

Passed by both Houses



New South Wales

State Revenue Legislation Amendment (Budget) Bill 2002

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2002*



New South Wales

State Revenue Legislation Amendment (Budget) Bill 2002

Act No , 2002

An Act to make miscellaneous amendments to certain State revenue legislation; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *State Revenue Legislation Amendment (Budget) Act 2002*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) The following provisions commence, or are taken to have commenced, on the dates indicated:
 - section 4 and Schedule 2 on 31 March 2002
 - section 5 and Schedule 3 on 4 June 2002
 - section 6 and Schedule 4 on 1 July 2002

3 Amendment of Apprenticeship and Traineeship Act 2001 No 80

The *Apprenticeship and Traineeship Act 2001* is amended as set out in Schedule 1.

4 Amendment of Betting Tax Act 2001 No 43

The *Betting Tax Act 2001* is amended as set out in Schedule 2.

5 Amendment of Duties Act 1997 No 123

The *Duties Act 1997* is amended as set out in Schedule 3.

6 Amendment of Pay-roll Tax Act 1971 No 22

The *Pay-roll Tax Act 1971* is amended as set out in Schedule 4.

7 Amendment of Racing Administration Act 1998 No 114

The *Racing Administration Act 1998* is amended as set out in Schedule 5.

8 Amendment of Taxation Administration Act 1996 No 97

The *Taxation Administration Act 1996* is amended as set out in Schedule 6.

Schedule 1 Amendment of Apprenticeship and Traineeship Act 2001

(Section 3)

Section 28 Register of apprenticeships and traineeships

Insert after section 28 (3):

- (4) The Commissioner is to provide to the Chief Commissioner of State Revenue or an authorised officer within the meaning of the *Taxation Administration Act 1996* such information contained in the register as may be requested from time to time by the Chief Commissioner or authorised officer.

Schedule 2 Amendment of Betting Tax Act 2001

(Section 4)

Section 5A

Insert after section 5:

5A Abolition of betting tax on bookmakers

- (1) Despite section 6, betting tax is not payable on bets made by backers with any bookmaker on any event or contingency relating to a horse race, harness race or greyhound race, being a race held at any time after 30 March 2002.
- (2) Despite section 7, betting tax is not payable on bets made by backers with any bookmaker on the outcome of any event or contingency relating to a sports betting event held at any time after 30 March 2002.
- (3) Despite section 13, 15 or 16, a return is not required to be prepared or lodged under any of those sections in respect of a week beginning after 30 March 2002.
- (4) Despite section 14, a return is not required to be prepared or lodged under that section in relation to a race meeting conducted at any time after 30 March 2002.
- (5) Despite section 17, a written record is not required to be kept under that section of a bet made in relation to a horse race, harness race or greyhound race, or a sports betting event, held at any time after 30 March 2002.

Schedule 3 Amendment of Duties Act 1997

(Section 5)

[1] Sections 233 and 234

Omit the sections. Insert instead:

233 Types of general insurance

- (1) For the purpose of charging duty, general insurance is divided into 2 types, Type A insurance and Type B insurance.
- (2) *Type A insurance* is general insurance other than Type B insurance.
- (3) *Type B insurance* is:

- (a) crop insurance, being insurance covering:
 - (i) loss due to the destruction of, or physical damage to, any pasturage or any crop of grain, fruit, vegetables or other plants, where the destruction or damage occurs while the pasturage or crop is being grown, or
 - (ii) loss due to the destruction of, or physical damage to, the product of any such pasturage or crop, where the destruction or damage occurs while the product of the pasturage or crop is being stored or transported,

but not being insurance covering loss referred to in subparagraph (ii) unless the contract by which the insurance is effected also effects insurance covering the loss referred to in subparagraph (i), or

- (b) livestock insurance, being insurance covering:
 - (i) loss due to the death of, or physical damage to, any animal, whether domesticated or wild, or
 - (ii) loss due to the death of, or physical damage to, any genetic material of any such animal, or
 - (iii) loss due to the theft of any such animal or genetic material, or

- (c) until 1 February 2005, insurance under the Debtor Insurance Scheme of the Stock and Station Agents Association.

234 What duty is payable?

- (1) The amount of duty chargeable on the premium paid in relation to a contract of insurance is 5% of the amount of the premium to the extent to which the premium is paid to effect Type A insurance.
- (2) The amount of duty chargeable on the premium paid in relation to a contract of insurance is 2.5% of the amount of the premium to the extent to which the premium is paid to effect Type B insurance.

