

Legislative Council—No 95

As introduced and read a first time, 18 October 2012

South Australia

**Construction Industry Long Service Leave
(Miscellaneous) Amendment Bill 2012**

A BILL FOR

An Act to amend the *Construction Industry Long Service Leave Act 1987*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Construction Industry Long Service Leave (Miscellaneous) Amendment Act 2012*.

5 **2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 **Part 2—Amendment of *Construction Industry Long Service Leave Act 1987***

4—Amendment of section 5—Application of this Act

- (1) Section (1aa)—after "this section" insert:
 - and Schedule 5

(2) Section 5(1)(c)(i)—delete subparagraphs (A), (B) and (C) and substitute:

(A) in the case of a person employed for less than 1 month—the whole period of employment; or

(B) in the case of a person employed for 1 month or more but less than 3 months—the first month of employment; or

(C) in the case of a person employed for 3 months or more—any 3 month period of employment; or

(3) Section 5—after subsection (3) insert:

(3a) Subsections (1) and (1a) do not apply in relation to a person who—

(a) is employed in the civil construction industry as defined in the *Building and Construction General On-site Award 2010* unless the person is employed in building work that wholly or predominantly involves working on structures within the meaning of this Act; or

(b) falls within any class of employees excluded from the operation of that subsection by the regulations.

5—Amendment of section 24—Investigation of the Fund

Section 24—delete subsections (4) and (4a) and substitute:

(4) The Board must, on receipt of a report under subsection (3)—

(a) supply a copy of the report to the Minister; and

(b) include with the report an indication as to whether the Board intends to vary, or leave unaltered, the rates of contribution to the Fund required under section 26.

6—Amendment of section 26—Imposition of levy

(1) Section 26—after subsection (2) insert:

(2a) The percentage fixed by the Board under this section—

(a) may only be varied by the Board—

(i) in accordance with an indication to the Minister under section 24(4)(b); and

(ii) after 14 days has elapsed since the provision of that indication; and

(b) must be less than or equal to 3%.

(2) Section 26—after subsection (7) insert:

(8) In this section—

prescribed percentage means a percentage fixed by the Board by notice published in the Gazette.

7—Substitution of Schedule 1

Schedule 1—delete the Schedule and substitute:

Schedule 1—Construction Workers Awards

Building and Construction General On-site Award 2010

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Joinery and Building Trades Award 2010

Plumbing and Fire Sprinklers Award 2010

Electrical, Electronic and Communications Contracting Award 2010

8—Substitution of Schedule 1A

Schedule 1A—delete the Schedule and substitute:

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Schedule 1A—Optional coverage

Award

The Building and Construction General On-site Award 2010, but only in relation to the following classifications and only in the terrazzo or concrete casting industries:

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(a) Carpenter;

(b) Joiner;

(c) Tradesperson (precast concrete manufacture);

(d) Machinist (precast concrete manufacture);

(e) Terrazzo Assistant;

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(f) General Hand;

(g) Adult trainee terrazzo worker.

The Manufacturing and Associated Industries and Occupations Award 2010, but only in relation to workers employed in the preparation or manufacture of any of the following:

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(a) fibrous plaster;

(b) architectural ornaments made of fibrous plaster, plaster or cement;

(c) plaster tiles or sheets (whether containing fibre or not);

(d) architectural models;

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(e) material for suspended ceilings.

9—Insertion of Schedule 5

After Schedule 4 insert:

Schedule 5—Coverage of awards

1—Coverage of awards

5 Section 5 operates subject to the qualification that to the extent that
the application of this Act to a person's employment depends on
whether or not an award applies in relation to the person then—

- 10 (a) this Act will apply to the person if, after taking into account
(and applying) the provisions of any award that applied
under this Act on 31 December 2009, the person's
employment would be subject to the application of this Act;
and
- 15 (b) this Act will not apply to the person if, after taking into
account (and applying) the provisions of any award that
applied under this Act on 31 December 2009, the person's
employment would not be subject to the application of this
Act.

2—Related principles

Clause 1—

- 20 (a) does not limit any requirement under this Act for an
agreement to be in place or for any other step to be taken;
and
- 25 (b) operates on the basis that to the extent of any inconsistency
between an award referred to in Schedule 1 or 1A and an
award that operates under clause 1(a) or (b), the award that
operates under clause 1(a) or (b) prevails to the extent of the
inconsistency (even though the award has been superseded
by an award under Schedule 1 or 1A).