

FIRST PRINT

PAY-ROLL TAX (AMENDMENT) BILL 1991

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 vary the arrangements regarding contributions by employers to the Education and Training Foundation Fund; and
- (b) to clarify the operation of the Act in certain technical respects.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the provisions of the proposed Act. Schedule 1 is taken to have commenced on 1 July 1991, being the date on which the changes to contributions to the Education and Training Foundation Fund begin to have effect. Schedule 2 is taken to have commenced on 1 January 1989, being the date of commencement of relevant amendments to section 17 made by the Pay-roll Tax (Amendment) Act 1988 No. 100, Schedule 4.

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

Clause 4 makes it clear that the amendments made by Schedule 1 do not affect any elections already made regarding contributions to the Education and Training Foundation Fund. The clause also preserves any regulations made for the purposes of section 31A (subsection (4) of which is proposed to be repealed and substituted by the Bill).

SCHEDULE 1—AMENDMENTS RELATING TO THE EDUCATION AND TRAINING FOUNDATION FUND

Schedule 1 (1) amends the Pay-roll Tax Act 1971 in relation to an election by an employer for contribution to the Fund of part of the pay-roll tax payable by the employer. By the amendments:

Pay-roll Tax (Amendment) 1991

- (a) Contributions for the period 1 January 1989 to 30 June 1991 continue at the present rate of 2% based on taxable wages paid or payable during that period. However, payments of tax actually made on or after 1 August 1991 are disregarded. (Payments of tax during July 1991 relate to tax payable on wages paid or payable before that month.)
- (b) No contributions are payable thereafter until 1 May 1992.
- (c) Contributions for the period from 1 May 1992 to 31 July 1993 are to be at the rate of 2% (or a lower rate fixed by the Treasurer) based on tax actually paid during that period. (Payments of tax during July 1993 will relate to tax payable on wages paid or payable before that month.)

Schedule 1 (2) (a) is consequential on the amendments made by Schedule 1 (1).

Schedule 1 (2) (b) expressly provides for payment of contributions to be made to the company that administers the Fund.

SCHEDULE 2—OTHER AMENDMENTS

Schedule 2 (1) amends sections 11B, 11C, 16K and 16L in order to draw attention to the fact that section 17 may affect the amount of pay-roll tax payable in respect of a return period. At present, those sections refer to the ascertainment of the amount of tax payable in terms only of the relevant Schedules to the Act.

Schedule 2 (2) amends section 17 to clarify the liability of an employer in respect of a return which is for a shorter period than a financial year.

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PAY-ROLL TAX (AMENDMENT) BILL 1991

