

PAY-ROLL TAX (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Pay-roll Tax Act 1971 so as—

- (a) to increase the threshold above which pay-roll tax and supplementary tax are payable for the period from 1 January 1989 to 30 June 1989; and
- (b) to introduce a new scheme for the assessment of pay-roll tax for the period from 1 July 1989; and
- (c) to enable employers to allocate part of the pay-roll tax paid by them to a proposed New South Wales Education and Training Foundation Fund; and
- (d) to bring the procedures concerning objections and appeals into line with those of the Stamp Duties Act 1920; and
- (e) to establish a Board of Review for the purpose of considering matters relating to the waiver, deferral and writing off of pay-roll tax; and
- (f) to make other amendments of a minor, consequential or ancillary nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act (with certain exceptions) is to commence on 1 January 1989. Schedule 3 is to commence on 1 July 1989.

Clause 3 is a formal provision that gives effect to the Schedules of amendments.

Clause 4 contains savings and transitional provisions. Clause 4 (1) ensures that the amendments made by the proposed Act will not affect any existing duty, obligation, liability, benefit or right in relation to wages paid or payable before the commencement of those amendments. Clause 4 (2) preserves the existing operation of sections 11B, 11C, 16K and 16L of, and clauses 5 and 6 of Schedule 1 to, the Principal Act in relation to the adjustment of pay-roll tax for the financial year commencing on 1 July 1988 and earlier financial years.

Pay-roll Tax (Amendment) 1988

**SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO TAXATION
FROM 1 JANUARY 1989 TO 30 JUNE 1989**

The amendments made by this Schedule are intended to increase the pay-roll tax exemption threshold and taper band limits, for both sole employers and employers who are members of a group, by 8 per cent. The effect of this increase will be that the exemption threshold will rise from \$400,000 to \$432,000 over a full financial year and the upper threshold, at which full pay-roll tax at 5 per cent becomes payable, will rise from \$1,400,000 to \$1,512,000 over a full financial year.

**SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY PAY-ROLL
TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989**

The amendments made by this Schedule are intended to increase the supplementary pay-roll tax exemption threshold and taper band limits, for both sole employers and employers who are members of a group, by 8 per cent. The effect of this increase will be that the exemption threshold will rise from \$1,400,000 to \$1,512,000 over a full financial year and the upper threshold, at which full supplementary pay-roll tax at 1 per cent becomes payable, will rise from \$2,100,000 to \$2,268,000 over a full financial year.

**SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO TAXATION
FROM 1 JULY 1989**

The amendments made by this Schedule replace the current provisions relating to liability for pay-roll tax and supplementary pay-roll tax with new provisions that combine those two taxes into a single tax assessed by a series of marginal rates. Generally speaking, pay-roll tax under the new system will be calculated as follows:

For an annual pay-roll of less than \$432,000, the tax payable will be nil.

For an annual pay-roll of \$432,000–\$1,512,000, the tax payable will be 7 per cent of the amount by which the annual pay-roll exceeds \$432,000.

For an annual pay-roll of \$1,512,000–\$2,268,000, the tax payable will be \$75,600 plus 8 per cent of the amount by which the annual pay-roll exceeds \$1,512,000.

For an annual pay-roll of more than \$2,268,000, the tax payable will be \$136,080 plus 6 per cent of the amount by which the annual pay-roll exceeds \$2,268,000.

Modifications to this scale will be made depending on whether or not the employer is a member of a group and whether or not the employer or group pays interstate wages.

SCHEDULE 4—MISCELLANEOUS AMENDMENTS

Schedule 4 (1) (a) inserts definitions of “Education and Training Foundation Fund”, “pay” and “Pay-roll Tax Suspense Account” into section 3 (1).

Schedule 4 (1) (b) (i) amends the definition of “wages” in section 3 (1) as a consequence of the amendment to be made by Schedule 4 (1) (e).

Schedule 4 (1) (b) (ii) further amends that definition as a consequence of the amendments to be made by Schedule 4 (1) (c).

Schedule 4 (1) (c) substitutes section 3 (2) so as to vary the provisions of that subsection in relation to the way in which meals and accommodation are to be treated in the assessment of wages paid by an employer. It also inserts a new subsection (2A) into section 3. The new subsection defines the expressions “quarters” and “self-contained accommodation” that are used in the substituted section 3 (2).

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Schedule 4 (1) (d) amends section 3 (3) so as to reflect the fact that the Northern Territory is now, for pay-roll tax purposes, to be treated as a separate State.

Schedule 4 (1) (e) inserts a new subsection (4) into section 3. The proposed subsection ensures that the provisions of the Principal Act cannot be evaded when liability to pay wages is artificially split between an employer and some other person or when the payment of wages is artificially split between an employee and some other person.

Schedule 4 (2) amends section 10 so as to exempt from liability to pay-roll tax—

- (a) those wages that are paid to employees under a group apprenticeship scheme or group traineeship scheme approved by the Secretary of the Department of Industrial Relations; and
- (b) those wages that are payable, in the form of free or subsidised accommodation (other than holiday accommodation), pursuant to the Rural Workers Accommodation Act 1969 or for use by employees in connection with their employment.

Schedule 4 (3), (4) and (9) amend sections 11B and 16K, and Schedule 1, so as to replace obsolete references to the Department of Finance and the Minister for Finance with references to the Treasury and the Treasurer.

Schedule 4 (5) amends section 17 so as to ensure that the amount of pay-roll tax that is required to accompany a return under the Principal Act is a proportion (equivalent to the ratio of the number of days in the return period to the number of days in the relevant financial year) of the pay-roll tax that would (calculated on the basis of the taxable wages paid or payable during that period) be payable for the whole of that financial year.

Schedule 4 (6) inserts a new section 17A. The proposed section will enable an employer to elect to contribute 2 per cent of the tax paid in relation to the taxable wages paid or payable by the employer during a financial year to the New South Wales Education and Training Foundation Fund to be established under proposed section 31A. Proposed section 17A will apply only to tax paid in relation to pay-roll tax liability for the period from 1 January 1989 to 30 June 1993.

Schedule 4 (7) inserts a new section 31A. The proposed section establishes a Pay-roll Tax Suspense Account, into which all tax paid to the Chief Commissioner under the Principal Act will be paid. The proposed section also establishes a New South Wales Education and Training Foundation Fund, into which will be transferred funds in the Suspense Account that are the subject of notices of election under the proposed section 17A. The residue of the funds in the Suspense Account will be payable to the Consolidated Fund.

Schedule 4 (8) substitutes Part 6. The new Part contains 2 Divisions.

Division 1 contains a new section 32. The proposed section replaces the existing sections 32–34 with provisions that correspond to the procedures contained in section 124 of the Stamp Duties Act 1920 for dealing with objections to assessments of pay-roll tax and the stating of cases to the Supreme Court.

Division 2 contains new sections 33, 34, 34A, 34B and 34C.

Proposed section 33 establishes a Board of Review consisting of the Chief Commissioner, the Auditor-General and the Secretary of the Treasury.

Proposed section 34 enables the Board of Review to waive payment of pay-roll tax if payment would expose a person or a person's dependants to serious hardship.

Proposed section 34A enables the Board of Review to defer payment of pay-roll tax in such circumstances, and for such periods, as it thinks fit.

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Proposed section 34B enables the Board of Review to write off uncollectable pay-roll tax. The writing off of pay-roll tax will not affect either the liability of the person concerned to pay the tax or the power of the Chief Commissioner to take further steps to recover the tax.

Proposed section 34C enables the Chief Commissioner to exercise the powers of the Board of Review to waive and defer tax in the case of amounts not exceeding \$1,000 in any particular case for any financial year.

PAY-ROLL TAX (AMENDMENT) BILL 1988

NEW SOUTH WALES



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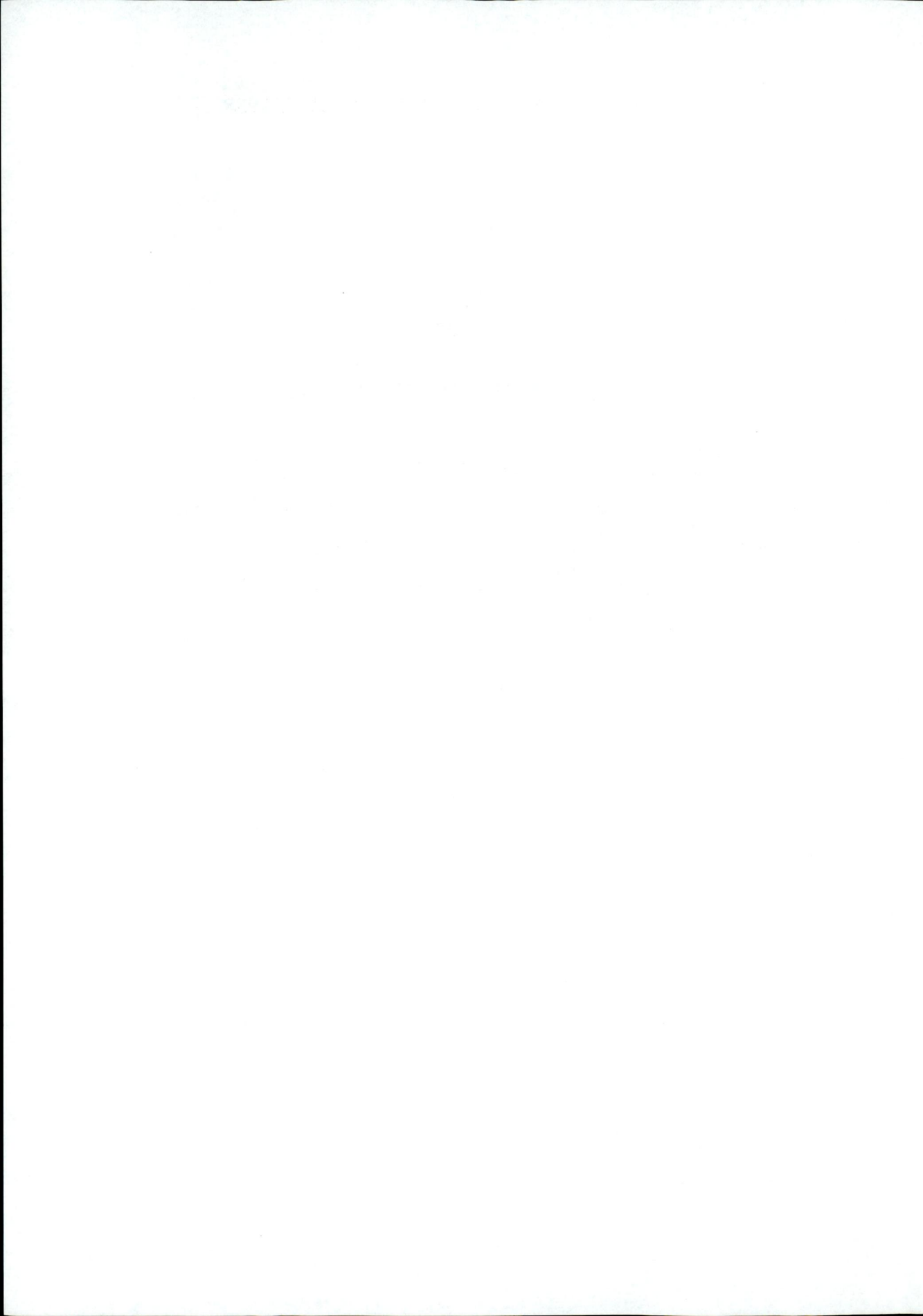
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SCHEDULE 4—MISCELLANEOUS AMENDMENTS



