



New South Wales

Building and Construction Industry Long Service Payments Amendment Regulation 1997

under the

**Building and Construction Industry Long Service Payments
Act 1986**

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Building and Construction Industry Long Service Payments Act 1986*.

J W SHAW QC MLC
Minister for Industrial Relations

Explanatory note

The principal object of this Regulation is to increase, on and after 1 July 1997, the prescribed rate of long service levy payable in respect of the erection of a building from the nil rate currently applying to the rate of 0.2 per cent (see Schedule 1 [2]).

The Building and Construction Industry Long Service Payments Corporation (*the Corporation*) is not to determine that the erection of a building commenced on or after 1 July 1997 for the purposes of the imposition of the levy unless:

- (a) in the case of a building the erection of which requires approval under Part 1 of Chapter 7 of the *Local Government Act 1993*—the application for the approval is lodged on or after 1 July 1997, or
- (b) in the case of a building that does not require such approval (because the building is not erected in an area within the meaning of the *Local Government Act 1993*, is being erected for the Crown or another

person or body that is not bound by that Act or is not a building within the meaning of that Act) — the contract for the erection of the building is entered into on or after 1 July 1997 (see Schedule 1 [7]).

The Regulation also:

- specifies a threshold of \$25,000 for building costs below which a levy is not payable on or after 1 July 1997 (the current threshold being \$50,000) (see Schedule 1 [1]), and
- adjusts the prescribed amount for the purposes of a provision dealing with the supplemental payment of long service levies to 0.2 per cent from 1 July 1997 (the current amount prescribed being zero per cent) (see Schedule 1 [3]), and
- specifies a threshold of \$25,000 for the purposes of a provision dealing with the amount by which building costs exceed those last determined by the Corporation and below which an additional levy is not payable on or after 1 July 1997 (the current threshold being \$50,000) (see Schedule 1 [4]), and
- specifies a threshold of \$25,000 as the prescribed amount for the purposes of a provision dealing with the payment of refunds of long service levies on and after 1 July 1997 (the current threshold being \$50,000) (see Schedule 1 [5]), and
- specifies a threshold of \$10,000,000 for the purposes of a provision dealing with the payment of long service levies by instalments on and after 1 July 1997 (the current threshold being \$500,000) (see Schedule 1 [6]), and
- updates references to the holders of certain positions in the Corporation for the purposes of the provision of certain certificates under the *Building and Construction Industry Long Service Payments Act 1986* (see Schedule 1 [8]), and
- makes consequential amendments to existing provisions (see Schedule 1 [1]–[7]).

This Regulation is made under the *Building and Construction Industry Long Service Payments Act 1986*, including sections 34, 35, 41–43, 45, 47 and 65 (the general regulation making power).

Building and Construction Industry Long Service Payments Amendment Regulation 1997

1 Name of Regulation

This Regulation is the *Building and Construction Industry Long Service Payments Amendment Regulation 1997*.

2 Commencement

This Regulation commences on 1 July 1997.

3 Amendment of Building and Construction Industry Long Service Payments Regulation 1995

The *Building and Construction Industry Long Service Payments Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule1 Amendments

(Clause 3)

[1] Clause 7 Exemptions from levy (s 34 (2) (c))

Omit clause 7 (1) (b). Insert instead:

- (b) in the case of a building in respect of which the corporation determines that work on its erection commenced between 1 November 1988 and 30 June 1997—less than \$50,000, or
- (c) in the case of a building in respect of which the Corporation determines that work on its erection commenced on or after 1 July 1997—less than \$25,000.

[2] Clause 8 Prescribed rate of long service levy (s 35)

Omit clause 8 (1) (b) and (c). Insert instead:

- (b) if the Corporation determines that work on the erection of the building commenced between 1 November 1988 and 28 March 1993, 0.1 per cent, or
- (c) if the Corporation determines that work on the erection of the building commenced between 29 March 1993 and 30 June 1997 and if an exemption notice was in force on the date the Corporation determines that work commenced, zero, or
- (d) if the Corporation determines that work on the erection of the building commenced on or after 1 July 1997, 0.2 per cent.

