

Appendix A

The meaning of construction work

The *Building and Construction Industry Training Fund and Levy Collection Act 1990* (the Act) refers to the *Construction Industry Portable Paid Long Service Leave Act 1985* in outlining the meaning of 'construction work' (s 3 (1)) to which the levy applies.

'Construction work' means the following processes:

- (a) Carrying out on a site; the construction, erection, installation, reconstruction, re-erection, renovation, alteration, demolition or maintenance of or repairs to any of the following:
1. buildings
 2. swimming pools and spa pools
 3. roads, railways, airfields or other works for the passage of persons, animals or vehicles
 4. breakwaters, docks, jetties, piers, wharves or works for the improvement or alteration of any harbour, river or watercourse for the purposes of navigation
 5. works for the storage, or supply of water or for the irrigation of land
 6. works for the conveyance, treatment or disposal of sewage or the effluent from any premises
 7. works for the extraction, refining, processing or treatment of materials or for the production of extraction of products and by-products from materials
 8. bridges, viaducts, aqueducts or tunnels
 9. chimney stacks, cooling towers, drilling rigs, gas holders or silos
 10. pipelines
 11. navigational lights, beacons or markers
 12. works for the drainage of land
 13. works for the storage of liquids (other than water) or gases
 14. works for the generation, supply or transmission of electric power
 15. works for the transmission of wireless or telegraphic communications; pile driving works
 16. structures, fixtures or works for the use on or for the use of any buildings or works of a kind referred to in subparagraphs 1 to 15
 17. works for the preparation of sites for any building or works of a kind referred to in subparagraphs 1 to 16
 18. fences, other than fences on farms.
- (b) Carrying out of works on a site of the construction, erection, installation, reconstruction, re-erection, renovation, alteration or demolition of any buildings or work of a kind referred to in paragraph (a) for the fabrication, erection or installation of plant, plant facilities or equipment for those buildings or works.

- (c) Carrying out of work performed by employees engaged in the work referred to in paragraph (a) or (b) and that is normally carried out on-site but which is not necessarily carried out on-site.

But does NOT include:

- (d) The carrying out of any work on ships.
- (e) The maintenance of or repairs or minor alterations to lifts or escalators.
- (f) The carrying out of maintenance or repairs of a routine or minor nature by employees for an employer, or another person under an arrangement with a labour hire agency who is not substantially engaged in the industry described in this interpretation.

Exclusions

There are several exclusions for the purposes of collecting the levy from the definition of construction work in Regulation 3 of the *Building and Construction Industry Training Fund and Levy Collection Regulations 1991*.

The main exclusions from application of the levy are:

- Work below \$20,000 in value.
- Agricultural work (does not include work for which a building permit is required).
- Government work undertaken by government employees.
- Foreign missions and consulates.

Building and construction work in Western Australia's resources sector

Changes to Regulations effective from 1 October 2018 removed an exclusion from the BCITF Levy on engineering construction works undertaken in the resources industry. Engineering construction works, together with **residential** and **commercial** construction works in the resources sector are subject to the BCITF Levy. Penalties may apply if construction work commences prior to payment of the BCITF Levy.

The regulations refer to resources as:

- Minerals as defined in the *Mining Act 1978 (WA)* section 8(1).
- Petroleum as defined in the *Petroleum and Geothermal Energy Resources Act 1967* section 5(1).
- Geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967* section 5(1)

Exclusions

The following operational works in the resources industry are excluded from the BCITF Levy, unless the work; is on, results in, or otherwise relates to, a residential or commercial facility:

- Work associated with exploration or drilling for resources.
- Work associated with exploration or drilling for the purposes of a geosequestration process.
- Work on or resulting in an unsealed haul road or track that is associated with a resources operation.
- Work on or resulting in a structure that is:

- > for the storage, treatment, supply or disposal of non-potable water; and
- > is associated with a resources operation
- Work on or resulting in a structure that is:
 - > for the storage of tailings, overburden or waste; and
 - > is associated with a resources operation
- Work for the excavation or back-filling of soil or overburden that is associated with a resources operation.
- Work for the environmental remediation, restoration or rehabilitation of ground disturbed by a resources operation.
- Work for the closure or decommissioning of one or more resources facilities (including work associated with environmental remediation, restoration or rehabilitation).
- Work for the repair or maintenance of one or more resources facilities.
- Work for any of the following if the value in aggregate of the work, estimated in accordance with subregulation (3), is \$10 million or less:
 - > the alteration or renovation of one or more resources facilities;
 - > the replacement of one or more resources facilities that have been or are to be closed or decommissioned and;
 - > the relocation of one or more resources facilities.