



New South Wales

# Contract Cleaning Industry (Portable Long Service Leave Scheme) Regulation 2022

under the

Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010

His Honour the Administrator, with the advice of the Executive Council, has made the following Regulation under the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*.

VICTOR DOMINELLO, MP  
Minister for Fair Trading

## Explanatory note

The object of this Regulation is to remake, with changes, the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Regulation 2017*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following matters—

- (a) the declaration of certain laws of other jurisdictions as corresponding laws for the purposes of the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010 (the Act)*,
- (b) the non-service days that are to be treated as a day's service for the purposes of cancelling or suspending a worker's registration under the long service leave scheme,
- (c) the refund of long service leave levies paid in relation to a worker whose registration is cancelled,
- (d) appeals to the Contract Cleaning Industry Long Service Leave Committee against a decision of the Long Service Corporation,
- (e) the circumstances in which a break in a worker's engagement period must be counted as service,
- (f) the information required to be included in returns by employers and contractors,
- (g) the interest rate on an overdue long service leave levy,
- (h) a certificate purporting to be signed by a person holding, or acting in, the office or position of Director of the Long Service Corporation to be admissible as evidence of certain matters relating to long service leave levies,
- (i) savings matters,
- (j) the offences under the Act for which penalty notices may be issued, including the amounts payable.

This Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely—

- (a) matters of a machinery nature, and
- (b) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory, and

- (c) matters that are not likely to impose an appreciable burden, cost or disadvantage on a sector of the public.

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## Contract Cleaning Industry (Portable Long Service Leave Scheme) Regulation 2022

under the

Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Regulation 2022*.

#### 2 Commencement

This Regulation commences on 1 September 2022.

**Note—** This Regulation replaces the *Contract Cleaning Industry (Portable Long Service Leave Scheme Regulation) 2017*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Definitions

In this Regulation—

**Chairperson**, for Part 3—see section 7.

**Committee Secretary**, for Part 3—see section 7.

**notice of appeal**, for Part 3—see section 7.

**the Act** means the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*.

**Note—** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

#### 4 Corresponding laws—the Act, s 3

For the Act, section 3(1), definition of **corresponding law**, the following laws are declared to be corresponding laws—

- (a) the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005* of Queensland,
- (b) the *Long Service Leave (Portable Schemes) Act 2009* of the Australian Capital Territory, to the extent that Act deals with the contract cleaning industry,
- (c) the *Long Service Benefits Portability Act 2018* of Victoria, to the extent that Act deals with the contract cleaning industry.

## Part 2 Cancellation and suspension of worker's registration

### 5 Non-service days—the Act, ss 28 and 29

- (1) For the Act, sections 28(3) and 29(2), the following days are prescribed—
- (a) a day on which a worker does not work because the worker is pregnant or has a pregnancy-related condition,
  - (b) a day on which a worker does not work because the worker is caring for another person, if the worker receives a carer allowance under the *Social Security Act 1991* of the Commonwealth in relation to the other person,
  - (c) a day on which a worker performs cleaning work as an employee of the Crown, a local council or county council under an arrangement that does not provide for payment of long service benefits to the worker,
  - (d) a day on which a worker performs cleaning work in another State or Territory if—
    - (i) a corresponding law is not in force in the State or Territory, and
    - (ii) the cleaning work would be counted as recognised service under the Act if performed in New South Wales by a registered worker,
  - (e) a day on which a worker does not work because the worker is suffering from personal illness or injury,
  - (f) a day on which a worker does not work because a member of the worker's immediate family or household has—
    - (i) a serious illness, or
    - (ii) a serious injury, or
    - (iii) died.
- (2) In this section—  
*county council* has the same meaning as in the *Local Government Act 1993*.  
*immediate family*, for a worker, has the same meaning as in the *Fair Work Act 2009* of the Commonwealth for a national system employee within the meaning of that Act.

### 6 Refund of levy following cancellation of worker's registration—the Act, s 28

- (1) For the Act, section 28(8), if the Corporation cancels a worker's registration under the Act, section 28(1), the Corporation must refund a levy paid in relation to the worker to the employer or contractor who paid the levy.
- (2) However, if the Corporation is satisfied the employer or contractor has not paid the whole or part of another levy payable by the employer or contractor, the Corporation—
- (a) may apply the levy that would have been refunded under subsection (1) to satisfy the employer or contractor's debt to the Corporation, and
  - (b) if, after applying the levy, there is an outstanding amount payable to the employer or contractor under subsection (1)—must refund the outstanding amount to the employer or contractor.

## Part 3 Appeals to Committee

### 7 Definitions

In this Part—

**Chairperson** has the same meaning as in the Act, Schedule 1.

**Committee Secretary** means a person nominated by the Chairperson of the Committee to send and receive correspondence in relation to appeals to the Committee.

**notice of appeal**—see section 9(1).

### 8 Time for making appeal—the Act, s 73

For the Act, section 73(1)(b), the following times are prescribed—

- (a) 42 days after the appellant is notified of the decision appealed against,
- (b) if the Chairperson is satisfied exceptional circumstances exist—6 months after the appellant is notified of the decision appealed against.

