
**LONG SERVICE LEAVE (CONSTRUCTION INDUSTRY)
AMENDMENT ACT 1980**

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**LONG SERVICE LEAVE (CONSTRUCTION INDUSTRY)
AMENDMENT ACT 1980**

No. 104 of 1980

AN ACT to amend the Long Service Leave (Casual Employment) Act 1971 for the purpose of revising the short title to the Act to make it conformable with the general scope and purpose of the Act, for the purpose of providing for employers in the construction industry to make quarterly payments into the fund in the Treasury established under that Act, and for certain other purposes.

[Royal Assent 28 January 1981]

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:—

1—This Act may be cited as the *Long Service Leave (Construction Industry) Amendment Act 1980*. Short title.

2—(1) This section, sections 1, 3, 4, 9, and 10, and Schedule 1 shall commence on the date of assent to this Act. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such date as may be fixed by proclamation.

Principal Act. **3**—In this Act, the *Long Service Leave (Casual Employment) Act 1971** is referred to as the Principal Act.

Amendment of section 1 of Principal Act (Short title and commencement). **4**—Section 1 (1) of the Principal Act is amended by omitting “(*Casual Employment*)” and substituting “(*Construction Industry*)”.

Amendment of section 3 of Principal Act (Employment to which the Act applies).

5—Section 3 of the Principal Act is amended as follows:—

(a) by omitting subsections (1) and (2) and substituting the following subsections:—

(1) This Act applies to the employment on a permanent or casual basis of a person by an employer for the purposes of the carrying out by the employer of any work specified in the first Schedule so long as the person is employed on the site of the work or, if he is not employed on the site of the work, is employed by that employer in making, preparing, storing, or transporting goods or materials for use in that work.

(2) If an employer who is not engaged in the carrying out of any work specified in the first Schedule employs a person in the ordinary maintenance of the plant and equipment of his business, or in some other manner which is incidental to the ordinary conduct of his business, the employer does not thereby employ that person in relevant employment, notwithstanding that the nature of the work done by the person is similar to that specified in the first Schedule.

(b) by omitting from subsection (5) “This” and substituting “Except as otherwise provided, this”;

(c) by inserting the following subsection after subsection (6):—

(7) This Act does not apply to relevant employment on and after 1st January 1979 if the Secretary is satisfied that the employment is or was employment by a municipality under an unemployment relief programme.

Insertion in Principal Act of new section 8A.

6—After section 8 of the Principal Act, the following section is inserted:—

Payments into Fund may be made quarterly.

8A—(1) An employer may, by notice in writing served on the Secretary, elect to pay long service leave contributions under this section.

(2) An employer who makes an election under this section is not liable to make long service leave contributions under section 8 in respect of relevant employment terminating after the date on which the election is made, but he becomes liable to pay long service leave contributions under this section.

(3) An employer who has made an election under this section is liable to pay into the Fund at the end of each quarter a long service leave contribution of an amount equal to the prescribed proportion or, if no proportion is prescribed, 2 per cent of the earnings of his employees in respect of their relevant employment with him during that quarter (excluding any employment before the date on which the election was made).

(4) In addition to any contributions payable under subsection (3), an employer who has made an election under this section is liable to pay into the Fund a long service leave contribution of an amount equal to—

(a) if it is paid within 12 months of the date of the making of the election, the amount of the long service leave contributions that would, apart from this section, have been payable if the employment of all his employees then in relevant employment with him had terminated on the making of the election; or

(b) if it is not so paid, 2 per cent of the earnings of each employee employed by him in relevant employment at the date on which the election was made in respect of the relevant employment of that employee before that date that was continuous to that date.

(5) An employer is not required to discharge his liabilities under subsection (4) (b) before the expiration of 3 years from the commencement of this section or such further period, not exceeding 2 years, as the Secretary may allow, and, where an employer fails to discharge his liability to pay a long service leave contribution under this section, the contribution may be recovered from him as a debt due to the Crown.

(6) An employer who makes an election under this section shall furnish the Secretary with a return containing the prescribed particulars with respect to the employees employed by him in relevant employment at the date on which the election is made.

(7) Where an employer is required under subsection (3) to make a long service leave contribution in respect of a quarter, he shall, within 14 days after the end of the quarter, furnish the Secretary with a return specifying—

- (a) the persons who, during the quarter, commenced or resumed relevant employment with him; and
- (b) the persons who, during that quarter, ceased to be employed by that employer in relevant employment.

(8) An election made under subsection (1) is irrevocable.

(9) This section does not apply to relevant employment in the service of the Crown or in a department or branch of any of the services of the State or in an undertaking carried on by or on behalf of the State.

Amendment of section 9 of Principal Act (Entitlement to long service leave payments).

7—Section 9 of the Principal Act is amended as follows:—

(a) by inserting the following subsections after subsection (5):—

(5A) An entitlement to a long service leave payment arises on the death of a person to whom this subsection applies whether or not at the time of his death he was engaged in relevant employment.

(5B) A person to whom subsection (5A) applies is a person—

- (a) whose period of reckonable service is at least 7 years; and
- (b) whose last employment before his death was relevant employment.

(b) by omitting paragraph (a) of subsection (6).

8—Section 19 (1) of the Principal Act is amended by inserting the following paragraph before paragraph (a):—

Amendment of section 19 of Principal Act (Offences).

(aa) being an employer who has elected to pay long service leave contributions under section 8A, fails to furnish the Secretary with a return required by section 8A (7);

9—The Principal Act is amended in the manner specified in Schedule 1.

Consequential amendments of Principal Act.

10—The Governor may make regulations under the Principal Act for the purposes of section 8A of that Act, as inserted by this Act, before the commencement of that section, but those regulations shall not take effect until—

Power of Governor to make regulations for the purposes of section 8A of Principal Act before commencement of that section.

(a) the commencement of that section; or

(b) the date provided for those regulations to take effect, whichever is the later.

SCHEDULE 1

Section 9

CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT

Column 1 Provision of Principal Act amended	Column 2 Amendment
(1) Section 2	Omit “(Casual Employment)”, wherever occurring, in the definitions of “Fund” and “Review Committee”, substitute “(Construction Industry)”.
(2) Section 4 (2)	Omit “(Casual Employment)”, substitute “(Construction Industry)”.
(3) Section 12 (1)	Omit “(Casual Employment)”, substitute “(Construction Industry)”.
(4) Section 12A (1)	Omit “(Casual Employment)”, substitute “(Construction Industry)”.

