



New South Wales

Long Service Corporation Act 2010 No 123

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New South Wales

Long Service Corporation Act 2010 No 123

Act No 123, 2010

An Act to reconstitute the Building and Construction Industry Long Service Payments Corporation as the Long Service Corporation; to confer on the reconstituted Corporation additional functions with respect to the contract cleaning industry; and for other purposes. [Assented to 7 December 2010]

Section 1 Long Service Corporation Act 2010 No 123

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Long Service Corporation Act 2010*.

2 Commencement

This Act commences on 1 January 2011.

3 Definitions

(1) In this Act:

Chief Executive Officer means the Chief Executive of the Compensation Authorities Staff Division of the Government Service.

Corporation means the Long Service Corporation constituted by section 4.

exercise a function includes perform a duty.

function includes a power, authority or duty.

Fund means:

- (a) the Building and Construction Industry Long Service Payments Fund referred to in section 12, and
- (b) the Contract Cleaning Industry Long Service Leave Fund referred to in section 13.

(2) Notes included in this Act do not form part of this Act.

Part 2 Constitution and management of Corporation

4 Constitution of Corporation

There is constituted by this Act a corporation with the corporate name of the Long Service Corporation.

5 Status of Corporation

The Corporation is, for the purposes of any Act, a NSW Government agency.

6 Ministerial control

The Corporation is subject to the control and direction of the Minister in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister).

7 Chief Executive Officer

- (1) The Chief Executive Officer is responsible for the day-to-day management of the affairs of the Corporation.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Corporation by the Chief Executive Officer is taken to have been done by the Corporation.

8 Delegation of Corporation's functions

The Corporation may delegate the exercise of any of its functions (other than this power of delegation) to the following:

- (a) a member of the staff of the Corporation,
- (b) a person for the time being acting in a specified position in the staff establishment of the Corporation,
- (c) any person of whose services the Corporation makes use under this or any other Act.

Part 3 Functions of the Corporation

9 Functions generally

- (1) The Corporation has the functions conferred or imposed on it by or under:
 - (a) this Act, and
 - (b) the *Building and Construction Industry Long Service Payments Act 1986*, and
 - (c) the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*, and
 - (d) any other Act.
- (2) However, the Corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Corporation to exercise its functions.
- (3) Without limiting subsection (1), the Corporation is to provide advice, and may make recommendations, to the Minister with respect to the payment of long service leave under any Act referred to in that subsection and otherwise in connection with the operation of those Acts.

10 General powers of the Corporation

- (1) The Corporation may, with the approval of the Minister, acquire by purchase or lease premises to be used for, or to be used partly for, the exercise of its functions.
- (2) The Corporation may make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, plant, machinery or material, in connection with the exercise by the Corporation of its functions.
- (3) The Corporation may cause to be published, in such manner as it thinks fit, any information relating to its functions or activities under this or any other Act.

11 Borrowing powers of Corporation

- (1) The Treasurer may, on the application of the Corporation and on such terms and conditions as the Treasurer thinks fit, lend money to the Corporation.
- (2) The Corporation may, for the purpose of obtaining temporary financial accommodation, borrow by way of overdraft from any bank, building society or credit union but the total amount owing on all borrowings made under this subsection must not at any time exceed \$500,000.

Part 4 Finance

12 Building and Construction Industry Long Service Payments Fund

- (1) The Corporation is to maintain, administer and control a fund called the Building and Construction Industry Long Service Payments Fund.
- (2) There is to be paid into the Fund:
 - (a) the long service levies paid under the *Building and Construction Industry Long Service Payments Act 1986*, and
 - (b) any money borrowed by the Corporation for the purposes of the *Building and Construction Industry Long Service Payments Act 1986*, and
 - (c) the proceeds of any investment of the Fund, and
 - (d) any other amounts received by the Corporation in the course of its administration of the *Building and Construction Industry Long Service Payments Act 1986*.
- (3) There is to be paid from the Fund:
 - (a) the long service payments provided for by the *Building and Construction Industry Long Service Payments Act 1986*, and
 - (b) the expenses incurred in the administration of this Act and the *Building and Construction Industry Long Service Payments Act 1986* and the management of the Fund, and
 - (c) any other payments authorised by the *Building and Construction Industry Long Service Payments Act 1986* to be made from the Fund.

13 Contract Cleaning Industry Long Service Leave Fund

- (1) The Corporation is to establish, administer and control a fund to be called the Contract Cleaning Industry Long Service Leave Fund.
- (2) There is to be paid into the Fund:
 - (a) the long service leave levies paid under the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*, and
 - (b) any money borrowed by the Corporation for the purposes of the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*, and
 - (c) the proceeds of any investment of the Fund, and
 - (d) any other amounts received by the Corporation in the course of its administration of the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*.

