



Australian Capital Territory

# **Building and Construction Industry Training Levy Act 1999**

**A1999-30**

**Republication No 11**

**Effective: 24 November 2005 – 24 November 2005**

Republication date: 24 November 2005

Last amendment made by A2005-54

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Building and Construction Industry Training Levy Act 1999* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 24 November 2005. It also includes any amendment, repeal or expiry affecting the republished law to 24 November 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Building and Construction Industry Training Levy Act 1999

## Contents

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|               | Page  |
|---------------|---|
| <b>Part 1</b> | <b>Preliminary</b>  |
| 1             | Name of Act 2   |
| 2             | Dictionary 2  |
| 3             | Notes 2   |
| 3A            | Offences against Act—application of Criminal Code etc 3               |
| <b>Part 2</b> | <b>The building and construction industry training<br/>fund board</b> |
| 4             | Building and Construction Industry Training Fund Board 4              |
| 5             | Functions 4   |
| 6             | Establishment of governing board 4                                    |
| 7             | Members of the board 4  |

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R11 Building and Construction Industry Training Levy Act 1999 contents 1  
24/11/05 Effective: 24/11/05-24/11/05

## Contents

---

|               |   | Page |
|---------------|---|------|
| 7A            | Term of chief executive officer of authority                | 5    |
| 7B            | No deputy chair   | 5    |
| 8             | Leave of absence  | 5    |
| 9             | Disclosure of interest                                      | 5    |
| 11            | Ending of appointment                                       | 6    |
| 13            | Meetings and procedures                                     | 6    |
| 14            | Administration  | 7    |
| <b>Part 3</b> | <b>Levy on building and construction work</b>               |      |
| 15            | Definitions for pt 3  | 8    |
| 16            | Rate of levy  | 9    |
| 17            | Training levy liability                                     | 9    |
| 18            | Calculation of training levy                                | 9    |
| 19            | Assessment of value of work                                 | 9    |
| 20            | Payment of levy   | 10   |
| 21            | Refund of levy if work not carried out                      | 10   |
| 22            | Adjustment of levy  | 11   |
| <b>Part 4</b> | <b>The building and construction industry training fund</b> |      |
| 23            | Establishment and operation of fund                         | 12   |
| 24            | Application of fund   | 12   |
| <b>Part 5</b> | <b>Building and construction industry training plans</b>    |      |
| 25            | Approval of training plans                                  | 13   |
| 26            | Inspection of training plans                                | 13   |
| 27            | Application of training plans                               | 13   |
| 28            | Funding for training  | 14   |
| <b>Part 6</b> | <b>Inspectors</b>   |      |
| 29            | Appointment   | 15   |
| 30            | Identity cards  | 15   |
| 31            | Powers of entry   | 16   |
| 32            | Consent to entry and inspection                             | 17   |

|  | Page |
|--|------|
| 33 Search warrants                           | 18   |
| 34 Powers of inspectors                      | 19   |
| 35 Contravention of requirement by inspector | 20   |
| <b>Part 7 Miscellaneous</b>                  |      |
| 37 Regulation-making power                   | 21   |
| <b>Schedule 1 Work</b>                       | 22   |
| <b>Dictionary</b>                            | 24   |
| <b>Endnotes</b>                              |      |
| 1 About the endnotes                         | 26   |
| 2 Abbreviation key                           | 26   |
| 3 Legislation history                        | 27   |
| 4 Amendment history                          | 28   |
| 5 Earlier republications                     | 33   |
| 6 Uncommenced amendments                     | 34   |





Australian Capital Territory

# Building and Construction Industry Training Levy Act 1999

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**U** An Act to impose a levy for improving training in the building and construction industry

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Building and Construction Industry Training Levy Act 1999*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*project owner*, for part 3—see section 15.' means that the expression 'project owner' is defined in that section and the definition applies to part 3.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.



**3A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**U** **Part 2** **The building and construction industry training fund board**

**U** **4** **Building and Construction Industry Training Fund Board**

- (1) There is a board called the Building and Construction Industry Training Fund Board.
- (2) The board—
  - (a) is a corporation; and
  - (b) must have a common seal.

**U** **5** **Functions**

The functions of the board are—

- (a) to administer the fund; and
- (b) to make payments, or direct that payments be made, from the fund in accordance with training plans.

*Note* The Legislation Act, s 196 (1) provides that a provision of an Act that gives an entity (including the board) a function also gives the entity the powers necessary and convenient to exercise the function.

**U** **6** **Establishment of governing board**

**U** **7** **Members of the board**

- (1) The board shall consist of—
  - (a) a chairperson; and
  - (b) 2 people to represent the interests of employers in the industry; and
  - (c) 2 people to represent the interests of employees in the industry.

- (2) A member is appointed by the Minister.

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

*Note 2* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (3) An appointment must not be for longer than 3 years.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

- (4) In this section:

*industry* means the building and construction industry.

**U 7A Term of chief executive officer of authority**

**U 7B No deputy chair**

**U 8 Leave of absence**

The Minister may grant leave of absence to a member.

