Construction Industry Long Service Leave
(Amendment) Act 2004
Act No. 90/2004

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6
No. 90 of 2004

Construction Industry Long Service Leave (Amendment) Act 2004†

[Assented to 7 December 2004]

The Parliament of Victoria enacts as follows:

1. Purpose

The main purpose of this Act is to amend the Construction Industry Long Service Leave Act 1997 with respect to the administration of the Construction Industry Long Service Leave Fund.
2. Commencement

(1) Subject to sub-section (2), this Act comes into operation on a day or days to be proclaimed.

(2) If a provision of this Act does not come into operation on or before 1 December 2005, it comes into operation on that day.

3. Principal Act

In this Act, the Construction Industry Long Service Leave Act 1997 is called the Principal Act.

4. Long service leave charges

(1) For section 4(1) of the Principal Act substitute—

"(1) An employer must pay to the trustee a long service leave charge in respect of every worker employed by the employer to perform construction work in the construction industry."

(1A) A working sub-contractor (who has made an election referred to in sub-section (4)) must pay to the trustee a long service leave charge in respect of construction work performed by the working sub-contractor in the construction industry.".

(2) In section 4(4) of the Principal Act, after "sub-contractor" (where secondly occurring) insert "in the construction industry".

(3) In section 4(5)(b) of the Principal Act, after "sub-contractors" insert "in the construction industry".
5. Recovery of charges

After section 5(1) of the Principal Act insert—

"(1A) The trustee may recover an amount referred to in sub-section (1) from a related body corporate (within the meaning of the Corporations Act) of an employer or working sub-contractor.".

6. Restriction on powers of trustee

(1) In section 7(2)(b) of the Principal Act, for "entitled." substitute "entitled;".

(2) After section 7(2)(b) of the Principal Act insert—

"(c) does not have effect with respect to a decision as to the amount of any benefit capable of being paid out of the fund.".

7. Registers

(1) In section 8(1)(a) of the Principal Act, after "work" insert "in the construction industry".

(2) In section 8(1)(b) of the Principal Act, after "work" insert "in the construction industry".

(3) In section 8(2) of the Principal Act, after "sub-contractor" (where secondly occurring) insert "in the construction industry".

(4) In section 8(3) of the Principal Act, after "worker" (where secondly occurring) insert "in the construction industry".

8. Requirement to keep records and make returns

(1) In section 9(1)(a) of the Principal Act, after "work" insert "in the construction industry".

(2) In section 9(1)(c) of the Principal Act, after "work" insert "in the construction industry".
9. New section 11A inserted

After section 11 of the Principal Act insert—

"11A. Authorised employee may represent trustee in proceeding

Despite anything to the contrary in any other Act, if the trustee is a party to a proceeding—

(a) for the recovery of long service leave charges under section 5; or

(b) for an offence against section 10(3)(a)—

the trustee may appear in the proceeding by an employee of the trustee authorised by the trustee to do so.".

10. Disputes

(1) In section 12(1)(a) of the Principal Act, after "work" insert "in the construction industry".

(2) In section 12(1)(b) of the Principal Act, after "work" insert "in the construction industry".

11. New section 14A inserted

After section 14 of the Principal Act insert—

"14A. Extension of application to certain workers and working sub-contractors

In this Part a reference to a worker or working sub-contractor includes a reference to a person entitled to long service leave and to be paid benefits out of the fund in accordance with rule 31A or rule 31B in Schedule 2 to the trust deed.".
12. New section 15A inserted

After section 15 of the Principal Act insert—

"15A. Service of documents

A notice or other document to be served on or given to a person under this Act must be served or given—

(a) by delivering it personally to the person; or

(b) by leaving it at the person's usual or last known place of residence or business with a person apparently over the age of 16 years and apparently residing or employed at that place; or

(c) by sending it to the person by registered post addressed to the person's usual or last known place of residence; or

(d) if the person is a corporation—

(i) by sending it by registered post to the registered office in Victoria of the corporation; or

(ii) by giving it to a person who is an officer of the corporation who is authorised to accept service of notices and who is employed at the registered office of the corporation."

13. Reciprocal arrangements

In section 18(3) of the Principal Act, for the expression beginning with "the trustee" and ending at the end of the sub-section substitute "the trustee must pay to the corresponding body the amount specified in the reciprocal arrangement.".
Construction Industry Long Service Leave (Amendment) Act 2004
Act No. 90/2004

ENDNOTES

† Minister's second reading speech—
Legislative Assembly: 7 October 2004
Legislative Council: 30 November 2004
The long title for the Bill for this Act was "to amend the Construction Industry Long Service Leave Act 1997 with respect to the administration of the Construction Industry Long Service Leave Fund and for other purposes."