

CONCURRENCE COPY

PAY-ROLL TAX (ADMINISTRATION) AMENDMENT BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Stamp Duties (Administration) Amendment Bill, 1983.

The objects of this Bill are—

- (a) to create the office of Chief Commissioner of Pay-roll Tax;
 - (b) to provide that the Secretary of the Department of Finance is to hold the office of Chief Commissioner ex officio;
 - (c) to enable the Chief Commissioner to delegate any of his functions to the Commissioner of Pay-roll Tax and other officers, and (subject to the instrument of delegation) to enable a delegate of the Chief Commissioner to authorise the exercise of delegated functions by other officers; and
 - (d) to make other provisions of a minor, consequential or ancillary nature.
-



**PAY-ROLL TAX (ADMINISTRATION) AMENDMENT
BILL, 1983**

No. , 1983.

A BILL FOR

An Act to amend the Pay-roll Tax Act, 1971, so as to create the office of
Chief Commissioner of Pay-roll Tax.

[MR SHEAHAN—16 *March*, 1983.]

Pay-roll Tax (Administration) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 **Short title.**

1. This Act may be cited as the "Pay-roll Tax (Administration) Amendment Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules:—

15 SCHEDULE 1.—AMENDMENTS TO THE PAY-ROLL TAX ACT, 1971.

SCHEDULE 2.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 22, 1971.

4. The Pay-roll Tax Act, 1971, is amended in the manner set forth in Schedule 1.

20 **Savings, transitional and other provisions.**

5. Schedule 2 has effect.

Pay-roll Tax (Administration) Amendment.

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PAY-ROLL TAX ACT, 1971.

- (1) (a) Section 3 (1), definition of "agent"—
5 Omit "Commissioner", insert instead "Chief Commissioner".
- (b) Section 3 (1), definition of "Chief Commissioner"—
After the definition of "Australia", insert:—
"Chief Commissioner" means the person holding office as
Chief Commissioner of Pay-roll Tax under this Act;
- 10 (2) Sections 4-4B—
Omit section 4, insert instead:—
- Chief Commissioner and other officers.**
4. (1) There shall be a Chief Commissioner of Pay-roll Tax, who shall be responsible for the due administration of this Act.
- 15 (2) The person for the time being holding office or acting as Secretary of the Department of Finance shall also hold office as Chief Commissioner.
- (3) There shall be a Commissioner of Pay-roll Tax, who shall be employed under, and hold office subject to, the Public Service Act,
20 1979.
- (4) Such other staff, including—
(a) an Assistant Commissioner of Pay-roll Tax;
(b) one or more Deputy Commissioners of Pay-roll Tax; and
(c) one or more inspectors,
25 as may be necessary for the administration of this Act shall be employed under, and hold office subject to, the Public Service Act, 1979.

Pay-roll Tax (Administration) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PAY-ROLL TAX ACT, 1971—*continued.*

5 (5) A person may, while holding office as Commissioner, Assistant Commissioner or Deputy Commissioner, also hold office, if appointed as such, as Commissioner, Assistant Commissioner or Deputy Commissioner, respectively, under any other enactment administered by the Minister for Finance.

10 (6) The powers, authorities, duties and functions of the Chief Commissioner may be exercised and performed by the Commissioner while there is no person holding office as Chief Commissioner or (subject to and in accordance with any prescribed conditions or limitations) in the prescribed circumstances.

15 (7) Where the Commissioner purports to exercise or perform any of the powers, authorities, duties or functions of the Chief Commissioner pursuant to subsection (6), the Commissioner shall be deemed, in respect of any person affected thereby, to have sufficient cause to exercise or perform the power, authority, duty or function, as the case may be.

20 (8) Any act or thing done or suffered by the Commissioner pursuant to subsection (6) has the same force and effect as it would have if it had been done or suffered by the Chief Commissioner and shall be deemed to have been done or suffered by the Chief Commissioner.

25 (9) The regulations may provide that a specified reference in this or any other Act or instrument under an Act to the Chief Commissioner shall be read and construed as, or as including, a reference to the Commissioner.

Certain powers, etc., of Assistant Commissioner.

30 4A. (1) In the event of the incapacity, absence or suspension from duty of the Commissioner, his powers, authorities, duties and functions may be exercised and performed, during that incapacity, absence or suspension, by the Assistant Commissioner.

Pay-roll Tax (Administration) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PAY-ROLL TAX ACT, 1971—*continued.*

5 (2) Where the Assistant Commissioner purports to exercise or perform any of the powers, authorities, duties or functions of the Commissioner pursuant to subsection (1), the Assistant Commissioner shall be deemed, in respect of any person affected thereby, to have sufficient cause to exercise or perform the power, authority, duty or function, as the case may be.

10 (3) Any act or thing done or suffered by the Assistant Commissioner pursuant to subsection (1) has the same force and effect as it would have if it had been done or suffered by the Commissioner and shall be deemed to have been done or suffered by the Commissioner.

15 (4) A reference in this section to the powers, authorities, duties and functions of the Commissioner includes a reference to those conferred or imposed on him under section 4 (6) and section 4B, but nothing in this section authorises the Assistant Commissioner to exercise or perform any power, authority, duty or function delegated to the Commissioner where the instrument of delegation provides that the Assistant Commissioner is not to do so.

20

Delegation.

