



Update—November 2011

Volume 4, Issue 3

22 November 2011

Inside this issue:

- **Tasbuild Board appoint new Chairman**
- **Legal matters**
- **Chairman's AGM Report**
- **Return enhancements.**

Please note: copies of the Monthly Employer Updates are also available on the TasBuild webpage at www.tasbuild.com.au

Entitlement Statistics for October 2011:

- Total entitlements paid: **60**
- Total value of entitlements paid: **\$337808.54**
- Average weekly rate paid for all entitlements: **\$1022.02**
- Average weekly rates paid to specific trades:

Boilermaker:	\$1,058.68
Carpenter:	\$1,029.76
Electrician:	\$1,294.64
Fitter & Turner:	\$933.82
Glazier:	\$973.75
Labourer:	\$1,080.53
Painter:	\$815.85
Plant operator:	\$1,132.6
Plasterer:	\$950.00
Plumber:	\$917.85
Refrig Mech:	\$1,334.94
Rigger/Scarf:	\$942.40
Sh Metal Worker:	\$958.36
Other:	\$1,129.28

• *Tasbuild Board appoint new Chairman*

The TasBuild Limited Board is proud to announce the appointment of Ms. Lin Thorp as the Independent Chairman of the TasBuild Limited Board.

Ms. Thorp was appointed to replace Mr. Graeme Sturges who was successful in the re-count of votes as a consequence to David Bartlett's resignation for the State Government. I am sure you all join the Board in wishing Mr. Sturges the very best for the future.

Ms. Thorp was selected after a rigorous recruitment process which resulted in fourteen high quality applications being received from extremely high calibre applicants. Four of the candidates were selected for interview with Ms. Thorp being successful.

She has a background in education and her experience in government and the community was well regarded by the Selection Committee and she will be a welcomed acquisition and asset for the Board.

Chris Atkins CEO

LEGAL MATTERS - \$2,500.00 fine for contempt of Court.

TasBuild Limited is in a unique position, it is a Trustee Company appointed by the Minister to administer the *Construction Industry (Long Service) Act 1997 (the Act)*. Prior to TasBuild's appointment the previous Act was administered by the Government Department, Workplace Standards.

Administration of the Act encompasses a large number of requirements and imposes significant obligations on TasBuild, the most onerous, confronting and complex is the obligation to enforce compliance with the Act.

The Act imposes obligations on industry participants and where these obligations are not complied with TasBuild are required to obtain compliance.

We take our responsibilities in these areas seriously. Having said that, as we have said on many occasions, we would prefer to work with employers and employees alike, to achieve the outcomes contemplated by the Act.

Where an employer does not want to work with us we are left with no alternative but to apply the provisions of the Act which may result in a Court appearance by the non-compliant employer.

Such was the recent case of one employer who came to notice in March 2008, they are located in the Channel area and was requested to register with the Fund. The request was based on industry intelligence obtained by TasBuild staff that the employer had employed an apprentice in October 2008.

Between the date the employer first came to notice we attempted to either contact the employer by

phone or by letter on no less than 23 occasions without being able to resolve the matter.

In frustration we sought the assistance of the Court to resolve the impasse. The Court date was set (23.11.2010) the employer summonsed to appear and everyone except the employer attended.

The matter was heard in their absence and Orders were issued that the employer comply and provide the requested information within 14 days of the above Court date.

The employer failed to comply, and since we needed the information, the only avenue left to us was to prosecute a "Contempt of Court" action against the employer.

Before proceeding down this line, the CEO personally made contact with the employer advising exactly what we needed (comply with the Court Order), he also advised that we did not want to prosecute the contempt of court action as there would be no winners in this circumstance.

The employer agreed to provide the requested information within seven days, the CEO advised that where he did this the Court action would be ceased. He acknowledged this fact and said "too easy, no problems". That was in March 2011 and to this date the employer has not complied.

Documents were filed to commence the 'Contempt of Court' action which was heard on 22 August 2011, once again the employer did not attend. In his absence the Magistrate imposed a fine of \$2,500.00 plus costs which is to be paid within 56 days.



Update—November 2011 continued.....

LEGAL MATTERS - \$2,500.00 fine for contempt of Court. Continued.....

To date, all up this matter has cost the employer some \$8,778.00 which is the equivalent of funding a wages bill of \$438,900.00.

At this point in time the fine remains unpaid, the next step may result in this employer being imprisoned.

Having spoken to this employer personally, he indicated that he didn't have any problems with the requirements of the Act, as such his non compliance is hard to fathom.

It is regrettable that matters such as these end up in Court, there are no winners. TasBuild has been charged with the **responsibility** to administer the Act, **without fear or favour**, and where required **that's what we will do**.

Having said that, these types of actions are taken only as a last resort, as I have said on numerous previous occasions **"We would much prefer to assist you, and work with you to allow you to comply with the requirements of the Act.....Just give us the opportunity"**.

• Chairman's AGM Report

The Fund's new Chairman, Lin Thorp, provided an overview of the Trustee's operations and the Fund's performance for the 2010 – 2011 Financial Year, in so doing the following points were highlighted:

She acknowledged the efforts and tireless input from her fellow Board Members and also recorded the Board's appreciation for the efforts of the outgoing Chairman, Graeme Sturges.

She also noted the following:

Employer compliance had increased during the year as a number of 'precedent issues' have been established by the decisions made by the Magistrates Court. Whilst court action is taken as a last resort, we would much prefer to work with employers and employees, the recent court decisions have assisted in obtaining compliance with the requirements of the Act and the Rules. These actions go a long way to ensure a 'level playing field' for employers operating and competing for work in the Construction Industry.

One of our core functions is to provide long service entitlements for employees working in the Construction Industry, this year we have established another record in this area with over 547 entitlements being paid, with a total value of \$3.997 million. On average, each employee was paid an entitlement of \$7,307.00 each.

Based on historical contribution rates and assuming that the employee's wages have remained static over the accrual period, TasBuild received less than \$4,300.00 in contributions from the employers with TasBuild's investment returns funding the balance of \$3,007.00. These results underscore the significant value added by the investment activities of the Board providing a significant benefit to the contributing employers and employees alike.

The Fund's investment performance has again been at the upper end of the scale, with 9.24 percent return being derived from our investment activities. Whilst a little down on last year, the continued uncertainty surrounding the financial status of a number of economies in Europe and the United States is a cause of pessimism going forward. Our investment diversification has served us well historically and should do the same going forward.

The Board is in the process of reviewing our financial advisory service and have called tenders for the provision of this service.

We will continue to market TasBuild and the Fund to continue to raise its profile and review our processes to make us an easy and friendly organisation to deal with.

We expect to finalise amendments to the Construction Industry (Long Service) Act to make it clearer and easy to understand.

Continue to monitor the financial markets and the Fund's performance with a view of adjusting the contribution rate at the earliest possible time.

In closing the Chairman acknowledged the hard working TasBuild Staff and thanked them for the assistance they provide to the Contributors and Beneficiaries of the Fund.

• Return enhancements

The recent survey of employers has provided some valuable insights into changes that will make the lodgement of Returns process easier.

The nature of electronic scripting of computer programs is time consuming and costly to undertake, however we have identified a couple of initial, small changes which should make things a little easier.

We are hopeful of having the first of these changes ready to go for the December 2011 Employer Return processing run.

Where we are able to achieve this timeframe, I will provide you with advice as to the changes and what will be required from you.

We are comfortable that the subject change will be simple to comply with and make your job so much easier, or if not easier, it will be simpler.

We will keep you informed as to developments in this area, as and when, they occur.