PAY-ROLL TAX (AMENDMENT) BILL 1988

NEW SOUTH WALES



No. , 1988

A BILL FOR

An Act to amend the Pay-roll Tax Act 1971 so as to make further provision with respect to the assessment and collection of pay-roll tax; and for other purposes.

*Pay-roll Tax (Amendment) 1988***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Pay-roll Tax (Amendment) Act 1988.

Commencement

- 5 2. (1) This Act commences on 1 January 1989, except as provided by this section.

(2) Schedule 3, and section 3 in its application to that Schedule, commence on 1 July 1989.

Amendment of Pay-roll Tax Act 1971 No. 22

- 10 3. The Pay-roll Tax Act 1971 is amended as set out in Schedules 1-4.

Savings and transitional provisions

- 15 4. (1) Without limiting the generality of the Interpretation Act 1987, an amendment made by this Act does not, except where otherwise expressly provided, affect any duty, obligation, liability, benefit or right imposed, created, incurred or existing in respect of wages paid or payable before the date on which the amendment took effect.

- 20 (2) Sections 11B, 11C, 16K and 16L of, and clauses 5 and 6 of Schedule 1 to, the Pay-roll Tax Act 1971, as in force immediately before 1 July 1989, continue to have effect in relation to the adjustment of pay-roll tax for the financial year commencing on 1 July 1988, and earlier financial years, as if the amendments made by Schedule 3 to this Act had not been enacted.

**SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO
TAXATION FROM 1 JANUARY 1989 TO 30 JUNE 1989**

(Sec. 3)

- 25 (1) Section 9B (**Deduction from taxable wages after 1 January 1989**)—

Section 9B (1), definition of “prescribed amount”—

Omit the definition, insert instead:

“prescribed amount”, in relation to a return for a return period after the month of December 1988—

- 30 (a) of 1 month, means \$36,000; and
(b) of 2 or more months, means the product ascertained by multiplying \$36,000 by the number of months in that return period;

Pay-roll Tax (Amendment) 1988

 SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO TAXATION FROM 1 JANUARY 1989 TO 30 JUNE 1989—*continued*
(2) Section 11A (**Definitions for the purposes of sections 11A–11C**)—

Omit section 11A (1A), (2) and (2A), insert instead:

(1A) In section 11B or 11C, “financial year” means the financial year commencing on 1 July 1988.

5 (2) For the purposes of the financial year commencing on 1 July 1988, a reference in sections 11B and 11C to the “prescribed amount” is, in relation to an employer, a reference to the amount calculated in accordance with the following formula:

$$10 \quad \frac{TW}{TW + IW} \left[\frac{416,000A}{B} - \frac{4}{10} \left\{ (TW + IW) - \frac{416,000A}{B} \right\} \right]$$

where—

TW is the total of the taxable wages paid or payable by the employer during that financial year;

15 IW is the total of the interstate wages paid or payable by the employer during that financial year;

A is the number of days in that financial year in respect of which wages (disregarding foreign wages) were paid or payable by the employer; and

B is the number of days in that financial year.

(3) Section 12 (**Registration**)—

Section 12 (1)—

Omit “\$7,693” wherever occurring, insert instead “\$8,308”.

(4) Section 16J—

Omit the section, insert instead:

25 **Definitions for the purposes of sections 16K and 16L**

16J. (1) In section 16K or 16L, “financial year” means the financial year commencing on 1 July 1988.

30 (2) For the purposes of the financial year commencing on 1 July 1988, a reference in section 16K or 16L to the “prescribed amount” is, in relation to a designated group employer, a reference to the amount calculated in accordance with the formula—

$$35 \quad \frac{TW}{TW + IW} \left[\frac{416,000A}{B} - \frac{4}{10} \left\{ (TW + IW) - \frac{416,000A}{B} \right\} \right]$$

where—

TW is the total of the taxable wages paid or payable by the members of the group, in respect of which that designated group employer is the designated group employer, during that financial year;

Pay-roll Tax (Amendment) 1988

SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO TAXATION FROM 1 JANUARY 1989 TO 30 JUNE 1989—*continued*

IW is the total of the interstate wages paid or payable by the members of that group during that financial year;

5 A is the number of days in that part or those parts of that financial year for which that designated group employer was the designated group employer in respect of that group, reduced by the number of days (if any) during that part or those parts in respect of which no wages (disregarding foreign wages) were paid or payable by any member of that group; and

10 B is the number of days in that financial year.

SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989

(Sec. 3)

Schedule 1 (Supplementary Pay-roll Tax)—

15 (1) Clause 1 (**Definitions**)—

Clause 1 (1), definition of “financial year”—

Omit the definition, insert instead:

“financial year” means the financial year commencing on 1 July 1988;

20 (2) Clause 2 (**Returns**)—

(a) Clause 2 (1)—

Omit “\$116,667”, insert instead “\$126,000”.

(b) Omit clause 2 (2), insert instead:

(2) Where—

25 (a) the wages (disregarding foreign wages) paid or payable by an employer; or

(b) the total of the wages (disregarding foreign wages) paid or payable by the members of a group,
 30 are or is \$1,456,000 or more during the financial year commencing on 1 July 1988, the employer, or each of the members of the group, shall, by 21 July 1989, furnish to the Chief Commissioner (in a form and manner approved by the Chief Commissioner) a supplementary return relating to the adjustment of pay-roll tax paid or payable under this Schedule, in respect of that financial
 35 year, by the employer or member of the group.

Pay-roll Tax (Amendment) 1988

SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY
 PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989—
continued

(3) Clause 3 (**Tax payable by employer who is not a member of a group**)—

(a) Clause 3 (1), definition of “prescribed amount”—

Omit “\$1,167”, insert instead “\$1,260”.

(b) Clause 3 (2)—

5 Omit “\$116,667”, insert instead “\$126,000”.

(c) Omit clause 3 (3) and (4), insert instead:

10 (3) For the purpose of ascertaining the pay-roll tax payable under this Schedule in respect of the financial year commencing on 1 July 1988 by an employer who pays or is liable to pay taxable wages for the whole of a month, but does not pay and is not liable to pay interstate wages during that month, there shall be deducted, for that month, from the amount of pay-roll tax calculated in relation to that employer, in respect of that month and in accordance with subclause (2), the prescribed amount, reduced by

15 \$1 for each \$50 (disregarding any remainder) by which the amount of the taxable wages (in whole dollars) paid or payable by that employer during that month exceeds \$121,333.

20 (4) For the purpose of ascertaining the pay-roll tax payable under this Schedule in respect of the financial year commencing on 1 July 1988 by an employer who pays or is liable to pay wages during a month and pays or is liable to pay taxable wages for part only of that month, but does not pay and is not liable to pay interstate wages during that month, there shall be deducted, for that month, from the amount of pay-roll tax calculated in relation to that employer, in respect of that month and in accordance with subclause (2), the amount that bears to the prescribed amount the same proportion as the number of days in that part of that month bears to the total number of days in that month, reduced by \$1

25 for each \$50 (disregarding any remainder) by which the amount of the taxable wages (in whole dollars) paid or payable by that employer during that month exceeds the same proportion of

30 \$121,333.

(4) Clause 4 (**Definitions for the purposes of this clause and clauses 5 and 6**)—

35 Omit clause 4 (2) and (2A), insert instead:

(2) For the purposes of the financial year commencing on 1 July 1988, a reference in clause 5 or 6 to the “prescribed amount” is, in relation to an employer, a reference to the amount calculated in accordance with the formula—

Pay-roll Tax (Amendment) 1988

SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY
 PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989—
continued

$$\frac{TW}{TW + IW} \left[\frac{14,560A}{B} - \frac{1}{50} \left\{ (TW + IW) - \frac{1,456,000A}{B} \right\} \right]$$

where—

5 TW is the total of the taxable wages paid or payable by the employer during that financial year;

IW is the total of the interstate wages paid or payable by the employer during that financial year;

10 A is the total number of days in respect of which wages (disregarding foreign wages) were paid or payable by the employer during that financial year; and

B is the number of days in that financial year.

(5) Clause 7 (**Tax payable by members of groups**)—

(a) Clause 7 (1)—

15 Omit “\$116,667”, insert instead “\$126,000”.

(b) Clause 7 (2), (5)—

Omit “\$1,167” wherever occurring, insert instead “\$1,260”.

(6) Clause 8—

Omit the clause, insert instead:

20 **“Prescribed amount” for the purposes of clauses 9 and 10**

8. For the purposes of the financial year commencing on 1 July 1988, a reference in clause 9 or 10 to the “prescribed amount” is, in relation to a designated group employer, a reference to the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \left[\frac{14,560A}{B} - \frac{1}{50} \left\{ (TW + IW) - \frac{1,456,000A}{B} \right\} \right]$$

where—

30 TW is the total of the taxable wages paid or payable by the members of the group, in respect of which that designated group employer is the designated group employer, during that financial year;

35 IW is the total of the interstate wages paid or payable by the members of that group during that financial year;

A is the number of days in that part or those parts of that financial year for which that designated group employer

Pay-roll Tax (Amendment) 1988

SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY
 PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989—
continued

- 5 was the designated group employer in respect of that group, reduced by the number of days (if any) during that part or those parts in respect of which no wages (disregarding foreign wages) were paid or payable by any member of that group; and
- B is the number of days in that financial year.

SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO
 TAXATION FROM 1 JULY 1989

(Sec. 3)

- 10 (1) Section 7 (**Imposition of pay-roll tax on taxable wages**)—
- (a) Section 7 (b)—
 Omit “and” where lastly occurring.
- (b) Section 7 (c)—
 15 Omit “and are not liable”, insert instead “and before the month of July 1989 and were not liable”.
- (c) Section 7 (c), (d)—
 At the end of section 7 (c), insert:
 ; and
- 20 (d) ascertained in accordance with Schedule 2 in respect of such of those wages as are paid or payable after the month of June 1989 and are not liable to pay-roll tax at the rate prescribed in paragraph (a), (b) or (c).
- (2) Section 9B (**Deduction from taxable wages after 1 January 1988**)—
 Omit the section.
- 25 (3) Section 11A (**Definitions for the purposes of sections 11A–11C**)—
 Omit section 11A (1A) and (2).
- (4) Section 11B (**Annual adjustments**)—
 Omit section 11B (1), insert instead:
- 30 (1) In this section—
 “annual amount of pay-roll tax”, in relation to an employer, means the amount ascertained in accordance with Schedule 2 in respect of the employer for a financial year.

Pay-roll Tax (Amendment) 1988

 SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO
 TAXATION FROM 1 JULY 1989—*continued*

- (5) Section 11C (**Adjustment of pay-roll tax when employer ceases to be an employer etc. during a financial year**)—

Section 11C (1), definition of “total amount of pay-roll tax”—

Omit the definition, insert instead:

- 5 “total amount of pay-roll tax”, in relation to an employer,
 means the amount ascertained in accordance with Schedule
 2 in respect of the employer for a prescribed period;

- (6) Section 16I (**Designated group employer**)—

Omit the section.

- 10 (7) Section 16J (**“Prescribed amount” for the purposes of sections 16K and 16L**)—

Omit the section.

- (8) Section 16K (**Annual adjustments**)—

- (a) After section 16K (1), insert:

- 15 (1A) In this section—

 “financial year” means the financial year commencing on 1 July
 1989 or any subsequent financial year commencing on 1 July.

- (b) Omit section 16K (2)–(5), insert instead:

- 20 (2) A reference in this section to the annual amount of pay-roll
 tax paid or payable by a member of a group is a reference to the
 amount ascertained in accordance with Schedule 2 in respect of
 that member for a financial year.

- 25 (3) A reference in this section to the actual amount of pay-roll
 tax paid or payable in respect of a financial year by a member of
 a group is a reference to the amount of pay-roll tax paid or
 payable when returns were made or required to be made under
 this Act relating to that financial year.

- 30 (4) If the actual amount of pay-roll tax paid or payable in
 respect of a financial year by a member of a group is greater than
 the annual amount of pay-roll tax in relation to that member for
 that financial year, the Chief Commissioner shall, on an
 application made in accordance with subsection (7) by that
 member, refund or rebate to that member an amount equal to the
 difference, reduced by the sum of—

- 35 (a) the total of any amounts refunded to that member under
 section 19 in respect of the tax paid or payable by that
 member when returns relating to that year were made or
 required to be made under this Act by that member; and

Pay-roll Tax (Amendment) 1988

 SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO
 TAXATION FROM 1 JULY 1989—*continued*

- 5 (b) where the rebates paid to that member in respect of a financial year under a pay-roll tax rebate scheme administered by the Treasury are in excess of the annual rebate payable to that member under that scheme, the total of any amounts which the Treasurer has directed should be deducted by reason of such an excess payment.
- 10 (5) If the actual amount of pay-roll tax paid or payable in respect of a financial year by a member of a group is less than the annual amount of pay-roll tax in relation to that member for that financial year, that member shall pay to the Chief Commissioner as pay-roll tax (within the period during which that member is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year) an amount equal to the difference.
- 15 (c) Section 16K (6)—
 Omit “a designated group employer in respect of a group”, insert instead “a member of a group”.
- 20 (9) Section 16L (**Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year**)—
- (a) After section 16L (2), insert:
 (2A) In this section—
 “financial year” means the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July.
- 25 (b) Omit section 16L (3)–(5), insert instead:
 (3) A reference in this section to the total amount of pay-roll tax paid or payable for a prescribed period by a member of a group is a reference to the amount ascertained in accordance with Schedule 2 in respect of that member for that prescribed period.
- 30 (4) If, at the expiration of a prescribed period relating to a group, the total amount of pay-roll tax paid or payable by a member of the group when returns were made or required to be made under this Act is less than the total amount of pay-roll tax paid or payable for that prescribed period by that member, that member shall pay to the Chief Commissioner as pay-roll tax
- 35 (within the period during which that member is required to furnish a return under this Act or the last return under this Act relating to that prescribed period) an amount equal to the difference.
- 40 (c) Section 16L (6)—
 Omit “a designated group employer in respect of a group”, insert instead “a member of a group”.

Pay-roll Tax (Amendment) 1988

SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO
TAXATION FROM 1 JULY 1989—*continued*

(10) Part 4B (**Imposition of supplementary pay-roll tax**)—

Omit the Part.

(11) Schedule 1 (**Supplementary Pay-roll Tax**)—

Omit the Schedule.

5 (12) Schedule 2—

At the end of the Act, insert:

SCHEDULE 2—CALCULATION OF PAY-ROLL TAX LIABILITY

(Sec. 7)

PART 1—EMPLOYERS WHO ARE NOT MEMBERS OF A GROUP

10

Definitions

1. In this Part—

“financial year” means the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July;

15

“TW”, in relation to the calculation of pay-roll tax for an employer who is not a member of a group, represents the total taxable wages paid or payable by the employer during the financial year to which the calculation relates;

20

“IW”, in relation to the calculation of pay-roll tax for an employer who is not a member of a group, represents the total interstate wages paid or payable by the employer during the financial year to which the calculation relates.

Pay-roll of employer under \$432,000

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2. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is less than \$432,000, the amount of pay-roll tax payable by the employer for that financial year is nil.

Pay-roll of employer between \$432,000 and \$1,512,000

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3. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is \$432,000 or more but less than \$1,512,000, the amount of pay-roll tax payable by the employer for that financial year is the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \times \frac{7}{100} \left\{ TW + IW - 432,000 \right\}$$

35

Pay-roll of employer between \$1,512,000 and \$2,268,000

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4. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is \$1,512,000 or more but less than \$2,268,000, the amount of pay-roll tax payable by the employer for that financial year is the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \left[75,600 + \frac{8}{100} \left\{ TW + IW - 1,512,000 \right\} \right]$$

Pay-roll Tax (Amendment) 1988

**SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO
TAXATION FROM 1 JULY 1989—*continued***
Pay-roll of employer over \$2,268,000

5 5. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is \$2,268,000 or more, the amount of pay-roll tax payable by the employer is the amount calculated in accordance with the formula—

$$\frac{\text{TW}}{\text{TW} + \text{IW}} \left[136,080 + \frac{6}{100} \left\{ \text{TW} + \text{IW} - 2,268,000 \right\} \right]$$

PART 2—EMPLOYERS WHO ARE MEMBERS OF A GROUP**Definitions**

10 6. In this Part—

“financial year” means the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July;

15 “TW”, in relation to the calculation of pay-roll tax for an employer who is a member of a group, represents the total taxable wages paid or payable by the employer during the financial year to which the calculation relates;

“GTW”, in relation to the calculation of pay-roll tax for an employer who is a member of a group, represents the total taxable wages paid or payable by the group during the financial year to which the calculation relates;

20 “GIW”, in relation to the calculation of pay-roll tax for an employer who is a member of a group, represents the total interstate wages paid or payable by the group during the financial year to which the calculation relates.

Pay-roll of group under \$432,000

25 7. If the total of the taxable wages and interstate wages paid or payable by a group during a financial year is less than \$432,000, the amount of pay-roll tax payable by each member of the group for that financial year is nil.

Pay-roll of group between \$432,000 and \$1,512,000

30 8. If the total of the taxable wages and interstate wages paid or payable by a group during a financial year is \$432,000 or more but less than \$1,512,000, the amount of pay-roll tax payable by each member of the group for that financial year is the amount calculated in accordance with the formula—

$$\frac{\text{TW}}{\text{GTW} + \text{GIW}} \times \frac{7}{100} \left\{ \text{GTW} + \text{GIW} - 432,000 \right\}$$

Pay-roll of group between \$1,512,000 and \$2,268,000

40 9. If the total of the taxable wages and interstate wages paid or payable by a group during a financial year is \$1,512,000 or more but less than \$2,268,000, the amount of pay-roll tax payable by each member of the group for that financial year is the amount calculated in accordance with the formula—

$$\frac{\text{TW}}{\text{GTW} + \text{GIW}} \left[75,600 + \frac{8}{100} \left\{ \text{GTW} + \text{GIW} - 1,512,000 \right\} \right]$$

Pay-roll Tax (Amendment) 1988

SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO TAXATION FROM 1 JULY 1989—*continued*
Pay-roll of group over \$2,268,000

10. If the total of the taxable wages and interstate wages paid or payable by a group during a financial year is \$2,268,000 or more, the amount of pay-roll tax payable by each member of the group is the amount calculated in accordance with the formula—

$$\frac{\text{TW}}{\text{GTW} + \text{GIW}} \left[136,080 + \frac{6}{100} \left\{ \text{GTW} + \text{GIW} - 2,268,000 \right\} \right]$$

SCHEDULE 4—MISCELLANEOUS AMENDMENTS

(Sec. 3)

(1) Section 3 (Definitions)—**(a) Section 3 (1)—**

Insert, in alphabetical order, the following definitions:

“Education and Training Foundation Fund” means the account established under section 31A under the name of the New South Wales Education and Training Foundation Fund;

“pay”, in relation to wages, salary, commission, bonuses or allowances, includes provide, confer and assign;

“Pay-roll Tax Suspense Account” means the account of that name established under section 31A;

(b) Section 3 (1), definition of “wages”—

(i) After “(2)”, insert “, (4)”.

