

New South Wales

# Regional Development Bill 2004

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to provide a framework for strategic intervention in the economies of regional New South Wales through the provision of financial assistance to regions.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** sets out the object of the Act, which is to provide a framework for strategic intervention in the economies of regional New South Wales for specified purposes, including to help fill gaps left by the market system, to

promote economic and employment growth in regions, to assist regional communities to capitalise on their regional strengths, to broaden and reposition the industry base of their regions and to develop new products and new markets and to develop regional or local solutions to business problems.

**Clause 4** defines certain words and expressions used in the proposed Act.

## **Part 2 Financial assistance**

**Clause 5** enables the Minister, on application made to the Minister, to grant financial assistance to a person conducting or proposing to establish an industry or other business in a region or to a person or group of persons for the purposes of carrying out an undertaking that is likely to assist the economic development of a region or the object of the proposed Act. The Minister may consider the likely economic impact on the region concerned of granting financial assistance when determining an application for financial assistance. Financial assistance may be withdrawn or varied by the Minister on application made to the Minister or at the Minister's discretion.

**Clause 6** provides that the financial assistance granted under the proposed Act may consist of all or any of a grant of money, a subsidy or a pay-roll tax rebate.

**Clause 7** enables the Minister to make a grant of financial assistance subject to conditions determined by the Minister, including conditions relating to meeting specified performance targets or outcomes, obtaining specified investment levels, repayment of assistance where targets or outcomes or investment levels are not met and the periods for which, or intervals at which, assistance is to be provided.

**Clause 8** provides that financial assistance may be in the form of a rebate of pay-roll tax paid during a specified year or years. The Minister is to determine the basis on which the amount of a rebate is to be calculated and may determine that it is or is not payable in respect of specified employees. An employer (or the group of employers of which an employer is a member) must pay all pay-roll tax for a year to entitle the employer to a rebate for that year.

**Clause 9** enables the Minister to require financial assistance to be repaid if a condition of the assistance was that it be repaid or a condition of the assistance has not been complied with or the Minister is of the opinion that the assistance was improperly obtained. If the amount is not repaid, it may be recovered in a court of competent jurisdiction as a debt due to the Crown.

**Clause 10** makes it clear that the proposed Act does not prevent the Minister from granting, and does not limit the granting of, other assistance for or with respect to regional development, whether or not such assistance could be granted under the proposed Act.

### **Part 3      Miscellaneous**

**Clause 11** provides for the establishment of a Regional Development Trust Fund into which is to be paid money appropriated by Parliament for the purposes of the proposed Act and other money, including gifts and bequests. The Fund is to be used for the payment of financial assistance under the proposed Act and to pay the costs of administering the proposed Act.

**Clause 12** enables the Minister to establish a Regional Development Advisory Council and provides for regulations to be made for or with respect to the Council. The functions of the Advisory Council are to advise the Minister on any matter that is referred to it by the Minister and to advise on any other matter it considers relevant to the object of the proposed Act.

**Clause 13** enables the Minister to delegate the Minister's functions under the proposed Act to the Director-General of the Department of State and Regional Development. The Director-General may delegate to a member of staff of the Department of State and Regional Development any of the Minister's delegated functions (if authorised to do so by the Minister) and any of the Director-General's functions under the proposed Act.

**Clause 14** makes it an offence to disclose information obtained in connection with the administration or execution of the proposed Act except in specified circumstances (for example, in accordance with the *Freedom of Information Act 1989*).

**Clause 15** provides that proceedings for an offence under the proposed Act or the regulations are to be dealt with summarily before a Local Court.

**Clause 16** contains a general regulation-making power.

**Clause 17** repeals the *Country Industries (Pay-roll Tax Rebates) Act 1977*.

**Clause 18** makes a consequential amendment to the *Taxation Administration Act 1996*.

**Clause 19** gives effect to the Schedule of savings and transitional provisions.

**Clause 20** requires the Minister to review the proposed Act to determine whether the policy objectives of the proposed Act remain valid and whether the terms of the proposed Act remain appropriate for securing those objectives as soon as possible after the period of 5 years from the date of assent to the proposed Act.

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Explanatory note

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## **Schedule 1 Savings and transitional provisions**

Schedule 1 enables savings and transitional regulations to be made consequent on the enactment of the proposed Act and also makes it clear that existing country pay-roll tax rebates may be continued.