[3] Clause 8 (4)

Omit the subclause. Insert instead:

- (4) For the purposes of section 35 of the Act, the prescribed rate for an additional amount of the long service levy under section 41 of the Act:
 - (a) being an additional amount payable between 1 November 1988 and 28 March 1993—is 0.1 per cent of the excess cost of erecting the building, or
 - (b) being an additional amount payable between 29 March 1993 and 30 June 1997—is zero per cent of the excess cost of erecting the building, or
 - (c) being an additional amount payable on and after 1 July 1997—is 0.2 per cent of the excess cost of erecting the building.

[4] Clause 9 Prescribed amounts (ss 41 (6) (b), 42 (5) (b), 43 (6) (b))

Omit clause 9 (1). Insert instead:

- (1) For the purposes of section 41 (6) (b) of the Act, the prescribed amount is:
 - (a) in the case of a building in respect of which the Corporation determines that work on its erection commenced between 1 November 1988 and 30 June 1997—\$50,000, or
 - (b) in the case of a building in respect of which the Corporation determines that work on its erection commenced on or after 1 July 1997—\$25,000.

[5] Clause 9 (2) (b)

Omit the paragraph. Insert instead:

- (b) in the case of a building in respect of which the Corporation determines that work on its erection commenced between 1 November 1988 and 30 June 1997—\$50,000, or

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- (c) in the case of a building in respect of which the Corporation determines that work on its erection commenced on or after 1 July 1997—\$25,000.

[6] **Clause 9 (3)**

Omit the subclause. Insert instead:

- (3) For the purposes of section 43 (6) (b) of the Act, the prescribed amount is:
 - (a) in the case of a building in respect of which the Corporation determines that work on its erection commenced between 1 November 1988 and 30 June 1997—\$500,000, or
 - (b) in the case of a building in respect of which the Corporation determines that work on its erection commenced on or after 1 July 1997—\$10,000,000.

[7] **Clause 10**

Omit the clause. Insert instead:

10 Commencement of work

- (1) This clause applies to determinations made by the Corporation in relation to clauses 7, 8 and 9.
- (2) The Corporation must not determine that work on the erection of a building commenced before 1 November 1988 unless the Corporation is satisfied that each of the following occurred before 1 November 1988:
 - (a) in the case of a building the erection of which required approval under Division 4 of Part 11 of the Local Government Act 1919—the granting by a council of the approval required for the erection of the building,

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- (b) the signing of any contract entered into for the erection of the building,
- (c) the commencement of work on the erection of at least part of the building, but only if the work was a genuine commencement of work on the erection of the building.

(3) The Corporation must not determine that work on the erection of a building commenced between 1 November 1988 and 28 March 1993 unless the Corporation is satisfied that work on the erection of at least part of the building commenced between those dates and that the work was a genuine commencement of work on the erection of the building.

(4) The Corporation must not determine that work on the erection of a building commenced between 29 March 1993 and 30 June 1997 unless the Corporation is satisfied that work on the erection of at least part of the building commenced between those dates and that the work was a genuine commencement of work on the erection of the building.

(5) The Corporation must not determine that work on the erection of a building commenced on or after 1 July 1997 unless the Corporation is satisfied that either of the following occurred on or after 1 July 1997:

- (a) in the case of a building the erection of which required approval under Part 1 of Chapter 7 of the Local Government Act 1993—the lodging with a council of an application for the approval required for the erection of the building,
- (b) in the case of a building referred to in section 34 (1) (b) of the Act—the entering into of any contract for the erection of the building.

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Schedule 1 Amendments

[8] Clauses 11 and 12

Omit “• Financial Controller” wherever occurring. Insert instead:

- Assistant Director (Support)
- Finance Manager