



ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 25 of 1985

An Act to amend the Long Service Leave (Building Industry) Act, 1975.

[Assented to 28 March 1985]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the “Long Service Leave (Building Industry) Act Amendment Act, 1985”. Short title.

(2) The Long Service Leave (Building Industry) Act, 1975, is in this Act referred to as “the principal Act”.

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. Section 4 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of “the Commissioner”;

(b) by striking out from the definition of “contribution” in subsection (1) the word “Commissioner” and substituting the word “Board”;

(c) by striking out paragraph (a) of the definition of “employer” in subsection (1) and substituting the following paragraph:

(a) the construction, improvement, alteration, maintenance, repair or demolition of—

(i) a building;

or

(ii) any of the following structures—

(A) a tank or other structure for the storage or supply of water;

Amendment of
s. 4—
Definitions.

(B) a structure for the conveyance, treatment or disposal of sewage or effluent;

(C) a bridge, viaduct, aquaduct or tunnel;

(D) a chimney stack, cooling tower or silo;

(E) a dock, jetty, pier or wharf;

(d) by striking out paragraph (i) of the definition of "employer" in subsection (1) and the word "or" immediately preceding that paragraph;

and

(e) by striking out subsection (3) and substituting the following subsection:

(3) A person or body shall not be regarded as being an employer for the purposes of this Act if the person or body—

(a) employs a person as a building worker only for or in connection with the construction, improvement, alteration, maintenance, repair or demolition of a building or structure owned or occupied by the person or body;

and

(b) does not carry on the business of constructing, improving, altering or repairing buildings or structures for the purpose of their subsequent sale or lease.

Insertion of new
s. 15a.

4. The following section is inserted in Part II of the principal Act after section 15:

Delegation by
Board.

15a. (1) The Board may, by instrument in writing, delegate to a member of the Board or any other person engaged in the administration of this Act any of its powers or functions under this Act.

(2) A delegation under subsection (1) may be revoked by the Board by instrument in writing and shall not derogate from the power of the Board to act itself in any matter.

(3) In any legal proceedings, an apparently genuine document purporting to be a certificate under the seal of the Board containing particulars of a delegation under this section shall, in the absence of proof to the contrary, be accepted as proof of the particulars.

Amendment of
s. 24—
Contributions by
employers.

5. Section 24 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "Commissioner a return" and substituting the passage "Board a return in the prescribed form";

(b) by inserting in subsection (1) after the passage "paid by him to" the passage "each of";

(c) by striking out from subsection (2) the word "Commissioner" and substituting the word "Board";

and

(d) by striking out from subsection (3) the passage "Commissioner shall forthwith cause all moneys paid to him" and substituting the passage "Board shall forthwith cause all moneys paid to it".

6. Section 24a of the principal Act is amended—

(a) by striking out from subsection (1) the word "Commissioner" and substituting the word "Board";

Amendment of s. 24a—
Contributions in relation to certain effective service.

(b) by striking out from paragraph (b) of subsection (2) the passage "to the Commissioner";

(c) by striking out from subsection (2) the word "Commissioner" secondly occurring and substituting the word "Board";

(d) by striking out from subsection (3) the word "Commissioner" and substituting the word "Board";

and

(e) by striking out from subsection (4) the passage "Commissioner may, if he" and substituting the passage "Board may, if it".

7. Section 24b of the principal Act is amended—

(a) by striking out the word "Commissioner" wherever it occurs and substituting, in each case, the word "Board";

Amendment of s. 24b—
Power to require information.

(b) by striking out the word "him" wherever it occurs and substituting, in each case, the word "it";

and

(c) by striking out the word "he" wherever it occurs and substituting, in each case, the word "it".

8. Section 24c of the principal Act is amended by striking out the word "Commissioner" wherever it occurs and substituting, in each case, the word "Board".

Amendment of s. 24c—
Assessments.

9. Section 24d of the principal Act is amended—

(a) by striking out from subsection (1) the passage "and payable to the Commissioner";

Amendment of s. 24d—
Recovery of contributions.

and

(b) by striking out subsection (2) and substituting the following subsection:

(2) The Board may recover an unpaid contribution by action in a court of competent jurisdiction.

10. Section 25 of the principal Act is amended by striking out the word "Commissioner" and substituting the word "Board".

Amendment of s. 25—
Special arrangements.

11. Section 26 of the principal Act is amended—

(a) by striking out the word "Commissioner" and substituting the word "Board";

Amendment of s. 26—
Refund of overpayment.

and

- (b) by striking out the passage "he may on application by that employer or on his" and substituting the passage ", it may on application by that employer or on its".

Amendment of
s. 28—
Effective service
after
commencement
of Long Service
Leave (Building
Industry) Act
Amendment Act,
1982.

12. Section 28 of the principal Act is amended—

- (a) by striking out from paragraph (c) of subsection (5) the passage "eighteen months or more" and substituting the passage "thirty-six months";

and

- (b) by inserting after subsection (5) the following subsections:

(5a) For the purposes of subsection (5), a person shall be deemed to have been employed as a building worker for any period for which he has been employed to perform building work under a job creation scheme.