[2] Section 253 Monthly returns and payment of duty

Omit section 253 (a) (i), (ii) and (iii). Insert instead:

- (i) the total amount of all premiums for Type A insurance paid to the registered insurer in the preceding month, and
- (ii) the total amount of all premiums for Type B insurance paid to the registered insurer in the preceding month, and

[3] Section 256 Schedule of Apportionment

Omit “classes” from section 256 (1). Insert instead “types”.

[4] Section 258 Apportionment between different types of insurance

Omit “classes” from section 258 (2). Insert instead “types”.

[5] Section 258 (3)

Omit “or classes”.

[6] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment (Budget) Act 2002

[7] Schedule 1

Insert at the end of Schedule 1 (with appropriate Part and clause numbers):

Part Provisions consequent on enactment of State Revenue Legislation Amendment (Budget) Act 2002

Insurance duty

- (1) Sections 233 and 234 as substituted by the *State Revenue Legislation Amendment (Budget) Act 2002* have effect only in relation to premiums paid on or after 4 June 2002 for contracts of insurance and renewals of contracts of insurance that take effect on or after 1 August 2002.
- (2) Despite section 253, the Chief Commissioner may, having regard to the substitution of sections 233 and 234 by the *State Revenue Legislation Amendment (Budget) Act 2002*, determine the categories of premiums to be shown in the form of a return required to be lodged under that section on or before 21 June 2002 or a subsequent month.

Schedule 4 Amendment of Pay-roll Tax Act 1971

(Section 6)

[1] Section 3AA Wages

Insert “or (6B)” after “subsection (5)” in section 3AA (6).

[2] Section 3AA (6B) and (6C)

Insert after section 3AA (6A):

(6B) Wages includes so much of any eligible termination payment (within the meaning of section 27A of the *Income Tax Assessment Act 1936* of the Commonwealth) paid or payable by an employer, whether or not paid to the employee or to any other person or body, that would be included in the assessable income of an employee under Subdivision AA of Division 2 of Part III of that Act if the whole of the eligible termination payment had been paid to the employee.

(6C) Wages referred to in subsection (6B) that are not paid in respect of services performed or rendered by an employee in a particular month are liable to pay-roll tax under this Act as if they were paid or payable in respect of services performed or rendered during the month in which they were paid or became payable.

[3] Section 9

Omit the section. Insert instead:

9 Taxable value of fringe benefits

For the purposes of this Act, the value of taxable wages, comprising a fringe benefit, is to be determined in accordance with the formula:

$$TV \times \frac{1}{1 - FBT \text{ rate}}$$

where:

TV is the value that would be the taxable value of the benefit as a fringe benefit for the purposes of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth, and

FBT rate is the rate of fringe benefits tax imposed by the *Fringe Benefits Tax Act 1986* of the Commonwealth that applies when the liability to pay-roll tax under this Act occurs.

[4] Section 10 Exemption from pay-roll tax

Insert after section 10 (1) (k):

- (l) to an apprentice within the meaning of the *Apprenticeship and Traineeship Act 2001*,

[5] Section 10 (2A)

Insert after section 10 (2):

- (2A) Paragraph (1) of subsection (1) only operates to exclude from wages liable to pay-roll tax under this Act wages which are paid or payable under an apprenticeship contract (within the meaning of the *Apprenticeship and Traineeship Act 2001*) but, if an application for the approval of the apprenticeship to which the contract relates is dismissed by the Commissioner for Vocational Training (referred to in section 56 of that Act) or the Vocational Training Tribunal of New South Wales (constituted by section 59 of that Act), the exclusion ceases when the application is dismissed.

[6] Section 10A Exemptions from pay-roll tax of wages of apprentices

Insert “and before 1 July 2002” after “1999” in section 10A (4).

[7] Section 13A Inclusion of fringe benefits in returns etc

Omit “the aggregate fringe benefits amount (within the meaning of section 136 of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth)” from section 13A (2) (a) and (b) wherever occurring.

Insert instead “the amount determined in accordance with subsection (2A)”.

[8] Section 13A (2A)

Insert after section 13A (2):

- (2A) The amount determined in accordance with this subsection is to be determined in accordance with the formula:

$$AFBA \times \frac{1}{1 - FBT \text{ rate}}$$

where:

AFBA is the aggregate fringe benefits amount (within the meaning of section 136 of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth), and

FBT rate is the rate of fringe benefits tax imposed by the *Fringe Benefits Tax Act 1986* of the Commonwealth that applies when the liability to pay-roll tax under this Act occurs.

