

1993—No. 118

**BUILDING AND CONSTRUCTION INDUSTRY LONG
SERVICE PAYMENTS ACT 1986—REGULATION**

(Relating to the prescribed rate of long service levy)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Building and Construction Industry Long Service Payments Act 1986, has been pleased to make the Regulation set forth hereunder.

JOHN P. HANNAFORD, M.L.C.,
Attorney General and Minister for Industrial Relations.

Commencement

1. This Regulation commences on 29 March 1993.

Amendment

2. The Building and Construction Industry Long Service Payments Regulation 1986 is amended:

- (a) by omitting clause 7 (1) and by inserting instead the following subclauses:

- (1) For the purposes of section 35 of the Act, the prescribed rate is:

- (a) if the Corporation determines that work on the erection of the building commenced before 1 November 1988, 0.5 per cent; or
- (b) if the Corporation determines that work on the erection of the building commenced between 29 March 1993 and 31 December 1994 and if an exemption notice was in force on the date the Corporation determines that work commenced, zero; or

(c) in any other case, 0.1 per cent.

(1A) In this clause, “exemption notice” means a notice published in the Gazette by the Minister stating:

- (a) that an actuary has reported to the Corporation on the results of the actuary’s investigation to determine the sufficiency of the Fund; and
- (b) that the actuary has stated (pursuant to section 14 (4) of the Act) that in his or her opinion the rate of the long service levy should be reduced to zero for a period including the period specified in the notice.

The notice remains in force for the period specified in the notice but may be sooner revoked by further notice published in the Gazette.

- (b) by omitting clause 7D and by inserting instead the following clause:

Commencement of work

7D. (1) This clause applies to determinations made by the Corporation in relation to clauses 6, 7 and 7B.

(2) The relevant events for the purpose of the Corporation’s determination as to when work on the erection of a building commenced are:

- (a) the granting by a council of any approval required for the erection of the building (pursuant to Division 4 of Part 11 of the Local Government Act 1919); and
- (b) the signing of any contract entered into for the erection of the building; and
- (c) the commencement of work on the erection of at least part of the building, but only if the work was a genuine commencement of work on the erection of the building.

(3) The Corporation must not determine that work on the erection of a building commenced before 1 November 1988 unless the Corporation is satisfied that all the relevant events occurred before 1 November 1988.

(4) The Corporation must not determine that work on the erection of a building commenced between 1 November 1988 and 28 March 1993 unless the Corporation is satisfied that the relevant event described in subclause (2) (c) occurred between 1 November 1988 and 28 March 1993.

(5) The Corporation must not determine that work on the erection of a building commenced between 29 March 1993 and 31 December 1994 unless the Corporation is satisfied that the relevant event described in subclause (2) (c) occurred between 29 March 1993 and 31 December 1994.

EXPLANATORY NOTE

The Building and Construction Industry Long Service Payments Act 1986 makes provision for long service payments to workers engaged in the building and constructions industry. The Act provides for the payment of a long service levy, in respect of the erection of a building, into the Building and Construction Industry Long Service Payments Fund. Section 14 of the Act makes provision for actuarial investigations of the Fund and for an actuary to recommend whether any reduction or increase should be made in the rate of any long service levy.

The rate of long service levy payable is calculated by reference to the cost of erection of the building. Section 35 provides that the rate of the levy may be prescribed, provided that the rate does not exceed 0.6 per cent. Currently, different rates are prescribed depending on the date of commencement of the building work (see existing clause 7 of the Building and Construction Industry Long Service Payments Regulation 1986).

The object of this Regulation is to provide that no long service levy is payable for work commenced during the period between 29 March 1993 and 31 December 1994. The zero rate will only be applicable if an actuary has investigated the Fund and recommended that based on the sufficiency of the Fund, no long service levy be payable during the period concerned.
