

NORTHERN TERRITORY OF AUSTRALIA
CONSTRUCTION INDUSTRY LONG SERVICE LEAVE AND BENEFITS
DETERMINATIONS

Regulations No. 23 of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Regulations No. 23 of 2005*

Construction Industry Long Service Leave and Benefits Determinations

NT Build, pursuant to section 57 of the *Construction Industry Long Service Leave and Benefits Act*, on 1 July 2005, made the following determinations and, for the purposes of section 63(2)(a) of the *Interpretation Act*, authorised Barry William Chambers, the Chairperson of NT Build, to sign the determinations.

Dated 1 July 2005.

Barry William Chambers
Chairperson of NT Build

* Notified in the *Northern Territory Government Gazette* on 1 July 2005.

1. Citation

These determinations may be cited as the *Construction Industry Long Service Leave and Benefits Determinations*.

2. Construction Workers Register

For section 9(2)(c) of the Act, the Construction Workers Register must include the following information about each registered worker:

- (a) the worker's registration number allocated by the Board;
- (b) the worker's postal address;
- (c) whether the worker is registered as an employee, contractor, or both;
- (d) the type of construction work carried out by the worker;
- (e) the worker's date of birth;
- (f) the registration number of the registered worker allocated by the reciprocal authority for each reciprocal scheme under which the worker is also registered.

3. Application for registration

(1) Construction work in the nature of any of the following is specified for section 10(1)(b)(ii) of the Act:

- (a) building trades or building trades labouring;
- (b) bituminous surfacing;
- (c) metal trades;
- (d) electrical trades;
- (e) plumbing trades;
- (f) plant operation;
- (g) work relating to civil engineering.

(2) Construction work carried out by a person is excluded for section 10(1)(c)(ii) of the Act if –

- (a) the work involves the fabrication of components or manufacture of any other materials for installation; and

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(b) on average, the person spends less than 50% of his or her work time at the construction site for the work.

(3) Construction work carried out by a person is excluded for section 10(1)(c)(ii) of the Act if the person is primarily employed or engaged to transport people or goods to or from the construction site for the work.

(4) For this clause, the construction site for construction work is –

(a) if the work involves the fabrication of components or the manufacture of any other materials for installation – the location at which the components or materials are finally installed or used; or

(b) in any other case – the location of any building, structure or other construction (whether completed or not) in relation to which the work is carried out.

4. Qualifying service

(1) Section 15(3) of the Act has effect subject to this clause.

(2) Subject to section 15(2) of the Act, a registered worker is entitled to be credited with a maximum of 6 days of qualifying service per week.

(3) For section 15(3)(a) of the Act, a registered worker is entitled to be credited with one day of qualifying service if the worker has carried out at least 6 hours of construction work during any work shift.

5. Employee pay rate and contractor pay rate

(1) For section 19(4)(b) of the Act, the employee pay rate is a rate decided by the Board in writing, having regard to the average weekly ordinary time earnings for the construction sector published by the Australian Bureau of Statistics from time to time.

(2) For section 20(6)(b) of the Act, the contractor pay rate is a rate decided by the Board in writing, having regard to the average weekly ordinary time earnings for the construction sector published by the Australian Bureau of Statistics from time to time.

(3) This clause does not prevent the Board from changing the rates at any time.

6. Construction Employers Register

(1) For section 25(2)(b) of the Act, the Construction Employers Register must include the following information about each registered employer:

(a) the registration number of the employer allocated by the Board;

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- (b) the name of the employer, including –
 - (i) if the employer is a partnership – the name of each partner; and
 - (ii) any trading name used by the employer and each partner referred to in subparagraph (i);
- (c) the postal address, business address and telephone number of the employer;
- (d) the name and contact details of a contact person for the employer if the employer is not a natural person;
- (e) the type of construction work carried out by the employer;
- (f) when the employer first employed construction workers in the Territory;
- (g) the registration number of the employer allocated by the reciprocal authority for each reciprocal scheme under which the employer is also registered.

