

**Construction Industry Long Service Leave  
(Amendment) Act 2004**

**Act No. 90/2004**

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Victoria

No. 90 of 2004

## **Construction Industry Long Service Leave (Amendment) Act 2004<sup>†</sup>**

[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.

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**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.

See:  
Act No.  
53/1997  
and  
amending  
Acts Nos  
85/1998 and  
44/2001.  
LawToday:  
www.dms.  
dpc.vic.  
gov.au

**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".
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**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".

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**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."

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**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."