



Western Australia

Building and Construction Industry Training Fund and Levy Collection Amendment Act 2020

As at 27 May 2020

No. 23 of 2020

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Building and Construction Industry Training Fund and Levy Collection Amendment Act 2020

No. 23 of 2020

***An Act to amend the *Building and Construction Industry Training
Fund and Levy Collection Act 1990*.***

[Assented to 27 May 2020]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Building and Construction Industry Training Fund and Levy Collection Amendment Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Building and Construction Industry Training Fund and Levy Collection Act 1990*.

4. Section 10 amended

- (1) In section 10(1):

- (a) delete “7 members” and insert:

9 members

- (b) in paragraph (i) delete “Union.” and insert:

Union; and

- (c) after paragraph (i) insert:

- (j) the Chamber of Minerals and Energy of Western Australia; and
- (k) the Association of Mining and Exploration Companies; and
- (l) the Australian Petroleum Production and Exploration Association.

(2) Delete subsections (2) and (3) and insert:

(2) The Board must include at least —

- (a) 1 member with experience or expertise in the construction of facilities associated with the mining industry; and
- (b) 1 member with experience or expertise in the construction of facilities associated with the petroleum industry; and
- (c) 2 members who are, in the Minister's opinion, independent of the bodies referred to in subsection (1).

(3) The Minister must appoint 1 of the members referred to in subsection (2)(c) as the chairperson of the Board.

5. Sections 21A and 21B inserted

After section 21 insert:

21A. Payment of levy by instalments

- (1) Despite section 21, a project owner liable to pay a levy in respect of construction work may pay the levy by instalments if the value of the construction work, estimated for the purposes of section 21(1)(a) or (b), is \$500 million or more.
- (2) The amount for each instalment is calculated using the following equation —

$$IA = \frac{LP}{PP}$$

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where —

- IA is the amount of each instalment of the levy payable in respect of the construction work;
- LP is the levy payable under section 21 in respect of the construction work;
- PP is the payment period for the construction work, expressed in years (rounded down to the nearest whole year).

(3) In subsection (2) —

payment period, for the construction work, means —

- (a) the estimated period during which the construction work is to be carried out as agreed to by the Board and the project owner; or
 - (b) if the Board and the project owner are unable to agree to an estimate — the period during which the construction work is to be carried out as estimated by the Board; or
 - (c) if the Minister determines a period over which the levy is payable for the construction work under subsection (4) — that period.
- (4) On application by the project owner in the approved form, the Minister may, after consultation with the Board, determine a period over which the levy is payable for the construction work.
- (5) A period determined by the Minister under subsection (4) prevails over any estimated period during which the construction work is to be carried out.

21B. Time for payment of instalments

- (1) An instalment is due for payment —
- (a) if it is the first instalment — on the day on which the whole of the levy amount would be

due for payment if it were not payable by instalments; and

- (b) if it is another instalment — on the day that is 12 months after the day on which the previous instalment was due for payment.
- (2) If the project owner does not pay the first instalment on or before the day on which the instalment is due for payment, the whole of the levy amount payable in respect of the construction work becomes due for payment.
- (3) The Board may accept the payment of an instalment, other than the first instalment, that is made after the day on which it was due for payment and the instalment is, if the Board so directs, taken to have been paid on the day on which it became due for payment.

6. Section 23 amended

In section 23 delete “levy” and insert:

levy, or an instalment of the levy,

7. Section 24 replaced

Delete section 24 and insert:

24. Penalty for late payment

- (1) In this section —
penalty period means —
 - (a) for subsection (3) — the period starting on the day construction work commenced and ending

s. 8

on the day the whole of the levy amount payable in respect of the construction work is paid; and

- (b) for subsection (5) — the period starting on the day the instalment became due for payment and ending on the day the instalment is paid.
- (2) Subsection (3) applies if a project owner is not paying the levy in respect of construction work in instalments under section 21A.
- (3) If the construction work is commenced before the project owner pays the levy, the project owner is liable to pay to the Board, by way of penalty, an amount calculated for the penalty period at a prescribed rate on the amount of the levy unpaid.
- (4) Subsection (5) applies if a project owner is paying the levy in respect of construction work in instalments under section 21A.
- (5) If the project owner does not pay an instalment, other than the first instalment, before it is due for payment, the project owner is liable to pay to the Board, by way of penalty, an amount calculated for the penalty period at a prescribed rate on the amount of the instalment unpaid.

8. Schedule 1 clause 1 amended

- (1) In Schedule 1 clause 1(1) and (2) delete “reappointment.” and insert:

reappointment, but cannot hold office for more than 10 consecutive years.

(2) Delete Schedule 1 clause 1(3) and insert:

- (3) A member whose term of office expires without a person having been appointed to fill the vacancy continues in office until whichever of the following occurs first —
- (a) a person is appointed to fill the vacancy;
 - (b) a period of 3 months elapses after the expiry of the term of office.

9. Schedule 1 clause 8 amended

In Schedule 1 clause 8 delete “4 members” and insert:

5 members

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