[9] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment (Budget) Act 2002

[10] Schedule 6, Part 7

Insert after Part 6:

Part 7 Provisions consequent on enactment of State Revenue Legislation Amendment (Budget) Act 2002

10 Eligible termination payments

The amendment made to section 3AA by the *State Revenue Legislation Amendment (Budget) Act 2002* applies to and in respect of eligible termination payments paid or payable on or after 1 July 2002.

11 Fringe benefits

The amendments made to sections 9 and 13A by the *State Revenue Legislation Amendment (Budget) Act 2002* apply to a fringe benefit the value of which was paid or payable on or after 1 July 2002.

12 Apprentices

Section 10 (1) (l) applies to wages that are paid or payable for services performed or rendered on or after 1 July 2002.

Schedule 5 Amendment of Racing Administration Act 1998

(Section 7)

[1] Sections 26A, 26D, 26E and 26F

Omit “State bookmakers tax authority” wherever occurring.
Insert instead “State bookmakers authority”.

[2] Section 26C Bookmakers Revision Committee

Omit section 26C (1) (g).

[3] Section 26D State bookmakers authority

Omit section 26D (2).

[4] Section 26D (5)

Omit “and the applicant has paid the fee required by subsection (2),”.

[5] Section 26E Revocation of State bookmakers authority

Insert at the end of the section:

- (2) The Committee may revoke a State bookmakers authority issued under this Part if the Committee is satisfied that a bookmaker has not complied with a condition imposed in respect of an authority issued under section 16 or 19.

[6] Section 26F Power of Committee to direct cancellation or suspension of a bookmaker’s registration

Omit section 26F (1).

[7] Sections 26GA–26GD

Insert after section 26G:

26GA Returns by racing clubs

- (1) A racing club must, within 2 working days after the conclusion of a race meeting held by the club, lodge with the Director-General of the Department of Gaming and Racing, a return setting out the betting turnover details of every bookmaker who fielded at the race meeting.
- (2) The return must be in a form approved by the Director-General of the Department of Gaming and Racing.

Maximum penalty: 100 penalty units.

26GB Returns by bookmakers

- (1) A bookmaker who fielded at a race meeting held by a racing club must, at the conclusion of the race meeting, lodge with a representative of the racing club appointed by the racing club for the purpose, or such other person as may be determined by the Director-General of the Department of Gaming and Racing, a return setting out the details of the betting turnover of the bookmaker at the race meeting.
- (2) The return must be in a form approved by the Director-General of the Department of Gaming and Racing.

Maximum penalty: 100 penalty units.

26GC Bookmakers to keep records

- (1) A bookmaker, including a former bookmaker, must keep a written record, setting out the true and accurate particulars of:
 - (a) every bet made with the bookmaker, and
 - (b) every bet back made by the bookmaker.
- (2) The record:
 - (a) must indicate the horse races, harness races, greyhound races or sports betting events in connection with which the bets or bets back were made with or by the bookmaker, and

- (b) must include any other particular required by the relevant controlling body.
- (3) The record must be kept in a form approved by the relevant controlling body.
- (4) The record must be kept for at least 5 years after the bet or bet back to which it relates is made.

Maximum penalty: 100 penalty units.

26GD Accuracy of bookmakers records

A person must not enter, or permit to be entered, in a written record required to be kept under section 26GC entries that are false, misleading or fictitious or bets made in fictitious names.

Maximum penalty: 100 penalty units.

[8] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

the State Revenue Legislation Amendment (Budget) Act 2002

[9] Schedule 1, Part 4

Insert after Part 3:

Part 4 Provisions consequent on enactment of State Revenue Legislation Amendment (Budget) Act 2002

8 State bookmakers tax authority

A State bookmakers tax authority in force immediately before the commencement of Schedule 5 [1] to the *State Revenue Legislation Amendment (Budget) Act 2002* is taken to be a State bookmakers authority issued under section 26D.

Schedule 6 Amendment of Taxation Administration Act 1996

(Section 8)

Section 82 Permitted disclosures—to particular persons

Insert after section 82 (e) (viii):

- (viii) the Commissioner for Vocational Training referred to in section 56 of the *Apprenticeship and Traineeship Act 2001* and the Vocational Training Tribunal of New South Wales constituted by section 59 of that Act, or