(ii) From paragraph (e), omit “premises”, insert instead “self-contained accommodation”.

(c) Omit section 3 (2), insert instead:**(2) For the purposes of this Act—**

(a) meals or sustenance provided to an employee by an employer shall be taken to have a value of \$63 per week (less any contribution paid to the employer by the employee) or, in any particular case or class of cases, such other value as is prescribed instead for that case or class of cases; and

(b) self-contained accommodation provided to an employee by an employer shall be taken to have a value of \$100 per week (less any contribution paid to the employer by the employee) or, in any particular case or class of cases, such other value as is prescribed instead for that case or class of cases; and

*Pay-roll Tax (Amendment) 1988*SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

- 5 (c) quarters provided to an employee by an employer shall be taken to have a value of \$50 per week (less any contribution paid to the employer by the employee) or, in any particular case or class of cases, such other value as is prescribed instead for that case or class of cases.
- (2A) For the purposes of this section—
- “quarters” means accommodation (such as a room in a boarding house or hostel) that is not self-contained accommodation;
- 10 “self-contained accommodation” means accommodation (such as a dwelling-house or a unit in a residential flat building) that includes separate kitchen and bathroom facilities.
- (d) Section 3 (3)—
- Omit “together shall”, insert instead “shall each”.
- 15 (e) After section 3 (3), insert:
- (4) For the purposes of this Act—
- (a) any wages paid or payable to an employee, in respect of the employee’s services as an employee of an employer, by a person other than the employer; and
- 20 (b) any wages paid or payable by an employer, in respect of an employee’s services as an employee of the employer, to a person other than the employee,
- shall be taken to be wages paid or payable by the employer to the employee.
- 25 (2) Section 10 (**Exemption from pay-roll tax**)—
- (a) Section 10 (1) (k) (ii)—
- Omit “or”.
- (b) Section 10 (1) (m), (n)—
- After section 10 (1) (l), insert:
- 30 (m) to an employee who is employed in accordance with a group apprenticeship scheme or a group traineeship scheme approved for the time being by the Secretary of the Department of Industrial Relations and Employment; or
- 35 (n) to an employee by an employer, in the form of accommodation (other than holiday accommodation), where the accommodation is provided by the employer—
- (i) pursuant to the requirements of the Rural Workers Accommodation Act 1969; or

*Pay-roll Tax (Amendment) 1988*SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(ii) for use by the employee in the course of, and for the purpose of, the employee's employment with the employer, otherwise than as the employee's principal place of residence.

5 (3) Section 11B (**Annual adjustments**)—

(a) Section 11B (2) (a)—

Omit "Department of Finance", insert instead "Treasury".

(b) Section 11B (2) (a)—

Omit "Minister for Finance", insert instead "Treasurer".

10 (4) Section 16K (**Annual adjustments**)—

(a) Section 16K (4)—

Omit "Department of Finance", insert instead "Treasury".

(b) Section 16K (4)—

Omit "Minister for Finance", insert instead "Treasurer".

15 (5) Section 17 (**Payment of tax**)—

At the end of section 17, insert:

20 (2) The amount of pay-roll tax that an employer is required to pay in relation to a return of wages in any financial year shall be a proportion (equivalent to the ratio of the number of days to which the return relates to the number of days in the financial year) of the pay-roll tax that would be payable by the employer for the whole of that year.

25 (3) For the purposes of subsection (2), a reference to the pay-roll tax that would be payable by an employer for the whole of a financial year is a reference to the amount of pay-roll tax ascertained in accordance with this Act in respect of a multiple (equivalent to the ratio of the number of days in the financial year to the number of days to which the return relates) of the taxable wages paid or payable by the employer for the period to which
30 the return relates.

(6) Section 17A—

After section 17, insert:

Employer may elect to contribute to the Employment and Training Foundation Fund

35 17A. (1) This section applies to pay-roll tax paid in respect of taxable wages paid or payable on or after 1 January 1989 and on or before 30 June 1993.

*Pay-roll Tax (Amendment) 1988*SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(2) An employer may (by notice in the form approved by, and given to, the Chief Commissioner) elect that part of the pay-roll tax paid by the employer be taken to be a contribution to the Education and Training Foundation Fund.

5 (3) The amount of such a contribution shall be—

(a) in relation to the period between 1 January 1989 and 30 June 1989—2 per cent of the tax paid in relation to the taxable wages paid or payable by the employer during that period; and

10 (b) in relation to the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July—2 per cent of the tax paid in relation to the taxable wages paid or payable by the employer during that financial year.

15 (4) An employer may (by notice in the form approved by, and given to, the Chief Commissioner) revoke a notice of election.

(5) A notice of election has effect in relation to any return furnished after the notice is given to the Chief Commissioner.

(7) Section 31A—

20 After section 31, insert:

Pay-roll Tax Suspense Account and Education and Training Foundation Fund

31A. (1) There shall be established in the Special Deposits Account in the Treasury—

25 (a) an account to be known as the Pay-roll Tax Suspense Account; and

(b) an account to be known as the New South Wales Education and Training Foundation Fund.

30 (2) There shall be paid into the Pay-roll Tax Suspense Account all tax paid to the Chief Commissioner under this Act.

(3) The funds in the Pay-roll Tax Suspense Account shall be transferred in accordance with such directions as may from time to time be given by the Treasurer—

35 (a) as to such of those funds as are the subject of notices of election under section 17A—to the Education and Training Foundation Fund; and

(b) as to the remainder of those funds—to the Consolidated Fund.

SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(4) The funds in the Education and Training Foundation Fund may be applied for such purposes relating to education and training as may be prescribed.

(8) Part 6—

5 Omit the Part, insert instead:

PART 6—REVIEW**Division 1—Objections and appeals****Objections and appeals**

32. (1) A person—

- 10 (a) who is liable to pay tax and who is dissatisfied with an assessment of the tax made by the Chief Commissioner; or
- 15 (b) who has paid tax and who is dissatisfied with a decision of the Chief Commissioner with respect to the refunding of the whole or any part of the tax,

may, within 60 days after the issue of the assessment or the making of the decision, object to the assessment or decision by lodging, at an office of the Chief Commissioner, a statement in writing of the grounds of the objection.

20 (2) A person entitled to make an objection may, whether before or after the expiration of the time for making the objection, apply for an extension of time and the Chief Commissioner may, for reasonable cause shown, extend the time for making the objection for such period as the Chief Commissioner considers to be reasonable.

25 (3) The Chief Commissioner shall consider any objection and may—

- 30 (a) allow the objection wholly or in part and modify the assessment or alter the decision to which it relates; or
- (b) disallow the objection and confirm the assessment or decision to which it relates.

(4) On making a decision on an objection, the Chief Commissioner shall inform the objector in writing of the decision and the reasons for the decision.

35 (5) An objector dissatisfied with the decision of the Chief Commissioner on the objection may, within the next succeeding period of 30 days after being informed under subsection (4) of the decision (or such longer period as the Chief Commissioner may allow), require the Chief Commissioner to state a case for the opinion of the Supreme Court.

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*Pay-roll Tax (Amendment) 1988*SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(6) If the Chief Commissioner does not state a case for the opinion of the Supreme Court within 60 days of being required to do so under subsection (5) and the objector—

5 (a) has provided the Chief Commissioner with any information required by the Chief Commissioner in relation to the assessment or decision the subject of the objection; and

10 (b) lodges at an office of the Chief Commissioner a notice in writing requiring the Chief Commissioner to state such a case,

the Chief Commissioner shall comply with the requirement of the notice not later than 30 days after the notice is lodged.

(7) The Supreme Court may extend the time for doing anything under this section.

15 (8) On the hearing of a stated case, the objector may dispute any fact or document stated in the case.

(9) On giving its decision on a stated case relating to the amount of an assessment, the Supreme Court may determine the amount of any tax payable as a result of the decision and—

20 (a) if the assessment of the Supreme Court is less than that of the Chief Commissioner and the objector—

25 (i) has not paid the amount assessed by the Chief Commissioner—shall order the objector to pay the amount of pay-roll tax determined by it, together with any penal tax or additional tax; or

(ii) has paid the amount assessed by the Chief Commissioner—shall order the Chief Commissioner to pay the difference to the objector, together with interest at the prescribed rate; or

30 (iii) has paid part of the amount assessed by the Chief Commissioner—shall order the objector to pay the balance of the amount of tax determined by it, together with any penal tax or additional tax, or shall order the Chief Commissioner to pay the difference to the objector, together with interest at the prescribed rate, as the case requires; or

35 (b) if the assessment of the Supreme Court is greater than that of the Chief Commissioner—shall order the objector to pay the difference to the Chief Commissioner, together with any penal tax or additional tax.

40

SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(10) If, under subsection (9), the Supreme Court orders the Chief Commissioner to refund to an objector any amount of excess tax, the Chief Commissioner shall also pay interest on the amount from the date on which it was paid to the Chief Commissioner until the date it is refunded.

(11) On giving its decision on a stated case relating to a refund, the Supreme Court may determine the amount of any refund payable as a result of the decision and order the Chief Commissioner to pay the amount to the objector, together with interest at the prescribed rate.

(12) If, under subsection (11), the Supreme Court orders the Chief Commissioner to refund to an objector any amount of tax, the Chief Commissioner shall also pay interest on the amount from the date on which it was paid to the Chief Commissioner until the date it is refunded.

(13) Except to the extent otherwise arranged with the Chief Commissioner under this section, the lodging of an objection or the stating of a case does not affect any liability of an objector to pay tax in accordance with this Act.

Division 2—Board of Review**Board of review**

33. (1) There shall be a Board of Review consisting of—

- (a) the Chief Commissioner; and
- (b) the Auditor-General; and
- (c) the Secretary of the Treasury.

(2) A member of the Board of Review may appoint a person to act in the place of the member at meetings of the Board.

(3) An acting member, while so acting, shall have the functions of, and shall be taken to be, a member of the Board of Review.