**U 9 Disclosure of interest**

- (1) A member who—
- (a) has a direct or indirect personal or financial interest in a matter being considered or about to be considered by the board; and
  - (b) intends to attend, or attends, the meeting of the board at which the matter is likely to be, or is, considered;
- shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the board.
- (2) A disclosure shall be recorded in the minutes of the meeting and, unless the board otherwise determines, the member shall not—

- (a) be present during any deliberation of the board in relation to that matter; or
  - (b) take part in any decision of the board in relation to that matter.
- (3) A member referred to in subsection (1) shall not—
- (a) be present during any deliberation of the board for the purpose of considering whether to make a determination under subsection (2) in relation to that member; or
  - (b) take part in the making by the board of such a determination.

**U 11 Ending of appointment**

The Minister must end the appointment of a member if the member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for the benefit of creditors; or
- (b) is absent, except on leave granted under section 8, from 3 consecutive meetings of the board; or
- (c) fails, without reasonable excuse, to comply with an obligation imposed by section 9; or
- (d) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer.

*Note* A member's appointment also ends if the member resigns (see Legislation Act, s 210).

**U 13 Meetings and procedures**

- (1) The chairperson—
  - (a) may call a meeting of the board at any time; and

- 
- (b) shall call a meeting on receipt of a written request signed by at least 2 of the other members.
  - (2) At a meeting of the board a quorum consists of 3 members, of whom—
    - (a) 1 shall be a member who represents the interests of employers in the building and construction industry; and
    - (b) 1 shall be a member who represents the interests of employees in the industry.
  - (3) The chairperson shall preside at all meetings of the board.
  - (4) The board shall keep a written record of its proceedings.
  - (5) A question arising at a meeting shall be determined by a majority of votes of the members present and voting.
  - (6) In the event of an equality of votes, the chairperson has a casting vote.
  - (7) Subject to this section, the board may determine the procedures for the convening of, and to be followed at, its meetings.

## **U** 14 **Administration**

The board may make arrangements with the council or any other person for the provision of—

- (a) administrative or secretarial services to the board; or
- (b) the administration of the fund in accordance with the directions of the board.

## Part 3 Levy on building and construction work

### 15 Definitions for pt 3

In this part:

*Building Act* means the *Building Act 2004*.

*building approval* means a building approval under the Building Act.

*building work*—see the Building Act, section 6.

*exempt work* means—

- (a) work the value of which is not more than \$10 000; or
- (b) work done by a public authority, other than work that has been awarded to the public authority because of a public tendering process.

*owner*, of land—see the Building Act, dictionary.

*project owner*, for work, means—

- (a) if the work has been, is being or will be done on land by the owner of the land or by an employee or agent of the owner on the owner's behalf—the owner; or
- (b) in any other case—the person who has done, is doing or will do the work.

*public authority* means—

- (a) the Territory, the Commonwealth, a State or another Territory; or
- (b) a corporation established for a public purpose by a law of the Territory, the Commonwealth, a State or another

Territory, other than a company or incorporated association; or

- (c) any other person or body (including a company or incorporated association) that is prescribed for this paragraph.

*qualified valuer* means a person who is prescribed under the regulations as a qualified valuer.

*rate of levy* means the rate set out in section 16.

*value*, of work, means the value assessed under section 19.

## 16 Rate of levy

For this part, the rate of levy is 0.2 % of the value of the work in relation to which the training levy is payable.

## **U** 17 Training levy liability

- (1) A levy, ascertained in accordance with this part is payable, in accordance with this part, to the board in relation to work other than exempt work.
- (2) The training levy is payable by the project owner.
- (3) Training levy for building work may be paid to the construction occupations registrar as agent for the board.

## 18 Calculation of training levy

The amount of training levy payable is the amount ascertained by multiplying the value of the work by the rate of levy.

## **U** 19 Assessment of value of work

- (1) The value of work on which levy is payable is—

- (a) if the work is building work—the value used to work out the fee payable under the Building Act in relation to the issue of the building approval for the work; or
  - (b) in any other case—the value agreed by the board and the project owner or, if they disagree, the value assessed by a qualified valuer appointed under this section.
- (2) The board or the project owner may, if reasonably satisfied that they are unlikely to agree on value, ask the council to appoint a qualified valuer to assess the value of the work.
  - (3) The council must give effect to a request under subsection (2).
  - (4) The reasonable cost of the appointment of a qualified valuer under this section is payable by the board and the project owner equally.

**20 Payment of levy**

- (1) If training levy is payable in relation to work, the project owner must pay it—
  - (a) if the work is building work—before the issue of the building approval; or
  - (b) if the work is not building work—within 7 days after the start of the work.
- (2) A project owner must not contravene subsection (1).  
Maximum penalty: 50 penalty units.
- (3) An offence against this section is a strict liability offence.

**U 21 Refund of levy if work not carried out**

- (1) If—
  - (a) training levy has been paid for work before its start; and
  - (b) the work does not start;the board must refund to the project owner the amount paid.