### 9 Making an appeal—the Act, s 73

- (1) For the Act, section 73(2), an appeal to the Committee must be made by giving the Committee Secretary written notice of the appeal (a **notice of appeal**) in the form approved by the Committee.
- (2) A notice of appeal must contain the following information—
  - (a) the decision, or the part of a decision, being appealed against,
  - (b) the grounds of appeal,
  - (c) the contact details of the appellant and, if the appellant has engaged a legal representative, the contact details of the legal representative,
  - (d) whether the appellant intends to make oral submissions to the Committee in relation to the appeal and, if so, whether the appellant intends to make the submissions—
    - (i) in person or by audio visual link, and
    - (ii) with or without a legal representative,
  - (e) any other information required by the Committee.
- (3) Correspondence, submissions and other documents in connection with an appeal, including notice of the withdrawal of an appeal, must be given—
  - (a) to the Committee Secretary, and
  - (b) if the Committee specifies a time period—within the specified period.

### 10 Deciding an appeal—the Act, s 73

- (1) For the Act, section 73(2), if the appellant has not indicated an intention to make oral submissions in the notice of appeal, the Committee may decide the appeal on the basis of—
  - (a) the notice of appeal and written submissions from the Corporation or the appellant, and
  - (b) if the Committee requests further information from the appellant—information received from the appellant in response to the request.
- (2) However, if the Committee requests further information from the appellant, the appellant may indicate an intention to make oral submissions—
  - (a) in person or by audio visual link, and

- (b) with or without a legal representative.
- (3) If the appellant indicates in the notice of appeal or in response to a request for further information that the appellant intends to make oral submissions, the Committee Secretary must, in consultation with the Chairperson, decide a date and location for the appeal hearing.
- (4) At the hearing, the appellant and the appellant's legal representative, if any, may—
  - (a) address the Committee on matters relating to the appeal, and
  - (b) with the Committee's approval, produce documents, records or information relating to the appeal.
- (5) The parties to an appeal are not entitled to call a person to give evidence, or to cross examine a person, at the hearing.
- (6) The Committee may adjourn the hearing if the Committee considers an adjournment necessary to enable the Committee to consider—
  - (a) oral submissions made at the hearing, or
  - (b) documents, records or information produced at the hearing.
- (7) The Committee must give the Corporation written notice of the Committee's decision when the Committee gives the appellant written notice under the Act, section 75.

## Part 4 Miscellaneous

### 11 Service credit for breaks in engagement periods—the Act, s 37

For the Act, section 37(1), the following circumstances are described—

- (a) both of the following apply—
  - (i) the registered worker was unable to perform cleaning work because of an illness or injury,
  - (ii) a registered medical practitioner certified in writing that the illness or injury rendered the worker reasonably unable to perform cleaning work,
- (b) the registered worker undertook a training course recognised by the Corporation as being relevant to the contract cleaning industry to enhance the worker's prospects of performing work in the industry,
- (c) the registered worker performed cleaning work on a voluntary basis in New South Wales because of an emergency declared or otherwise recognised under—
  - (i) the *State Emergency and Rescue Management Act 1989*, or
  - (ii) an equivalent Act of a State or Territory or of the Commonwealth,
- (d) the registered worker performed light duty work, other than cleaning work, assigned to the worker in accordance with the *Workers Compensation Act 1987* as a result of an injury.

### 12 Additional information required in returns by employers and contractors—the Act, ss 39 and 41

- (1) For the Act, section 39(2)(d), the following information is required—
  - (a) if the worker was a registered worker—the registration number given to the worker by the Corporation,
  - (b) the worker's name, address and date of birth,
  - (c) the worker's telephone number and email address,
  - (d) the type of cleaning work performed by the worker for the employer.
- (2) For the Act, section 41(2), definition of **required information**, paragraph (c), the following information is prescribed—
  - (a) the registration number given to the contractor by the Corporation,
  - (b) the contractor's name, address and date of birth,
  - (c) the contractor's telephone number and email address,
  - (d) the type of cleaning work performed by the contractor.

### 13 Interest rate on overdue long service leave levy—the Act, s 52

For the Act, section 52(5), definition of **prescribed rate**, paragraph (b), the prescribed rate per calendar month or part of a calendar month is the rate 6% above the cash rate last published by the Reserve Bank of Australia—

- (a) for interest accrued between 1 January and 30 June—immediately before 1 January, and
- (b) for interest accrued between 1 July and 31 December—immediately before 1 July.

### 14 Certification of levy payment

For the Act, section 107, the office or position of Director of the Corporation is prescribed.



**15 Savings**

An act, matter or thing that, immediately before the repeal of the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Regulation 2017*, had effect under that Regulation continues to have effect under this Regulation.

## **Schedule 1 Penalty notice offences—the Act, s 103A**

### **1 Application of Schedule**

- (1) For the Act, section 103A—
  - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
  - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
  - (a) that limited kind of offence, or
  - (b) an offence committed in those limited circumstances.

<b>Provision</b>	<b>Penalty</b>
<b>Offences under the Act</b>	
Section 17(2)	\$500
Section 20(1)	\$50
Section 23(2)	\$200
Section 39(1)–(4)	\$400
Section 41(1)	\$200
Section 45	\$200
Section 46(1) and (2)	\$200
Section 47(1) and (2)	\$200
Section 50	\$300

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