Waiver of pay-roll tax

34. The Board of Review may waive the payment of pay-roll tax, either wholly or in part, if it is satisfied that—

- (a) the person liable to pay it is in such circumstances that the exaction of the full amount of pay-roll tax would result in serious hardship for the person or the person's dependants; or
- (b) the person liable to pay it has died and that person's dependants are in such circumstances that the exaction of the full amount of pay-roll tax would result in serious hardship for them.

*Pay-roll Tax (Amendment) 1988*SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued***Deferral of pay-roll tax**

34A. (1) The Board of Review may defer payment of pay-roll tax, either wholly or in part—

(a) in such circumstances; and

(b) for such period; and

(c) subject to such conditions,

as it thinks fit.

(2) Such a deferral, and any condition to which it is subject, may be amended, extended or revoked at any time.

Writing off of pay-roll tax

34B. (1) If the Board of Review is satisfied that all reasonable efforts have been made to recover, or that it is impracticable or unduly expensive to make further efforts to recover, unpaid pay-roll tax, the Board may direct that the unpaid pay-roll tax be written off.

(2) The writing off of unpaid pay-roll tax does not affect the liability of the person liable to pay the pay-roll tax or the power of the Chief Commissioner to take steps to recover the unpaid pay-roll tax.

Chief Commissioner may exercise some of the Board of Review's functions

34C. The Chief Commissioner may exercise the functions of the Board of Review under sections 34 and 34A if the amount of the unpaid pay-roll tax is less than \$1,000 in any particular case for any financial year.

(9) Schedule 1 (Supplementary Pay-roll Tax)—

(a) Clause 5 (2) (a)—

Omit "Department of Finance", insert instead "Treasury".

(b) Clause 5 (2) (a)—

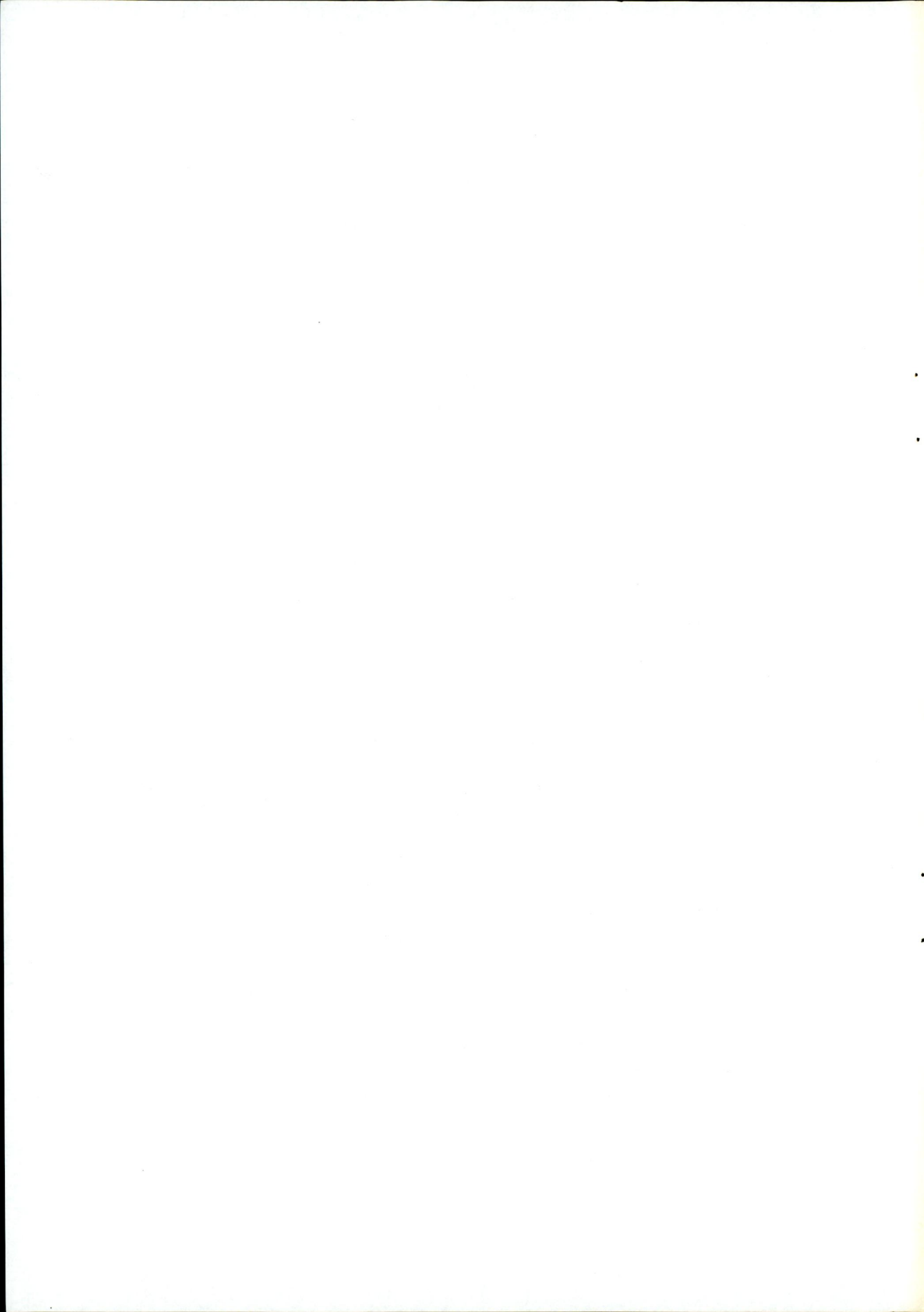
Omit "Minister for Finance", insert instead "Treasurer".