- (2) The board must make a refund under subsection (1) within 1 month after receiving a written request for it from the project owner.

**U 22**      **Adjustment of levy**

- (1) This section applies if training levy has been paid for work other than building work and, in the opinion of the board or the project owner, the value of the work—
- (a) at the completion of the work; or
  - (b) if the work is abandoned before completion—when the work is abandoned;

differs from the value on which the training levy was based.

- (2) The board or the project owner may tell the other in writing that the amount of the training levy should be recalculated on the basis of the value of the work at its completion or abandonment.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (3) If a notice under subsection (2) is given, the value of the work at its completion or abandonment must be assessed in accordance with section 19.
- (4) If the amount of training levy paid is smaller than the amount that would have been payable if the levy had been calculated on the value of the work ascertained under this section, the project owner must pay to the board an amount equal to the difference.
- (5) If the amount of training levy paid is greater than the amount that would have been payable if the levy had been calculated on the value of the work ascertained under this section, the board must pay to the project owner an amount equal to the difference.
- (6) An amount payable under subsection (4) or (5) is payable within 1 month of the ascertainment of the value of the work under subsection (3).

## Part 4 The building and construction industry training fund

### **U** 23 Establishment and operation of fund

- (1) The board shall establish and maintain a fund.
- (2) The fund shall consist of—
  - (a) amounts received by the board as payments of training levy or amounts payable under section 22 (4) after reassessment of the value of work; and
  - (b) interest generated by amounts standing to the credit of the fund.
- (3) The moneys of the fund—
  - (a) are the property of the board; and
  - (b) shall be kept separate from all other property of the board; and
  - (c) shall be expended only in accordance with this Act.
- (4) The board shall administer the fund in the way the Minister approves in writing.

### **U** 24 Application of fund

The fund shall be applied only for the following purposes:

- (a) to meet the costs and expenses incurred in the administration of the fund by the board;
- (b) to make any payments that are payable under arrangements made under section 14;
- (c) to make payments of refunds under section 21 or 22 (5);
- (d) to make payments approved by the board under section 28.

## Part 5 Building and construction industry training plans

### **U** 25 Approval of training plans

- (1) The Minister may, after consultation with the council and the board, in writing approve a training plan for the building and construction industry.
- (2) A training plan shall—
  - (a) identify training needs in the building and construction industry that warrant financial support from the fund; and
  - (b) provide an estimate of the funds that appear to be required for the fulfilment of those needs;in respect of a calendar year.
- (3) A training plan approved by the Minister is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### 26 Inspection of training plans

- (1) A person may inspect a copy of a training plan at the office of the council during ordinary office hours.
- (2) This section does not apply in relation to a training plan that has no effect or no longer has effect.

### 27 Application of training plans

- (1) Subject to this section, a training plan has effect in relation to the calendar year specified in the training plan.
- (2) A training plan has no effect unless approved by the Minister on or before 30 June in the year immediately before the calendar year

specified in the training plan as the year in relation to which the plan is to have effect.

- (3) If, in relation to a calendar year, no training plan would, apart from this subsection, have effect, the training plan that had effect in relation to the immediately previous calendar year continues, under this subsection, to have effect in relation to the firstmentioned calendar year.

**U 28 Funding for training**

- (1) Subject to this section, the board may approve the expenditure of fund moneys for the provision, in a calendar year, of training identified as warranting financial support from the fund in the training plan that has effect in relation to that year.
- (2) The board shall not approve the expenditure of an amount if the total of the commitment in relation to that amount and of all other outstanding commitments for expenditure from the fund would exceed the amount standing to the credit of the fund.
- (3) The expenditure of fund moneys under this section shall only be approved for the purpose of approved training to be provided by a registered training organisation.
- (4) In this section:

***approved training*** means training, or training of a kind, that is declared by the regulations to be approved training for this section.

***registered training organisation***—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

## Part 6 Inspectors

### **U** 29 Appointment

The board may appoint a person as an inspector for this Act.

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

### 30 Identity cards

- (1) The authority must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the authority as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) Subsection (2) applies only in relation to a card given by the authority after the commencement of this section.

- (6) Subsection (5) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (7) Subsections (5) and (6) and this subsection expire on the day they commence.
- (8) If this section commences before the *Financial Management Legislation Amendment Act 2005* commences, a reference in this section to the authority is taken to be a reference to the board.
- (9) Subsection (8) and this subsection expire on the later of—
  - (a) the commencement of this section; and
  - (b) the commencement of the *Financial Management Legislation Amendment Act 2005*.

### **31 Powers of entry**

- (1) If an inspector believes on reasonable grounds that—
  - (a) work is being carried out on any land; or
  - (b) work has been carried out on any land and the training levy in relation to that work has not been paid or has not been paid in full;

the inspector may, in accordance with this section and with the assistance that is reasonably necessary for the discharge of his or her functions under this part, enter during normal business hours the land and any premises, whether on the land or not, in which the inspector believes on reasonable grounds that documents or records relating to the work are kept.

