alcan Queensland Pty. Limited Agreement Act 1965*;
- (b) the *Central Queensland Coal Associates Agreement Act 1968*;
- (c) the *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;
- (d) the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;
- (e) the *Geothermal Energy Act 2010*;
- (f) the *Greenhouse Gas Storage Act 2009*;
- (g) the *Mineral Resources Act 1989*;
- (h) the *Mount Isa Mines Limited Agreement Act 1985*;

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- (i) the *Petroleum Act 1923*;
- (j) the *Petroleum and Gas (Production and Safety) Act 2004*;
- (k) the *Queensland Nickel Agreement Act 1970*;
- (l) the *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*.

Examples—

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

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 the activities are carried out under a mining tenement; or
- (c) treatment operations carried out in relation to a substance that is the product of mining, whether or not the operations are carried out under a mining tenement.

resources operational work means work that—

- (a) is the conduct of a resources operation; or
- (b) is an activity that is ancillary to, or carried out in connection with, a resources operation, including, for example—
 - (i) erecting, below or above a mine portal of an underground mine, a conveyor belt to be used substantially below the portal; or
 - (ii) mining development activities below or substantially below the mine portal of an underground mine; or

-
- (iii) purchasing, mobilising and constructing mobile plant or equipment, other than a dragline, for a resources operation; or
 - (iv) maintaining or repairing mobile plant, including a shutdown; or
 - (v) ancillary or incidental generation, supply or transmission of electric power or steam for a resources operation; or
 - (vi) loading or handling of bulk materials at a wharf; or
 - (vii) installing wells, gathering lines and associated infrastructure to extract hydrocarbons and by-products, upstream of, but not in or on, a processing facility; or
 - (viii) maintaining or extending haul roads used for a resources operation under a mining tenement; or
 - (ix) maintaining or repairing fixed facilities, plant and equipment, other than a shutdown; or
 - (x) prospecting or exploring activities carried out in connection with mining under a mining tenement; or
 - (xi) work, other than the construction of roads, to allow land access on or to a place where the following are being conducted—
 - (A) a resources operation;
 - (B) activities mentioned in subparagraph (x); or
 - (xii) land clearing or rehabilitation work carried out in connection with—
 - (A) activities mentioned in subparagraph (x); or
 - (B) mining under a mining tenement; but
 - (c) does not include the following work, other than to the extent the work is mentioned in paragraph (b)—
 - (i) erecting a conveyor belt to be used substantially on the surface of land;

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- (ii) 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;
- (iii) constructing, deconstructing or reconstructing fixed plant or equipment;
- (iv) 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, resulting 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 repair work.

ENDNOTES

- 1 Made by the Governor in Council on 22 August 2024.
- 2 Notified on the Queensland legislation website on 23 August 2024.
- 3 The administering agency is the Department of State Development and Infrastructure.

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