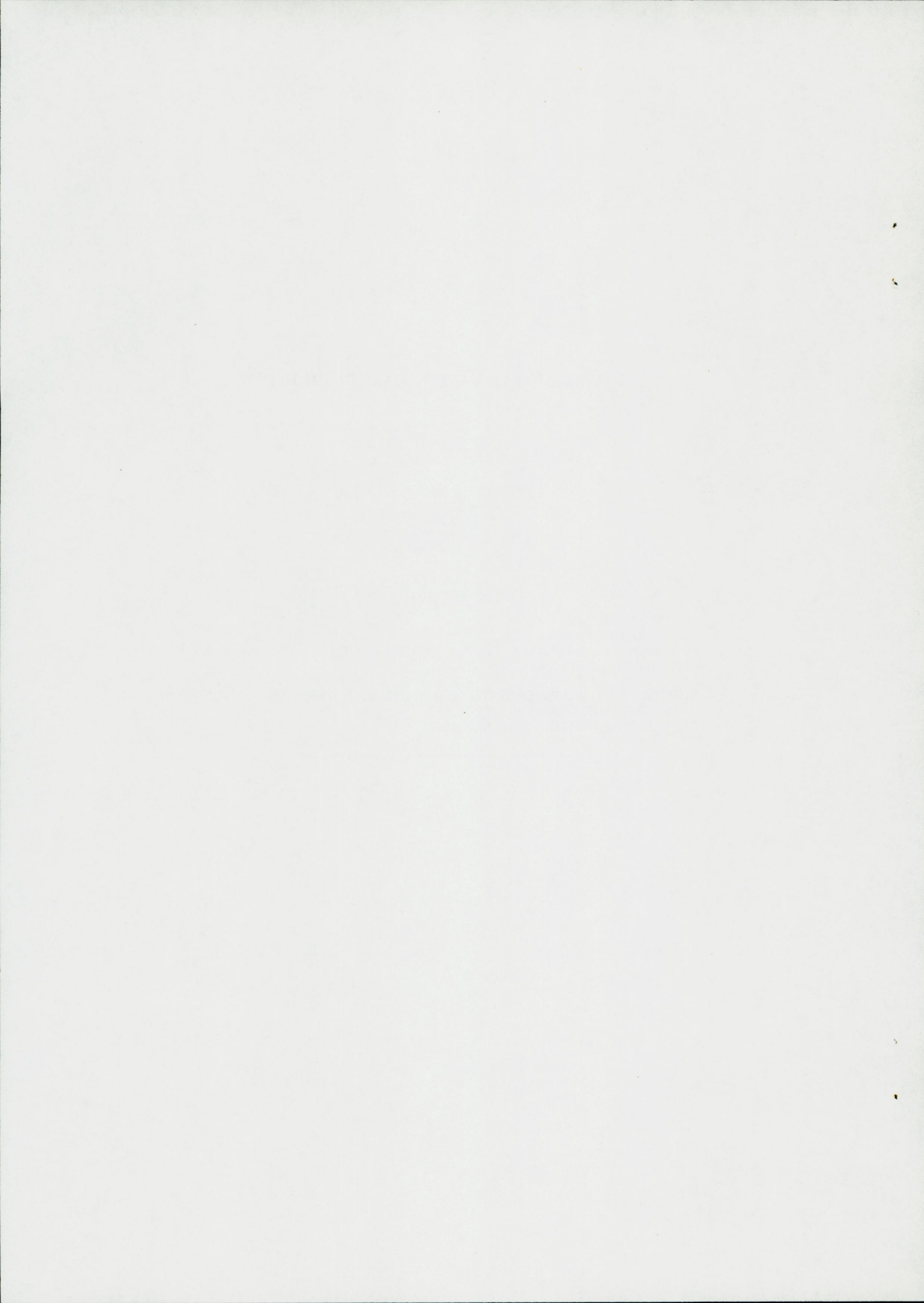
NEW SOUTH WALES



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PAY-ROLL TAX (AMENDMENT) BILL 1991

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend the Pay-roll Tax Act 1971 in relation to contributions to the Education and Training Foundation Fund; to clarify the operation of that Act in certain respects; and for other purposes.

Pay-roll Tax (Amendment) 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Pay-roll Tax (Amendment) Act 1991.

Commencement

2. (1) Schedule 1, and section 3 in its application to that Schedule, are taken to have commenced on 1 July 1991.
- (2) Schedule 2, and section 3 in its application to that Schedule, are taken to have commenced on 1 January 1989.
- (3) The remaining provisions of this Act commence on the date of assent.

Amendment of Pay-roll Tax Act 1971 No. 22

3. The Pay-roll Tax Act 1971 is amended as set out in Schedules 1 and 2.

Transitional provisions

4. (1) Nothing in this Act affects the continuation in force of an election already made under section 17A of the Pay-roll Tax Act 1971.
- (2) Nothing in this Act affects any regulations already made for the purposes of section 31A of the Pay-roll Tax Act 1971.

