

### 3. Interpretation

- (1) In this Act unless the contrary intention appears —
- “appointed day”** means the day fixed by the Minister under subsection (2);
- “award”** means any award or agreement made under the *Industrial Relations Act 1979*, or an award or agreement in force under the *Conciliation and Arbitration Act 1904* of the Commonwealth;
- “Board”** means the Construction Industry Long Service Leave Payments Board established under section 5;
- “books”** includes any register or other record of information and any accounts or accounting records (within the meaning of the *Companies (Western Australia) Code*), however compiled, recorded or stored and also includes any other document;
- “chief executive officer”** means the person, however designated, appointed by the Board under section 13 to carry out the duties and functions of the chief executive officer under this Act;
- “construction industry”** means the industry —
- (a) of carrying out on a site the construction, erection, installation, reconstruction, re-erection, renovation, alteration, demolition or maintenance of or repairs to any of the following —
    - (i) buildings;
    - (ii) roads, railways, airfields or other works for the passage of persons, animals or vehicles;
    - (iii) breakwaters, docks, jetties, piers, wharves or works for the improvement or alteration of any harbour, river or watercourse for the purposes of navigation;
    - (iv) works for the storage or supply of water or for the irrigation of land;
    - (v) works for the conveyance, treatment or disposal of sewage or of the effluent from any premises;
    - (vi) works for the extraction, refining, processing or treatment of materials or for the production or extraction of products and by-products from materials;
    - (vii) bridges, viaducts, aqueducts or tunnels;
    - (viii) chimney stacks, cooling towers, drilling rigs, gas-holders or silos;
    - (ix) pipelines;
    - (x) navigational lights, beacons or markers;
    - (xi) works for the drainage of land;
    - (xii) works for the storage of liquids (other than water) or gases;
    - (xiii) works for the generation, supply or transmission of electric power;
    - (xiv) works for the transmission of wireless or telegraphic communications;
    - (xv) pile driving works;

- (xvi) structures, fixtures or works for the use on any buildings or works of a kind referred to in subparagraphs (i) to (xv);
  - (xvii) works for the preparation of sites for any buildings or works of a kind referred to in subparagraphs (i) to (xvi); and
  - (xviii) fences, other than fences on farms;
- (b) of carrying out of works on a site of the construction, erection, installation, reconstruction, re-erection, renovation, alteration or demolition of any buildings or works of a kind referred to in paragraph (a) for the fabrication, erection or installation of plant, plant facilities or equipment for those buildings or works;
- (c) of carrying out of work performed by employees engaged in the work referred to in paragraph (a) or (b) and that is normally carried out on site but which is not necessarily carried out on site, but does not include —
- (d) the carrying out of any work on ships;
  - (e) the maintenance of or repairs or minor alterations to lifts or escalators; or
  - (f) the carrying out of maintenance or repairs of a routine or minor nature by employees for an employer who is not substantially engaged in the industry described in this interpretation;

**“day of service”** means any day on which an employee is entitled to receive ordinary pay and includes any day on which the employee in question is —

- (a) on long service leave under this Act;
- (b) on annual leave in excess of 4 weeks in any period of 12 months;
- (c) on paid sick leave;

**“employee”** means a person who is employed under contract of service or apprenticeship in a classification of work referred to in a prescribed award relating to the construction industry that is a prescribed classification;

**“employer”** means a natural person or firm or body corporate, as the case may be, who or which engages persons as employees in the construction industry but does not include a Minister, authority or local government prescribed under subsection (4) (c);

**“employees register”** means the register of employees established and maintained under Part IV;

**“employers register”** means the register of employers established and maintained under Part IV;

**“member”** means a member of the Board and includes the chairman;

**“ordinary pay”** means the ordinary rate of wage payable under the relevant prescribed award to an employee performing work within a prescribed classification referred to in a prescribed award but does not include any amount payable to the employee (whether or not under the relevant prescribed award) in respect of —

- (a) any payment (however described) payable only with reference to the site on which the employee is employed for the time being;

- (b) any shift allowance;
- (c) any amount payable in respect of fares or travelling allowances;
- (d) penalty rates or disability payments, however described;

**“union”** means an organization of workers or employees registered under the *Conciliation and Arbitration Act 1904* of the Commonwealth or the *Industrial Relations Act 1979*;

**“year of service”** means a year of service as determined in accordance with section 21 (2).

- (2) The Minister may by Order published in the *Government Gazette* fix a day as the appointed day for the purposes of subsection (1).
- (3) For the purposes of this Act a reference to an employee does not include an apprentice under and for the purposes of any Act of this State or any other State of the Commonwealth relating to apprentices but service as an apprentice shall be included as service for the purposes of this Act.
- (4) The regulations may prescribe —
  - (a) any classification of work referred to in a prescribed award to be a prescribed classification of work for the purposes of the definition of “employee”;
  - (b) any award made with respect to employment in the construction industry to be a prescribed award for the purposes of this Act;
  - (c) a Minister in the Government, an authority, whether a body corporate or not, constituted by a written law or a local government, not to be an employer, or not to be an employer in respect of prescribed employees of that Minister, authority or local government, for the purposes of the definition of “employer” in subsection (1).

[Section 3 amended by No. 30 of 1989 s.4; No. 14 of 1996 s.4; No. 57 of 1997 s.38.]