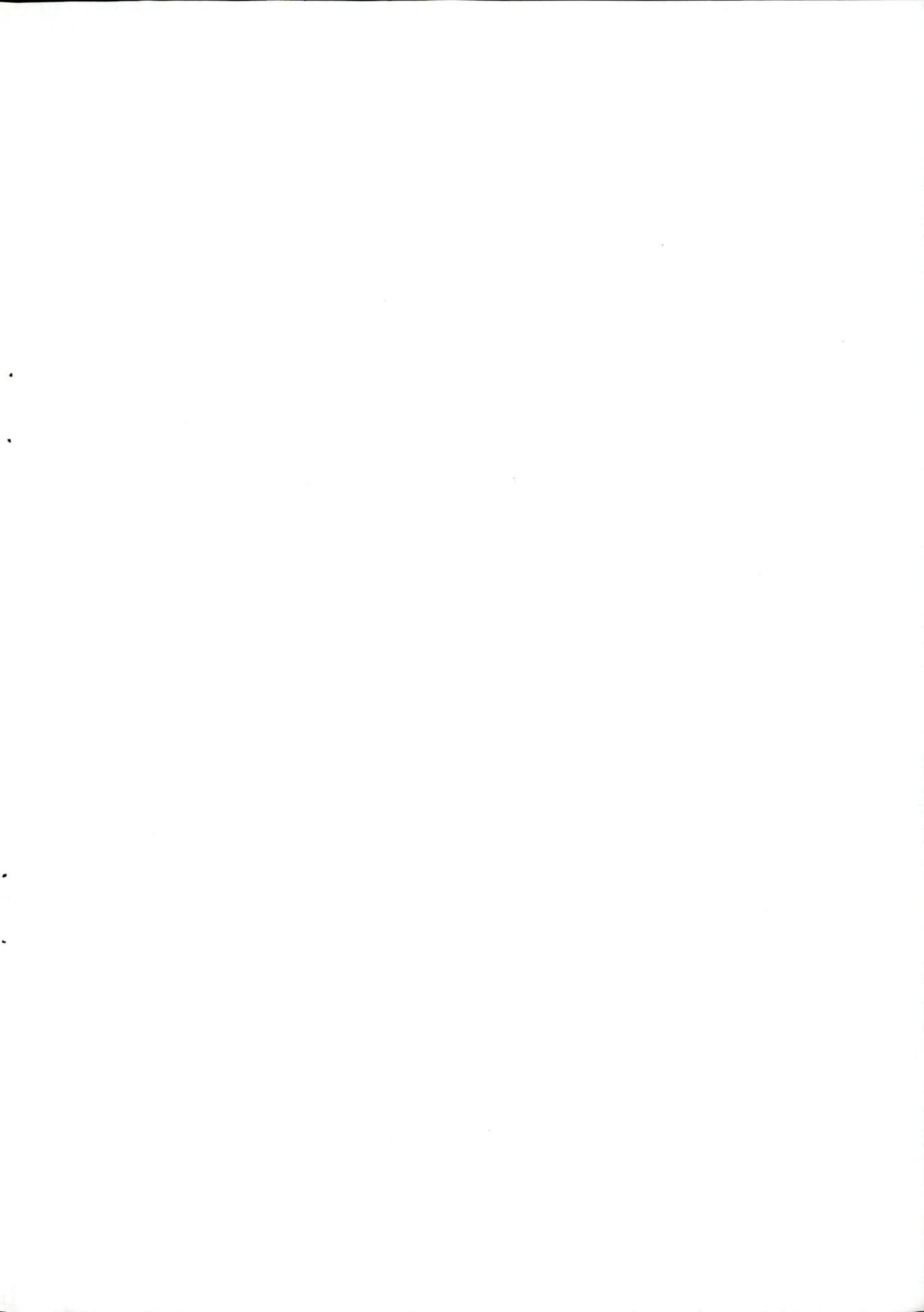
(c) Clause 9 (4)—

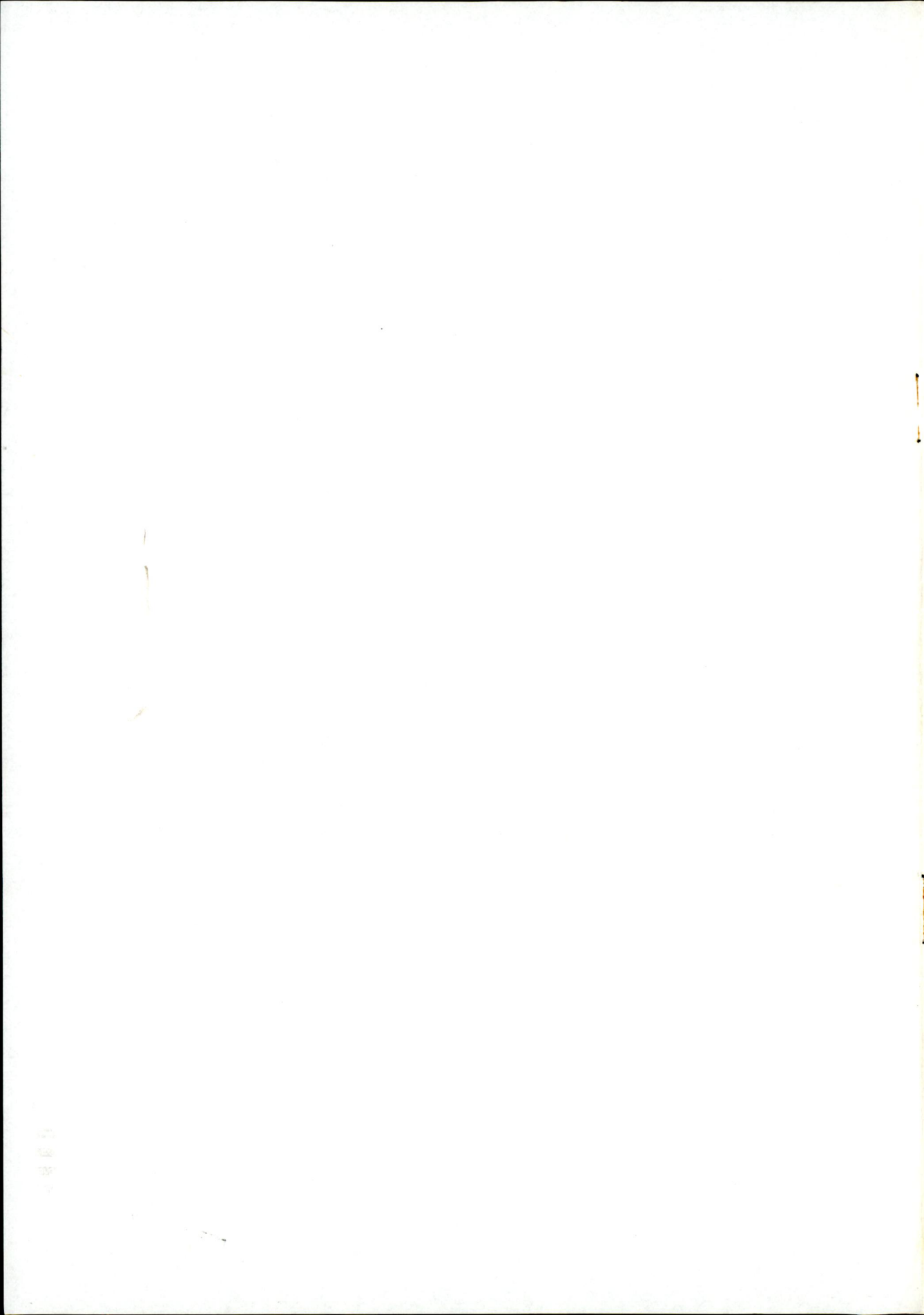
Omit "Department of Finance", insert instead "Treasury".

(d) Clause 9 (4)—

Omit "Minister for Finance", insert instead "Treasurer".







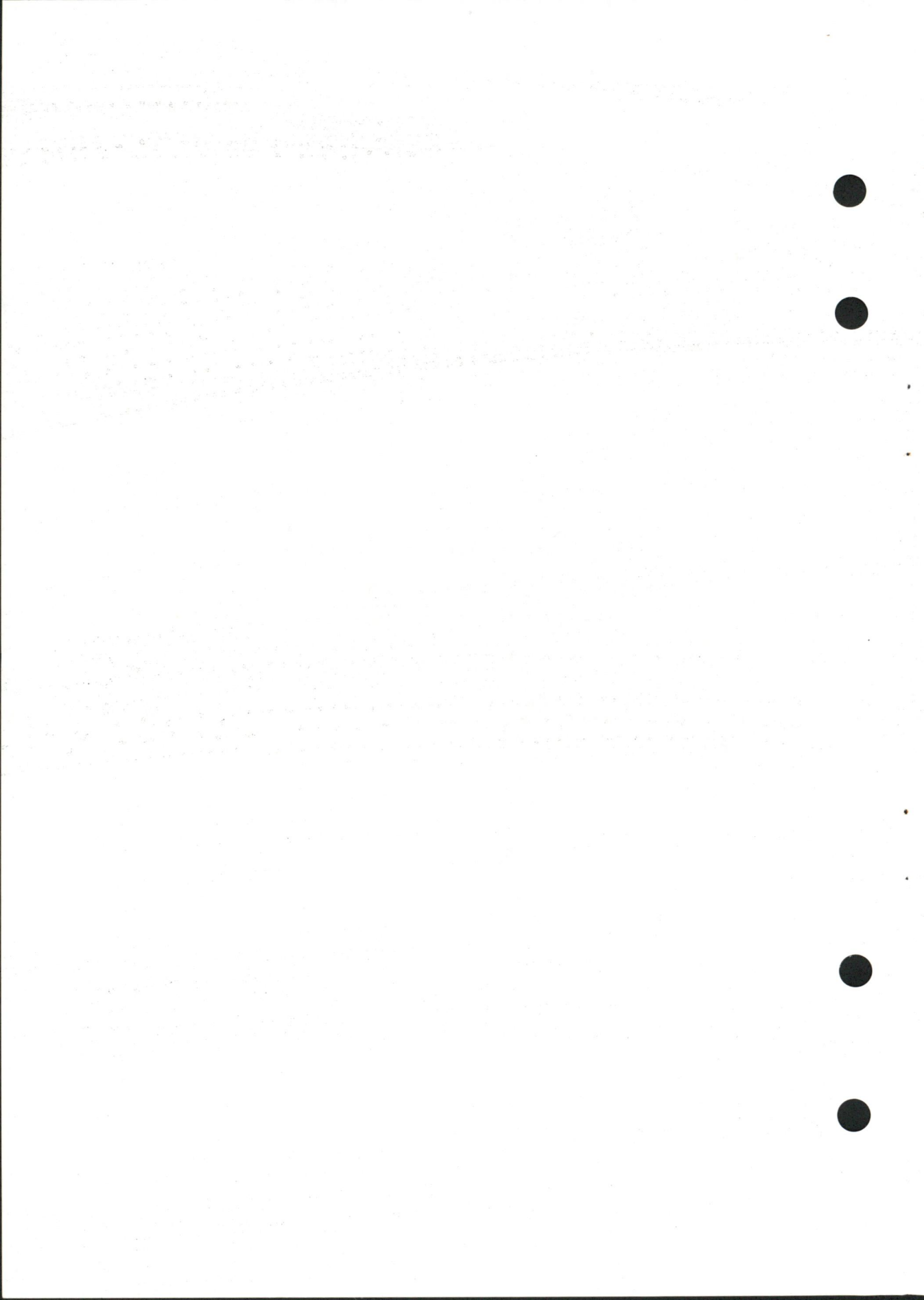
PAY-ROLL TAX (AMENDMENT) ACT 1988 No. 100

NEW SOUTH WALES



TABLE OF PROVISIONS

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-



PAY-ROLL TAX (AMENDMENT) ACT 1988 No. 100

NEW SOUTH WALES



Act No. 100, 1988

An Act to amend the Pay-roll Tax Act 1971 so as to make further provision with respect to the assessment and collection of pay-roll tax; and for other purposes. [Assented to 19 December 1988]

Pay-roll Tax (Amendment) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Pay-roll Tax (Amendment) Act 1988.

Commencement

2. (1) This Act commences on 1 January 1989, except as provided by this section.

(2) Schedule 3, and section 3 in its application to that Schedule, commence on 1 July 1989.

Amendment of Pay-roll Tax Act 1971 No. 22

3. The Pay-roll Tax Act 1971 is amended as set out in Schedules 1-4.

Savings and transitional provisions

4. (1) Without limiting the generality of the Interpretation Act 1987, an amendment made by this Act does not, except where otherwise expressly provided, affect any duty, obligation, liability, benefit or right imposed, created, incurred or existing in respect of wages paid or payable before the date on which the amendment took effect.

(2) Sections 11B, 11C, 16K and 16L of, and clauses 5 and 6 of Schedule 1 to, the Pay-roll Tax Act 1971, as in force immediately before 1 July 1989, continue to have effect in relation to the adjustment of pay-roll tax for the financial year commencing on 1 July 1988, and earlier financial years, as if the amendments made by Schedule 3 to this Act had not been enacted.

**SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO
TAXATION FROM 1 JANUARY 1989 TO 30 JUNE 1989**

(Sec. 3)

- (1) Section 9B (**Deduction from taxable wages after 1 January 1989**)—

Section 9B (1), definition of “prescribed amount”—

Omit the definition, insert instead:

“prescribed amount”, in relation to a return for a return period after the month of December 1988—

- (a) of 1 month, means \$36,000; and
- (b) of 2 or more months, means the product ascertained by multiplying \$36,000 by the number of months in that return period;

Pay-roll Tax (Amendment) 1988

SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO
TAXATION FROM 1 JANUARY 1989 TO 30 JUNE 1989—*continued*

(2) Section 11A (**Definitions for the purposes of sections 11A–11C**)—

Omit section 11A (1A), (2) and (2A), insert instead:

(1A) In section 11B or 11C, “financial year” means the financial year commencing on 1 July 1988.

(2) For the purposes of the financial year commencing on 1 July 1988, a reference in sections 11B and 11C to the “prescribed amount” is, in relation to an employer, a reference to the amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[\frac{416,000A}{B} - \frac{4}{10} \left\{ (TW + IW) - \frac{416,000A}{B} \right\} \right]$$

where—

TW is the total of the taxable wages paid or payable by the employer during that financial year;

IW is the total of the interstate wages paid or payable by the employer during that financial year;

A is the number of days in that financial year in respect of which wages (disregarding foreign wages) were paid or payable by the employer; and

B is the number of days in that financial year.

(3) Section 12 (**Registration**)—

Section 12 (1)—

Omit “\$7,693” wherever occurring, insert instead “\$8,308”.

(4) Section 16J—

Omit the section, insert instead:

Definitions for the purposes of sections 16K and 16L

16J. (1) In section 16K or 16L, “financial year” means the financial year commencing on 1 July 1988.

