

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

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Western Australia

LEGISLATIVE ASSEMBLY

**Building and Construction Industry Training
Fund and Levy Collection Amendment Bill 2020**

A Bill for

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

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

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

4 **2. Commencement**

5 This Act comes into operation as follows —

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

9 **3. Act amended**

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

12 **4. Section 10 amended**

13 (1) In section 10(1):

14 (a) delete “7 members” and insert:

15
16 9 members

17
18 (b) in paragraph (i) delete “Union.” and insert:

19
20 Union; and

21
22 (c) after paragraph (i) insert:

23
24 (j) the Chamber of Minerals and Energy of
25 Western Australia; and

26 (k) the Association of Mining and Exploration
27 Companies; and

28 (l) the Australian Petroleum Production and
29 Exploration Association.

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(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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- 1 where —
- 2 IA is the amount of each instalment of the levy
3 payable in respect of the construction work;
- 4 LP is the levy payable under section 21 in respect
5 of the construction work;
- 6 PP is the payment period for the construction
7 work, expressed in years (rounded down to the
8 nearest whole year).
- 9 (3) In subsection (2) —
- 10 *payment period*, for the construction work, means —
- 11 (a) the estimated period during which the
12 construction work is to be carried out as agreed
13 to by the Board and the project owner; or
- 14 (b) if the Board and the project owner are unable to
15 agree to an estimate — the period during which
16 the construction work is to be carried out as
17 estimated by the Board; or
- 18 (c) if the Minister determines a period over which
19 the levy is payable for the construction work
20 under subsection (4) — that period.
- 21 (4) On application by the project owner in the approved
22 form, the Minister may, after consultation with the
23 Board, determine a period over which the levy is
24 payable for the construction work.
- 25 (5) A period determined by the Minister under
26 subsection (4) prevails over any estimated period
27 during which the construction work is to be carried out.

28 **21B. Time for payment of instalments**

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

- 1 due for payment if it were not payable by
2 instalments; and
- 3 (b) if it is another instalment — on the day that is
4 12 months after the day on which the previous
5 instalment was due for payment.
- 6 (2) If the project owner does not pay the first instalment on
7 or before the day on which the instalment is due for
8 payment, the whole of the levy amount payable in
9 respect of the construction work becomes due for
10 payment.
- 11 (3) The Board may accept the payment of an instalment,
12 other than the first instalment, that is made after the
13 day on which it was due for payment and the
14 instalment is, if the Board so directs, taken to have
15 been paid on the day on which it became due for
16 payment.

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18 **6. Section 23 amended**

19 In section 23 delete “levy” and insert:

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21 levy, or an instalment of the levy,

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23 **7. Section 24 replaced**

24 Delete section 24 and insert:

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26 **24. Penalty for late payment**

27 (1) In this section —

28 *penalty period* means —

29 (a) for subsection (3) — the period starting on the
30 day construction work commenced and ending

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- 1 on the day the whole of the levy amount
2 payable in respect of the construction work is
3 paid; and
- 4 (b) for subsection (5) — the period starting on the
5 day the instalment became due for payment and
6 ending on the day the instalment is paid.
- 7 (2) Subsection (3) applies if a project owner is not paying
8 the levy in respect of construction work in instalments
9 under section 21A.
- 10 (3) If the construction work is commenced before the
11 project owner pays the levy, the project owner is liable
12 to pay to the Board, by way of penalty, an amount
13 calculated for the penalty period at a prescribed rate on
14 the amount of the levy unpaid.
- 15 (4) Subsection (5) applies if a project owner is paying the
16 levy in respect of construction work in instalments
17 under section 21A.
- 18 (5) If the project owner does not pay an instalment, other
19 than the first instalment, before it is due for payment,
20 the project owner is liable to pay to the Board, by way
21 of penalty, an amount calculated for the penalty period
22 at a prescribed rate on the amount of the instalment
23 unpaid.
- 24

25 **8. Schedule 1 clause 1 amended**

- 26 (1) In Schedule 1 clause 1(1) and (2) delete “reappointment.” and
27 insert:
28
- 29 reappointment, but cannot hold office for more than 10 consecutive
30 years.
31

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

3 (3) A member whose term of office expires without a person
4 having been appointed to fill the vacancy continues in office
5 until whichever of the following occurs first —

6 (a) a person is appointed to fill the vacancy;

7 (b) a period of 3 months elapses after the expiry of the
8 term of office.
9

10 **9. Schedule 1 clause 8 amended**

11 In Schedule 1 clause 8 delete “4 members” and insert:
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13 5 members
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