- (2) An inspector may enter any land or premises and exercise any power specified in section 34—
  - (a) with the consent of the occupier of the land or premises; or
  - (b) under a warrant issued under section 33 (2).

- (3) An inspector who enters land or premises under subsection (1) is not entitled to remain if, on request by the occupier, the inspector does not produce his or her identity card to the occupier.
- (4) If an inspector is satisfied, after making reasonable inquiries, that no person is present and in charge of land or premises entered by him or her under a warrant, he or she shall leave, in a conspicuous position on the land or the premises, a notice advising that he or she made an entry under this section.

### **32 Consent to entry and inspection**

- (1) Before seeking the consent of the occupier of premises for section 31 (2) (a), an inspector shall inform the occupier that he or she may refuse to give that consent.
- (2) If the inspector obtains the occupier's consent for those purposes, the inspector shall ask the occupier to sign a written acknowledgment—
  - (a) that the occupier has been informed that he or she may refuse to give consent, for section 31 (2) (a), for the inspector to enter the occupier's premises and to exercise any power under section 34; and
  - (b) that the occupier has given the inspector that consent; and
  - (c) of the day and time when the consent was given.
- (3) If it is material, in any proceedings, for a court to be satisfied that an occupier has consented for section 31 (2) (a), and an acknowledgment, in accordance with subsection (2), signed by the occupier, is not produced in evidence, it shall be presumed that the occupier did not consent, but the presumption is rebuttable.

### 33 Search warrants

- (1) This section applies if information is laid before a magistrate alleging that an inspector has reasonable grounds for suspecting that there may be—
  - (a) on any land—work in relation to which payment of training levy has not been made, or made fully, in accordance with this Act; or
  - (b) on any premises—
    - (i) a thing of a particular kind connected with a particular offence against this part; or
    - (ii) a document or record relating to work mentioned in paragraph (a);and the information sets out those grounds.
- (2) If this section applies, the magistrate may, subject to this section, issue a search warrant authorising the inspector named in the warrant, with the assistance and by the force that is necessary and reasonable—
  - (a) to enter any land or premises described in the warrant; and
  - (b) to search the premises for things of the kind mentioned in subsection (1) (b) (i) or a document or record mentioned in subsection (1) (b) (ii), as the case requires; and
  - (c) to exercise any of the powers listed in section 34 in relation to a thing, document or record to which the warrant refers.
- (3) A magistrate shall not issue a warrant unless—
  - (a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought; and



- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (4) The warrant shall—
  - (a) state the purpose for which it is issued; and
  - (b) specify the nature of the offence, or the lack of compliance, in relation to which the entry and search are authorised; and
  - (c) specify particular hours when the entry is authorised or state that the entry is authorised at any time of the day or night; and
  - (d) specify the date (being a date not later than 1 month after the date when the warrant is issued) when the warrant ceases to have effect.

### **34 Powers of inspectors**

- (1) An inspector who enters land or premises in accordance with this part may—
  - (a) inspect or examine any work on the land and take measurements relating to it; and
  - (b) require any person apparently in charge of the land or premises to make available to the inspector any document or record or provide information, including information stored in a computer, that appears to be relevant to the calculation of training levy; and
  - (c) inspect, make copies of and take extracts from any document or record or any information made available to the inspector; and
  - (d) require any person apparently in charge of the land or premises to answer questions related to the calculation of training levy; and
  - (e) require any person apparently in charge of the land or premises to render the assistance that is necessary and reasonable to

enable the inspector to exercise his or her powers under this section.

- (2) A person is not excused from providing information or from producing a document or other record when requested to do so under subsection (1) on the ground that providing the information or producing the document or record may tend to incriminate the person or expose the person to a civil penalty, but the information or the production of the document is not admissible in evidence against the person in any proceedings, other than proceedings for an offence against the Criminal Code, part 3.4 (False or misleading statements, information and documents).

### **35 Contravention of requirement by inspector**

A person must take all reasonable steps to comply with a requirement made of the person under section 34 (1) (b), (d) or (e).

Maximum penalty: 50 penalty units.

*Note* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

## Part 7                      Miscellaneous

### 37                      Regulation-making power

The Executive may make regulations for this Act.

*Note*                      Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## Schedule 1 Work

(see dict, def *work*)

- 1 The construction, erection, alteration, repair, renovation, demolition, maintenance or removal of a building or structure.
- 2 The construction, alteration or repair of a road, street parking area, footpath, thoroughfare (for pedestrians or vehicles), kerbing, guttering, roundabout, median strip, or the performance of other road works.
- 3 The construction, alteration, repair, demolition or removal of a railway or part of a railway, or of any platform, signal or other structure connected with a railway.
- 4 The construction, alteration, repair, demolition or removal of an aircraft runway or a helicopter landing pad.
- 5 The construction, alteration, repair, demolition or removal of a bridge, viaduct, aqueduct or tunnel.
- 6 The construction, alteration, repair, demolition or removal of a harbour, breakwater, retaining wall or marina.
- 7 The performance of excavation work.
- 8 The construction, alteration, repair, demolition or removal of a dam, reservoir, weir or other embankment or structure for the catchment, collection, storage, control or diversion of water.
- 9 The laying of pipes and other prefabricated material in the ground.
- 10 The construction, erection, installation, alteration, repair, demolition or removal of any system or plant associated with the conveyance, collection, storage, treatment or distribution of water or gas, or the disposal of sewage or effluent.
- 11 Electrical, electronic, communications or data networks or mechanical services work, including work that is related to the

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construction, erection, installation, alteration, repair, servicing or dismantling of any plant, plant facility or equipment.