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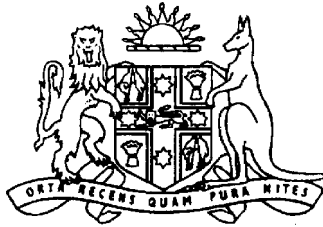
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New South Wales

## Regional Development Bill 2004

No. , 2004

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### **A Bill for**

An Act with respect to the provision of financial assistance to regions for economic development; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>Part 1            Preliminary</b>	2
<b>1    Name of Act</b>	3
This Act is the <i>Regional Development Act 2004</i> .	4
<b>2    Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3    Object of Act</b>	8
The object of this Act is to provide a framework for strategic intervention in the economies of regional New South Wales for the following purposes:	9 10 11
(a) to help fill gaps left by the market system,	12
(b) to promote economic and employment growth in regions,	13
(c) to assist regional communities to capitalise on their regional strengths, to broaden and reposition the industry base of their regions and to develop new products and new markets,	14 15 16
(d) to develop regional or local solutions for regional or local business development problems.	17 18
<b>4    Definitions</b>	19
(1) In this Act:	20
<i>Director-General</i> means the Director-General of the Department of State and Regional Development.	21 22
<i>financial year</i> means the year commencing 1 July 2004 and each following year commencing on 1 July.	23 24
<i>group</i> means a group within the meaning of Part 4A of the <i>Pay-roll Tax Act 1971</i> .	25 26
<i>pay-roll tax</i> means pay-roll tax payable under the <i>Pay-roll Tax Act 1971</i> , excluding additional tax and penal tax imposed by or under that Act and supplementary pay-roll tax payable under Schedule 1 to that Act.	27 28 29 30



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***region*** means any part of New South Wales (whether described in terms of a local government area or areas or in other terms), other than the Sydney metropolitan area.

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***Sydney metropolitan area*** means the area constituted by the local government areas prescribed by the regulations for the purposes of this definition.

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(2) Notes included in this Act do not form part of this Act.

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<b>Part 2</b>	<b>Financial assistance</b>	1
<b>5</b>	<b>Grants of financial assistance</b>	2
(1)	The Minister may, on application made to the Minister, grant financial assistance to:	3 4
(a)	a person conducting or proposing to establish an industry or other business in a region, or	5 6
(b)	a person or a group of persons for the purposes of carrying out an undertaking that is likely to assist the economic development of a region or the object of this Act.	7 8 9
(2)	An application for assistance is to be in the form approved by the Director-General and is to be accompanied by any additional documentation or other information that the Director-General may require.	10 11 12 13
(3)	In determining an application for financial assistance, the Minister may consider the likely economic impact on the region concerned of granting the assistance.	14 15 16
(4)	Subsection (3) does not limit the matters that may be considered by the Minister.	17 18
(5)	The Minister may, on application made to the Minister or at the Minister's discretion, at any time withdraw or vary financial assistance granted under this Act.	19 20 21
	<b>Note.</b> The furnishing of false or misleading information in connection with an application or a false or misleading application is an offence under Division 3 of Part 5 of the <i>Crimes Act 1900</i> . The maximum penalty for such an offence is 2 years imprisonment or 200 penalty units, or both.	22 23 24 25
<b>6</b>	<b>Financial assistance that may be granted</b>	26
	Financial assistance granted under this Act may consist of all or any of a grant of money, a subsidy or a pay-roll tax rebate.	27 28
<b>7</b>	<b>Conditions of grants of financial assistance</b>	29
(1)	The granting of financial assistance under this Act may be subject to such conditions as the Minister thinks fit.	30 31
(2)	Without limiting subsection (1), conditions may relate to the following:	32 33
(a)	meeting specified performance targets or outcomes,	34
(b)	obtaining specified investment levels,	35

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- (c) repayment of assistance where specified performance targets or outcomes or investment levels are not met as required under a condition to which the grant is subject, 1  
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  - (d) the periods for which, or the intervals at which, assistance is to be provided. 4  
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## **8 Pay-roll tax rebates** 6

- (1) A grant of financial assistance under this Act may be in the form of a rebate of pay-roll tax paid by an employer during a specified financial year or years. 7  
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- (2) The amount of the rebate is to be the amount calculated on a basis determined by the Minister. 10  
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- (3) The Minister may determine that the rebate is or is not payable in respect of specified employees of an employer. 12  
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- (4) An employer is not entitled to a rebate of pay-roll tax under this Act in respect of a financial year unless: 14  
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  - (a) all pay-roll tax payable by the employer in respect of that year has been paid, and 16  
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  - (b) if the employer has been a member of a group during the whole or any part of that year, all pay-roll tax payable by the other members of that group in respect of the period during which the employer was such a member has been paid. 18  
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- (5) For the purposes of this section, if pay-roll tax is paid by the members of a group in respect of a period, each member of that group is taken to have paid (or paid only) that part of the pay-roll tax that bears to the pay-roll tax the same proportion as the wages paid by that member in respect of that period bears to the total wages paid by the members of that group in respect of that period. 22  
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## **9 Repayment of financial assistance** 28

- (1) A person who receives financial assistance under this Act may be required by the Minister by notice in writing to repay the financial assistance if: 29  
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  - (a) it was a condition of that assistance that it be repaid, or 32
  - (b) a condition to which the assistance was subject has not been complied with, or 33  
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  - (c) the Minister is of the opinion that the assistance was improperly obtained. 35  
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Clause 10      Regional Development Bill 2004