**SCHEDULE 1—AMENDMENTS RELATING TO THE
EDUCATION AND TRAINING FOUNDATION FUND**

(Sec. 3)

- (1) Section 17A (**Employer may elect to contribute to the Education and Training Foundation Fund**):
 - (a) Omit section 17A (1).
 - (b) Omit section 17A (3), insert instead:
 - (3) The amount of such a contribution is:
 - (a) 2 per cent of the pay-roll tax paid in respect of taxable wages paid or payable by the employer on or after 1 January 1989 and on or before 30 June 1991, but excluding any tax paid by the employer on or after 1 August 1991; and

Pay-roll Tax (Amendment) 1991

SCHEDULE 1—AMENDMENTS RELATING TO THE
EDUCATION AND TRAINING FOUNDATION FUND—*continued*

(b) 2 per cent of the pay-roll tax paid by the employer on or after 1 May 1992 and on or before 31 July 1993 in respect of taxable wages paid or payable on or before 30 June 1993.

(3A) The Treasurer may, by order published in the Gazette, reduce the percentage rate referred to in subsection (3) (b) to a specified rate in respect of pay-roll tax paid in or in respect of any specified period or periods. Different rates may be specified for different periods.

(2) Section 31A (**Pay-roll Tax Suspense Account and Education and Training Foundation Fund**):

(a) In section 31A (2), after “Act”, insert “before 1 August 1991 and during the period between 1 May 1992 and 31 July 1993 (both dates inclusive)”.

(b) Omit section 31A (4), insert instead:

(4) The funds in the Education and Training Foundation Fund are to be paid to New South Wales Education and Training Foundation Pty. Limited in such instalments and at such times as the Treasurer determines, and may be used only for such purposes relating to education and training as may be prescribed by the regulations.

SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

(1) Sections 11B (1), 11C (1), 16K (2), 16L (3):

After “in accordance with” wherever occurring, insert “section 17 and”.

(2) Section 17 (**Payment of tax**):

(a) From section 17 (2), omit “in any financial year”, insert instead “in respect of a financial year or a part of a financial year”.

Pay-roll Tax (Amendment) 1991

SCHEDULE 2—OTHER AMENDMENTS—*continued*

- (b) After section 17 (3), insert:
- (4) For the purposes of this section:
 - (a) a reference to a part of a financial year includes a reference to a prescribed period referred to in section 11C or 16L; and
 - (b) a reference to the number of days to which the return relates is a reference to the number of days in respect of which wages were paid or payable.
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PAY-ROLL TAX (AMENDMENT) BILL 1991

SECOND READING SPEECH

LEGISLATIVE COUNCIL

MR PRESIDENT

I MOVE

THAT THIS BILL BE NOW READ A SECOND TIME.

THE PRIMARY PURPOSE OF THE BILL IS TO AMEND THE PROVISIONS UNDER WHICH EMPLOYERS MAY ELECT TO CONTRIBUTE PART OF THEIR PAY-ROLL TAX CONTRIBUTIONS TO THE NEW SOUTH WALES EDUCATION AND TRAINING FOUNDATION.

THE FOUNDATION WAS ESTABLISHED BY THIS GOVERNMENT IN 1988 WITH THE OBJECTIVE OF DEVELOPING AND FUNDING NEW BUSINESS-ORIENTED TRAINING COURSES AND ENCOURAGING THE LINKS BETWEEN BUSINESS AND EDUCATION.

THE FOUNDATION WAS PARTLY FUNDED BY ALLOWING BOTH PUBLIC SECTOR AND PRIVATE SECTOR EMPLOYERS TO ELECT TO DIVERT 2 PER CENT OF THEIR PAY-ROLL TAX PAYMENTS TO THE FOUNDATION.

THE ULTIMATE AIM WAS FOR THE FOUNDATION TO BECOME SELF FUNDING, AND A SUNSET CLAUSE WAS INSERTED IN THE ORIGINAL LEGISLATION FOR PAY-ROLL TAX CONTRIBUTIONS TO CEASE ON 30 JUNE 1993.



WHEN THE FOUNDATION WAS ESTABLISHED IN 1988, THE GOVERNMENT INDICATED THAT ITS FUNDING WOULD BE REVIEWED AFTER 2 YEARS TO ASSESS ITS EFFECTIVENESS IN ENCOURAGING ADDITIONAL FINANCIAL SUPPORT FROM BUSINESS.