- 12 The on-site construction, installation, alteration, repair, renovation, demolition or removal of—
- (a) a lift or escalator; or
  - (b) any airconditioning, ventilation or refrigeration system or equipment.
- 13 The construction, repair, alteration or removal of a playing field, golf course, racecourse, stadium, swimming pool or other sporting or recreational facility.
- 14 Landscaping or the construction, alteration or removal of a park or garden.
- 15 Work to improve the drainage of land.
- 16 Any site preparation work (including pile driving) preliminary to the performance of any construction work.

## **U** Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- appoint
- document
- exercise
- function
- Minister
- penalty unit (see s 133)
- State
- the Territory.

**board** means the Building and Construction Industry Training Fund Board established by section 4.

**Building Act**, for part 3—see section 15.

**building approval**, for part 3—see section 15.

**building work**, for part 3—see section 15.

**chairperson** means the chairperson of the board.

**council** means the ACT Regional Building & Construction Industry Training Council Incorporated.

**exempt work**, for part 3—see section 15.

**fund** means the fund established under section 23 (1).

**member** means a person referred to in section 7 (1).

**owner**, of land, for part 3 (Levy on building and construction work)—see section 15.

**project owner**, for work, for part 3 (Levy on building and construction work)—see section 15.

**public authority**, for part 3—see section 15.

**qualified valuer**, for part 3 (Levy on building and construction work)—see section 15.

**rate of levy**, for part 3—see section 15.

**training levy** means the levy payable under section 17.

**training plan** means a training plan approved under section 25.

**value**, of work, for part 3 (Levy on building and construction work)—see section 15.

**work** means—

- (a) work mentioned in schedule 1; or
- (b) work prescribed under the regulations.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

|  |  |
|--|--|
| am = amended   | ord = ordinance  |
| amdt = amendment                                       | orig = original  |
| ch = chapter   | par = paragraph/subparagraph   |
| def = definition                                       | pres = present   |
| dict = dictionary                                      | prev = previous  |
| disallowed = disallowed by the Legislative<br>Assembly | (prev...) = previously   |
| div = division   | pt = part  |
| exp = expires/expired                                  | r = rule/subrule   |
| Gaz = gazette  | renum = renumbered   |
| hdg = heading  | reloc = relocated  |
| IA = Interpretation Act 1967                           | R[X] = Republication No  |
| ins = inserted/added                                   | RI = reissue   |
| LA = Legislation Act 2001                              | s = section/subsection   |
| LR = legislation register                              | sch = schedule   |
| LRA = Legislation (Republication) Act 1996             | sdiv = subdivision   |
| mod = modified/modification                            | sub = substituted  |
| o = order  | SL = Subordinate Law   |
| om = omitted/repealed                                  | <u>underlining</u> = whole or part not commenced<br>or to be expired |



### 3 Legislation history

**Building and Construction Industry Training Levy Act 1999 A1999-30**

notified 21 May 1999 (Gaz 1999 No S24)  
s 1, s 2 commenced 21 May 1999 (s 2 (1))  
remainder commenced 21 November 1999 (s 2 (3))

as amended by

**Building and Construction Industry Training Levy Amendment Act 1999 A1999-68**

notified 3 December 1999 (Gaz 1999 No S62)  
s 1, s 2 commenced 3 December 1999 (IA s 10B)  
s 3 commenced 3 December 1999 (s 2 (1))  
remainder commenced 21 November 1999 (s 2 (2))

**Legislation (Consequential Amendments) Act 2001 A2001-44 pt 45**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 45 commenced 12 September 2001 (s 2 and see Gaz 2001 No 65)

**Building and Construction Industry Training Levy Amendment Act 2001 A2001-93**

notified 10 September 2001 (Gaz 2001 No S66)  
sch 1 commenced 12 September 2001 (s 2 (2))  
remainder commenced 10 September 2001 (s 2 (1))

**Vocational Education and Training Act 2003 A2003-37 sch 2 pt 2.2**

notified LR 8 September 2003  
s 1, s 2 commenced 8 September 2003 (LA s 75 (1))  
sch 2 pt 2.2 commenced 1 November 2003 (s 2)

**Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.2**

notified LR 11 September 2003  
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))  
sch 3 pt 3.2 commenced 9 October 2003 (s 2 (1))

**Statute Law Amendment Act 2003 (No 2) A2003-56 sch 1 pt 1.1**

notified LR 5 December 2003  
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))  
sch 1 pt 1.1 commenced 19 December 2003 (s 2)

