

Subject: **Eligibility of Persons Carrying Out Work in a Managerial Capacity**

References:

CILSB Act Section 10(1)(c):	Application for registration
CILSB Act Section 15:	Qualifying service
<i>Construction Contracts (Security of Payments) Act</i> 2004, Sections 6 and 7:	Construction work, Goods and services relating to construction work

Policy:

Section 10(1) and (2) of the *Construction Industry Long Service Leave and Benefits Act 2005* (CILSB Act) set out the eligibility requirements for the registration of an employee or a contractor under the Scheme.

Section 10(1)(c) and 10(2)(b) specifically excludes employees or contractors carrying out construction work where it is:

“to be carried out by the person in a managerial, clerical, administrative or professional capacity (for example as an architect or engineer).”

The term ‘managerial’ is not defined in the CILSB Act. It also is not a defined term in the *Interpretation Act 1978*.

Applications for registration (or reported service for roles) which appear to have a managerial component will be determined on a case by case basis and based on the information provided by the employee/contractor and/or the relevant employer.

The Registrar will consider indicators, including the nature of work being undertaken, whether the position is salaried, the position description for the role and 50% on site and on the tools predominance test.

However, it should be noted that job titles while indicative, are not definitive, given that some roles may be described differently in various organisational contexts and also in

relation to the size/scale of the construction being carried out.

Management Roles That Are Unlikely to Be Eligible

As a general guide, roles that are described as 'Project Manager', 'Construction Manager' 'Site Manager' etc. are not likely to be eligible.

This is where relevant roles more broadly oversee the construction project, from initial planning to completion, including focusing on scope, budget, and timelines. These people are not always on site and are not actively engaged in the physical detail and execution of the actual construction work (even if they might occasionally do so).

Management Roles That Are More Likely To Be Eligible

As a general guide, roles that are described as 'Supervisor', 'Foreman', 'Leading Hand' (or Similar) are more likely to be eligible if the roles involve:

- the employee/contractor working on site/on tools (50% on site and on tools predominance test);
- they are responsible for the physical execution of the construction project; and
- may include providing supervision services (other than professional services) that relate directly to construction work, including providing labour to carry out construction work.

This is where a worker is engaged to carry out both construction work and the supervision of other workers carrying out construction work.

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