THE SUCCESS OF THE FOUNDATION IN ATTRACTING FUNDS FROM OTHER SOURCES HAS BEEN OUTSTANDING.

PRIVATE INDUSTRY IS NOW PROVIDING A HIGH LEVEL OF CONTRIBUTIONS AND THE EDUCATION SECTOR IS PROVIDING A SUBSTANTIAL PUBLIC SECTOR CONTRIBUTION.

IN VIEW OF THIS SUCCESS COUPLED WITH FALLING REVENUES FROM STATE TAXES AS A RESULT OF THE CURRENT RECESSION, THE GOVERNMENT HAS DECIDED THAT PAY-ROLL TAX CONTRIBUTIONS SHOULD BE TEMPORARILY SUSPENDED.

SCHEDULE 1 OF THE BILL PROVIDES FOR THE SUSPENSION OF CONTRIBUTIONS BETWEEN 1 AUGUST 1991 AND 30 APRIL 1992.

THE BILL PROVIDES FOR CONTRIBUTIONS TO RE-COMMENCE FROM 1 MAY 1992 AT A RATE OF 2 PER CENT OR A LOWER RATE SPECIFIED BY THE TREASURER IN AN ORDER WHICH MUST BE PUBLISHED IN THE GAZETTE.

AS FORESHADOWED IN THE BUDGET PAPERS, A RATE OF 0.5 PER CENT WILL BE SET FROM 1 MAY 1992, BUT THIS RATE WILL BE REVIEWED FOR THE 1992/93 FINANCIAL YEAR, HAVING REGARD TO THE FINANCIAL POSITION OF THE FOUNDATION.

EMPLOYERS WHO ELECTED TO CONTRIBUTE TO THE FOUNDATION PRIOR TO THE SUSPENSION, WILL NOT HAVE TO MAKE A NEW ELECTION WHEN CONTRIBUTIONS RE-COMMENCE NEXT YEAR.



THERE ARE PRACTICAL DIFFICULTIES AS A RESULT OF THE EXISTING PROVISIONS WHICH SPECIFY CONTRIBUTIONS TO THE FOUNDATION IN TERMS OF TAX ON WAGES PAID OR PAYABLE IN PARTICULAR PERIODS.

TO OVERCOME THESE DIFFICULTIES, THE BILL REMOVES REFERENCES TO THE PERIOD IN WHICH WAGES WERE PAID OR PAYABLE, SO THAT THE CALCULATION OF AMOUNTS PAYABLE TO THE FOUNDATION WILL IN FUTURE BE BASED SOLELY ON THE SPECIFIED PERCENTAGE OF TAX PAID DURING THE RELEVANT PERIODS.

THE BILL PROVIDES FOR EMPLOYERS' PAY-ROLL TAX CONTRIBUTIONS TO BE PAID TO THE TRUSTEE COMPANY ESTABLISHED BY THE GOVERNMENT TO ADMINISTER THE FOUNDATION.

THE COMPANY - "NEW SOUTH WALES EDUCATION AND TRAINING FOUNDATION PTY LIMITED" - HAD NOT BEEN ESTABLISHED WHEN THE ORIGINAL LEGISLATION WAS INTRODUCED.

THESE CHANGES ARE EXPECTED TO SAVE ABOUT \$27 MILLION IN 1991/92, AND \$23 MILLION IN A FULL YEAR BASED ON A CONTRIBUTION RATE OF 0.5 PER CENT.

SCHEDULE 2 OF THE BILL CONTAINS MINOR AMENDMENTS TO SECTION 17 OF THE PAY-ROLL TAX ACT WHICH ARE IN THE NATURE OF STATUTE LAW AMENDMENTS.

