

# **BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL 2017**

## **EXPLANATORY MEMORANDUM**

**Recommended changes to the objectives of the Act, to the functions of the Building and Construction Industry Training Board and to provisions relating to threshold levels for adjustment of training levy.**

A statutory review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990* was undertaken in 2014. The review concluded that the Building and Construction Industry Training Board and the Construction Training Fund are operating effectively and that the Fund should continue to collect the training levy and deliver training support services.

A number of recommendations were made to enhance the operation of the Board and the Fund which require amendments to the enabling legislation and are detailed as follows.

### **Changing the objectives of the Act**

The long title and several sections of the Act prescribe the Construction Training Fund resources to be used to improve the quality of training and to increase the number of skilled persons in the building and construction industry. It is proposed to delete reference in the Act to improving the quality of training and replacing that objective with an objective to promote and facilitate training.

The legislation was enacted in 1990 at a time when there were limited mechanisms in place to regulate or support the quality of training. Since then a number of other Government bodies, regulatory provisions and State and National policy frameworks have been put in place to support the quality of training, these include:

- Australian Quality Training Framework including training packages, training standards and systems for delivery by registered training providers.
- The Australian Skills Quality Authority which regulates the delivery of training.
- The State Training Accreditation Council, State Training Board, Department of Training and Workforce Development and State Industry Skills Councils.
- The *State Vocational Education and Training Act 1996*.

The review concluded that the prime objective of the *Building and Construction Industry Training Fund and Levy Collection Act 1990* has primarily been about increasing the number of skilled workers and the introduction of Commonwealth and State quality assurance regimes makes the quality improvement provision in the Act redundant.

The current operations of the Building and Construction Industry Training Fund involve a very successful career information and training promotion program. Industry and community stakeholders believe that the promotion and facilitation of training is now a core function of the Fund which should be reflected in the legislation.

## **Changing the functions of the Building and Construction Industry Training Board**

The Act prescribes a number of functions for the Board which include efficiently collecting levy, controlling and administering the Construction Training Fund and allocating resources in accordance with an operational plan approved by the Minister.

The Board has, as part of its management of the Fund, been very effective in identifying key employment, workforce development and training issues to the Minister.

The 2014 review concluded that the Board is perceived as a strategic entity which communicates effectively with industry and is able to consider and work through contentious issues in order to deliver a considered opinion and provide market intelligence.

The proposed amendment is to prescribe an additional responsibility in the functions of the Board. This will require the Board to provide advice to the Minister on employment, workforce development and training, relating to the building and construction industry.

### **Changes to adjustments of levy**

Sections 21 and 22 of the Act make provision for adjustment of levy on completion of construction work where the actual value of the work varies by \$25,000 or more from the value estimated prior to construction and on which the levy was paid.

The value of \$25,000 has not changed since 1990, despite significant increases in building costs and the proposed amendment is to remove the provisions relating to the specific threshold level from the Act and place them in the *Building and Construction Training Fund and Levy Collection Regulations 1991*.

This will enable more efficient management of the threshold levels in the future. It is also ensuring consistency with the threshold level set for application of the original levy on construction work which is already prescribed in the Regulations.

## **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 2017*.

### **2. Commencement**

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

Paragraph (a) will provide that the operative provisions of Sections 1 and 2 of the *Building and Construction Industry Training Fund and Levy Collection Amendment Act 2017* 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*.

### **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 amount equal to or greater than the amount prescribed for the purposes of Section 21 (1) (c).”

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 Section 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 is deleting reference to the \$25,000 threshold level and replacing it 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.