(5b) Subsection (5a)—

(a) applies in relation to any period of employment of the kind referred to in that subsection whether occurring before or after the commencement of that subsection;

(b) does not give rise to any liability to pay contributions, or any entitlement to be credited with effective service, in respect of any such period of employment.

(5c) In subsection (5a)—

"building work" means work of a kind referred to in any of the paragraphs of the definition of "worker" in section 4 (1):

"job creation scheme" means a prescribed scheme for the provision of employment to persons otherwise unable to secure employment.

Amendment of
s. 34—
Pro-rata payments
for effective
service less than
120 months.

13. Section 34 of the principal Act is amended—

- (a) by inserting in subparagraph (iv) of paragraph (b) of subsection (1) after the passage "has not worked" the passage "or will not be working";

- (b) by striking out the word "or" occurring between paragraphs (c) and (d) of subsection (2);

and

- (c) by inserting after paragraph (d) of subsection (2) the following word and paragraph:

or

(e) in relation to a person who has ceased to be a building worker and who has satisfied the Board that he will not be working as a building worker for a continuous period of twelve months or more from the time that he ceased to be a building worker—the day on which he ceased to be a building worker.

14. Section 36b of the principal Act is amended by striking out from subsection (1) the passage "of the Commissioner".

Amendment of
s. 36b—
Appeal to
Tribunal.

15. Section 36d of the principal Act is amended—

(a) by striking out the word "Commissioner" twice occurring and substituting, in each case, the word "Board";

Amendment of
s. 36d—
Effect of pending
appeal.

and

(b) by striking out the word "him" and substituting the word "it".

16. The following section is inserted in Part V of the principal Act before section 37:

Insertion of new
s. 36e.

36e. (1) In this section—

"corresponding law", in relation to a Territory of the Commonwealth or a State other than South Australia, means a law of the Territory or State—

Reciprocal
arrangements
with other States
and Territories.

(a) that provides for long service payments to persons employed as building workers, being payments that are the same as, or similar to, the payments provided by this Act;

and

(b) that is prescribed as a corresponding law for the purposes of this section.

(2) The Minister may make a reciprocal arrangement with the Minister of State of the Territory or State responsible for the administration of a corresponding law, being a reciprocal arrangement relating to—

(a) long service payments;

(b) the exchange of information concerning service credits and entitlements to long service payments between the Board and any equivalent authority established under the corresponding law;

and

(c) such other matters relating to long service payments as the Minister thinks necessary or convenient.

(3) Subject to subsection (4), where—

(a) a person is paid a long service payment by an authority established under a corresponding law of a Territory of the Commonwealth or a State other than South Australia;

(b) the amount is so paid, either wholly or partly, in respect of a period of effective service as a building worker served by the person within South Australia;

and

(c) the Minister has made a reciprocal arrangement under subsection (2) with the Minister of State of the Territory or State responsible for the administration of the corresponding law,

the Board shall, on request by the authority referred to in paragraph (a), pay to that authority from the Fund an amount equal to the amount that bears the same proportion to the amount referred to in paragraph (a) paid by that authority as the period of effective service referred to in paragraph (b) bears to the total period of service in respect of which that authority so paid that amount.

(4) The payment of an amount by the Board under subsection (3) shall be made subject to such terms and conditions, if any, as are specified in the reciprocal arrangement referred to in subsection (3) (c).

(5) Where a reciprocal arrangement is made by the Minister under subsection (2) with the Minister of State of a Territory or State responsible for the administration of a corresponding law, the provisions of this Act shall be construed as applying with such modifications as are necessary to enable the Board to give effect to and comply with the terms of the reciprocal arrangement.

Amendment of
s. 38—
Books and
records to be
presented.

17. Section 38 of the principal Act is amended by striking out from subsection (2) the word "Commissioner" and substituting the word "Board".

Amendment of
s. 39—
False or
misleading
information.

18. Section 39 of the principal Act is amended—

(a) by striking out the word "Commissioner" twice occurring and substituting, in each case, the word "Board";

and

(b) by striking out paragraph (c).

Amendment of
s. 40—
Service of
documents.

19. Section 40 of the principal Act is amended by striking out the passage "the Commissioner or" wherever it occurs.

Amendment of
s. 42a—
Evidentiary
provisions.

20. Section 42a of the principal Act is amended—

(a) by striking out from subsection (1) the passage "signed by the Commissioner" and substituting the passage "under the seal of the Board";

(b) by striking out subsection (2);

(c) by striking out from subsection (3) the word "Commissioner" wherever it occurs and substituting, in each case, the word "Board";

and

(d) by striking out from subsection (3) the passage "signed by" and substituting the passage "under the seal of".

Amendment of
s. 43—
Regulations.

21. Section 43 of the principal Act is amended by striking out from paragraph (b) of subsection (2) the passage "or the Commissioner".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor