

Building and Construction Industry Training Fund and Levy Collection Amendment Bill 2015

EXPLANATORY MEMORANDUM

Part 1 – Preliminary

1. Short title

This clause provides that when this Bill passes, it will be known as the *Building and Construction Industry Training Fund and Levy Collection Amendment Act 2015*.

2. Commencement

This clause details when the provisions of this Bill will commence operation.

Paragraph (a) provides that sections 1 and 2 of the *Building and Construction Industry Training Fund and Levy Collection Amendment Act 2015* will commence on the day on which this Act receives the Royal Assent.

Paragraph (b) provides that the rest of the amendment Act will come into operation on a day fixed by proclamation and different days may be fixed for different provisions. This will enable the proclamation of related Regulations at the appropriate time.

3. Act amended

This clause provides that all the provisions contained in the Bill will amend the *Building and Construction Industry Training Fund and Levy Collection Act 1990*.

4. Long title amended

This clause deletes the words “improve the quality of” and inserts the words “promote and facilitate” in the long title of the Act.

This gives effect to the removal of the objective relating to improving the quality of training and replacing it with an objective to promote and facilitate training.

5. Section 7 amended

Section 7(1)(ba) of the *Building and Construction Industry Training Fund and Levy Collection Act 1990* prescribes the functions of the Board and includes a requirement to allocate resources to training and research programs, the aim of which is to improve the quality of training.

The amending Clause (a) is deleting the words “improve the quality of” and inserting the words “promote and facilitate”.

Clause (b) deletes “Section 8” in paragraph 7(1)(d) of the Act and inserts “Section 8; and”. This enables the introduction of an additional function in this section of the Act.

Clause (c) is amending section 7(1) to include an additional function for the Board which is to provide advice to the Minister on employment, workforce development and training relating to the building and construction industry.

6. Section 8 amended

Section 8(1) prescribes that the Board formulate and prepare an annual operational plan and includes reference to the key objectives of the Act including improving the quality of training.

The amending clause deletes the words “improve the quality of” and inserts the words “promote and facilitate”.

7. Section 21 amended

This section of the Act requires project owners to notify the Board, if after completion of construction work, the value of the work has varied by \$25,000 or more from the value estimated prior to construction and on which levy was paid.

The amending clause is deleting the threshold level prescribed in section 21(1)(c) of \$25,000 or more (after adjustment has been made for inflation in the prescribed manner). These words are replaced with the words “equal to or greater than the prescribed amount”. The prescribed threshold level will subsequently be prescribed in the *Building and Construction Industry Training Fund and Levy Collection Regulations 1991* and will be consistent with the threshold set in the *Building Act 2011*.

8. Section 22 amended

This section of the Act prescribes that on completion of construction work where the value of the construction has varied to a lower value which is \$25,000 or more from the original value estimated, then the Board will refund any overpayment made to the project owner.

If the actual value of construction is higher than the original estimate on which levy was paid the project owner is required to pay the additional levy due for the difference in value.

The amending clause is deleting reference to the threshold level being \$25,000 or more (after adjustment is made for inflation in the prescribed manner)” and inserting the words “an additional amount equal to or greater than the prescribed amount”.

This amended clause will be supported by subsequent amendments to the *Building and Construction Training Fund and Levy Collection Regulations 1991* which will prescribe an appropriate threshold level.

Both sections 21 and 22 of the Act make provision for adjustments to levy payments after adjustment has been made for inflation in the prescribed manner.

These words are deleted in the amendments to sections 21 and 22 but will be retained in the new threshold provisions prescribed in the Regulations.

9. Section 30 amended

Section 30(1)(d) of the Act makes it an offence to fail to notify the Board about variations to the value of completed construction work where the variation is \$25,000 or more (after adjustment is made for inflation in the prescribed manner).

The amending clause replaces reference to the \$25,000 threshold level with the words “equal to or greater than the amount prescribed for the purposes of section 21(1)(c).

The amendment is ensuring that the provision relating to offences is consistent with the changes being made to other sections of the Act relating to levy thresholds on variations to construction value.