

Subject: Defining work start date for construction work

References: Act Section 6 – Definitions (“construction work”, “site”)
Act Section 7 – Construction work
Act Section 32 – Imposition of levy
Act Section 36 – When construction work starts and ends

Policy: The reason for ascertaining the time at which construction work starts is for the purpose of imposing the long service levy on any eligible construction work.

Generally, the Board would rely upon receipt of the Project Notification form submitted in accordance with the Act. However, in circumstances where notice is not given, payment is not made or liability for the levy is in doubt or in dispute, the Board can determine for itself the time at which it reasonably considers construction work starts.

Section 36 of the Act states “unless the Board otherwise decides, the time at which construction work starts or ends is the time at which the work starts or ends (as the case may be) at the site of the work”. That is, a site in the Territory (whether on land or offshore) at which the construction work is to be or is being carried out.

The Board therefore has the discretion to determine when construction work starts. The instances in which the Board might exercise this discretion would depend upon the circumstances surrounding the particular construction work under consideration and would have regard for the scope of the work, site of the work, and nominated start of the work on that site.

A decision to exercise this discretion would be made by the Board in a manner that is reasonable and accords with and furthers the object of the Act. In making such a decision the Board would provide notice and reasons for the decision to the person whose liability to pay the levy the decision relates to. Any such decision made by the Board will be subject to reconsideration or review as provided for under sections 50 and 83 of the Act.

This is intended as a guide to interpretation only and is not intended to bind the Board to any particular decision about the start date construction work is deemed to have commenced.

Date Authorised: 6 September 2005