4B. (1) In this section, a reference to—

- (a) a function includes a reference to a power, authority and duty; and
- 25 (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(2) The Chief Commissioner may, by instrument in writing, delegate all or any of his functions (other than this power of delegation) conferred or imposed by or under this or any other Act, as specified in the instrument, to the Commissioner or any other person engaged in the administration of this Act and may, by such an instrument, revoke wholly or in part any such delegation.

30

Pay-roll Tax (Administration) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PAY-ROLL TAX ACT, 1971—*continued.*

(3) A delegation under subsection (2) may be made to—

(a) a specified person; or

(b) a person for the time being holding a specified office.

(4) Except in so far as the instrument of delegation otherwise provides, a person to whom a function has been delegated under subsection (2) may, by writing under his hand, authorise another person engaged in the administration of this Act to exercise the function so delegated and may, in like manner, revoke wholly or in part any such authorisation.

(5) An authorisation under subsection (4) may be given to—

(a) a specified person; or

(b) a person for the time being holding a specified office.

(6) Any act or thing done or suffered in the exercise of a function by a person to whom the function has been delegated under subsection (2) or by a person authorised by the delegate under subsection (4) to exercise the function has the same force and effect as if it had been done or suffered by the Chief Commissioner, and shall be deemed to have been done or suffered by the Chief Commissioner.

(7) A delegation under subsection (2) does not prevent the exercise of a function by the Chief Commissioner.

(8) The giving of an authorisation under subsection (4) does not prevent the exercise of a function by the person by whom the authorisation was given.

(9) A document purporting to be signed by a person as a delegate of the Chief Commissioner shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the exercise of a function duly delegated to the person under subsection (2).

Pay-roll Tax (Administration) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PAY-ROLL TAX ACT, 1971—*continued.*

5 (10) A document purporting to be signed by a person authorised by a delegate of the Chief Commissioner to sign the document shall be deemed, unless the contrary is established, to have been signed by a person so authorised and so signed pursuant to the exercise of a function that he is duly authorised by such a delegate to exercise.

10 (11) A delegation or authorisation under this section may be made or given subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.

(3) Section 5 (2)—

15 Omit “Commissioner” where firstly occurring, insert instead “Chief Commissioner”.

(4) Sections 9B–51 (except sections 10 (1) (f) (ii), 23 (2) and 46 (7) and (8))—

20 Omit “Commissioner” wherever occurring, insert instead “Chief Commissioner”.

(5) Section 23 (2)—

After “by”, insert “the Chief Commissioner,”.

(6) (a) Section 46 (7)—

After “as”, insert “Chief Commissioner,”.

25 (b) Section 46 (8), (9)—

Omit section 46 (8), insert instead:—

30 (8) A certificate purporting to be under the hand of the Chief Commissioner and certifying that on a day specified in the certificate the Commissioner or any other person named in the certificate was a delegate of the Chief Commissioner under

Pay-roll Tax (Administration) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PAY-ROLL TAX ACT, 1971—*continued.*

5 section 4B to whom such powers, authorities, duties and functions of the Chief Commissioner as are specified in the certificate had been delegated on terms, if any, so specified shall be prima facie evidence of the matters so certified.

10 (9) A certificate purporting to be under the hand of a delegate of the Chief Commissioner and certifying that on a day specified in the certificate another person named in the certificate was authorised by the delegate under section 4B to exercise such powers, authorities, duties and functions of the delegate as are specified in the certificate on terms, if any, so specified shall be prima facie evidence of the matters so specified.

(7) Schedule 1—

15 Omit “Commissioner” wherever occurring, insert instead “Chief Commissioner”.

SCHEDULE 2.

(Sec. 5.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

20 **Interpretation: Sch. 2.**

1. In this Schedule, “appointed day” means the day appointed and notified under section 2 (2).

Officers.

25 2. The repeal of section 4 of the Pay-roll Tax Act, 1971, by this Act does not affect the tenure of office of any person holding any office referred to in that section immediately before the appointed day.

Things done before appointed day.

30 3. (1) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Commissioner of Pay-roll Tax shall, to the extent that, but for the enactment of this Act, that act, matter or thing would on or after that day have had any force or effect or be in operation, be deemed to have been done or omitted to be done by, to or in respect of the Chief Commissioner of Pay-roll Tax.

Pay-roll Tax (Administration) Amendment.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (2) Without limiting the generality of subclause (1), all proceedings commenced before the appointed day by the Commissioner of Pay-roll Tax and pending immediately before that day shall be deemed to be proceedings pending on that day by the Chief Commissioner of Pay-roll Tax and all proceedings so commenced by any person against that Commissioner and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against that Chief Commissioner.

References to Commissioner of Pay-roll Tax.

- 10 4. On and from the appointed day, in any other Act (including Schedule 2 to the Pay-roll Tax (Amendment) Act, 1981, but not including the Pay-roll Tax Act, 1971) or in any regulation, by-law or statutory instrument or in any document, whether of the same or of a different kind, a reference to the Commissioner of Pay-roll Tax shall be read and construed as a reference to the Chief Commissioner of Pay-roll
15 Tax.

Regulations.

5. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision made under subclause (1) may take effect as from the appointed
20 day or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- 25 (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 therein; or
- (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 therein.
- 30 (4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding clause 3 or 4.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

