

South Australia

Construction Industry Training Fund Regulations 2021

under the *Construction Industry Training Fund Act 1993*

Contents

- 1 Short title
- 3 Interpretation
- 4 Sectors of the building and construction industry
- 4A Composition of Board
- 5 Exemptions—prescribed amount
- 6 Forms
- 7 Penalties
- 8 Notice of variation—prescribed amount
- 9 Adjustment of amount paid—prescribed amount
- 10 Prosecutions
- 11 Records
- 12 Offence
- 13 Items not subject to levy
- 14 Building or construction work—Schedule 1—Maintenance
- 15 Exclusions—Schedule 1—Mining and Petroleum
- 16 Estimated value of building or construction work—Schedule 1A

Schedule 1—Prescribed employee associations

- 1 Prescribed employee associations

Schedule 2—Prescribed employer associations

- 1 Prescribed employer associations

Legislative history

1—Short title

These regulations may be cited as the *Construction Industry Training Fund Regulations 2021*.

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

For the purposes of 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.

4A—Composition of Board

(1) For the purposes of section 5(1aa)(a) of the Act—

- (a) the Minister must, prior to nominating a person for appointment as a member of the Board for the purposes of section 5(1)(a) of the Act, consult with the prescribed employer associations; and
- (b) the Minister must, prior to nominating a person for appointment as a member of the Board for the purposes of section 5(1)(b) of the Act, consult with the prescribed employee associations.

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

- (a) the Minister may only nominate a person for appointment to the Board for the purposes of section 5(1)(a) of the Act if the person is an employee, member or officer of a prescribed employer association; and
- (b) the Minister may only nominate a person for appointment to the Board for the purposes of section 5(1)(b) of the Act if the person is an employee, member or officer of a prescribed employee association.

(3) In this regulation—

prescribed employee association—see Schedule 1;

prescribed employer association—see Schedule 2.

5—Exemptions—prescribed amount

For the purposes of section 23(1) of the Act, an amount of \$40 000 is prescribed.

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

For the purposes of 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—Notice of variation—prescribed amount

For the purposes of section 26 of the Act, an amount of \$50 000 is prescribed.

9—Adjustment of amount paid—prescribed amount

For the purposes of section 27 of the Act, an amount of \$50 000 is prescribed.

10—Prosecutions

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

11—Records

- (1) For the purposes of section 37(2)(d) of the Act, a person must keep the following records in relation to building or construction work for which the person 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.

12—Offence

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

Maximum penalty: \$2 500.

13—Items not subject to levy

- (1) For the purposes of 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) For the purposes of 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.

14—Building or construction work—Schedule 1—Maintenance

For the purposes of Schedule 1 clause 1(r) of the Act (but not so as to affect the operation of regulation 15), 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.

15—Exclusions—Schedule 1—Mining and Petroleum

- (1) For the purposes of Schedule 1 clause 2(d) of the Act, the following work associated with any operation under the *Petroleum and Geothermal Energy 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 and Geothermal Energy Act 2000* and includes any other regulated resource within the meaning of that Act.

16—Estimated value of building or construction work—Schedule 1A

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

Schedule 1—Prescribed employee associations

1—Prescribed employee associations

The following are prescribed employee associations for the purposes of regulation 4A:

Australian Workers' Union (SA Branch)

Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (trading as Australian Manufacturing Workers' Union) (South Australian Branch)

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (Electrical, Energy and Services Division, South Australian Branch)

Construction, Forestry and Maritime Employees Union (Manufacturing Division and Maritime Union of Australia Division, South Australian Branch)

SA Unions

Schedule 2—Prescribed employer associations

1—Prescribed employer associations

The following are prescribed employer associations for the purposes of regulation 4A:

Air Conditioning and Mechanical Contractors' Association of Australia Limited

Association of Wall & Ceiling Industries of SA Inc

Australian Brick & Blocklaying Training Foundation Limited (trading as Brick and Block Careers)

AWA-AGGA Limited (trading as Australian Glass and Window Association)

Civil Contractors Federation South Australia Ltd

Concrete Institute of Australia

Housing Industry Association Limited

Landscape Association of South Australia Incorporated (trading as Master Landscapers of South Australia)

Master Builders Association of SA Inc

Master Painters Australia Limited

Master Plumbers of South Australia Incorporated

National Electrical and Communications Association SA/NT (trading as NECA SA/NT)

Property Council of Australia Limited

Swimming Pool and Spa Association of Australia Ltd

Urban Development Institute of Australia (S.A. Division) Incorporated

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- 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.

Legislation revoked by principal regulations

The *Construction Industry Training Fund Regulations 2021* revoked the following:

Construction Industry Training Fund Regulations 2008

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2021	113	<i>Gazette 5.8.2021 p2975</i>	1.9.2021: r 2
2024	97	<i>Gazette 31.10.2024 p4047</i>	31.10.2024 except rr 3 & 5 to 7—1.1.2025: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>31.10.2024</i>
r 3		
GST	deleted by 97/2024 r 3	1.1.2025—not incorporated
GST law	deleted by 97/2024 r 3	1.1.2025—not incorporated
r 4A	inserted by 97/2024 r 4	31.10.2024
r 5	amended by 97/2024 r 5	1.1.2025—not incorporated
r 13		
r 13(3)	deleted by 97/2024 r 6	1.1.2025—not incorporated
r 16	deleted by 97/2024 r 7	1.1.2025—not incorporated
Sch 1	substituted by 97/2024 r 8	31.10.2024
Sch 2	inserted by 97/2024 r 8	31.10.2024