

TASMANIA

---

**CONSTRUCTION INDUSTRY (LONG  
SERVICE) AMENDMENT BILL 2003**

---

**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Sections 5 and 6 substituted
  5. Registration of employers
  6. Registration of employees
6. Section 7 amended (Levy)
7. Sections 8 and 9 substituted
  8. Records, returns and information
  9. Enforcement
    - 9A. Extension of limitation period
    - 9B. Time of occurrence of offence
8. Section 12 amended (Rights, entitlements, benefits and obligations)



# **CONSTRUCTION INDUSTRY (LONG SERVICE) AMENDMENT BILL 2003**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*  
8 April 2003

*(Brought in by the Minister for Infrastructure, the Honourable James Glennister Cox)*

## **A BILL FOR**

### **An Act to amend the *Construction Industry (Long Service) Act 1997***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **Short title**

1. This Act may be cited as the *Construction Industry (Long Service) Amendment Act 2003*.

#### **Commencement**

2. This Act commences on the day on which this Act receives the Royal Assent.

**Principal Act**

3. In this Act, the *Construction Industry (Long Service) Act 1997\** is referred to as the Principal Act.

**Section 3 amended (Interpretation)**

4. Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “corresponding law”:

“**employee**” means a person engaged in the construction industry;

- (b) by omitting the definition of “new scheme” and substituting the following definition:

“**new scheme**” means the scheme established under the Trust Deed;

- (c) by omitting the definition of “Standard Industrial Classification” and substituting the following definitions:

“**Standard Industrial Classification**” means the Australian and New Zealand Standard Industrial Classification issued by the Australian Bureau of Statistics in 1993 (ABS Catalogue No. 1292.0);

“**Trust Deed**” means the trust deed establishing the new scheme executed by –

- (a) TasBuild Limited on 19 June 1998, so long as that

---

\*No. 83 of 1997

company is declared by the Minister under section 4 to be the company that is to administer the new scheme; or

- (b) if another company is so declared, that other company.

### **Sections 5 and 6 substituted**

5. Sections 5 and 6 of the Principal Act are repealed and the following sections are substituted:

#### **Registration of employers**

5. (1) An employer who is engaged in any construction industry covered by the new scheme and who is the employer of an employee covered by the new scheme must –

- (a) register with the company; and
- (b) make any payment that the company determines is necessary to fulfil its obligations under the new scheme, unless the company imposes a levy under section 7.

Penalty: Fine not exceeding 100 penalty units.

(2) An employer is not obliged to make a payment for a period under subsection (1)(b) in respect of a person who, under any Act, award or agreement, receives any benefit or entitlement relating to long service for that period.

**(3)** The company must refund any payment made by an employer who is not obliged to make that payment under subsection (2).

### **Registration of employees**

**6. (1)** An employer engaged in any construction industry covered by the new scheme must apply to the company for registration of each employee of the employer.

Penalty: Fine not exceeding 100 penalty units.

**(2)** The company is to register a person if, in its opinion, the person is eligible for registration.

**(3)** If an employer fails to apply for registration of an employee, the company may register the employee.

### **Section 7 amended (Levy)**

**6.** Section 7(2)(a) of the Principal Act is amended by omitting “section 6(1)(b)” and substituting “section 5(1)(b)”.

### **Sections 8 and 9 substituted**

**7.** Sections 8 and 9 of the Principal Act are repealed and the following sections are substituted:

#### **Records, returns and information**

**8. (1)** An employer or a person liable to pay a levy under section 7 is to –

- (a) supply the company with any records or information the company requires in relation to the new scheme; and

- (b) make any returns the company requires in relation to the new scheme.

**(2)** An employer, in respect of any employee of the employer, must –

- (a) keep for a period of 7 years after the termination of that employee's employment, a record of that employment; and
- (b) provide the company with access to that record when requested by the company to do so.

Penalty: Fine not exceeding 10 penalty units.

**(3)** A termination of the employment of an employee in accordance with section 12(4) is not a termination for the purposes of subsection (2) of this section.

### **Enforcement**

**9. (1)** The company may recover any payments required to be made to it by an employer under this Act as a debt in any court of competent jurisdiction.

**(2)** The company may apply to the Magistrates Court for an order to enforce an obligation imposed under this Act.

**(3)** On hearing an application, a magistrate may make an order in respect of any or all of the following:

- (a) the registration of an employer or employee;
- (b) the keeping of, and access to, records relating to an employee;





**(4)** For the purposes of subsection (3), proceedings to recover a payment due to the company include proceedings to obtain records, returns or information under section 8 in respect of that payment.

**Section 12 amended (Rights, entitlements, benefits and obligations)**

**8.** Section 12 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:

**(3)** Any obligation or liability incurred by a person in respect of the termination of relevant employment, within the meaning of the repealed Act, is incurred by the person to the company.

**(4)** For the purposes of this Act and the application of the repealed Act to this Act, the employment of an employee to whom the repealed Act applied immediately before 1 July 1998 is taken to have been terminated on that date.

**(5)** This Act applies to an employee referred to in subsection (4) and is taken to have so applied on and from 1 July 1998.

**(6)** Subsections (4) and (5) are taken to have commenced on 1 July 1998.