THESE AMENDMENTS ARE DESIGNED TO CLARIFY THE WAY IN WHICH PAY-ROLL TAX IS CALCULATED IN RESPECT OF MONTHLY RETURNS OR RETURNS COVERING OTHER PERIODS WHICH ARE LESS THAN A FULL FINANCIAL YEAR.

UNDER SECTION 17, EMPLOYERS ARE REQUIRED TO PAY TAX AT THE TIME OF LODGING A RETURN.

THE SECTION HAS THE EFFECT OF ALLOCATING PART OF THE GENERAL EXEMPTION THRESHOLD, WHICH IS CURRENTLY \$500,000 PER ANNUM, TO EACH RETURN PERIOD IN PROPORTION TO THE NUMBER OF DAYS IN THE RETURN PERIOD DURING WHICH WAGES WERE PAID OR PAYABLE COMPARED WITH THE NUMBER OF DAYS IN THE FINANCIAL YEAR.

IT IS APPLICABLE WHEN THERE IS A CHANGE IN THE MEMBERSHIP OF A GROUP OF RELATED EMPLOYERS AND WHEN AN EMPLOYER COMMENCES OR CEASES TO EMPLOY DURING A FINANCIAL YEAR, IN ADDITION TO MONTHLY AND ANNUAL RETURNS.

THE AMENDMENTS ARE DESIGNED TO MORE CLEARLY DEFINE THE LINKAGE BETWEEN SECTION 17 AND OTHER PROVISIONS IN THE ACT RELATING TO THE CALCULATION OF TAX.

I COMMEND THE BILL TO THE HOUSE.



