

**EMPLOYMENT AND TRAINING****EM301****BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND  
LEVY COLLECTION ACT 1990****BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY  
COLLECTION REGULATIONS 1991**

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Building and Construction Industry Training Fund and Levy Collection Regulations 1991*.

**Commencement**

2. These regulations shall come into operation on the day on which the *Building and Construction Industry Training Fund and Levy Collection Act 1990* comes into operation.

**Work excluded from definition of "construction work"**

3. The following work is work that is excluded from the definition of "construction work" under section 3 (1) of the Act—

- (a) work the value of which is \$6 000 or less; and
- (b) work which is maintenance or repairs of a routine or minor nature carried out by employees for an employer who is not substantially engaged in the building and construction industry.

**Commencement of Construction work under section 3 (2) (d)**

4. Construction work commences under section 3 (2) (d) of the Act when any of the construction work is commenced on the building or construction site.

**Sectors of the building and construction industry—Schedule 1**

5. Each sector of the building and construction industry referred to in section 8 (9) of the Act is comprised of the parts of that industry described following that sector in Schedule 1.

**Estimating the value of construction work**

6. For the purposes of paragraphs (a) and (b) of section 21 of the Act—

- (a) where the construction work is to be carried out under a contract, the estimated value of the construction work shall be the contract price, where that price includes value for at least each of the components referred to in paragraph (b); and
- (b) where the construction work is carried out other than under a contract or under a contract the contract price for which does not include value for each of the following components, the estimated value of the construction work shall be the sum of the value of the building materials, labour, services necessary, fees payable, overheads to be met and profit margin.

**Adjusting for inflation**

7. (1) Adjustment shall be made for inflation for the purpose of paragraph (c) of section 21 of the Act by calculating interest on the value of the construction work as estimated for the purposes of paragraph (a) or (b) of section 21 of the Act at the CPI rate as determined by the Board in accordance with subregulation (2).

(2) The CPI rate of interest to be used under subregulation (1) shall be determined by the Board in accordance with the following—

- (a) in this subregulation "Index" means the table described as the Consumer Price Index Numbers (All Groups Index) for Perth published by the Commonwealth Statistician under the *Census and Statistics Act 1905* of the Commonwealth;
- (b) the CPI rate shall be determined before 1 July to take effect for the following year from 1 July to 30 June;
- (c) the percentage rate determined under paragraph (b) shall be that which the Board declares to be the percentage by which the Index for the quarter ending in March of the current year is greater than the Index for the quarter ending in March of the previous year; and
- (d) if the Index for the quarter ending in March of the current year is not greater than the Index for the quarter ending in March of the previous year, the CPI rate for the following year from 1 July shall be nil.

**Penalty rate on unpaid levy**

8. The rate per annum to be paid to the Board by way of penalty under section 24 of the Act where construction work is commenced before the levy due in respect of that work is paid is 100% of the unpaid levy.

**Project owner to maintain records**

9. (1) Subject to subregulation (2), a person shall keep the following records in relation to construction work for which he or she is the project owner for a period of 5 years from the commencement of that work—

- (a) a copy of all forms submitted to or received from the Board or a collection agency relating to the payment or refund of levy;
- (b) the date on which the construction work commenced;
- (c) the value of the construction work;
- (d) the site address of the construction work; and
- (e) brief details describing the type of construction work.

**Levy payment form**

10. All levy paid by a project owner to the Board or a collection agency shall be accompanied by a form in a form approved by the Board which makes provision for—

- (a) a brief description of the construction work;
- (b) the estimated value of the construction work;
- (c) the signature of the project owner; and
- (d) the estimated levy payable on the construction work.

**Procedures to be followed by collection agencies in collecting and paying levy to fund**

11. (1) The procedures set out in this regulation are the procedures to be followed by a collection agency in collecting levy and paying levy to the fund under section 27 (2) of the Act.

(2) In this regulation "levy payment form" means a form in a form referred to in regulation 10.

(3) A collection agency shall—

- (a) provide to any project owner a levy payment form;
- (b) calculate the amount of levy due on the construction work, based on the estimated value of that work contained in the levy payment form signed by the project owner, and enter the estimated amount of levy due on the levy payment form;
- (c) collect from the project owner the completed levy payment form and the levy as calculated under paragraph (b);
- (d) pay the levy collected into an account approved by the Treasurer until it is paid to the Fund;

- (e) pay all levy collected to the Fund not later than the 10th day of the month following the month in which the levy was received; and
- (f) provide to the Board at the time of each payment of levy to the Fund under paragraph (e), all levy payment forms and a summary of levy payments in a form approved by the Board, relating to that levy.