## Endnotes

4 Amendment history

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### **Construction Occupations Legislation Amendment Act 2004 A2004-13 sch 2 pt 2.2**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.2 commenced 1 September 2004 (s 2 and see Construction  
Occupations (Licensing) Act 2004 A2004-12, s 2 and CN2004-8)

### **Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.11**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.11 commenced 9 April 2004 (s 2 (1))

### **Financial Management Legislation Amendment Act 2005 A2005-52 sch 1 pt 1.3**

notified LR 26 October 2005  
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))  
sch 1 pt 1.3 commences 1 January 2006 (s 2 (2))

### **Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.10**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.10 commenced 24 November 2005 (s 2)

## 4 Amendment history

### **Title**

title [sub A2005-52 amdt 1.39](#)

### **Name of Act**

s 1 sub A2001-93 amdt 1.1

### **Dictionary**

s 2 orig s 2 om R1 LRA (see also A2001-44 amdt 1.470)  
ins A2001-93 amdt 1.1

### **Notes**

s 3 hdg sub A1999-68 s 4 (a); A2001-93 amdt 1.3  
s 3 defs reloc to dict A2001-93 amdt 1.2  
sub A2001-93 amdt 1.3

### **Offences against Act—application of Criminal Code etc**

s 3A ins A2005-54 amdt 1.63

### **The authority**

pt 2 hdg [sub A2005-52 amdt 1.40](#)

**Establishment and functions of authority**

div 2.1 hdg (prev pt 2 div 1 hdg) om A2001-93 amdt 1.4  
ins [A2005-52 amdt 1.40](#)

**Establishment of authority**

s 4 sub A2001-93 amdt 1.5; [A2005-52 amdt 1.40](#)

**Functions of authority**

s 5 sub [A2005-52 amdt 1.40](#)

**Governing board**

div 2.2 hdg ins [A2005-52 amdt 1.40](#)

**Establishment of governing board**

s 6 om A2001-93 amdt 1.7  
ins [A2005-52 amdt 1.40](#)

**Governing board members**

s 7 am A2001-93 amdt 1.8; A2003-41 amdt 3.2  
sub [A2005-52 amdt 1.40](#)

**Term of chief executive officer of authority**

s 7A ins [A2005-52 amdt 1.40](#)

**No deputy chair**

s 7B ins [A2005-52 amdt 1.40](#)

**Administration of authority**

s 8 sub [A2005-52 amdt 1.40](#)

**Disclosure of interest**

s 9 am A2003-41 amdt 3.3  
om [A2005-52 amdt 1.40](#)

**Resignation**

s 10 om A2001-93 amdt 1.9

**Ending of appointment**

s 11 hdg sub A2003-41 amdt 3.4  
s 11 am A2001-93 amdt 1.10; A2003-41 amdt 3.4  
om [A2005-52 amdt 1.40](#)

**Acting appointments**

s 12 om A2001-93 amdt 1.11

**Meetings and procedures**

s 13 om [A2005-52 amdt 1.40](#)

**Administration**

s 14 om [A2005-52 amdt 1.40](#)

**Preliminary**

pt 3 div 1 hdg om A1999-68 s 5

## Endnotes

### 4 Amendment history

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#### Definitions for pt 3

- s 15 hdg sub A1999-68 s 6 (a)  
s 15 def **Building Act** ins A1999-68 s 6 (c)  
sub A2004-13 amdt 2.3  
def **building approval** sub A1999-68 s 6 (b)  
def **building controller** ins A1999-68 s 6 (c)  
om A2004-13 amdt 2.4  
def **building work** ins A1999-68 s 6 (c)  
sub A2004-13 amdt 2.5  
def **exempt work** sub A2001-93 amdt 1.12  
note to def **exempt work** exp 12 September 2002 (s 15A (2))  
def **owner** ins A1999-68 s 6 (c)  
am A2003-41 amdt 3.5  
sub A2004-13 amdt 2.6  
def **project owner** sub A1999-68 s 6 (b); A2001-93 s 4  
def **public authority** am A2003-41 amdt 3.6  
def **qualified valuer** ins A2001-93 s 5  
def **value** ins A1999-68 s 6 (c)  
am A2003-41 amdt 3.7

#### Extended meaning of exempt work

- s 15A ins A2001-93 amdt 1.13  
exp 12 September 2002 (s 15A (2))

#### Liability for training levy

- pt 3 div 2 hdg om A1999-68 s 7

#### Training levy liability

- s 17 am A1999-68 s 8; A2004-13 amdt 2.7; A2005-52 amdt 1.41

#### Calculation of training levy

- s 18 am A1999-68 s 9

#### Assessment, payment and adjustment of training levy

- pt 3 div 3 hdg om A1999-68 s 10

#### Assessment of value of work

- s 19 sub A1999-68 s 10  
am A2001-44 amdt 1.471; A2001-93 s 6; A2005-52 amdt 1.41

