

South Australia

# Construction Industry Training Fund Regulations 2008

under the *Construction Industry Training Fund Act 1993*

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### 1—Short title

These regulations may be cited as the *Construction Industry Training Fund Regulations 2008*.

### 2—Commencement

These regulations will come into operation on 1 September 2008.

### 3—Interpretation

In these regulations—

*Act* means the *Construction Industry Training Fund Act 1993*;

*GST* means the tax payable under the GST law;

*GST law* means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth; and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods, services and other things.

#### **4—Sectors of the building and construction industry**

Pursuant to section 3(3) of the Act, the sectors of the building and construction industry are constituted as follows:

(a) **The housing sector**

That part of the building and construction industry which carries out building or construction work on, or resulting in, a building that is a residential dwelling unit, or a number of residential dwelling units, each of which contains cooking and bathing facilities and is intended to be used predominantly for long term residential purposes. A building that is a dwelling unit which is part of an educational institution, a hospital or other building offering institutional care or temporary accommodation (such as a motel, hostel or holiday apartment) is not included in the housing sector;

(b) **The commercial sector**

That part of the building and construction industry, other than the housing sector, which carries out building or construction work on, or resulting in, a rigid, fixed and permanent structure with a roof, the intended purpose of which is for the shelter, or the use, of people, plants, machinery, goods or livestock;

(c) **The civil sector**

The remainder of the building and construction industry.

#### **5—Composition of Board**

(1) For the purposes of section 5(1)(c) of the Act—

- (a) the method of selecting the persons to represent the interests of employers in the building and construction industry will be determined by majority agreement between the employer associations referred to in Schedule 2 of the Act (as amended by regulation); and
- (b) when the appropriate number of persons have been selected, the nominations under that section must be made by notice in writing to the Minister.

(2) For the purposes of section 5(1)(d) of the Act—

- (a) the method of selecting the persons to represent the interests of employees in the building and construction industry will be determined by majority agreement between the employee associations referred to in Schedule 3 of the Act (as amended by regulation); and
- (b) when the appropriate number of persons have been selected, the nominations under that section must be made by notice in writing to the Minister.

#### **6—Forms**

- (1) A levy paid for the purposes of the Act must be accompanied by information determined by the Board and that information must be given in a manner and form determined by the Board.
- (2) For the purposes of section 23(4)(c) of the Act, an application for the benefit of section 24(4) of the Act must be made to the Board.

- (3) An application or notification to the Board for the purposes of the Act must be accompanied by information determined by the Board and be made or given in a manner and form determined by the Board.
- (4) The Board may require that information be furnished to the Board in the form of a statutory declaration under Part 3 of the *Oaths Act 1936*.

## 7—Penalties

Pursuant to section 25(1)(b) of the Act, the following amounts are prescribed as maximum amounts that may be imposed by the Board under that section if a project owner fails to pay a levy due under the Act in accordance with the requirements of the Act:

- |  |         |
|--|---------|
| (a) if the value of the unpaid levy does not exceed \$500                      | \$500   |
| (b) if the value of the unpaid levy exceeds \$500 but does not exceed \$10 000 | \$2 500 |
| (c) if the value of the unpaid levy exceeds \$10 000                           | \$5 000 |

## 8—Prosecutions

Pursuant to section 36(1)(b) of the Act, an offence under Part 4 of the Act is an offence of a prescribed kind.

## 9—Records

- (1) Pursuant to section 37(2)(d) of the Act, a person must keep the following records in relation to building or construction work for which he or she is the project owner and which gives rise to a liability to pay a levy under the Act for a period of 5 years from the commencement of that work:
  - (a) a copy of all forms submitted to or received from the Board or a collection agency relating to the payment or refund of the levy;
  - (b) the date on which the building or construction work commenced;
  - (c) the value of the building or construction work;
  - (d) the site address of the building or construction work;
  - (e) brief details describing the type of building or construction work.
- (2) The Board may, in writing, exempt a person from keeping any of the records referred to in subregulation (1), either in general or in relation to specified work or work of a specified kind, for a period of time specified in the exemption.

## 10—Offence

A person who breaches, or fails to comply with, a provision of these regulations is guilty of an offence.

Maximum penalty: \$2 500.

## 11—Items not subject to levy

- (1) Pursuant to section 37(2)(g) of the Act (but subject to subregulation (2)), plant or equipment directly associated with mineral, oil or natural gas exploration, production or processing constitute a class of items the cost of which will not be taken into account for the purposes of the calculation or imposition of the levy under the Act.
- (2) Subregulation (1) does not apply in respect of plant or equipment constructed, erected or installed as part of the housing sector or the commercial sector of the building and construction industry (as defined by these regulations).
- (3) Pursuant to section 37(2)(g) of the Act, main or core turbines or generators to be installed at power stations involved in the generation of electricity for the State's power system constitute a class of items the cost of which will not be taken into account for the purposes of the calculation or imposition of the levy under the Act.

## 12—Building or construction work—Schedule 1—Maintenance

Pursuant to clause 1(r) of Schedule 1 of the Act (but not so as to affect the operation of regulation 13), maintenance work carried out on a building or structure, or on any place, machinery, plant, system, equipment, facility or operation referred to in Schedule 1 of the Act, constitutes building or construction work for the purposes of the Act.

## 13—Exclusions—Schedule 1—Mining and Petroleum

- (1) Pursuant to clause 2(d) of Schedule 1 of the Act, the following work associated with any operation under the *Petroleum Act 2000*, the *Petroleum (Submerged Lands) Act 1982*, the *Mining Act 1971* or the *Opal Mining Act 1995* does not constitute building or construction work for the purposes of the Act, provided that it is not carried out in the housing sector or the commercial sector of the building and construction industry (as defined by these regulations):
  - (a) earthworks associated with the construction or maintenance of a temporary water supply or temporary access track for a purpose associated with mineral or petroleum exploration activity, and other earthworks associated with such exploration activity;
  - (b) excavation work associated with exploration for, or the extraction of, any mineral or petroleum;
  - (c) work directly related to the fabrication of a pipeline system used in mineral or petroleum production or processing (but not including associated work such as earthworks, excavation work or the construction of culverts, bridges, drains or structural supports), and subsequent repair work that involves welding or coating a pipeline system (or part of a pipeline system) used in mineral or petroleum production or processing;
  - (d) the construction or maintenance of a haul road or track which is—
    - (i) in or around a mine or other mineral or petroleum production facility; and
    - (ii) directly used in a mineral or petroleum production operation;
  - (e) the maintenance of an airstrip or landing pad used in conjunction with a mineral or petroleum production operation;

- (f) work associated with an environmental clean-up or environmental restoration;
  - (g) work associated with a mine back-filling operation;
  - (h) repair or maintenance work carried out on plant or equipment directly associated with mineral or petroleum exploration, production or processing, or for piloting.
- (2) In subregulation (1)—
- petroleum* has the same meaning as in the *Petroleum Act 2000* and includes any other regulated resource within the meaning of that Act.

#### **14—Estimated value of building or construction work—Schedule 1A**

Pursuant to clause 1(b)(vi) of Schedule 1A of the Act, the value of any GST payable in respect of the components referred to in clause 1(b) of Schedule 1A is to be regarded as a component of the estimated value of the building or construction work.

### **Schedule 1—Revocation of *Construction Industry Training Fund Regulations 1993***

The *Construction Industry Training Fund Regulations 1993* are revoked.

## **Legislative history**

### **Notes**

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### **Principal regulations**

Year	No	Reference	Commencement
2008	162	<i>Gazette 12.6.2008 p2332</i>	1.9.2008: r 2