#### **Certificate of appointment of authorized person**

12. The certificate issued to an authorized person under section 28 (2) of the Act shall be in the form of Form 1 in Schedule 2.

### Schedule 1 Sectors of the Building and Construction Industry

(s. 8 (9) of the Act and Reg. 5)

1. **THE HOUSING SECTOR**—That part of the building and construction industry, other than that included in the description of the government construction sector, which carries out construction work on, or resulting in, a building that is a residential dwelling unit, or a number of residential dwelling units, each of which contains cooking and bathing facilities and is intended to be used predominantly for long term residential purposes.  
A building that is a dwelling unit which is part of an educational institution, a hospital or other building offering institutional care or temporary accommodation (i.e. a motel, hotel or holiday apartment) is not included in the housing sector.
2. **THE COMMERCIAL SECTOR**—That part of the building and construction industry, other than that included in the description of the government construction sector, the housing sector, or the engineering construction sector, which carries out construction work on, or resulting in, a rigid, fixed and permanent structure with a roof, the intended purpose of which is for the shelter, or the use of, people, plants, machinery, goods or livestock.
3. **THE ENGINEERING CONSTRUCTION SECTOR**—That part of the building and construction industry, other than that included in the description of the government construction sector, which carries out construction work on, or resulting in—
  - (a) a road, railway, airfield or other structure for the passage of persons, animals or vehicles;
  - (b) a breakwater, dock, jetty, pier, wharf or other structure for the improvement or alteration of any harbour, river or watercourse for the purposes of navigation;
  - (c) any structure for the storage or supply of water or for the irrigation of land;
  - (d) any structure for the conveyance, treatment or disposal of sewage or of the effluent from any premises;
  - (e) a structure for the extraction, refining, processing or treatment of heavy industry materials or for the production or extraction of heavy industry products and by-products from materials;
  - (f) a bridge, viaduct, aqueduct or tunnel;
  - (g) a chimney stack that is over 15 metres in height and is not part of a building included in the description of the housing sector or the commercial sector, a cooling tower, drilling rig, gas holder or silo;
  - (h) a pipeline;
  - (i) a navigational light, beacon or marker;
  - (j) a structure for the drainage of land;
  - (k) a structure for the storage of liquid or gas;
  - (l) a structure for the transmission of wireless or telegraphic communications;
  - (m) a fence, other than a fence on a farm;
  - (n) a grandstand, stadium or swimming pool; or
  - (o) a structure for the generation, supply or transmission of electric power.
4. **THE GOVERNMENT CONSTRUCTION SECTOR**—That part of the building and construction industry where construction work is carried out for the Crown in right of the State or by a municipality under the *Local Government Act 1960* by employees of the Crown or the municipality.

## Schedule 2

(s. 28 (2) of Act and Reg. 12)

## FORM 1

BUILDING AND CONSTRUCTION INDUSTRY  
TRAINING FUND AND LEVY COLLECTION ACT 1990  
CERTIFICATE OF APPOINTMENT  
OF AUTHORIZED PERSON  
(Section 28)

This is to certify that .....is an  
authorized person for the purposes of the *Building and Construction Industry  
Training Fund and Levy Collection Act 1990*.

.....  
Presiding member of the Board.....  
Date

## Reverse of Form 1

Summary of powers of an authorized person under the *Building and  
Construction Industry Training Fund and Levy Collection Act 1990*.

1. An authorized person shall produce this certificate wherever required to do so by any person in respect of whom the authorized person has, or is about to, exercise any power under the Act.
2. An authorized person may require a person in writing to give to the authorized person, or the Board, relevant information or documents within the reasonable time specified in writing and to verify such information by statutory declaration.
3. An authorized person may, if directed by the Board, for the purposes of ascertaining whether there has been compliance with the Act—
  - (a) enter, inspect and examine any place at a reasonable time;
  - (b) conduct an examination or inquiry; or
  - (c) require the production of, examine and take copies or extracts from, any documents.

By His Excellency's Command,

L. M. AULD, Clerk of the Council.  
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