- (3) There is to be paid from the Fund:
- (a) the long service payments provided for by the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*, and
 - (b) the expenses incurred in the administration of this Act and the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010* and the management of the Fund, and
 - (c) any other payments authorised by the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010* to be made from the Fund.

14 Financial year of Corporation

The financial year of the Corporation is the year commencing on 1 July.

15 Investment of money in Funds

The Corporation may invest money in a Fund:

- (a) in the manner authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Corporation to invest the money, in any other manner approved by the Minister with the concurrence of the Treasurer.

16 Actuarial investigation of Funds

- (1) The Corporation must investigate the adequacy of the Funds and the adequacy of the rate of any long service levy imposed under an Act referred to in section 9 (1) in accordance with this section.
- (2) The investigations are to occur at such dates as may be determined by the Corporation but so that the interval between the dates of successive investigations does not exceed:
 - (a) 3 years—in the case of an investigation in relation to funds and rates under the *Building and Construction Industry Long Service Payments Act 1986*, and
 - (b) 2 years—in the case of an investigation in relation to funds and rates under the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*.
- (3) An investigation under this section must be made by an actuary appointed by the Corporation.
- (4) An actuary who makes an investigation under this section must report to the Corporation the result of the investigation and must state whether or not in his or her opinion any reduction or increase should be made in the rate of any long service levy.

- (5) The actuary appointed to make an investigation referred to in this section must complete the investigation and report the result of the investigation to the Corporation as referred to in subsection (4) as soon as practicable after the date as at which the investigation was made.
- (6) The Corporation must, as soon as practicable after it receives a report under subsection (5), forward the report to the Minister together with such comments on it as it considers appropriate.

17 No duty payable in relation to agreements, vestings or transfers under Act

Duty under the *Duties Act 1997* is not chargeable for or in respect of:

- (a) a vesting or transfer of land or other property effected under this Act or in accordance with arrangements entered into under this Act, or
- (b) anything certified by the Minister as having been done in consequence of such a vesting or transfer or under any such arrangements.

Part 5 Miscellaneous

18 Seal of Corporation

The seal of the Corporation is to be kept by the Chief Executive Officer, or by a public servant authorised in that behalf by the Chief Executive Officer, and may be fixed to a document only:

- (a) in the presence of the Chief Executive Officer or that public servant, and
- (b) with an attestation by the signature of the Chief Executive Officer or that public servant of the fact of the fixing of the seal.

19 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

20 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Definitions

In this Schedule:

former Corporation means the Building and Construction Industry Long Service Payments Corporation constituted under section 4 (1) of the *Building and Construction Industry Long Service Payments Act 1986* immediately before the commencement of this Act.

3 Continuity of Corporation

The Corporation is a continuation of, and the same legal entity as, the former Corporation.

Note. Section 53 of the *Interpretation Act 1987* contains savings provisions in relation to the effect of the reconstitution of the former Corporation under a new name.

4 Continuation of Building and Construction Industry Long Service Payments Fund

The Building and Construction Industry Long Service Payments Fund established by section 10 of the *Building and Construction Industry Long Service Payments Act 1986* immediately before the commencement of this Act is taken to be established, on the commencement of this Act, as the Building and Construction Industry Long Service Payments Fund referred to in section 12 of this Act.

5 Continuation of staff

A person who was a member of the staff of the former Corporation immediately before the commencement of this Act does not cease to be a member of that staff by reason only of the amendments made to the *Building and Construction Industry Long Service Payments Act 1986* by this Act.

Schedule 2 Amendment of Acts

2.1 Building and Construction Industry Long Service Payments Act 1986 No 19

[1] Section 3 Definitions

Omit the definition of *Chief Executive Officer* from section 3 (1).

Insert instead:

Chief Executive Officer means the Chief Executive Officer within the meaning of the *Long Service Corporation Act 2010*.

[2] Section 3 (1)

Omit the definition of *Corporation*. Insert instead:

Corporation means the Long Service Corporation established under the *Long Service Corporation Act 2010*.

[3] Section 3 (1)

Omit the definition of *Fund*. Insert instead:

Fund means the Building and Construction Industry Long Service Payments Fund established under the *Long Service Corporation Act 2010*.

[4] Part 2 Administration

Omit Division 1.

[5] Part 2, Division 3

Omit the Division.

2.2 Long Service Leave Act 1955 No 38

Section 4A Payments to building and construction workers to be notified

Omit “Building and Construction Industry Long Service Payments Corporation”.

Insert instead “Long Service Corporation”.

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Schedule 2 Amendment of Acts

2.3 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Building and Construction Industry Long Service Payments Corporation”.

Insert in alphabetical order:

Long Service Corporation

[Agreement in principle speech made in Legislative Assembly on 24 November 2010
Second reading speech made in Legislative Council on 1 December 2010]

BY AUTHORITY