(2) For the purposes of the financial year commencing on 1 July 1988, a reference in section 16K or 16L to the “prescribed amount” is, in relation to a designated group employer, a reference to the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \left[\frac{416,000A}{B} - \frac{4}{10} \left\{ (TW + IW) - \frac{416,000A}{B} \right\} \right]$$

where—

TW is the total of the taxable wages paid or payable by the members of the group, in respect of which that designated group employer is the designated group employer, during that financial year;

Pay-roll Tax (Amendment) 1988

SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO TAXATION FROM 1 JANUARY 1989 TO 30 JUNE 1989—*continued*

IW is the total of the interstate wages paid or payable by the members of that group during that financial year;

A is the number of days in that part or those parts of that financial year for which that designated group employer was the designated group employer in respect of that group, reduced by the number of days (if any) during that part or those parts in respect of which no wages (disregarding foreign wages) were paid or payable by any member of that group; and

B is the number of days in that financial year.

SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989

(Sec. 3)

Schedule 1 (Supplementary Pay-roll Tax)—
(1) Clause 1 (Definitions)—

Clause 1 (1), definition of “financial year”—

Omit the definition, insert instead:

“financial year” means the financial year commencing on 1 July 1988;

(2) Clause 2 (Returns)—
(a) Clause 2 (1)—

Omit “\$116,667”, insert instead “\$126,000”.

(b) Omit clause 2 (2), insert instead:
(2) Where—

(a) the wages (disregarding foreign wages) paid or payable by an employer; or

(b) the total of the wages (disregarding foreign wages) paid or payable by the members of a group,

are or is \$1,456,000 or more during the financial year commencing on 1 July 1988, the employer, or each of the members of the group, shall, by 21 July 1989, furnish to the Chief Commissioner (in a form and manner approved by the Chief Commissioner) a supplementary return relating to the adjustment of pay-roll tax paid or payable under this Schedule, in respect of that financial year, by the employer or member of the group.

Pay-roll Tax (Amendment) 1988

**SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY
PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989—**
*continued***(3) Clause 3 (Tax payable by employer who is not a member of a group)—****(a) Clause 3 (1), definition of “prescribed amount”—**

Omit “\$1,167”, insert instead “\$1,260”.

(b) Clause 3 (2)—

Omit “\$116,667”, insert instead “\$126,000”.

(c) Omit clause 3 (3) and (4), insert instead:

(3) For the purpose of ascertaining the pay-roll tax payable under this Schedule in respect of the financial year commencing on 1 July 1988 by an employer who pays or is liable to pay taxable wages for the whole of a month, but does not pay and is not liable to pay interstate wages during that month, there shall be deducted, for that month, from the amount of pay-roll tax calculated in relation to that employer, in respect of that month and in accordance with subclause (2), the prescribed amount, reduced by \$1 for each \$50 (disregarding any remainder) by which the amount of the taxable wages (in whole dollars) paid or payable by that employer during that month exceeds \$121,333.

(4) For the purpose of ascertaining the pay-roll tax payable under this Schedule in respect of the financial year commencing on 1 July 1988 by an employer who pays or is liable to pay wages during a month and pays or is liable to pay taxable wages for part only of that month, but does not pay and is not liable to pay interstate wages during that month, there shall be deducted, for that month, from the amount of pay-roll tax calculated in relation to that employer, in respect of that month and in accordance with subclause (2), the amount that bears to the prescribed amount the same proportion as the number of days in that part of that month bears to the total number of days in that month, reduced by \$1 for each \$50 (disregarding any remainder) by which the amount of the taxable wages (in whole dollars) paid or payable by that employer during that month exceeds the same proportion of \$121,333.

(4) Clause 4 (Definitions for the purposes of this clause and clauses 5 and 6)—

Omit clause 4 (2) and (2A), insert instead:

(2) For the purposes of the financial year commencing on 1 July 1988, a reference in clause 5 or 6 to the “prescribed amount” is, in relation to an employer, a reference to the amount calculated in accordance with the formula—

Pay-roll Tax (Amendment) 1988

SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY
PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989—

continued

$$\frac{TW}{TW + IW} \left[\frac{14,560A}{B} - \frac{1}{50} \left\{ (TW + IW) - \frac{1,456,000A}{B} \right\} \right]$$

where—

TW is the total of the taxable wages paid or payable by the employer during that financial year;

IW is the total of the interstate wages paid or payable by the employer during that financial year;

A is the total number of days in respect of which wages (disregarding foreign wages) were paid or payable by the employer during that financial year; and

B is the number of days in that financial year.

(5) Clause 7 (**Tax payable by members of groups**)—

(a) Clause 7 (1)—

Omit “\$116,667”, insert instead “\$126,000”.

(b) Clause 7 (2), (5)—

Omit “\$1,167” wherever occurring, insert instead “\$1,260”.

(6) Clause 8—

Omit the clause, insert instead:

“Prescribed amount” for the purposes of clauses 9 and 10

8. For the purposes of the financial year commencing on 1 July 1988, a reference in clause 9 or 10 to the “prescribed amount” is, in relation to a designated group employer, a reference to the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \left[\frac{14,560A}{B} - \frac{1}{50} \left\{ (TW + IW) - \frac{1,456,000A}{B} \right\} \right]$$

where—

TW is the total of the taxable wages paid or payable by the members of the group, in respect of which that designated group employer is the designated group employer, during that financial year;

IW is the total of the interstate wages paid or payable by the members of that group during that financial year;

A is the number of days in that part or those parts of that financial year for which that designated group employer

Pay-roll Tax (Amendment) 1988

**SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY
PAY-ROLL TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989—**
continued

was the designated group employer in respect of that group, reduced by the number of days (if any) during that part or those parts in respect of which no wages (disregarding foreign wages) were paid or payable by any member of that group; and

B is the number of days in that financial year.

**SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO
TAXATION FROM 1 JULY 1989**

(Sec. 3)

(1) Section 7 (**Imposition of pay-roll tax on taxable wages**)—

(a) Section 7 (b)—

Omit “and” where lastly occurring.

(b) Section 7 (c)—

Omit “and are not liable”, insert instead “and before the month of July 1989 and were not liable”.

(c) Section 7 (c), (d)—

At the end of section 7 (c), insert:

; and

(d) ascertained in accordance with Schedule 2 in respect of such of those wages as are paid or payable after the month of June 1989 and are not liable to pay-roll tax at the rate prescribed in paragraph (a), (b) or (c).

(2) Section 9B (**Deduction from taxable wages after 1 January 1988**)—

Omit the section.

(3) Section 11A (**Definitions for the purposes of sections 11A-11C**)—

Omit section 11A (1A) and (2).

(4) Section 11B (**Annual adjustments**)—

Omit section 11B (1), insert instead:

(1) In this section—

“annual amount of pay-roll tax”, in relation to an employer, means the amount ascertained in accordance with Schedule 2 in respect of the employer for a financial year.





Pay-roll Tax (Amendment) 1988

SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO TAXATION FROM 1 JULY 1989—*continued*
(10) Part 4B (Imposition of supplementary pay-roll tax)—

Omit the Part.

(11) Schedule 1 (Supplementary Pay-roll Tax)—

Omit the Schedule.

(12) Schedule 2—

At the end of the Act, insert:

SCHEDULE 2—CALCULATION OF PAY-ROLL TAX LIABILITY

(Sec. 7)

PART 1—EMPLOYERS WHO ARE NOT MEMBERS OF A GROUP**Definitions****1. In this Part—**

“financial year” means the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July;

“TW”, in relation to the calculation of pay-roll tax for an employer who is not a member of a group, represents the total taxable wages paid or payable by the employer during the financial year to which the calculation relates;

“IW”, in relation to the calculation of pay-roll tax for an employer who is not a member of a group, represents the total interstate wages paid or payable by the employer during the financial year to which the calculation relates.

Pay-roll of employer under \$432,000

2. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is less than \$432,000, the amount of pay-roll tax payable by the employer for that financial year is nil.

Pay-roll of employer between \$432,000 and \$1,512,000

3. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is \$432,000 or more but less than \$1,512,000, the amount of pay-roll tax payable by the employer for that financial year is the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \times \frac{7}{100} \left\{ TW + IW - 432,000 \right\}$$

Pay-roll of employer between \$1,512,000 and \$2,268,000

4. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is \$1,512,000 or more but less than \$2,268,000, the amount of pay-roll tax payable by the employer for that financial year is the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \left[75,600 + \frac{8}{100} \left\{ TW + IW - 1,512,000 \right\} \right]$$

*Pay-roll Tax (Amendment) 1988***SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO TAXATION FROM 1 JULY 1989—continued****Pay-roll of employer over \$2,268,000**

5. If the total of the taxable wages and interstate wages paid or payable by an employer (other than a member of a group) during a financial year is \$2,268,000 or more, the amount of pay-roll tax payable by the employer is the amount calculated in accordance with the formula—

$$\frac{TW}{TW + IW} \left[136,080 + \frac{6}{100} \left\{ TW + IW - 2,268,000 \right\} \right]$$

PART 2—EMPLOYERS WHO ARE MEMBERS OF A GROUP**Definitions**

6. In this Part—

“financial year” means the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July;

“TW”, in relation to the calculation of pay-roll tax for an employer who is a member of a group, represents the total taxable wages paid or payable by the employer during the financial year to which the calculation relates;

“GTW”, in relation to the calculation of pay-roll tax for an employer who is a member of a group, represents the total taxable wages paid or payable by the group during the financial year to which the calculation relates;

“GIW”, in relation to the calculation of pay-roll tax for an employer who is a member of a group, represents the total interstate wages paid or payable by the group during the financial year to which the calculation relates.

Pay-roll of group under \$432,000

7. If the total of the taxable wages and interstate wages paid or payable by a group during a financial year is less than \$432,000, the amount of pay-roll tax payable by each member of the group for that financial year is nil.