(2) For section 25(2)(c) of the Act, the Construction Employers Register must include the following information about each registered employee employed by a registered employer:

- (a) the employee's registration number allocated by the Board;
- (b) the employee's full name;
- (c) the employee's postal address;
- (d) the employee's date of birth;
- (e) the period or periods during which the employee is employed by the employer;
- (f) the type of construction work carried out by the employee while being employed by the employer.

7. Obligations to report

For section 28(1)(c) of the Act, a registered employer must include in the report for a reporting period the following information:

- (a) if a registered employee ceased to be employed by the employer during that period – the date of that cessation;

- (b) if a registered employee started to be employed by the employer during that period –
 - (i) the employee's registration number allocated by the Board; and
 - (ii) the employee's full name; and
 - (iii) the employee's postal address; and
 - (iv) the employee's date of birth; and
 - (v) when the employee started to be employed by the employer during that period; and
 - (vi) the type of construction work carried out by the employee while being employed by the employer during that period.

8. Obligations to keep records

(1) For section 30(1) and (2) of the Act, a registered employer must prepare records of the following about each registered employee employed by the employer during all or any part of a financial year:

- (a) the employee's full name;
- (b) the employee's postal address;
- (c) the employee's date of birth;
- (d) the period or periods during which the employee is employed by the employer during that year;
- (e) the type of construction work carried out by the employee while being employed by the employer during that year.

(2) The employer must prepare the records within one month after the end of that year.

(3) The employer must keep the records for a period of at least 5 years from the end of that year.

9. Transfer of credits to Scheme

For section 87(3)(b)(i) of the Act, the previous service must be converted into the following number of days of LSL credit (rounded to 3 decimal places):

$$\left(\frac{\text{part year days} \times 260}{\text{maximum allowable days}} + \text{full year days} \right) \times \frac{6.5}{260}$$

where –

"full year days" means the number of full years of previous service, multiplied by 260;

"full year of previous service" means a year of previous service for which the worker was credited with the maximum allowable days under the reciprocal scheme;

"maximum allowable days" means the maximum number of days of service for a year that may be credited to the worker under the reciprocal scheme;

"part year days" means the number of days of previous service that do not form part of a full year of previous service;

"previous service" means so much of the previous service as corresponds to the payment referred to in section 87(3)(a) of the Act.

10. Transfer of credits out of Scheme

For section 88(2)(b) of the Act, the Registrar must deduct the amount worked out as follows (rounded to 3 decimal places) from the worker's LSL credits following the recognition of the worker's qualifying service:

$$\frac{(\text{qualifying service} \times 6.5)}{260}$$

where –

"qualifying service" means the number of the days of the recognised qualifying service referred to in section 88(2)(a) of the Act.

11. Recognition of previous service on employer's election

For section 95(6)(b)(i) of the Act, the previous service must be converted into the following number of days of LSL credit (rounded to 3 decimal places):

$$\frac{(\text{converted service} \times 6.5)}{260}$$

where –

"converted service" means the number of days of the previous service referred to in section 95(1) of the Act, adjusted as follows:

- (a) the total days of service per week must not exceed 5;
- (b) the total days of service per year must not exceed 260.

12. Recognition of previous service on employee's election

For section 96(4)(b)(i) of the Act, the previous service must be converted into the following number of days of LSL credit (rounded to 3 decimal places):

$$\frac{(\text{converted service} \times 6.5)}{260}$$

where –

"converted service" means the number of days of the previous service referred to in section 96(1) of the Act, adjusted as follows:

- (a) the total days of service per week must not exceed 5;
- (b) the total days of service per year must not exceed 260.

13. Amount payable by employer for recognition of previous service

The Registrar must decide the amount referred to in section 95(3)(a) or 96(5)(a) of the Act on the basis of only the employee's completed years of service under the *Long Service Leave Act*.

14. Recognition of qualifying service for *Long Service Leave Act*

For section 97(3)(b)(ii) of the Act, the employee's LSL credits must be adjusted on the basis that any qualifying service disregarded under section 97(3)(b)(i) does not give rise to any LSL credit.