#### Payment of levy

- s 20 sub A1999-68 s 10  
am A2001-93 amdt 1.14; A2005-54 amdt 1.64

#### Refund of levy if work not carried out

- s 21 sub A1999-68 s 10; A2005-52 amdt 1.42

#### Adjustment of levy

- s 22 sub A1999-68 s 10  
am A2003-41 amdt 3.8, amdt 3.9; A2005-52 amdt 1.43

**Establishment and operation of fund**

s 23 am A1999-68 s 11; [A2005-52 amdt 1.43](#)

**Application of fund**

s 24 am A1999-68 s 12; [A2005-52 amdt 1.43](#)

**Approval of training plans**

s 25 am A2001-44 amdt 1.472, amdt 1.473; [A2005-52 amdt 1.43](#)

**Application of training plans**

s 27 am A2001-93 amdt 1.15

**Funding for training**

s 28 am A2003-37 amdt 2.5, amdt 2.6; [A2005-52 amdt 1.43](#)

**Appointment**

s 29 sub A2003-41 amdt 3.10  
am [A2005-52 amdt 1.43](#)

**Identity cards**

s 30 sub A2005-54 amdt 1.65  
[\(5\)-\(7\) exp 24 November 2005 \(s 30 \(7\)\)](#)  
[\(8\), \(9\) exp 1 January 2006 \(s 30 \(9\) \(b\)\)](#)

**Powers of entry**

s 31 am A1999-68 s 13; A2003-41 amdt 3.11

**Search warrants**

s 33 am A1999-68 s 14

**Powers of inspectors**

s 34 am A2004-15 amdt 2.26

**Contravention of requirement by inspector**

s 35 am A2001-93 amdt 1.16; A2004-15 amdt 2.27  
sub A2005-54 amdt 1.66

**False or misleading information**

s 36 om A2004-15 amdt 2.28

**Regulation-making power**

s 37 sub A2001-44 amdt 1.474

**Validation**

pt 8 hdg ins A2003-56 amdt 1.1  
exp 19 December 2003 (s 40)

**Validation of appointment of members of board**

s 38 ins A2001-93 s 7  
exp 10 September 2002 (s 38 (2))  
ins A2003-56 amdt 1.1  
exp 19 December 2003 (s 40)

## Endnotes

### 4 Amendment history

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#### Expiry of pt 8

s 40 ins A2003-56 amdt 1.1  
exp 19 December 2003 (s 40)

#### Work

sch 1 hdg sub A2001-93 amdt 1.17  
sch 1 am A2001-93 s 8, s 9, amdt 1.17; A2004-13 amdt 2.8

#### Dictionary

dict ins A2001-93 amdt 1.18  
am A2003-41 amdt 3.12  
def **authority** ins A2005-52 amdt 1.44  
def **board** reloc from s 3 A2001-93 amdt 1.2  
om A2005-52 amdt 1.44  
def **Building Act** ins A2001-93 amdt 1.18  
def **building approval** ins A2001-93 amdt 1.18  
def **building controller** ins A2001-93 amdt 1.18  
om A2004-13 amdt 2.9  
def **building work** ins A2001-93 amdt 1.18  
def **chair** ins A2005-52 amdt 1.45  
def **chairperson** reloc from s 3 A2001-93 amdt 1.2  
om A2005-52 amdt 1.45  
def **council** reloc from s 3 A2001-93 amdt 1.2  
def **exempt work** ins A2001-93 amdt 1.18  
def **fund** reloc from s 3 A2001-93 amdt 1.2  
def **governing board** ins A2005-52 amdt 1.46  
def **member** reloc from s 3 A2001-93 amdt 1.2  
om A2005-52 amdt 1.47  
def **owner** ins A2001-93 amdt 1.18  
sub A2003-41 amdt 3.13  
def **project owner** ins A2001-93 amdt 1.18  
sub A2003-41 amdt 3.13  
def **public authority** ins A2001-93 amdt 1.18  
def **qualified valuer** ins A2003-41 amdt 3.14  
def **rate of levy** ins A2001-93 amdt 1.18  
def **training levy** reloc from s 3 A2001-93 amdt 1.2  
def **training plan** reloc from s 3 A2001-93 amdt 1.2  
def **value** ins A2001-93 amdt 1.18  
sub A2003-41 amdt 3.15  
def **work** ins A2001-93 amdt 1.18