Pay-roll of group between \$432,000 and \$1,512,000

8. If the total of the taxable wages and interstate wages paid or payable by a group during a financial year is \$432,000 or more but less than \$1,512,000, the amount of pay-roll tax payable by each member of the group for that financial year is the amount calculated in accordance with the formula—

$$\frac{TW}{GTW + GIW} \times \frac{7}{100} \left\{ GTW + GIW - 432,000 \right\}$$

Pay-roll of group between \$1,512,000 and \$2,268,000

9. If the total of the taxable wages and interstate wages paid or payable by a group during a financial year is \$1,512,000 or more but less than \$2,268,000, the amount of pay-roll tax payable by each member of the group for that financial year is the amount calculated in accordance with the formula—

$$\frac{TW}{GTW + GIW} \left[75,600 + \frac{8}{100} \left\{ GTW + GIW - 1,512,000 \right\} \right]$$





*Pay-roll Tax (Amendment) 1988*SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(ii) for use by the employee in the course of, and for the purpose of, the employee's employment with the employer, otherwise than as the employee's principal place of residence.

(3) Section 11B (**Annual adjustments**)—

(a) Section 11B (2) (a)—

Omit "Department of Finance", insert instead "Treasury".

(b) Section 11B (2) (a)—

Omit "Minister for Finance", insert instead "Treasurer".

(4) Section 16K (**Annual adjustments**)—

(a) Section 16K (4)—

Omit "Department of Finance", insert instead "Treasury".

(b) Section 16K (4)—

Omit "Minister for Finance", insert instead "Treasurer".

(5) Section 17 (**Payment of tax**)—

At the end of section 17, insert:

(2) The amount of pay-roll tax that an employer is required to pay in relation to a return of wages in any financial year shall be a proportion (equivalent to the ratio of the number of days to which the return relates to the number of days in the financial year) of the pay-roll tax that would be payable by the employer for the whole of that year.

(3) For the purposes of subsection (2), a reference to the pay-roll tax that would be payable by an employer for the whole of a financial year is a reference to the amount of pay-roll tax ascertained in accordance with this Act in respect of a multiple (equivalent to the ratio of the number of days in the financial year to the number of days to which the return relates) of the taxable wages paid or payable by the employer for the period to which the return relates.

(6) Section 17A—

After section 17, insert:

Employer may elect to contribute to the Employment and Training Foundation Fund

17A. (1) This section applies to pay-roll tax paid in respect of taxable wages paid or payable on or after 1 January 1989 and on or before 30 June 1993.

*Pay-roll Tax (Amendment) 1988*SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(2) An employer may (by notice in the form approved by, and given to, the Chief Commissioner) elect that part of the pay-roll tax paid by the employer be taken to be a contribution to the Education and Training Foundation Fund.

(3) The amount of such a contribution shall be—

- (a) in relation to the period between 1 January 1989 and 30 June 1989—2 per cent of the tax paid in relation to the taxable wages paid or payable by the employer during that period; and
- (b) in relation to the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July—2 per cent of the tax paid in relation to the taxable wages paid or payable by the employer during that financial year.

(4) An employer may (by notice in the form approved by, and given to, the Chief Commissioner) revoke a notice of election.

(5) A notice of election has effect in relation to any return furnished after the notice is given to the Chief Commissioner.

(7) Section 31A—

After section 31, insert:

Pay-roll Tax Suspense Account and Education and Training Foundation Fund

31A. (1) There shall be established in the Special Deposits Account in the Treasury—

- (a) an account to be known as the Pay-roll Tax Suspense Account; and
- (b) an account to be known as the New South Wales Education and Training Foundation Fund.

(2) There shall be paid into the Pay-roll Tax Suspense Account all tax paid to the Chief Commissioner under this Act.

(3) The funds in the Pay-roll Tax Suspense Account shall be transferred in accordance with such directions as may from time to time be given by the Treasurer—

- (a) as to such of those funds as are the subject of notices of election under section 17A—to the Education and Training Foundation Fund; and
- (b) as to the remainder of those funds—to the Consolidated Fund.

 SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(4) The funds in the Education and Training Foundation Fund may be applied for such purposes relating to education and training as may be prescribed.

(8) Part 6—

Omit the Part, insert instead:

PART 6—REVIEW**Division 1—Objections and appeals****Objections and appeals**

32. (1) A person—

- (a) who is liable to pay tax and who is dissatisfied with an assessment of the tax made by the Chief Commissioner; or
- (b) who has paid tax and who is dissatisfied with a decision of the Chief Commissioner with respect to the refunding of the whole or any part of the tax,

may, within 60 days after the issue of the assessment or the making of the decision, object to the assessment or decision by lodging, at an office of the Chief Commissioner, a statement in writing of the grounds of the objection.

(2) A person entitled to make an objection may, whether before or after the expiration of the time for making the objection, apply for an extension of time and the Chief Commissioner may, for reasonable cause shown, extend the time for making the objection for such period as the Chief Commissioner considers to be reasonable.

(3) The Chief Commissioner shall consider any objection and may—

- (a) allow the objection wholly or in part and modify the assessment or alter the decision to which it relates; or
- (b) disallow the objection and confirm the assessment or decision to which it relates.

(4) On making a decision on an objection, the Chief Commissioner shall inform the objector in writing of the decision and the reasons for the decision.

(5) An objector dissatisfied with the decision of the Chief Commissioner on the objection may, within the next succeeding period of 30 days after being informed under subsection (4) of the decision (or such longer period as the Chief Commissioner may allow), require the Chief Commissioner to state a case for the opinion of the Supreme Court.

SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(6) If the Chief Commissioner does not state a case for the opinion of the Supreme Court within 60 days of being required to do so under subsection (5) and the objector—

- (a) has provided the Chief Commissioner with any information required by the Chief Commissioner in relation to the assessment or decision the subject of the objection; and
- (b) lodges at an office of the Chief Commissioner a notice in writing requiring the Chief Commissioner to state such a case,

the Chief Commissioner shall comply with the requirement of the notice not later than 30 days after the notice is lodged.

(7) The Supreme Court may extend the time for doing anything under this section.

(8) On the hearing of a stated case, the objector may dispute any fact or document stated in the case.

(9) On giving its decision on a stated case relating to the amount of an assessment, the Supreme Court may determine the amount of any tax payable as a result of the decision and—

- (a) if the assessment of the Supreme Court is less than that of the Chief Commissioner and the objector—
 - (i) has not paid the amount assessed by the Chief Commissioner—shall order the objector to pay the amount of pay-roll tax determined by it, together with any penal tax or additional tax; or
 - (ii) has paid the amount assessed by the Chief Commissioner—shall order the Chief Commissioner to pay the difference to the objector, together with interest at the prescribed rate; or
 - (iii) has paid part of the amount assessed by the Chief Commissioner—shall order the objector to pay the balance of the amount of tax determined by it, together with any penal tax or additional tax, or shall order the Chief Commissioner to pay the difference to the objector, together with interest at the prescribed rate, as the case requires; or
- (b) if the assessment of the Supreme Court is greater than that of the Chief Commissioner—shall order the objector to pay the difference to the Chief Commissioner, together with any penal tax or additional tax.

SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

(10) If, under subsection (9), the Supreme Court orders the Chief Commissioner to refund to an objector any amount of excess tax, the Chief Commissioner shall also pay interest on the amount from the date on which it was paid to the Chief Commissioner until the date it is refunded.

(11) On giving its decision on a stated case relating to a refund, the Supreme Court may determine the amount of any refund payable as a result of the decision and order the Chief Commissioner to pay the amount to the objector, together with interest at the prescribed rate.

(12) If, under subsection (11), the Supreme Court orders the Chief Commissioner to refund to an objector any amount of tax, the Chief Commissioner shall also pay interest on the amount from the date on which it was paid to the Chief Commissioner until the date it is refunded.

(13) Except to the extent otherwise arranged with the Chief Commissioner under this section, the lodging of an objection or the stating of a case does not affect any liability of an objector to pay tax in accordance with this Act.

Division 2—Board of Review**Board of review**

33. (1) There shall be a Board of Review consisting of—

- (a) the Chief Commissioner; and
- (b) the Auditor-General; and
- (c) the Secretary of the Treasury.

(2) A member of the Board of Review may appoint a person to act in the place of the member at meetings of the Board.

(3) An acting member, while so acting, shall have the functions of, and shall be taken to be, a member of the Board of Review.

Waiver of pay-roll tax

34. The Board of Review may waive the payment of pay-roll tax, either wholly or in part, if it is satisfied that—

- (a) the person liable to pay it is in such circumstances that the exaction of the full amount of pay-roll tax would result in serious hardship for the person or the person's dependants; or
- (b) the person liable to pay it has died and that person's dependants are in such circumstances that the exaction of the full amount of pay-roll tax would result in serious hardship for them.

*Pay-roll Tax (Amendment) 1988***SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*****Deferral of pay-roll tax**

34A. (1) The Board of Review may defer payment of pay-roll tax, either wholly or in part—

- (a) in such circumstances; and
- (b) for such period; and
- (c) subject to such conditions,

as it thinks fit.

(2) Such a deferral, and any condition to which it is subject, may be amended, extended or revoked at any time.

Writing off of pay-roll tax

34B. (1) If the Board of Review is satisfied that all reasonable efforts have been made to recover, or that it is impracticable or unduly expensive to make further efforts to recover, unpaid pay-roll tax, the Board may direct that the unpaid pay-roll tax be written off.

(2) The writing off of unpaid pay-roll tax does not affect the liability of the person liable to pay the pay-roll tax or the power of the Chief Commissioner to take steps to recover the unpaid pay-roll tax.

Chief Commissioner may exercise some of the Board of Review's functions

34C. The Chief Commissioner may exercise the functions of the Board of Review under sections 34 and 34A if the amount of the unpaid pay-roll tax is less than \$1,000 in any particular case for any financial year.

(9) Schedule 1 (Supplementary Pay-roll Tax)—

- (a) Clause 5 (2) (a)—

Omit "Department of Finance", insert instead "Treasury".

- (b) Clause 5 (2) (a)—

Omit "Minister for Finance", insert instead "Treasurer".

Pay-roll Tax (Amendment) 1988

SCHEDULE 4—MISCELLANEOUS AMENDMENTS—*continued*

- (c) Clause 9 (4)—
Omit “Department of Finance”, insert instead “Treasury”.
 - (d) Clause 9 (4)—
Omit “Minister for Finance”, insert instead “Treasurer”.
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[*Minister's second reading speech made in—
Legislative Assembly on 15 November 1988
Legislative Council on 7 December 1988*]