Part 2          Financial assistance

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- (2) An amount of financial assistance required to be repaid under this section may be recovered by the Director-General in a court of competent jurisdiction as a debt due to the Crown. 1  
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- (3) In any proceedings instituted for the recovery of a debt due to the Crown under this section, a certificate of the Minister that a specified amount is the amount of the debt is evidence of that fact. 4  
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**10 Effect of Act** 7

Nothing in this Act prevents the Minister from granting, or limits the granting of, other assistance for or with respect to regional development, whether or not such assistance could be granted under this Act. 8  
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<b>Part 3</b>	<b>Miscellaneous</b>	1
<b>11</b>	<b>Regional Development Trust Fund</b>	2
(1)	There is to be established in the Special Deposits Account a Regional Development Trust Fund into which is to be paid:	3
(a)	all money appropriated by Parliament for the purposes of this Act, and	4
(b)	any gift or bequest of money for the purposes of the Fund, and	5
(c)	any fees or charges paid under the regulations, and	6
(d)	any financial assistance repaid under this Act, and	7
(e)	any other money required by law to be paid into the Fund.	8
(2)	There may be paid out of the Fund:	9
(a)	amounts of financial assistance under this Act, and	10
(b)	the costs of administering this Act, and	11
(c)	any other money payable by law out of the Fund.	12
<b>12</b>	<b>Regional Development Advisory Council</b>	13
(1)	The Minister may, subject to and in accordance with the regulations, establish a Regional Development Advisory Council.	14
(2)	The members of the Advisory Council are to be appointed by the Minister in accordance with the regulations.	15
(3)	The regulations may make provision for or with respect to the membership and procedure of the Advisory Council.	16
(4)	The Advisory Council has the following functions:	17
(a)	to advise the Minister on any matter that is referred to it by the Minister,	18
(b)	to advise the Minister on any other matter it considers relevant to the object of this Act.	19
<b>13</b>	<b>Delegation of functions by Minister and Director-General</b>	20
(1)	The Minister may, by instrument in writing, delegate to the Director-General any function conferred or imposed on the Minister by or under this Act (other than this power of delegation).	21

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- (2) The Director-General may, by instrument in writing, subdelegate to any authorised person any function delegated to the Director-General by the Minister if the Director-General is authorised to do so by the Minister. 1  
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- (3) The Director-General may, by instrument in writing, delegate to an authorised officer any function conferred or imposed on the Director-General by or under this Act (other than this power of delegation). 5  
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- (4) In this section: 9
- authorised person* means: 10
- (a) a member of staff of the Department of State and Regional Development, or 11  
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- (b) any other person prescribed by the regulations. 13

**14 Disclosure of information** 14

A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made: 15  
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- (a) with the consent of the person from whom the information was obtained, or 18  
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- (b) in connection with the administration or execution of this Act (or any other Act), or 20  
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- (c) for the purposes of any legal proceedings arising out of this Act (or any other Act) or of a report of any such proceedings, or 22  
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- (d) in accordance with the *Freedom of Information Act 1989*, or 25
- (e) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or 26  
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- (f) with the consent of the Minister, or 28
- (g) for the purposes of or to a person in connection with the administration or execution of the *Pay-roll Tax Act 1971*, or 29  
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- (h) with other lawful excuse. 31

Maximum penalty: 100 penalty units. 32

**15 Nature of proceedings for offences** 33

Proceedings for an offence under this Act or the regulations may be dealt with summarily before a Local Court. 34  
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<b>16</b>	<b>Regulations</b>	1
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	2 3 4 5
(2)	A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.	6 7
<b>17</b>	<b>Repeal</b>	8
	The <i>Country Industries (Pay-roll Tax Rebates) Act 1977</i> is repealed.	9
<b>18</b>	<b>Amendment of Taxation Administration Act 1996 No 97</b>	10
	The <i>Taxation Administration Act 1996</i> is amended by omitting “ <i>Country Industries (Pay-roll Tax Rebates) Act 1977</i> ” from section 82 (k) (vi) and by inserting instead “ <i>Regional Development Act 2004</i> ”.	11 12 13 14
<b>19</b>	<b>Savings and transitional provisions</b>	15
	Schedule 1 has effect.	16
<b>20</b>	<b>Review of Act</b>	17
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	18 19 20
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	21 22
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	23 24 25

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<b>Schedule 1 Savings and transitional provisions</b>	1
(Section 19)	2
<b>Part 1 General</b>	3
<b>1 Regulations</b>	4
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: this Act	5 6 7
(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	8 9
(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	10 11 12
(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	13 14 15
(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	16 17 18
<b>Part 2 Provisions consequent on enactment of this Act</b>	19 20
<b>2 Existing pay-roll tax rebates</b>	21
(1) A pay-roll tax rebate of a kind granted to a person under the <i>Country Industries (Pay-roll Tax Rebates) Act 1977</i> and in force immediately before the repeal of that Act may continue to be granted under this Act.	22 23 24 25
(2) Nothing in this clause requires any such rebate to be continued under this Act.	26 27