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

| Republication No and date | Effective                     | Last amendment made by | Republication for                                 |
|---------------------------|-------------------------------|------------------------|---|
| R1 (RI)<br>10 Oct 2005    | 21 Nov 1999–<br>9 Sept 2001   | A1999-68               | reissue of printed version amendments by A1999-68 |
| R2<br>12 Sept 2001        | 12 Sept 2001–<br>10 Sept 2002 | A2001-93               | amendments by A2001-44 and A2001-93               |
| R3<br>11 Sept 2002        | 11 Sept 2002–<br>12 Sept 2002 | A2001-93               | commenced expiry                                  |
| R4<br>13 Sept 2002        | 13 Sept 2002–<br>8 Oct 2003   | A2001-93               | commenced expiry                                  |
| R5<br>9 Oct 2003          | 9 Oct 2003–<br>31 Oct 2003    | A2003-41               | amendments by A2003-41                            |
| R6<br>1 Nov 2003          | 1 Nov 2003–<br>18 Dec 2003    | A2003-41               | amendments by A2003-37                            |
| R7<br>19 Dec 2003         | 19 Dec 2003–<br>19 Dec 2003   | A2003-56               | amendments by A2003-56                            |
| R8<br>20 Dec 2003         | 20 Dec 2003–<br>8 Apr 2004    | A2003-56               | commenced expiry                                  |
| R9<br>9 Apr 2004          | 9 Apr 2004–<br>31 Aug 2004    | A2004-15               | amendments by A2004-15                            |
| R10<br>1 Sept 2004        | 1 Sept 2004–<br>23 Nov 2005   | A2004-15               | amendments by A2004-13                            |

## Endnotes

6 Uncommenced amendments

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### 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

|  |
|--|
| <b>Financial Management Legislation Amendment Act 2005<br/>A2005-52 sch 1 pt 1.3</b> |
|--|

## Part 1.3 Building and Construction Industry Training Levy Act 1999

### [1.39] Title

*substitute*

An Act to impose a levy for improving training in the building and construction industry, and for other purposes

### [1.40] Part 2

*substitute*

## Part 2 The authority

*Note for pt 2*

The governance of territory authorities, including the Building and Construction Industry Training Fund Authority, is regulated by the *Financial Management Act 1996* (the *FMA*), pt 9 as well as the Act that establishes them.

The FMA, pt 9 deals, for example, with the corporate status of territory authorities and their powers, the make-up of governing boards, the responsibilities of the governing board and board members, how governing board positions can be ended, meetings of governing boards and conflicts of interest.



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## Division 2.1 Establishment and functions of authority

### 4 Establishment of authority

The Building and Construction Industry Training Fund Authority (the *authority*) is established.

*Note* If a law changes a name of an entity (like the Building and Construction Industry Training Fund Board), the entity continues in existence under the new name (the Building and Construction Industry Training Fund Authority) and its identity is not affected by the change (see Legislation Act, s 183).

### 5 Functions of authority

The authority has the following functions:

- (a) administering the fund;
- (b) making payments, or directing that payments be made, from the fund in accordance with training plans;
- (c) exercising any other function given to the authority under this Act or any other territory law.

*Note* The Legislation Act, s 196 (1) provides that a provision of an Act that gives an entity (including the board) a function also gives the entity the powers necessary and convenient to exercise the function.

## Division 2.2 Governing board

### 6 Establishment of governing board

The authority has a governing board.

### 7 Governing board members

- (1) The governing board has 6 members.

*Note* A chair of the governing board must be appointed under the *Financial Management Act 1996*, s 79.

## Endnotes

### 6 Uncommenced amendments

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- (2) Two of the governing board members must be appointed to represent the interests of employers in the building and construction industry.
- (3) Two of the governing board members must be appointed to represent the interests of employees in the building and construction industry.
- (4) The chair must not be a representative mentioned in subsection (2) or (3).
- (5) The chief executive officer is a non-voting member of the governing board.

*Note* The *Financial Management Act 1996*, s 95 (2) and s 96 (1) deal with non-voting members of governing boards.

### **7A Term of chief executive officer of authority**

The chief executive officer of the authority must not be appointed for a term of longer than 5 years.

### **7B No deputy chair**

The Minister must not appoint a deputy chair for the governing board.

*Note 1* This section ensures that a deputy chair cannot be appointed for the governing board under the *Financial Management Act 1996*, s 79 (1).

*Note 2* The Minister may appoint an acting chair (see *Legislation Act*, s 209).

## **8 Administration of authority**

The governing board may make arrangements with the council, or anyone else, for the provision of—

- (a) administrative or secretarial services to the authority (including the governing board); or
- (b) the administration of the fund in accordance with the directions of the governing board.

**[1.41] Sections 17 and 19**

*omit*

board

*substitute*

authority

**[1.42] Section 21**

*substitute*

**21 Refund of levy if work not carried out**

- (1) This section applies if—
  - (a) training levy has been paid for work before it starts; and
  - (b) the work does not start.
- (2) The authority must refund to the project owner the amount paid within 1 month after the day the authority receives a written request for the refund from the project owner.

**[1.43] Sections 22 to 25 and 28 to 30**

*omit*

board

*substitute*

authority

**[1.44] Dictionary, definition of *board***

*substitute*

***authority*** means the Building and Construction Industry Training Fund Authority.

## Endnotes

6 Uncommenced amendments

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### [1.45] Dictionary, definition of *chairperson*

*substitute*

*chair* means the chair of the governing board.

*Note* The chair must be appointed under the *Financial Management Act 1996*, s 79.

### [1.46] Dictionary, new definition of *governing board*

*insert*

*governing board* means the governing board of the authority.

### [1.47] Dictionary, definition of *member*

*omit*

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