PAY-ROLL TAX (AMENDMENT) ACT 1991 No. 83

NEW SOUTH WALES

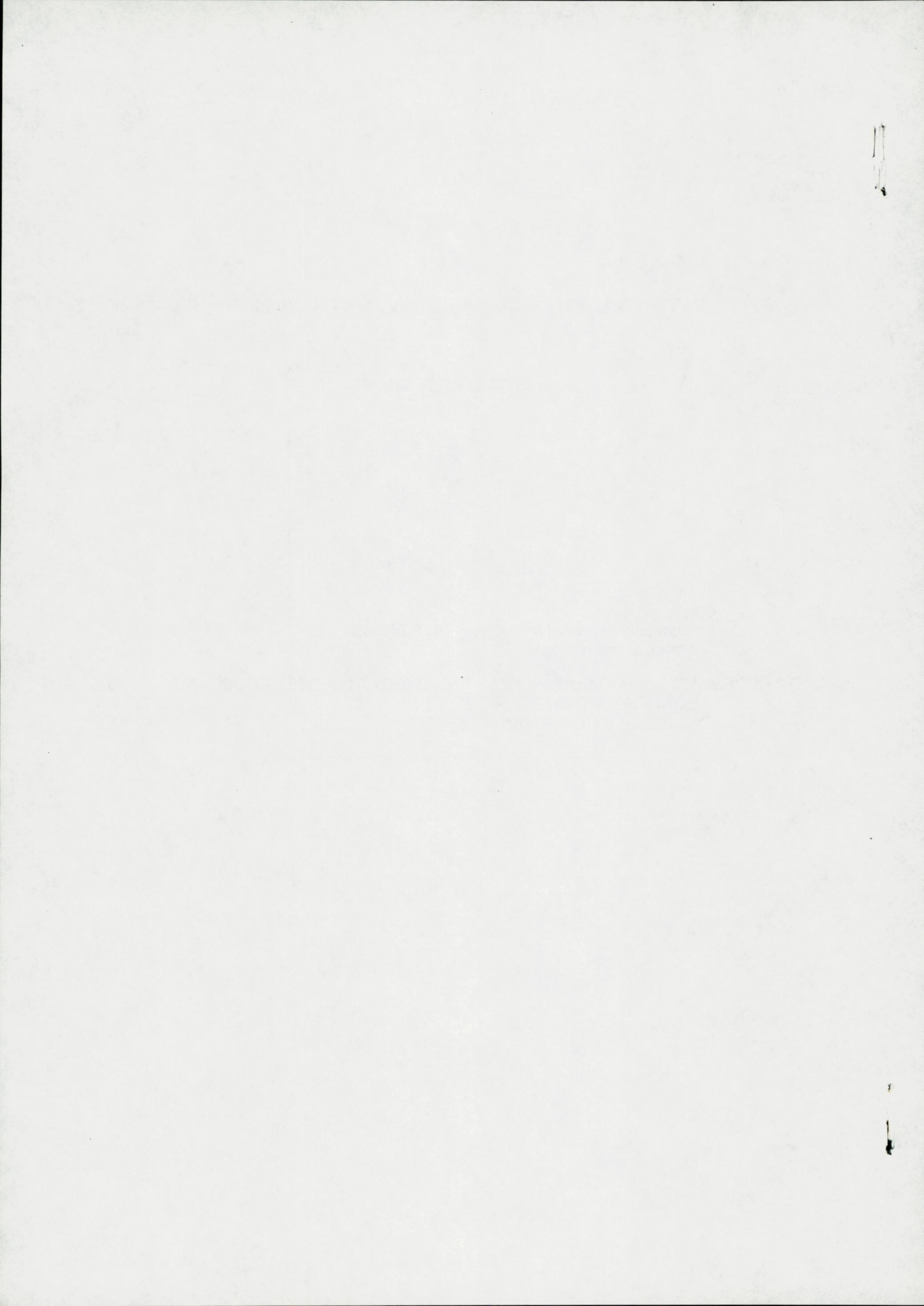


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SCHEDULE 2—OTHER AMENDMENTS



PAY-ROLL TAX (AMENDMENT) ACT 1991 No. 83

NEW SOUTH WALES



Act No. 83, 1991

An Act to amend the Pay-roll Tax Act 1971 in relation to contributions to the Education and Training Foundation Fund; to clarify the operation of that Act in certain respects; and for other purposes. [Assented to 17 December 1991]

Pay-roll Tax (Amendment) 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Pay-roll Tax (Amendment) Act 1991.

Commencement

2. (1) Schedule 1, and section 3 in its application to that Schedule, are taken to have commenced on 1 July 1991.
- (2) Schedule 2, and section 3 in its application to that Schedule, are taken to have commenced on 1 January 1989.
- (3) The remaining provisions of this Act commence on the date of assent.

Amendment of Pay-roll Tax Act 1971 No. 22

3. The Pay-roll Tax Act 1971 is amended as set out in Schedules 1 and 2.

Transitional provisions

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- (2) Nothing in this Act affects any regulations already made for the purposes of section 31A of the Pay-roll Tax Act 1971.

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Pay-roll Tax (Amendment) 1991

SCHEDULE 1—AMENDMENTS RELATING TO THE
EDUCATION AND TRAINING FOUNDATION FUND—*continued*

- (b) 2 per cent of the pay-roll tax paid by the employer on or after 1 May 1992 and on or before 31 July 1993 in respect of taxable wages paid or payable on or before 30 June 1993.
- (3A) The Treasurer may, by order published in the Gazette, reduce the percentage rate referred to in subsection (3) (b) to a specified rate in respect of pay-roll tax paid in or in respect of any specified period or periods. Different rates may be specified for different periods.
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SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

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- (2) Section 17 (**Payment of tax**):
- (a) From section 17 (2), omit “in any financial year”, insert instead “in respect of a financial year or a part of a financial year”.

Pay-roll Tax (Amendment) 1991

SCHEDULE 2—OTHER AMENDMENTS—*continued*

- (b) After section 17 (3), insert:
- (4) For the purposes of this section:
 - (a) a reference to a part of a financial year includes a reference to a prescribed period referred to in section 11C or 16L; and
 - (b) a reference to the number of days to which the return relates is a reference to the number of days in respect of which wages were paid or payable.
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*[Minister's second reading speech made in—
Legislative Assembly on 23 October 1991
Legislative Council on 9 December 1991]*